

monthly utility costs that do not exceed the greater of:

(1) The tenant's monthly rent and estimated average monthly utility costs before the Agreement; or

(2) The total tenant payment, as determined under 24 CFR 813.107, if the tenant is low-income, or 30 percent of gross household income, if the tenant is not low-income; or

(B) The tenant is required to relocate temporarily, does not return to the building/complex, and either:

(1) The tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation; or

(2) Other conditions of the temporary relocation are not reasonable; or

(C) The tenant is required to move to another dwelling in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move, or other conditions of the move are not reasonable.

(2) Notwithstanding the provisions of paragraph (f)(1) of this section, however, a person does not qualify as a "displaced person" (and is not eligible for relocation assistance at URA levels), if:

(i) The person has been evicted for cause based upon a serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable Federal, State, or local law, or other good cause, and HUD determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance.

(ii) The person moved into the property after the submission of the application and, before signing a lease and commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., displacement, temporary relocation or a rent increase) and the fact that he or she will not qualify as a displaced person as a result of the project;

(iii) The person is ineligible under 49 CFR 24.2(g)(2); or

(iv) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project;

(3) The Sponsor/Borrower may request, at any time, a HUD determination of whether a displacement is or would be covered by this section.

§ 891.515 Audit requirements.

Nonprofits receiving assistance under this part are subject to the audit requirements in 24 CFR part 45.

SECTION 202 PROJECTS FOR THE ELDERLY OR HANDICAPPED—SECTION 8 ASSISTANCE

§ 891.520 Definitions applicable to 202/8 projects.

The following definitions apply to projects for eligible families receiving assistance under section 8 of the United States Housing Act of 1937 in addition to reservations under section 202 of the Housing Act of 1959 (202/8 projects):

Adjusted income as defined in part 5, subpart F of subtitle A of this title.

Assisted unit means a dwelling unit eligible for assistance under a HAP contract.

Contract rent means the total amount of rent specified in the HAP contract as payable by HUD and the tenant to the Borrower for an assisted unit.

Family (eligible family) means an elderly or handicapped family that meets the project occupancy requirements approved by HUD and, if the family occupies an assisted unit, meets the requirements described in part 813 of this chapter.

Gross rent is defined in part 5, subpart F of subtitle A of this title.

HAP contract (housing assistance payments contract) means the contract entered into by the Borrower and HUD setting forth the rights and duties of the parties with respect to the project and the payments under the HAP contract.

Housing assistance payment means the payment made by HUD to the Borrower for assisted units as provided in the HAP contract. The payment is the difference between the contract rent and the tenant rent. An additional payment is made to a family occupying an assisted unit when the utility allowance is greater than the total tenant payment. A housing assistance payment, known as a "vacancy payment,"

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may be made to the Borrower when an assisted unit is vacant, in accordance with the terms of the HAP contract.

Project account means a specifically identified and segregated account for each project that is established in accordance with § 891.570(b) out of the amounts by which the maximum annual commitment exceeds the amount actually paid out under the HAP contract each year.

Project occupancy requirements means that eligible populations to be served under the Section 202 program are qualified individuals or families whose head of household or spouse is elderly, physically handicapped, developmentally disabled, or chronically mentally ill. Projects are designed to meet the special needs of the particular tenant population that the Borrower was selected to serve. Individuals from one eligible group may not be accepted for occupancy in a project designed for a different tenant group. However, a Sponsor can propose to house eligible tenant groups other than the one it was selected to serve, but must apply to the HUD field office for permission to do so, based on a plan that demonstrates that it can adequately serve the proposed tenant group. Upon review and recommendation by the field office, HUD Headquarters will approve or disapprove the request.

Rent, in the case of a unit in a cooperative project, means the carrying charges payable to the cooperative with respect to occupancy of the unit.

Tenant rent means the monthly amount defined in, and determined in accordance with part 5, subpart F of subtitle A of this title.

Total tenant payment means the monthly amount defined in, and determined in accordance with part 5, subpart F of subtitle A of this title.

Utility allowance is defined in part 5, subpart F of subtitle A of this title and is determined or approved by HUD.

Utility reimbursement is defined in part 5, subpart F of subtitle A of this title.

Vacancy payment means the housing assistance payment made to the Borrower by HUD for a vacant assisted unit if certain conditions are fulfilled, as provided in the HAP contract. The amount of the vacancy payment varies

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with the length of the vacancy period and is less after the first 60 days of any vacancy.

[61 FR 11956, Mar. 22, 1996, as amended at 66 FR 6225, Jan. 19, 2001; 66 FR 8174, Jan. 30, 2001]

§ 891.525 Amount and terms of financing.

(a) The amount of financing approved shall be the amount stated in the Notice of Section 202 Fund Reservation, including any increase approved by the field office prior to the final closing of a loan; provided, however, that the amount of financing provided shall not exceed the lesser of:

(1) The dollar amounts stated in paragraphs (b) through (f) of this section; or

(2) The total development cost of the project as determined by the field office.

(b) For such part of the property or project attributable to dwelling use (excluding exterior land improvements, as defined by the Assistant Secretary) the maximum loan amount, depending on the number of bedrooms, may not exceed:

(1) \$28,032 per family unit without a bedroom.

(2) \$32,321 per family unit with one bedroom.

(3) \$38,979 per family unit with two bedrooms.

(c) In order to compensate for the higher costs incident to construction of elevator type structures of sound standards of construction and design, the field office may increase the dollar limitations per family unit, as provided in paragraph (b) of this section, to not to exceed:

(1) \$29,500 per family unit without a bedroom.

(2) \$33,816 per family unit with one bedroom.

(3) \$41,120 per family unit with two bedrooms.

(d) *Reduced loan amount—leaseholds.* In the event the loan is secured by a leasehold estate rather than a fee simple estate, the allowable cost of the property upon which the loan amount is based shall be reduced by the value of the leased fee.