

maintained by HUD for each project as a specifically identified and segregated account, and payment shall be made therefrom only for the purposes of (i) housing assistance payments, and (ii) other costs specifically authorized or approved by the Secretary.

(2) Whenever a HUD-approved estimate of required housing assistance payments for a fiscal year exceeds the maximum annual Contract commitment, and would cause the amount in the Project Account to be less than an amount equal to 40 percent of such maximum annual Contract commitment, HUD shall, within a reasonable period of time, take such additional steps authorized by Section 8(c)(6) of the Act as may be necessary to carry out this assurance, including (as provided in that section of the Act) "the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts."

§ 886.109 Housing assistance payments to owners.

(a) *General.* Housing Assistance Payments shall be paid to Owners for units under lease by eligible families, in accordance with the Contract and as provided in this section. These Housing Assistance Payments will cover the difference between the Contract Rent and the Tenant Rent. 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 HUD. 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.

(b) No Section 8 assistance may be provided for any unit occupied by an Owner; cooperatives are considered rental housing.

(c) If an Eligible Family vacates its unit (other than as a result of action by the Owner which is in violation of the Lease or the Contract or any applicable law), the Owner shall receive housing assistance payments in the amount of 80 percent of the Contract Rent for a vacancy period not exceed-

ing 60 days: *Provided, however,* That if the Owner collects any of the Family's share of the rent for this period, or applies security deposits for unpaid rent, in amounts which when added to the 80 percent payments, results in more than the Contract Rent, such excess shall be payable to HUD or as HUD may direct. (See also § 886.116.) The Owner shall not be entitled to any payment under this paragraph unless he:

(1) Immediately upon learning of the vacancy, has notified HUD of the vacancy or prospective vacancy and the reasons for the vacancy, and

(2) Has taken and continues to take all feasible actions to fill the vacancy including, but not limited to, contacting applicants on his waiting list (if any), and advising them of the availability of the unit, and

(3) Has not rejected any eligible applicant except for good cause.

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§ 886.110 Contract rents.

(a) The sum of the Contract Rents plus an Allowance for Utilities and Other Services shall not exceed the published Section 8 Fair Market Rents for Existing Housing, except that they may be exceeded by:

(1) Up to 10 percent if the Field Office Director determines that special circumstances warrant such higher rents, or

(2) By up to 20 percent where the Regional Administrator determines that special circumstances warrant such higher rents, and in either case, such higher rents meet the test of reasonableness in paragraph (c) of this section.

(b) In the case of any project completed not more than six years prior to the application for assistance under that part, or in the case of units converted to Section 8 which were previously assisted under Section 101 of the Housing and Urban Development Act of 1965 or Section 236(f)(2) of the National Housing Act, contract rents plus any allowance for utilities and other services may be as high as 75 percent of the published Section 8 Fair Market Rents for New Construction, which limitation may be increased: (1) By up to 10 percent if the Field Office