

(1) HUD determines (for 24 CFR part 883 projects, HUD and the Agency determine) that the restoration is justified by demand,

(2) The owner otherwise has a record of compliance with his obligations under the Contract, and

(3) Contract and budget authority is available.

(d) *Applicability.* In accordance with section 555 of the Cranston-Gonzalez National Affordable Housing Act of 1990, paragraphs (a) and (b) of this section apply to all Contracts. An owner who had leased an assisted unit to an ineligible family consistent with the regulations in effect at the time will continue to lease the unit to that family. However, the owner must make the unit available for occupancy by an eligible family when the ineligible family vacates the unit.

(e) *Termination of assistance for failure to submit evidence of citizenship or eligible immigration status.* If an owner who is subject to paragraphs (a) and (b) of this section is required to terminate housing assistance payments for the family in accordance with 24 CFR part 5 because the owner determines that the entire family does not have U.S. citizenship or eligible immigration status, the owner may allow continued occupancy of the unit by the family without Section 8 assistance following the termination of assistance, or if the family constitutes a mixed family, as defined in 24 CFR part 5, the owner shall comply with the provisions of 24 CFR part 5 concerning assistance to mixed families, and deferral of termination of assistance.

[44 FR 59410, Oct. 15, 1979, as amended at 49 FR 31397, Aug. 7, 1984; 51 FR 11224, Apr. 1, 1986; 53 FR 846, Jan. 13, 1988; 53 FR 6601, Mar. 2, 1988; 59 FR 13652, Mar. 23, 1994; 60 FR 14841, Mar. 20, 1995; 61 FR 13587, Mar. 27, 1996]

**§ 880.505 Contract administration and conversions.**

(a) *Contract administration.* For private-owner/PHA projects, the PHA is primarily responsible for administration of the Contract, subject to review and audit by HUD. For private-owner/ HUD and PHA-owner/ HUD projects, HUD is responsible for administration of the Contract. The PHA or HUD may contract with another entity for the

performance of some or all of its contract administration functions.

(b) *PHA fee for Contract administration.* A PHA will be entitled to a reasonable fee, determined by HUD, for administering a Contract except under certain circumstances (see 24 CFR part 883) where a state housing finance agency is the PHA and finances the project.

(c) *Conversion of Projects from one Ownership/Contractual arrangement to another.* Any project may be converted from one ownership/contractual arrangement to another (for example, from a private-owner/ HUD to a private-owner/ PHA project) if:

(1) The owner, the PHA and HUD agree,

(2) HUD determines that conversion would be in the best interest of the project, and

(3) In the case of conversion from a private-owner/ HUD to a private-owner/ PHA project, contract authority is available to cover the PHA fee for administering the Contract.

**§ 880.506 Default by owner (private-owner/ HUD and PHA-owner/ HUD projects).**

The Contract will provide:

(a) That if HUD determines that the owner is in default under the Contract, HUD will notify the owner and the lender of the actions required to be taken to cure the default and of the remedies to be applied by HUD including specific performance under the Contract, reduction or suspension of housing assistance payments and recovery of overpayments, where appropriate; and

(b) That if the owner fails to cure the default, HUD has the right to terminate the Contract or to take other corrective action.

**§ 880.507 Default by PHA and/or owner (private-owner/ PHA projects).**

(a) *Rights of Owner if PHA defaults under Agreement or Contract.* The ACC, the Agreement and the Contract will provide that, in the event of failure of the PHA to comply with the Agreement or Contract with the owner, the owner will have the right, if he is not in default, to demand that HUD investigate. HUD will first give the PHA a

reasonable opportunity to take corrective action. If HUD determines that a substantial default exists, HUD will assume the PHA's rights and obligations under the Agreement or Contract and meet the obligations of the PHA under the Agreement or Contract including the obligations to enter into the Contract.

(b) *Rights of HUD if PHA defaults under ACC.* The ACC will provide that, if the PHA fails to comply with any of its obligations, HUD may determine that there is a substantial default and require the PHA to assign to HUD all of its rights and interests under the Contract; however, HUD will continue to pay annual contributions in accordance with the terms of the ACC and the Contract. Before determining that a PHA is in substantial default, HUD will give the PHA a reasonable opportunity to take corrective action.

(c) *Rights of PHA and HUD if Owner defaults under Contract.* (1) The Contract will provide that if the PHA determines that the owner is in default under the Contract, the PHA will notify the owner and lender, with a copy to HUD, (i) of the actions required to be taken to cure the default, (ii) of the remedies to be applied by the PHA including specific performance under the Contract, abatement of housing assistance payments and recovery of overpayments, where appropriate, and (iii) that if he fails to cure the default, the PHA has the right to terminate the Contract or to take other corrective action, in its discretion or as directed by HUD.

(2) If the PHA is the lender, the Contract will also provide that HUD has an independent right to determine whether the owner is in default and to take corrective action and apply appropriate remedies, except that HUD will not have the right to terminate the Contract without proceeding in accordance with paragraph (b) of this section.

**§ 880.508 Notice upon contract expiration.**

(a) The Contract will provide that the owner will notify each assisted family, at least 90 days before the end of the Contract term, of any increase in the amount the family will be required to pay as rent which may occur

as a result of its expiration. If the Contract is to be renewed but with a reduction in the number of units covered by it, this notice shall be given to each family who will no longer be assisted under the Contract.

(b) The notice provided for in paragraph (a) of this section shall be accomplished by: (1) Sending a letter by first class mail, properly stamped and addressed, to the family at its address at the project, with a proper return address; and (2) serving a copy of the notice on any adult person answering the door at the leased dwelling unit, or if no adult responds, by placing the notice under or through the door, if possible, or else by affixing the notice to the door. Service shall not be considered to be effective until both required notices have been accomplished. The date on which the notice shall be considered to be received by the family shall be the date on which the owner mails the first class letter provided for in this paragraph, or the date on which the notice provided for in this paragraph is properly given, whichever is later.

(c) The notice shall advise each affected family that, after the expiration date of the Contract, the family will be required to bear the entire cost of the rent and that the owner will be free (to the extent the project is not otherwise regulated by HUD) to alter the rent without HUD approval, but subject to any applicable requirements or restrictions under the lease or under State or local law. The notice shall also state: (1) The actual (if known) or the estimated rent which will be charged following the expiration of the Contract; (2) the difference between the rent and the Total Tenant Payment toward rent under the Contract; and (3) the date the Contract will expire.

(d) The owner shall give HUD a certification that families have been notified in accordance with this section with an example of the text of the notice attached.

(e) This section applies to all Contracts entered into pursuant to an Agreement executed on or after October 1, 1981, or entered into pursuant to an Agreement executed before October 1, 1981, but renewed or amended on or after October 1, 1984.

[49 FR 31283, Aug. 6, 1984]