

§ 883.313

(4) HUD requirements pursuant to Section 209 of the Housing and Community Development Act of 1974 for projects for the elderly or the handicapped;

(5) HUD requirements pertaining to noise abatement and control; and

(6) Applicable state and local laws, codes, ordinances, and regulations.

(b) *Substantial Rehabilitation*. Projects must comply with:

(1) [Reserved]

(2) In the case of congregate or single room occupant housing, the appropriate HUD guidelines and standards,

(3) HUD requirements pursuant to Section 209 of the HCD Act for projects for the elderly or the handicapped;

(4) HUD requirements pertaining to noise abatement and control;

(5) The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, H, and R of this title.

(6) Applicable State and local laws, codes, ordinances, and regulations.

(c) *Smoke detectors*. (1) *Performance requirement*. After October 30, 1992, each dwelling unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each level of the unit. If the unit is occupied by hearing-impaired persons, smoke detectors must have an alarm system, designed for hearing-impaired persons, in each bedroom occupied by a hearing-impaired person.

(2) *Acceptability criteria*. The smoke detector must be located, to the extent practicable, in a hallway adjacent to a bedroom, unless the unit is occupied by a hearing-impaired person, in which case each bedroom occupied by a hearing-impaired person must have an alarm system connected to the smoke detector installed in the hallway.

[45 FR 6889, Jan. 30, 1980, as amended at 50 FR 9269, Mar. 7, 1985; 57 FR 33851, July 30, 1992; 63 FR 46579, Sept. 1, 1998; 64 FR 50227, Sept. 15, 1999]

§ 883.313 Audit.

(a) Where housing assistance under the Section 8 Program is provided for projects developed by State agencies,

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these agencies shall follow audit requirements in 24 CFR part 44.

(b) Where a nonprofit organization is the eligible owner of a project receiving financial assistance under this part, the audit requirements in 24 CFR part 45 shall apply.

[50 FR 39092, Sept. 27, 1985; 51 FR 30480, Aug. 27, 1986, as amended at 57 FR 33257, July 27, 1992]

Subparts D-E [Reserved]

Subpart F—Housing Assistance Payments Contract

§ 883.601 Applicability.

The provisions of this subpart apply to new construction and substantial rehabilitation projects using contract authority allocated under subpart B, Allocation and Assignment of Contract Authority, or processed and constructed under subpart D, Fast Track Procedures.

§ 883.602 The contract.

(a) *Contract*. The Housing Assistance Payments Contract sets forth rights and duties of the owner and State Agency with respect to the project and the Housing Assistance payments.

(b) *Housing Assistance Payments to Owners under the Contract*. The Housing Assistance Payments made under the Contract are:

(1) Payments to the owner to assist eligible families leasing assisted units, and

(2) Payments to the owner for vacant assisted units (“vacancy payments”) if the conditions specified in § 880.611 of this chapter are satisfied.

The housing assistance payments are made monthly by the State Agency upon proper requisition by the owner, except payments for vacancies of more than 60 days, which are made semi-annually by the Agency upon proper requisition by the owner.

(c) *Amount of Housing Assistance Payments to the Owner*. (1) The amount of the housing assistance payments made to the owner of a unit being leased by an eligible family is the difference between the contract rent for the unit and the tenant rent payable by the family.

(2) A housing assistance payment will be made to the owner for a vacant assisted unit in an amount equal to 80 percent of the contract rent for the first 60 days of vacancy, subject to the conditions in § 880.611 of this chapter. If the owner collects any tenant rent or other amount for this period which, when added to this vacancy payment, exceeds the contract rent, the excess must be repaid as the Agency directs in accordance with HUD guidelines.

(3) For a vacancy that exceeds 60 days, a housing assistance payment for the vacant unit will be made, subject to the conditions in § 880.611 of this chapter, in an amount equal to the principal and interest payments required to amortize that portion of the debt attributable to the vacant unit for up to 12 additional months.

(d) *Payment of utility reimbursement.* Where applicable, the Utility Reimbursement will be paid to the Family as an additional Housing Assistance Payment. The Contract will provide that the Owner will make this payment on behalf of the Agency. Funds will be paid to the Owner in trust solely for the purpose of making this additional payment. If the Family and the utility company consent, the Owner may pay the Utility Reimbursement jointly to the Family and the utility company or directly to the utility company.

[45 FR 6889, Jan. 30, 1980, as amended at 49 FR 19946, May 10, 1984; 61 FR 13593, Mar. 27, 1996]

§ 883.603 Term of contract.

(a) *New Construction.* The term of the Contract will be governed by the following provisions:

(1) For assisted units in a project financed with the aid of a loan insured by the Federal government (including coinsurance under Section 244 of the National Housing Act) or a loan made, guaranteed or intended for purchase by the Federal government and for assisted units in newly constructed manufactured home parks, the term of the Contract will be 20 years.

(2) For assisted units in a project owned by or financed by a loan or loan guarantee from a State or local agency, where the assisted units are intended for occupancy by non-elderly families and where it is located in an

area designated by the Assistant Secretary as one requiring special financial assistance, the Contract will be for an initial term of 20 years for any dwelling unit, with provision for renewal for additional terms of not more than 5 years each. The total term of initial and renewal terms will not exceed the lesser of (i) 40 years for any dwelling unit, or (ii) the term of the permanent financing (but not less than 20 years).

(3) For assisted units in all other projects, the Contract will be for an initial term of 20 years for any dwelling unit, with provision for renewal for additional terms of not more than 5 years each. The total term of initial and renewal terms will not exceed the lesser of (i) 30 years for any dwelling unit, or (ii) the term of the permanent financing (but not less than 20 years).

(b) *Substantial Rehabilitation.* The Contract will be for a term which is consistent with paragraph (b)(1) and with paragraph (b) (2), (3), or (4) of this section.

(1) The Contract term will cover the longest term, but not less than 20 years, of a single credit instrument covering:

- (i) The cost of rehabilitation or
- (ii) The existing indebtedness, or
- (iii) The cost of rehabilitation and the refinancing of the existing indebtedness, or
- (iv) The cost of rehabilitation and the acquisition of the property; and

(2) For assisted units in a project financed with the aid of a loan (including coinsurance under Section 244 of the National Housing Act), or a loan made, guaranteed or intended for purchase by the Federal Government, and for assisted units in a substantially rehabilitated manufactured home park, the term of the Contract will not exceed 20 years; or

(3) For assisted units in a project owned or financed by a loan or loan guarantee from a State or local agency where the assisted units are intended for occupancy by non-elderly families and where it is located in an area designated by the Assistant Secretary as one requiring special financial assistance, the Contract will be for an initial term of 20 years for any dwelling unit. There will be a provision for renewal