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TITLE 24--HOUSING AND URBAN DEVELOPMENT

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Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), 12701, and 13611-13619.

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Source: 44 FR 59410, Oct. 15, 1979, unless otherwise noted.

(a) The purpose of the Section 8 program is to provide low-income families with decent, safe and sanitary rental housing through the use of a system of housing assistance payments. This part contains the policies and procedures applicable to the Section 8 new construction program. The assistance may be provided to public housing agency owners or to private owners either directly from HUD or through public housing agencies.

(b) This part does not apply to projects developed under other Section 8 program regulations, including 24 CFR parts 881, 882, 883, 884, and 885, except to the extent specifically stated in those parts. Portions of subparts E and F of this part 880 have been cross-referenced in 24 CFR parts 881 and 883.

[61 FR 13587, Mar. 27, 1996]

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PART 880\_SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW  
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Subpart F -Management

Sec. 880.601 Responsibilities of owner.

(a) Marketing. (1) The owner must commence diligent marketing activities in accordance with the Agreement not later than 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.

(2) Marketing must be done in accordance with the HUD-approved Affirmative Fair Housing Marketing Plan and all Fair Housing and Equal Opportunity requirements. The purpose of the Plan and requirements is to assure that eligible families of similar income in the same housing market area have an equal opportunity to apply and be selected for a unit in projects assisted under this part regardless of their race, color, creed, religion, sex or national origin.

(3) With respect to non-elderly family units, the owner must undertake marketing activities in advance of marketing to other prospective tenants in order to provide opportunities to reside in the project to non-elderly families who are least likely to apply, as determined in the Affirmative Fair Housing Marketing Plan, and to non-

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elderly families expected to reside in the community by reason of current or planned employment.

(4) At the time of Contract execution, the owner must submit a list of leased and unleased units, with justification for the unleased units, in order to qualify for vacancy payments for the unleased units.

(b) Management and maintenance. The owner is responsible for all management functions, including determining eligibility of applicants, selection of tenants, reexamination and verification of family income and composition, determination of family rent (total tenant payment, tenant rent and utility reimbursement), collection of rent, termination of tenancy and eviction, and performance of all repair and maintenance functions (including ordinary and extraordinary maintenance), and replacement of capital items. (See part 5 of this title.) All functions must be performed in accordance with applicable equal opportunity requirements.

(c) Contracting for services. (1) For this part 880 and 24 CFR part 881 projects, with HUD approval, the owner may contract with a private

or public entity (except the contract administrator) for performance of the services or duties required in paragraphs (a) and (b) of this section.

(2) For 24 CFR part 883 projects, with approval of the Agency, the owner may contract with a private or public entity (but not with the Agency unless temporarily necessary for the Agency to protect its financial interest and to uphold its program responsibilities where no alternative management agent is immediately available) for performance of the services or duties required in paragraphs (a) and (b) of this section.

(3) However, such an arrangement does not relieve the owner of responsibility for these services and duties.

(d) Submission of financial and operating statements. After execution of the Contract, the owner must submit to the contract administrator:

(1) Financial information in accordance with 24 CFR part 5, subpart H; and

(2) Other statements as to project operation, financial conditions and occupancy as HUD may require pertinent to administration of the Contract and monitoring of project operations.

(e) Use of project funds. (1) Project funds must be used for the benefit of the project, to make required deposits to the replacement reserve in accordance with Sec. 880.602 and to provide distributions to the owner as provided in Sec. 880.205, Sec. 881.205 of this chapter, or Sec. 883.306 of this chapter, as appropriate.

(2) For this part 880 and 24 CFR part 881 projects:

(i) Any remaining project funds must be deposited with the mortgagee or other HUD-approved depository in an interest-bearing residual receipts account. Withdrawals from this account will be made only for project purposes and with the approval of HUD.

(ii) Partially-assisted projects are exempt from the provisions of this section.

(iii) In the case of HUD-insured projects, the provisions of this paragraph (e) will apply instead of the otherwise applicable mortgage insurance provisions.

(3) For 24 CFR part 883 projects:

(i) Any remaining project funds must be deposited with the Agency, other mortgagee or other Agency-approved depository in an interest-bearing account. Withdrawals from this account may be made only for project purposes and with the approval of the Agency.

(ii) In the case of HUD-insured projects, the provisions of this paragraph will apply instead of the otherwise applicable mortgage insurance provisions, except in the case of partially-assisted projects which are subject to the applicable mortgage insurance provisions.

(Approved by the Office of Management and Budget under control number 2502-0204)

[44 FR 59410, Oct 15, 1979, as amended at 45 FR 18924, Mar. 24, 1980; 51 FR 11224, Apr. 1, 1986; 53 FR 846, Jan. 13, 1988; 53 FR 1145, Jan. 15, 1988; 53 FR 6601, Mar. 2, 1988; 54 FR 39702, Sept. 27, 1989; 56 FR 7536, Feb. 22, 1991; 60 FR 14841, Mar. 20, 1995; 61 FR 13588, Mar. 27, 1996; 63 FR 46593, Sept. 1, 1998; 65 FR 16722, Mar. 29, 2000]

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TITLE 24--HOUSING AND URBAN DEVELOPMENT

CHAPTER II--OFFICE OF ASSISTANT SECRETARY FOR HOUSING--FEDERAL HOUSING  
COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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Sec. 200.105 Mortgagor supervision.

(a) As long as the Commissioner is the insurer or holder of the mortgage, the Commissioner shall regulate the mortgagor by means of a regulatory agreement providing terms, conditions and standards established by the Commissioner, or by such other means as the Commissioner may prescribe.

(b) The Commissioner may delegate to the mortgagee or other party the Commissioner's authority, in whole or in part, in accordance with the terms, conditions and standards established by the Commissioner in any executed Regulatory Agreement or other instrument granting the Commissioner supervision of the mortgagor.

[61 FR 14399, Apr. 1, 1996, as amended at 65 FR 61074, Oct. 13, 2000]

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[61 FR 14399, Apr. 1, 1996, as amended at 65 FR 61074, Oct. 13, 2000]

## 2.9 OWNER/MANAGEMENT ENTITY APPROVAL SUBMISSION REQUIREMENTS

To request approval of the management entity, the owner/agent must submit the following information to the HUD Area Office at least 60 days before the date the owner wishes the new agent to assume responsibility. In the case of emergency replacements of management agents (see paragraph 2.7) the owner/agent must submit the information needed for HUD to review and approve the new management agent as soon as the new agent is identified.

a. Previous Participation Certification. Form HUD-2530 (see Appendix 1) reports the names of all principals and affiliates of the management agent and any previous housing projects in which they have participated. It further certifies that they currently are eligible to participate in the management of the HUD-insured, financed or assisted multifamily project.

b. Management Entity Profile. Form HUD-9832 (see Appendix 2) provides HUD with information on the management entity's organization and procedures, including treatment of identity-of-interest relationships. It also shows the types of projects the agent has managed and what skills or professional certificates the agent's staff hold. It does not provide information on how the agent has operated individual projects.

(1) If the management entity has already submitted a profile in the format of the HUD-9832 and the profile is still accurate, the owner/agent should state in the cover letter requesting approval of the management entity that an accurate and up-to-date profile is on file. The cover letter should also include the date that this document was submitted. A new submission is not required.

(2) If a previously-submitted profile is not current, or if the management entity has never submitted a profile that conforms with the HUD-9832 format, the owner or agent must submit a new profile of the management entity.

(3) An updated profile must be submitted whenever there are changes in the management entity's organization or operations. The owner and/or agent should not wait until the management fee changes to submit a revised profile.

c. Management Certification. Using Form HUD-9839a, b, or c, as appropriate, (see Appendix 3) the owner and management agent together certify that they will comply with HUD requirements and contract obligations, execute an acceptable management agent agreement, and that no payments have been made to the owner in return for awarding the management contract to the agent and such payments will not be made in the future (projects not managed by the owner). Owners and agents must fill out the appropriate Certification Form as follows:

(1) Owner-Managed Projects submit Form HUD-9839a

(2) Identity-of-Interest Agents submit Form HUD-9839b

(3) Independent Fee Agents submit Form HUD-9839b

(4) Project Administrators submit Form HUD 9839c.

d. Proposed Staffing to be Charged Against the Project Operating Account. (See paragraph 6.38 for a discussion of which positions can be charged against the operating account.)

(1) Owners/agents must provide a listing of the staff whose salaries will be paid from the project's operating account. The list must include:

(a) Job titles and approximate salary, including hourly rate;

(b) A statement of each position's duties, if not obvious by title and whether the position is full or part-time;

(c) If the employee will be working for more than one project and/or working part-time for the agent in a non-supervisory capacity, a statement of how that person's time and salary will be allocated.

Note: Salaries of management agent supervisory staff not assigned to the project must be paid from the management fee. Only full-time, front-line supervisors may be paid from the project account (see exceptions to this rule in paragraph 6.39(c)).

(2) Any changes in staffing structure described in the listing above or additions in staff, which would require submitting a rent increase request to HUD, should be documented as part of the budgeted rent increase request process.

e. Resident Complaints and Their Resolution. Owners must provide a description of the system employed by the agent for resolving resident complaints and actual examples of the agent's implementation of the system.

f. Additional Information Required by the HUD Area Office. The Loan/Asset Management staff may require owners to submit additional information to clarify materials already submitted. Materials requested may address:

(1) Determining the management agent's acceptability.

(2) Monitoring the agent's compliance with HUD requirements.

(3) Resolving project operating problems.

Figure 2-4 lists the types of additional information that may be needed to assess the acceptability of a proposed agent. Loan/Asset Management staff should not require owners to submit this type of information on a specific form.



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Subpart A -Summary and Applicability

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881.501 The contract.

881.502 Term of contract.

881.503 Cross-reference.

Subpart F -Management

881.601 Cross-reference.

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), 12701, and 13611-  
13619.

Source: 45 FR 7085, Jan. 31, 1980, unless otherwise noted.

(a) The purpose of the Section 8 program is to provide low-income families with decent, safe and sanitary rental housing through the use of a system of housing assistance payments. This part contains the policies and procedures applicable to the Section 8 substantial rehabilitation program. The assistance may be provided to public housing agency owners or to private owners either directly from HUD or through public housing agencies.

(b) This part does not apply to projects developed under other Section 8 program regulations, including 24 CFR parts 880, 882, 883, 884, and 885, except to the extent specifically stated in those parts.

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Subpart F -Management

Sec. 881.601 Cross-reference.

All of the provisions of part 880, subpart F, of this chapter apply  
to projects assisted under this part, subject to the requirements of  
Sec. 881.104.

[61 FR 13592, Mar. 27, 1996]