

owners must make a request for payment or a request for a one-time contract determination within 60 days from the date of the notice.

(b) *Request for payment.* (1) Owners eligible for retroactive payments under § 888.401(c) must submit a request for a calculation of the total rent adjustments and the establishment of the amount of the retroactive payment, as described in § 888.401 (a) and (b), and documentation of the occupancy rate for the period from October 1, 1979 to May 31, 1991, if available.

(2) Owners claiming eligibility under § 888.401(c)(2) must certify that a request was not made because of an anticipated reduction in the Contract Rents as a result of a comparability study. The certification must contain the year or years upon which the request for payment is based and a statement of the basis for the belief that rents would have been reduced.

(3) Retroactive payments will be made to owners over a three-year period as funds are appropriated for that purpose. When funds are available for payment, HUD will publish a FEDERAL REGISTER Notice containing procedures for claiming payments.

(c) *Request for one-time contract rent determination.* When making a request for payment, eligible owners may also request a one-time contract rent determination, as described in § 888.420. Eligible owners may request a one-time contract rent determination even if they choose to forgo receiving retroactive payments, provided they are eligible for retroactive payments.

(d) *Transfer of ownership since October 1, 1979.* Eligible owners requesting retroactive payments must certify that they are entitled to the entire amount of the payment. Any owner who is unable to certify must present documentation of an agreement between the current and former owners of the proportionate share of the payment for which each is eligible.

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§ 888.415 Restrictions on retroactive payments.

(a) *Restrictions.* Retroactive payments are subject to all regulations, proce-

dures, or restrictions that apply to Housing Assistance Payments.

(b) *Review of initial rents.* Before calculating the amount of any retroactive payment, the PHA, if directed by HUD, will review whether rents were excessive when initially set.

(c) *Physical condition of projects.* If the most recent physical inspection report by the PHA shows significant deficiencies that have not been addressed to the satisfaction of the PHA by the date the retroactive payment is deposited into the project account, the payment will not be made available until the deficiencies are resolved or a plan for their resolution has been approved by the PHA.

§ 888.420 One-time Contract Rent determination.

(a) *Determining the amount of the new Contract Rent.* Project owners eligible for retroactive payments, as described in § 888.401(c), may request a one-time Contract Rent determination, to be effective as described in paragraph (c) of this section. The request for a one-time rent determination must be made when submitting a request for retroactive payments, as described in § 888.415. If no claim for retroactive payments is made, an owner may submit only the request for a one-time rent determination, provided the owner is eligible for retroactive payments. The new Contract Rent under this provision will be the greater of:

(1) The Contract Rent currently approved by the PHA; or

(2) An amount equal to the Contract Rent as adjusted to May 31, 1991 under § 888.405(a).

(b) *Currently approved rent.* The Contract Rent currently approved by the PHA is the Contract Rent stated in the most recent amendment to the HAP Contract signed by both the PHA and the owner.

(c) *Effective date of new Contract Rent.* The new Contract Rent, determined under paragraph (a) of this section, will be effective on May 31, 1991.

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