applicable) security deposit balance is insufficient to reimburse the Owner (or Borrower, if applicable) for any amount that the household (or family) owes under the lease for an assisted unit or residential space, and the Owner (or Borrower) has provided the household (or family) with the list required by paragraph (b)(3)(ii) of this section, the Owner (or Borrower) may claim reimbursement from HUD for an amount not to exceed the lesser of:

1. The amount owed the Owner (or Borrower); or
2. One month’s per unit operating cost (or contract rent, if applicable), minus the amount of the household’s (or family’s) security deposit balance.

Any reimbursement under this section will be applied first toward any unpaid tenant payment (or rent, if applicable) due under the lease. No reimbursement may be claimed for any unpaid tenant payment (or rent) for the period after termination of the tenancy. The Owner (or Borrower) may be eligible for vacancy payments following a vacancy in accordance with the requirements of §891.445 (or §§891.650 or 891.790, as applicable).

§891.440 Adjustment of utility allowances.

This section shall apply to projects funded under the Section 202 Program, to independent living complexes funded under Section 811 Program, and to projects financed with loans under subpart E of this part. The Owner (or Borrower, as applicable) must submit an analysis of any utility allowances applicable. Such data as changes in utility rates and other facts affecting utility consumption should be provided as part of this analysis to permit appropriate adjustments in the utility allowances for assisted units. In addition, when utility rate changes would result in a cumulative increase of 10 percent or more in the most recently approved utility allowances, the Owner (or Borrower) must advise HUD and request approval of new utility allowances. Whenever a utility allowance for an assisted unit is adjusted, the Owner (or Borrower) will promptly notify affected households (or families, as applicable) and make a corresponding adjustment of the tenant payment (or rent, as applicable) and the amount of the project rental assistance payment (or housing or project assistance payment, as applicable).

(Approved by the Office of Management and Budget under control number 2502–0470)

§891.445 Conditions for receipt of vacancy payments for assisted units.

(a) General. Vacancy payments under the PRAC will not be made unless the conditions for receipt of these project rental assistance payments set forth in this section are fulfilled.

(b) Vacancies during rent-up. For each unit (or residential space in a group home) that is not leased as of the effective date of the PRAC, the Owner is entitled to vacancy payments in the amount of 50 percent of the per unit operating cost (or pro rata share of the group home operating cost) for the first 60 days of vacancy, if the Owner:

1. Conducted marketing in accordance with §891.400(a) and otherwise complied with §891.400;
2. Notified HUD of the vacancy or prospective vacancy and the reasons for the vacancy upon learning of the vacancy or prospective vacancy;
3. Has fulfilled and continues to fulfill the requirements specified in §891.400(b)(1) and (2) and §891.445(b)(2) and (3); and
4. For any vacancy resulting from the Owner’s eviction of an eligible household, certifies that it has complied with §891.430.

(c) Vacancies after rent-up. If an eligible household vacates an assisted unit (or residential space in a group home) the Owner is entitled to vacancy payments in the amount of 50 percent of the approved per unit operating cost (or pro rata share of the group home operating cost) for the first 60 days of vacancy if the Owner:

1. Certifies that it did not cause the vacancy by violating the lease, the PRAC, or any applicable law;
2. Notified HUD of the vacancy or prospective vacancy and the reasons for the vacancy upon learning of the vacancy or prospective vacancy;
3. Has fulfilled and continues to fulfill the requirements specified in §891.400(a) (2) and (3) and §891.445(b) (2) and (3); and
4. For any vacancy resulting from the Owner’s eviction of an eligible household, certifies that it has complied with §891.430.

(d) Prohibition of double compensation for vacancies. If the Owner collects payments for vacancies from other sources...
§ 891.505 Definitions.

For the purposes of this subpart E:


Borrower means a private nonprofit corporation or a nonprofit consumer cooperative that may be established by the Sponsor, which will obtain a Section 202 loan and execute a mortgage in connection therewith as the legal owner of the project. “Borrower” does not mean a public body or the instrumentality of any public body. The purposes of the Borrower must include the promotion of the welfare of elderly and/or handicapped families. No part of the net earnings of the Borrower may inure to the benefit of any private shareholder, contributor, or individual, and the Borrower may not be controlled by or under the direction of persons or firms seeking to derive profit or gain therefrom. Because of the nonprofit nature of the Section 202 program, no officer or director, or trustee, member, stockholder or authorized representative of the Borrower is permitted to have any financial interest in any contract in connection with the rendition of services, the provision of goods or supplies, project management, procurement of furnishings and equipment, construction of the project, procurement of the site or other matters whatsoever.

Elderly family means:

(1) Families of two or more persons the head of which (or his or her spouse) is 62 years of age or older;

(2) The surviving member or members of any family described in paragraph (1) of this definition living in a unit assisted under subpart E of this part with the deceased member of the family at the time of his or her death;

(3) A single person who is 62 years of age or older;

(4) Two or more elderly persons living together, or one or more such persons living with another person who is