

§ 882.402 Definitions.

In addition to the definitions set forth in § 882.102, the following will apply:

Agreement to enter into Housing Assistance Payments Contract ("Agreement"). A written agreement between the Owner and the PHA that, upon satisfactory completion of the rehabilitation in accordance with requirements specified in the Agreement, the PHA will enter into a Housing Assistance Payments Contract with the Owner.

Eligible Family ("Family"). A family as defined in § 882.102, including all low-income single persons in occupancy prior to execution of the Agreement. (Units occupied by low-income single persons, even if not elderly or handicapped, may be determined eligible in order to prevent displacement.)

Moderate rehabilitation. Rehabilitation involving a minimum expenditure of \$1,000 for a unit, including its prorated share of work to be accomplished on common areas or systems, to:

(a) Upgrade to Decent, Safe and Sanitary condition to comply with the Housing Quality Standards or other standards approved by HUD, from a condition below those standards (improvements being of a modest nature and other than routine maintenance); or

(b) Repair or replace major building systems or components in danger of failure.

Single Room Occupancy (SRO) Housing: A unit for occupancy by a single eligible individual capable of independent living which does not contain food preparation and/or sanitary facilities in accordance with § 882.109, and is located within a multifamily structure consisting of more than 12 units.

Statement of Family responsibility. An agreement, in the form prescribed by HUD, between the PHA and a Family to be assisted under the Program, stating the obligations and responsibilities of the two parties.

§ 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.* The initial Lease between the Family and Owner must be for at least one year. Any renewal or extension of the Lease term for any unit must in no case extend beyond the remaining term of the Contract.

§ 882.404 Housing quality standards.

In addition to the standards set forth in § 882.109, the following will apply:

(a) *Energy efficiency-performance requirement.* Caulking and weatherstripping are required as energy conserving improvements. Other appropriate energy conserving improvements such as insulation and storm windows must be accomplished by the Owner as part of the rehabilitation under this Program, to the extent that the PHA determines these improvements to be practicable,

cost effective and financially feasible. Also, installation of cost-effective and economically feasible solar energy systems is encouraged.

(b) *Site and neighborhood-performance requirement.* In addition to meeting the standards required in § 882.109(k), the site must:

(1) Be adequate in size, exposure and contour to accommodate the number and type of units proposed; adequate utilities and streets must be available to service the site. (The existence of a private disposal system and private sanitary water supply for the site, approved in accordance with local law, may be considered adequate utilities.)

(2) Be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, E.O. 11063, and HUD regulations issued pursuant thereto.

(3) Promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.

(4) Be accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.

(5) Be so located that travel time and cost via public transportation or private automobile, from the neighborhood to places of employment providing a range of jobs for low-income workers, is not excessive. (While it is important that housing for the elderly not be totally isolated from employment opportunities, this requirement need not be adhered to rigidly for such projects.)

(c) *Lead-based paint—(1) Purpose and applicability.* The purpose of this paragraph is to implement the provisions of section 302 of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4822, by establishing procedures to eliminate as far as practicable the hazards of lead-based paint poisoning with respect to existing housing units for which proposals are made for assistance under the Section 8 Moderate Re-

habilitation Program. This paragraph is promulgated under the authorization granted in 24 CFR 35.24(b)(4) and supersedes, with respect to all housing to which it applies, the requirements prescribed by subpart C of 24 CFR part 35. The requirements of paragraph (c)(4) of this section are applicable to proposals for which initial inspection under § 882.504(a) or periodic inspection under § 882.516 (b) is made on or after May 1, 1987. The requirements of this paragraph do not apply to 0-bedroom units. The requirements of subpart A of 24 CFR part 35 apply to all units constructed prior to 1978 covered by a Housing Assistance Payments Contract under this subpart. This section does not apply to projects for the elderly or handicapped (except for units housing children under seven years of age).

(2) *Definitions—Applicable surface.* All intact and nonintact interior and exterior painted surfaces of a residential structure.

Chewable surface. All chewable protruding painted surfaces up to five feet from the floor or ground, which are readily accessible to children under seven years of age, e.g., protruding corners, windowsills and frames, doors and frames and other protruding woodwork.

Defective paint surface. Paint on applicable surfaces that is cracking, scaling, chipping, peeling or loose.

Elevated blood lead level or EBL. Excessive absorption of lead, that is, a confirmed concentration of lead in whole blood of 25 ug/dl (micrograms of lead per deciliter of whole blood) or greater.

Lead-based paint. A paint surface, whether or not defective, identified as having a lead content greater than or equal to 1 mg/cm².

(3) *Defective paint.* In the case of a unit, for a Family which includes a child under the age of seven years, which was constructed prior to 1978, the initial inspection under § 882.504(a), and each periodic inspection under § 882.516(b), shall include an inspection for defective paint surfaces. If defective paint surfaces are found, treatment as required by 24 CFR 35.24(b)(2)(ii) shall be included in the specific work items referred to in § 882.504(a) or required as corrective action pursuant to

§ 882.516(c), as appropriate. Correction of defective paint surfaces discovered at periodic inspection must be completed within 30 days of PHA notification to the Owner. When weather conditions prevent completion of repainting of exterior surfaces within the 30 day period, repainting may be delayed, but covering or removal of the defective paint must be completed within the prescribed period.

(4) *Chewable surfaces.* If a proposal is submitted with respect to a unit constructed prior to 1978, occupied by a Family which includes a child under the age of seven years with an identified EBL condition, the PHA shall cause the unit to be tested for lead-based paint on chewable surfaces. Testing shall be conducted by a State or local health or housing agency, an inspector certified or regulated by a State or local health or housing agency, or an organization recognized by HUD. Lead content shall be tested by using an X-ray fluorescence analyzer (XRF) or other method approved by HUD. Test readings of 1 mg/cm² or higher using an XRF shall be considered positive for presence of lead-based paint. Where lead-based paint on chewable surfaces is identified at initial inspection, covering or removal of the paint surface in accordance with 24 CFR 35.24(b)(2)(ii) shall be included in the specific work items referred to in § 882.504(a). Where lead-based paint on chewable surfaces is discovered at periodic inspection, covering or removal of the paint surface in accordance with 24 CFR 35.24(b)(2)(ii) shall be completed within the time limits set forth in paragraph (c)(3) of this section.

(5) *Abatement without testing.* In lieu of the procedures set forth in Paragraph (c) of this section (4) above the PHA may, at its discretion, forgo testing and require the abatement of all interior and exterior chewable surfaces in accordance with 24 CFR 35.24(b)(2)(ii).

(6) *Tenant protection.* The owner shall take appropriate action to protect tenants from hazards associated with abatement procedures.

(7) *Records.* The PHA shall keep a copy of each inspection report for at least three years. If a unit requires testing or if the unit requires treat-

ment of chewable surfaces based on the testing, the PHA shall keep indefinitely the test results and, if applicable, the owner certification of treatment. The records shall indicate which chewable surfaces in units have been tested and which chewable surfaces in the units have been treated. If records establish that certain chewable surfaces were tested or tested and treated in accordance with the standards prescribed in this section, such chewable surfaces do not have to be tested or treated at any subsequent time.

[47 FR 34379, Aug. 9, 1982, as amended at 50 FR 38795, Sept. 27, 1985; 52 FR 1894, Jan. 15, 1987; 52 FR 9828, Mar. 27, 1987; 53 FR 20801, June 6, 1988; 58 FR 4270, Jan. 13, 1993]

§ 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 Displacement, relocation, and acquisition.

(a) *Minimizing displacement.* (1) Consistent with the other goals and objectives of this part, owners must assure that they have taken all reasonable steps to minimize the displacement of persons (households, businesses, non-profit organizations, and farms) as a result of a project assisted under this part. To the extent feasible, residential tenants must be provided a reasonable opportunity to lease and occupy a suitable, decent, safe, sanitary, and affordable dwelling unit in the project upon its completion.

(2) Whenever a building/complex is rehabilitated, and some but not all of