

§ 882.124

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justified for those items of expenses (excluding debt service) for which the owner is responsible under the lease.

(2) The amount of the adjustment must be reasonable when compared with similar items under the Section 8 Existing Housing program.

(3) The adjusted amount for expenses shall not exceed the result of applying the appropriate Section 8 Existing Housing Annual Adjustment Factor (24 CFR part 888) most recently published by HUD in the FEDERAL REGISTER to the appropriate expense base in effect under the lease prior to this adjustment.

(4) The adjustment shall not be retroactive to pay for costs that the owner had previously incurred.

(5) The adjustment shall be effective for a period not to exceed one year.

[44 FR 28276, Nov. 14, 1979, as amended at 60 FR 34694, July 3, 1995]

§ 882.124 Audit.

PHAs receiving financial assistance under this part are subject to audit requirements in 24 CFR part 44.

[50 FR 39091, Sept. 27, 1985; 51 FR 30480, Aug. 27, 1986]

Subparts B-C [Reserved]

Subpart D—Special Procedures for Moderate Rehabilitation—Basic Policies

SOURCE: 47 FR 34379, Aug. 9, 1982, unless otherwise noted.

§ 882.401 Eligible properties.

(a) *Eligible properties.* Except as provided in paragraph (b) of this section, housing suitable for moderate rehabilitation as defined in § 882.102 is eligible for inclusion under the Moderate Rehabilitation Program. Existing structures of various types may be appropriate for this program, including single-family houses, multi-family structures and group homes.

(b) *Ineligible properties.* (1) Nursing homes, units within the grounds of penal, reformatory, medical, mental and similar public or private institutions, and facilities providing continual psychiatric, medical or nursing services are not eligible for assistance

under the Moderate Rehabilitation Program.

(2) Housing owned by a State or unit of general local government is not eligible for assistance under this program.

(3) High rise elevator projects for families with children may not be utilized unless HUD determines there is no practical alternative. (HUD may make this determination for a locality's Moderate Rehabilitation Program in whole or in part and need not review each building on a case-by-case basis.)

(4) Single room occupancy (SRO) housing may not be utilized unless:

(i) The property is located in an area in which there is a significant demand for such units as determined by the HUD Field Office; and

(ii) The PHA and the unit of general local government in which the property is located approve of such units being utilized for such purpose.

(5) No Section 8 assistance may be provided with respect to any unit occupied by an Owner; however, cooperatives will be considered as rental housing for purposes of the Moderate Rehabilitation Program.

[63 FR 23854, Apr. 30, 1998, as amended at 64 FR 14832, Mar. 29, 1999]

§ 882.402 [Reserved]

§ 882.403 ACC, housing assistance payments contract, and lease.

(a) *Maximum Total ACC Commitments.* The maximum total annual contribution that may be contracted for is the total of the Moderate Rehabilitation Fair Market Rents for all the units. The fee for the costs of PHA administration is payable out of the annual contribution.

(b) *Project account.* (1) A project account will be established and maintained by HUD as a specifically identified and segregated account for each project. The account will contain the sum of the amounts by which the maximum annual commitment exceeds the amount actually paid out for the project under the ACC each year. Payments will be made from this account when needed to cover increases in Contract Rents or decreases in Gross Family Contributions for (i) housing assistance (including vacancy) payments, (ii)

the amount of the fee for PHA costs of administration, and (iii) other costs specifically approved by the Secretary.

(2) When a HUD-approved estimate of required payments under the ACC for a fiscal year exceeds the maximum annual commitment, and would cause the amount in the project account to be less than 40 percent of the maximum, HUD will, within a reasonable period of time, take such additional steps authorized by Section 8(c)(6) of the U.S. Housing Act of 1937, as may be necessary, to assure that payments under the ACC will be adequate to cover increases in Contract Rents and decreases in Gross Family Contributions.

(c) *Term of Housing Assistance Payments Contract.* The Contract for any unit rehabilitated in accordance with the Program must be for a term of 15 years.

(d) *Term of Lease.* (1) The initial lease between the family and the Owner must be for at least one year or the term of the HAP contract, whichever is shorter. In cases where there is less than one year remaining on the HAP contract, the owner and the PHA may mutually agree to terminate the unit from the HAP contract instead of leasing the unit to an eligible family.

(2) Any renewal or extension of the lease term for any unit must in no case extend beyond the remaining term of the HAP contract.

[47 FR 34379, Aug. 9, 1982, as amended at 64 FR 53869, Oct. 4, 1999]

§ 882.404 Physical condition standards; physical inspection requirements.

(a) *Compliance with physical condition standards.* Housing in this program must be maintained and inspected in accordance with the requirements in 24 CFR part 5, subpart G.

(b) *Space and security.* In addition to the standards in 24 CFR part 5, subpart G, a dwelling unit used in the Section 8 moderate rehabilitation program that is not SRO housing must have a living room, a kitchen area, and a bathroom. Such a dwelling unit must have at least one bedroom or living/sleeping room for each two persons.

(c) *Special housing types.* The following provisions in 24 CFR part 982, subpart M (Special Housing Types)

apply to the Section 8 moderate rehabilitation program:

(1) 24 CFR 982.605(b) (for SRO housing). For the Section 8 moderate rehabilitation SRO program under subpart H of this part 882, see also § 882.803(b).

(2) 24 CFR 982.609(b) (for congregate housing).

(3) 24 CFR 982.614(c) (for group homes).

(d) *Lead-based paint.* 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 apply to the Section 8 moderate rehabilitation program.

[63 FR 46579, Sept. 1, 1998; 64 FR 50227, Sept. 15, 1999]

§ 882.405 Financing.

(a) *Types.* Any type of public or private financing may be utilized with the exception of the rehabilitation loan program under Section 312 of the Housing Act of 1964.

(b) *Use of Contract as security for financing.* An Owner may pledge, or offer as security for any loan or obligation, an Agreement or Contract entered into pursuant to this Program, *Provided* That (1) such security is in connection with a unit(s) rehabilitated pursuant to this Program and (2) the terms of the financing or any refinancing must be approved by the PHA in accordance with standards provided by HUD. Any pledge of the Agreement or Contract, or payments thereunder, will be limited to the amounts payable under the Contract in accordance with its terms.

§ 882.406 [Reserved]

§ 882.407 Other Federal requirements.

The moderate rehabilitation program is subject to applicable federal requirements in 24 CFR 5.105.

[63 FR 23855, Apr. 30, 1998]

§ 882.408 Initial contract rents.

(a) *Fair Market Rent limitation.* The Fair Market Rent Schedule for Moderate Rehabilitation is 120 percent of the Existing Housing Fair Market Rent Schedule, except that the Fair Market