HUD which provides that, upon satisfactory completion of the project in accordance with the HUD-approved final proposal, HUD will enter into the HAP contract with the Borrower.

Annual income is defined in part 813

of this chapter.

Assisted unit means a dwelling unit eligible for assistance under a HAP contract.

Contract rent means the total amount of rent specified in the HAP contract as payable by HUD and the tenant to the Borrower for an assisted unit.

Family (eligible family) means an elderly or handicapped family (as defined in this section) that meets the project occupancy requirements approved by HUD and, if the family occupies an assisted unit, meets the requirements described in part 813 of this chapter.

Gross rent is defined in part 813 of

this chapter.

HAP contract (housing assistance payments contract) means the contract entered into by the Borrower and HUD setting forth the rights and duties of the parties with respect to the project and the payments under the HAP contract.

Housing assistance payment means the payment made by HUD to the Borrower for assisted units as provided in the HAP contract. The payment is the difference between the contract rent and the tenant rent. An additional payment is made to a family occupying an assisted unit when the utility allowance is greater than the total tenant payment. A housing assistance payment, known as a "vacancy payment", may be made to the Borrower when an assisted unit is vacant, in accordance with the terms of the HAP contract.

Project account means a specifically identified and segregated account for each project which is established in accordance with § 885.510(b) out of the amounts by which the maximum annual commitment exceeds the amount actually paid out under the HAP contract each year.

Project occupancy requirements means eligible populations to be served under the Section 202 program are qualified individuals or families whose head of household or spouse is elderly, physically handicapped, developmentally disabled or chronically mentally ill. Projects are designed to meet the special needs of the particular tenant population which the Borrower was selected to serve. Individuals from one eligible group may not be accepted for occupancy in a project designed for a different tenant group. However, a Sponsor can propose to house eligible tenant groups other than the one it was

selected to serve, but must apply to the

HUD Field Office for permission to do so, based on a plan which demonstrates that it can adequately serve the proposed tenant group. Upon review and recommendation by the Field Office, HUD Headquarters will approve or disapprove the request.

Rent. in the case of a unit in a cooperative project, means the carrying charges payable to the cooperative with respect to occupancy of the unit.

Tenant rent means the monthly amount defined in, and determined in accordance with part 813 of this chapter.

Total tenant payment means the monthly amount defined in, and determined in accordance with part 813 of this chapter.

Utility allowance is defined in part 813 of this chapter and is determined or

approved by HUD.

*Utility reimbursement* is defined in

part 813 of this chapter.

Vacancy payment means the housing assistance payment made to the Borrower by HUD for a vacant assisted unit if certain conditions are fulfilled, as provided in the HAP contract. The amount of the vacancy payment varies with the length of the vacancy period and is less after the first 60 days of any vacancy.

6. In § 885.210, paragraph (b)(5) is revised, to read as follows:

### § 885.210 Contents of applications.

(b) \* \* \* (5) A narrative descript

(5) A narrative description of the anticipated occupancy of the project. The Borrower must propose project occupancy requirements that limit occupancy to the elderly and/or handicapped.

7. In § 885.425, the section heading is revised; paragraph (b) is removed; paragraphs (c), (d), (e) and (f) are redesignated as paragraphs (b), (c), (d) and (e), respectively; to read as follows:

# § 885.425 Completion of project, cost certification and HUD approvals.

8. Sections 885.500 through 885.655 are added to subpart B, to read as follows:

#### § 885.500 HAP contract.

(a) *HAP contract*. The housing assistance payments contract sets forth rights and duties of the Borrower and HUD with respect to the project and the housing assistance payments.

(b) *HAP contract execution.* (1) Upon satisfactory completion of the project, the Borrower and HUD shall execute the HAP contract on the form prescribed by HUD.

(2) The effective date of the HAP contract may be earlier than the date of execution, but no earlier than the date of HUD's issuance of the permission to occupy.

(3) If the project is completed in stages, the procedures of paragraph (b) of this section shall apply to each stage.

(c) Housing assistance payments to owners under the HAP contract. The housing assistance payments made under the HAP contract are:

(1) Payments to the Borrower to assist eligible families leasing assisted units. The amount of the housing assistance payment made to the Borrower for an assisted unit leased to an eligible family is equal to the difference between the contract rent for the unit and the tenant rent payable by the family.

(2) Payments to the Borrower for vacant assisted units ("vacancy payments"). The amount of and conditions for vacancy payments are described in § 885.650. The housing assistance payments are made monthly by HUD upon proper requisition by the Borrower, except payments for vacancies of more than 60 days, which are made semiannually by HUD upon requisition by the Borrower.

(d) Payment of utility reimbursement. Where applicable, a utility reimbursement will be paid to a family occupying an assisted unit as an additional housing assistance payment. The HAP contract will provide that the Borrower will make this payment on behalf of HUD. Funds will be paid to the Borrower in trust solely for the purpose of making the additional payment. The Borrower may pay the utility reimbursement jointly to the family and the utility company, or, if the family and utility company consent, directly to the utility company.

#### §885.505 Term of HAP contract.

The term of the HAP contract for assisted units shall be 20 years. If the project is completed in stages, the term of the HAP contract for assisted units in each stage shall be 20 years. The term of the HAP contract for all assisted units in all stages of a project shall not exceed 22 years.

# § 885.510 Maximum annual commitment and project account.

- (a) Maximum annual commitment. The maximum annual amount that may be committed under the HAP contract is the total of the contract rents and utility allowances for all assisted units in the project.
- (b) *Project account.* (1) HUD will establish and maintain a specifically identified and segregated project account for each project. The project