

PART 901—PUBLIC HOUSING MANAGEMENT ASSESSMENT PROGRAM

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§901.1 Purpose, program scope and applicability.

(a) *Purpose.* This part establishes the Public Housing Management Assessment Program (PHMAP) to implement and augment section 6(j) of the 1937 Act. PHMAP provides policies and procedures to identify public housing agency (PHA), resident management corporation (RMC), and alternative management entity (AME) manage-

ment capabilities and deficiencies, recognize high-performing PHAs, designate criteria for defining troubled PHAs and PHAs that are troubled with respect to the program under section 14 (Public Housing Modernization Program), and improve the management practices of troubled PHAs and mod-troubled PHAs.

(b) *Program scope.* The PHMAP reflects only one aspect of PHA operations, i.e., the results of its management performance in specific program areas. The PHMAP should not be viewed by PHAs, the Department or other interested parties as an all-inclusive and encompassing view of overall PHA operations. When viewing overall PHA operations, other criteria, including but not limited to, the quality of a PHA's housing stock, compliance issues, Fair Housing and Equal Opportunity issues, Board knowledge and oversight of PHA operation, etc., even though not covered under the PHMAP, are necessary in order to determine the adequacy of overall PHA operations. The PHMAP can never be designed to be the sole method of viewing a PHA's overall operations. A PHA should not manipulate the PHMAP system in the short-term in order to achieve a higher PHMAP score, thereby delaying or negating long-term improvement. Making a correct and viable long-term decision (doing the right thing) may hurt a PHA in the short-term (i.e., lower PHMAP score), but will result in improved housing stock and better overall management of a PHA over the long-term and a higher sustainable PHMAP score.

(c) *Applicability.* (1) The provisions of this part apply to PHAs and RMC/ AMEs as noted in the sections of this part. The management assessment of an RMC/AME differs from that of a PHA. Because an RMC/AME enters into a contract with a PHA to perform specific management functions on a development-by-development or program basis, and because the scope of the management that is undertaken varies, not every indicator that applies to a PHA would be applicable to each RMC/ AME.

(2) Due to the fact that the PHA and not the RMC/AME is ultimately responsible to the Department under the

ACC, a PHA's score will be based on all of the developments covered by the ACC, including those with management functions assumed by an RMC or AME (pursuant to a court ordered receivership agreement, if applicable). This is necessary because of the limited nature of an RMC/AME's management functions and the regulatory and contractual relationships among the Department, PHAs and RMC/AMEs.

(3) A significant feature of RMC management is that 24 CFR §§ 964.225 (d) and (h) provide that a PHA may enter into a management contract with an RMC, but a PHA may not contract for assumption by the RMC of the PHA's underlying responsibilities to the Department under the Annual Contributions Contract (ACC).

(4) When a PHA's management functions have been assumed by an AME:

(i) If the AME assumes only a portion of the PHA's management functions, the provisions of this part that apply to RMCs apply to the AME (pursuant to a court ordered receivership agreement, if applicable); or

(ii) If the AME assumes all, or substantially all, of the PHA's management functions, the provisions of this part that apply to PHAs apply to the AME (pursuant to a court ordered receivership agreement, if applicable).

(5) To ensure quality management results from a contract between an AME and a PHA, or between an AME and HUD, minimum performance criteria that relate to the PHMAP indicators, as applicable, should be included in such contract. Failure to meet the performance criteria would be a basis for termination of the contract. However, even in the absence of explicit contractual provisions, this part applies to AMEs in accordance with paragraph (b)(4) of this section, above.

§ 901.5 Definitions.

Actual vacancy rate is the vacancy rate calculated by dividing the total number of vacancy days in the fiscal year by the total number of unit days available in the fiscal year.

Adjusted vacancy rate is the vacancy rate calculated after excluding the vacancy days that are exempted for any of the eligible reasons. It is calculated by dividing the total number of ad-

justed vacancy days in the fiscal year by the total number of unit days available in the fiscal year.

Alternative management entity (AME) is a receiver, private contractor, private manager, or any other entity that is under contract with a PHA, or that is otherwise duly appointed or contracted (for example, by court order, pursuant to a court ordered receivership agreement, if applicable, or agency action), to manage all or part of a PHA's operations. Depending upon the scope of PHA management functions assumed by the AME, in accordance with § 901.1(b)(2), the AME is treated as a PHA or an RMC for purposes of this part and, as appropriate, the terms PHA and RMC include AME.

Assessed fiscal year is the PHA fiscal year that has been reviewed for management performance using the PHMAP indicators. Unless otherwise indicated, the assessed fiscal year is the immediate past fiscal year of a PHA.

Assistant Secretary means the Assistant Secretary for Public and Indian Housing of the Department.

Available units are dwelling units, (occupied or vacant) under a PHA's Annual Contributions Contract, that are available for occupancy, after excluding or adjusting for units approved for non-dwelling use, employee-occupied units, and vacant units approved for deprogramming (units approved for demolition, disposition or units that have been combined).

Average number of days for non-emergency work orders to be completed is calculated by dividing the total of the:

(1) Number of days in the assessed fiscal year it takes to close active non-emergency work orders carried over from the previous fiscal year;

(2) The number of days it takes to complete non-emergency work orders issued and closed during the assessed fiscal year; and

(3) The number of days all active non-emergency work orders are open in the assessed fiscal year, but not completed, by the total number of non-emergency work orders used in the calculation of paragraphs (1), (2) and (3), of this definition.

Average turnaround time is the annual average of the total number of turn-around days between the latter of the legal expiration date of the immediate past lease or the actual move-out date of the former tenant (whenever that occurred, including in some previous fiscal year) and the date a new lease takes effect. Each time an individual unit is re-occupied (turned around) during the fiscal year, the turnaround days for that unit shall be counted in the turnaround time. Average turnaround time is calculated by dividing the total turnaround days for all units re-occupied during the assessed fiscal year by the total number of units re-occupied during the assessed fiscal year.

Cash reserve is the amount of cash available for operations at the end of an annual reporting period after all necessary expenses of a PHA or development have been paid or funds have been set-aside for such payment. The cash reserve computation takes into consideration both short-term accounts receivable and accounts payable.

Confirmatory review is an on-site review for the purposes of State/Area Office verification of the performance level of a PHA, the accuracy of the data certified to by a PHA, and the accuracy of the data derived from State/Area Office files.

Correct means to improve performance in an indicator to a level of grade C or better.

Cyclical work orders are work orders issued for the performance of routine maintenance work that is done in the same way at regular intervals. Examples of cyclical work include, but are not limited to, mopping hallways; picking up litter; cleaning a trash compactor; changing light bulbs in an entryway; etc. (Cyclical work orders should not be confused with preventive maintenance work orders.)

Deficiency means any grade below C in an indicator or component.

Down time is the number of calendar days a unit is vacant between the later of the legal expiration date of the immediate past lease or the actual move-out date of the former resident, and the date the work order is issued to maintenance.

Dwelling rent refers to the resident dwelling rent charges reflected in the monthly rent roll(s) and excludes utility reimbursements, retroactive rent charges, and any other charges not specifically identified as dwelling rent, such as maintenance charges, excess utility charges and late charges.

Dwelling rent to be collected means dwelling rent owed by residents in possession at the beginning of the assessed fiscal year, plus dwelling rent charged to residents during the assessed fiscal year.

Dwelling rent uncollected means unpaid resident dwelling rent owed by any resident in possession during the assessed fiscal year, but not collected by the last day of the assessed fiscal year.

Dwelling unit is a unit that is either leased or available for lease to eligible low-income residents.

Effective lease date is the date when the executed lease contract becomes effective and rent is due and payable and all other provisions of the lease are enforceable.

Emergency means physical work items that pose an immediate threat to life, health, safety, or property, or that are related to fire safety.

Emergency status abated means that an emergency work order is either fully completed, or the emergency condition is temporarily eliminated and no longer poses an immediate threat. If the work cannot be completed, emergency status can be abated by transferring the resident away from the emergency situation.

Emergency work order is a work order, from any source, that involves a circumstance that poses an immediate threat to life, health, safety or property, or that is related to fire safety.

Employee occupied units refers to units that are occupied by employees who are required to live in public housing as a condition of their job, rather than the occupancy being subject to the normal resident selection process.

HQS means Housing Quality Standards as set forth at 24 CFR § 882.109 and amended by the Lead-Based Paint regulation at 24 CFR § 35.

Improvement Plan is a document developed by a PHA, specifying the actions to be taken, including timetables,

that may be required to correct deficiencies where the grade for an indicator is a grade D or E, and shall be required to correct deficiencies of failed indicators, identified as a result of the PHMAP assessment when an MOA is not required.

Indicators means the major categories of PHA management functions that are examined under this program for assessment purposes. The list of individual indicators and the way they are graded is provided in §901.10 through §901.45.

Lease up time is the number of calendar days between the time the repair of a unit is completed and a new lease takes effect.

Local occupancy/housing codes are the minimum standards for human occupancy, if any, as defined by the local ordinance(s) of the jurisdiction in which the housing is located.

Maintenance plan is a comprehensive annual plan of a PHA's maintenance operation that contains the fiscal year's estimated work schedule and which is supported by a staffing plan, contract schedule, materials and procurement plan, training, and approved budget. The plan should establish a strategy for meeting the goals and time frames of the facilities management planning and execution, capital improvements, utilities, and energy conservation activities.

Major systems include, but are not limited to, structural/building envelopes which include roofing, walls, windows, hardware, flashing and caulking; mechanical systems which include heating, ventilation, air conditioning, plumbing, drainage, underground utilities (gas, electrical and water), and fuel storage tanks; electrical systems which include underground systems, above ground systems, elevators, emergency generators, door bells, electronic security devices, fire alarms, smoke alarms, outdoor lighting, and indoor lighting (halls, stairwells, public areas and exit signs); and transformers.

Make ready time is the number of calendar days between the date the unit is referred to maintenance for repair by a work order and occupancy is notified that the unit is ready for re-occupancy.

Memorandum of Agreement (MOA) is a binding contractual agreement be-

tween a PHA and HUD that is required for each PHA designated as troubled and/or mod-troubled. The MOA sets forth target dates, strategies and incentives for improving management performance; and provides sanctions if performance does not result.

Move-out date is the actual date when the resident vacates the unit, which may or may not coincide with the legal expiration of the lease agreement.

Non-emergency work order is any work order that covers a situation that is not an immediate threat to life, health, safety, or property, or that is unrelated to fire safety.

Percent of dwelling rent uncollected is calculated by dividing the amount of dwelling rent uncollected by the total dwelling rent to be collected.

PHA means a public housing agency. As appropriate in accordance with §901.1(b)(2), PHA also includes AME.

Percentage of emergency work orders completed within 24 hours is the ratio of emergency work orders completed in 24 hours to the total number of emergency work orders. The formula for calculating this ratio is: total emergency work orders completed (or emergency status abated) in 24 hours or less, divided by the total number of emergency work orders.

PHA-generated work order is any work order that is issued in response to a request from within the PHA administration.

Preventive maintenance program is a program under which certain maintenance procedures are systematically performed at regular intervals to prevent premature deterioration of buildings and systems. The program is developed and regularly updated by the PHA, and fully documents what work is to be performed and at what intervals. The program includes a system for tracking the performance of preventive maintenance work.

Preventive maintenance work order is any work done on a regularly scheduled basis in order to prevent deterioration or breakdowns in individual units or major systems.

Reduced actual vacancy rate within the previous three years is a comparison of the vacancy rate in the PHMAP assessment year (the immediate past fiscal

year) with the vacancy rate of that fiscal year which is two years previous to the assessment year. It is calculated by subtracting the vacancy rate in the assessment year from the vacancy rate in the earlier year. If a PHA elects to certify to the reduction of the vacancy rate within the previous three years, the PHA shall retain justifying documentation to support its certification for HUD post review.

Reduced the average time it took to complete non-emergency work orders during the previous three years is a comparison of the average time it took to complete non-emergency work orders in the PHMAP assessment year (the immediate past fiscal year) with the average time it took to complete non-emergency work orders of that fiscal year which is two years previous to the assessment year. It is calculated by subtracting the average time it took to complete non-emergency work orders in the PHMAP assessment year from the average time it took to complete non-emergency work orders in the earlier year. If a PHA elects to certify to the reduction of the average time it took to complete non-emergency work orders during the previous three years, the PHA shall retain justifying documentation to support its certification for HUD post review.

Resident-generated work order is a work order issued by a PHA in response to a request from a lease holder or family member of a lease holder.

Resident management corporation (RMC) means the entity that proposes to enter into, or that enters into, a management contract with a PHA in accordance with 24 CFR 964.120. As appropriate in accordance with § 901.1(b)(2), RMC also includes AME.

Routine operating expenses are all expenses which are normal, recurring fiscal year expenditures. Routine expenses exclude those expenditures that are not normal fiscal year expenditures and those that clearly represent work of such a substantial nature that the expense is clearly not a routine occurrence.

Standards equivalent to HQS are housing/occupancy inspection standards that are equal to HUD's Section 8 HQS.

Substantial default means a PHA is determined by the Department to be in

violation of statutory, regulatory or contractual provisions or requirements, whether or not these violations would constitute a substantial default or a substantial breach under explicit provisions of the relevant Annual Contributions Contract (ACC) or a Memorandum of Agreement.

Unit days available are the number of days that the available units were available for occupancy in a PHA fiscal year. Unit days available are calculated by adding the number of days that each unit was available for occupancy in the year.

Units approved for non-dwelling use refers to units approved for non-dwelling status for use in the provision of social services, charitable purposes, public safety activities and resident services, or used in the support of economic self-sufficiency and anti-drug activities.

Units vacant due to circumstances and actions beyond the PHA's control are dwelling units that are vacant due to circumstances and actions that prohibit the PHA from occupying, selling, demolishing, rehabilitating, reconstructing, consolidating or modernizing the units. For purposes of this definition, circumstances and actions beyond the PHA's control are limited to:

(1) *Litigation.* The effect of court litigation such as a court order or settlement agreement that is legally enforceable. An example would be units that are required to remain vacant because of fire/police investigations, coroner's seal, or as part of a court-ordered or HUD-approved desegregation effort.

(2) *Laws.* Federal or State laws of general applicability, or their implementing regulations. This category does not include units vacant only because they do not meet minimum housing and building code standards pertaining to construction or habitability under Federal, State, or local laws or regulations, except when these code violations are caused for reasons beyond the control of the PHA, rather than as a result of management and/or maintenance failures by the PHA. Examples of exempted units under this category are: vacant units that are documented to be uninhabitable for reasons beyond the PHA's control due to high/unsafe levels of hazardous/toxic

materials (e.g., lead-based paint or asbestos), by order of the local health department or directive of the Environmental Protection Agency, where the conditions causing the order are beyond the control of the PHA, and units kept vacant because they became structurally unsound (e.g., buildings damaged by shrinking/swelling subsoil or similar situations). Other examples are vacant units in which resident property has been abandoned, but only if State law requires the property to be left in the unit for some period of time, and only for the period stated in the law and vacant units required to remain vacant because of fire/police investigations, coroner's seal, or court order.

(3) *Changing market conditions.* Example of units in this category are small PHAs that are located in areas experiencing population loss or economic dislocations that face a lack of demand in the foreseeable future, even after the PHA has taken aggressive marketing and outreach measures. Where a PHA claims extraordinary market conditions, the PHA will be expected to document the market conditions to which it refers (the examples of changing population base and competing projects are the simplest), the explicit efforts that the PHA has made to address those conditions, the likelihood that those conditions will be mitigated or eliminated in the near term, and why the market conditions are such that the PHA is prevented from occupying, selling, demolishing, rehabilitating, reconstructing, consolidating or modernizing the vacant units. In order to justify the adjustment, the PHA will need to document the specific market conditions that exist and document marketing and outreach efforts. The PHA will need to describe when the downturn in market conditions occurred, the location(s) of the unit(s) affected, the likelihood that these circumstances will be mitigated or eliminated in the near term and why the market conditions are such that they are preventing the PHA from occupying, selling, demolishing, rehabilitating, reconstructing, consolidating, or modernizing the vacant units.

(4) *Natural disasters.* These are vacant units that are documented to be un-

inhabitable because of damaged suffered as a result of natural disasters such as floods, earthquakes, hurricanes, tornadoes, etc. In the case of a "natural disaster" claim, the PHA would be expected to point to a proclamation by the President or the Governor that the county or other local area in question has, in fact, been declared a disaster area.

(5) *Insufficient funding.* Lack of funding for otherwise approvable applications made for Comprehensive Improvement Assistance Program (CIAP) funds (only PHAs with less than 250 units are eligible to apply and compete for CIAP funds). This definition will cease to be used if CIAP is replaced by a formula grant.

(6) *Casualty Losses.* Vacant units that have sustained casualty damage and are pending resolution of insurance claims or settlements, but only until the insurance claim is adjusted, i.e., funds to repair the unit are received. The vacancy days exempted are those included in the period of time between the casualty loss and the receipt of funds from the insurer to cover the loss in whole or in part.

Vacancy day is a day when an available unit is not under lease by an eligible low-income resident. The maximum number of vacancy days for any unit is the number of days in the year, regardless of the total amount of time the unit has been vacant. Vacancy days are calculated by adding the total number of days vacant from all available units that were vacant for any reason during the PHA's fiscal year.

Vacant unit is an available unit that is not under lease to an eligible low-income family.

Vacant unit turnaround work order is a work order issued that directs a vacant unit to be made ready to lease to a new resident and reflects all work items to prepare the unit for occupancy.

Vacant unit undergoing modernization as defined in 24 CFR §990.102. In addition, the following apply when computing time periods for a vacant unit undergoing modernization:

(1) If a unit is vacant prior to being included in a HUD-approved modernization budget, those vacancy days that had accumulated prior to the unit being included in the modernization

budget must be included as non-exempted vacancy days in the calculation.

(2) The calculation of turnaround time for newly modernized units starts when the unit is turned over to the PHA from the contractor and ends when the lease is effective for the new or returning resident. Thus, the total turnaround time would be the sum of the pre-modernization vacancy time, and the post-modernization vacancy time.

(3) Unit-by-unit documentation, showing when a vacant unit was included in a HUD-approved modernization budget, when it was released to the PHA by the contractor, and when a new lease is effective for the new or returning resident, must be maintained by the PHA.

(4) Units remaining vacant more than two FFYs after the FFY in which the modernization funds are approved, may no longer be exempted from the calculation of the adjusted vacancy rate if the construction contract has not been let. These units may be exempted again, but only after a contract is let.

Vacant units approved for deprogramming exist when a PHA's application for the demolition and/or disposition of public housing units has received written approval from HUD; or when a PHA's application to combine/convert has received written approval from HUD.

Work order is a directive, containing one or more tasks issued to a PHA employee or contractor to perform one or more tasks on PHA property. This directive describes the location and the type of work to be performed; the date and time of receipt; date and time issued to the person or entity performing the work; the date and time the work is satisfactorily completed; the parts used to complete the repairs and the cost of the parts; whether the damage was caused by the resident; and the charges to the resident for resident-caused damage. The work order is entered into a log which indicates at all times the status of all work orders as to type (emergency, non-emergency), when issued, and when completed.

Work order completed during the immediate past fiscal year is any work order that is completed during the PHA's fis-

cal year regardless of when it may have been received.

Work order deferred for modernization is any work order that is combined with similar work items and completed within the current PHMAP assessment year, or will be completed in the following year if there are less than three months remaining before the end of the PHA fiscal year when the work order was generated, under the PHA's modernization program or other PHA capital improvements program.

§901.10 Indicator #1, vacancy rate and unit turnaround time.

This indicator examines the vacancy rate, a PHA's progress in reducing vacancies, and unit turnaround time. Implicit in this indicator is the adequacy of the PHA's system to track the duration of vacancies and unit turnaround, including down time, make ready time, and lease up time. This indicator has a weight of x2.

(a) For the calculation of the actual and adjusted vacancy rate (and, if applicable, unit turnaround time), the following three categories of units (as defined in the rule at §901.5), that are not considered available for occupancy, will be completely excluded from the computation:

(1) Units approved for non-dwelling use.

(2) Employee occupied units.

(3) Vacant units approved for deprogramming (i.e., demolition, disposition or units that have been combined).

(b) For the calculation of the adjusted vacancy rate and turnaround time, the vacancy days for units in the following categories (fully defined in the rule at §901.5) shall be exempted:

(1) Vacant units undergoing modernization as defined in §901.5.

(i) Only vacancy days associated with a vacant unit that meets the conditions of being a unit undergoing modernization will be exempted when calculating the adjusted vacancy rate or, if necessary, the unit turnaround time. Neither vacancy days associated with a vacant unit prior to that unit meeting the conditions of being a unit undergoing modernization nor vacancy days associated with a vacant unit after construction work has been completed

or after the time period for placing the vacant unit under construction has expired shall be exempted.

(ii) A PHA must maintain the following documentation to support its determination of vacancy days associated with a vacant unit that meets the conditions of being a unit undergoing modernization:

(A) The date on which the unit met the conditions of being a vacant unit undergoing modernization; and

(B) The date on which construction work was completed or the time period for placing the vacant unit under construction expired.

(2) Units vacant due to circumstances and actions beyond the PHA's control as defined in §901.5. Such circumstances and actions may include:

(i) Litigation, such as a court order or settlement agreement that is legally enforceable.

(ii) Federal or, when not preempted by Federal requirements, State law of general applicability or their implementing regulations.

(iii) Changing market conditions.

(iv) Natural disasters.

(v) Insufficient funding for otherwise approvable applications made for CIAP funds. This definition will cease to be used if CIAP is replaced by a formula grant.

(vi) Vacant units that have sustained casualty damage and are pending resolution of insurance claims or settlements, but only until the insurance claim is adjusted. A PHA must maintain at least the following documentation to support its determination of vacancy days associated with units vacant due to circumstances and actions beyond the PHA's control:

(A) The date on which the unit met the conditions of being a unit vacant due to circumstances and actions beyond the PHA's control;

(B) Documentation identifying the specific conditions that distinguish the unit as a unit vacant due to circumstances and actions beyond the PHA's control as defined in §901.5;

(C) The actions taken by the PHA to eliminate or mitigate these conditions; and

(D) The date on which the unit ceased to meet such conditions and became an available unit.

(E) This supporting documentation is subject to review and may be requested for verification purposes at any time by HUD.

(c) *Component #1, vacancy percentage and progress in reducing vacancies.* A PHA may choose whether to use the actual vacancy rate, the adjusted vacancy rate or a reduction in the actual vacancy rate within the past three years. This component has a weight of x2.

(1) *Grade A:* The PHA is in one of the following categories:

(i) An actual vacancy rate of 3% or less; or

(ii) An adjusted vacancy rate of 2% or less.

(2) *Grade B:* The PHA is in one of the following categories:

(i) An actual vacancy rate of greater than 3% and less than or equal to 5%; or

(ii) An adjusted vacancy rate of greater than 2% and less than or equal to 3%.

(3) *Grade C:* The PHA is in one of the following categories:

(i) An actual vacancy rate of greater than 5% and less than or equal to 7%; or

(ii) An adjusted vacancy rate of greater than 3% and less than or equal to 4%; or

(iii) The PHA has reduced its actual vacancy rate by at least 15 percentage points within the past three years and has an adjusted vacancy rate of greater than 4% and less than or equal to 5%.

(4) *Grade D:* The PHA is in one of the following categories:

(i) An actual vacancy rate of greater than 7% and less than or equal to 9%; or

(ii) An adjusted vacancy rate of greater than 4% and less than or equal to 5%; or

(iii) The PHA has reduced its actual vacancy rate by at least 10 percentage points within the past three years and has an adjusted vacancy rate of greater than 5% and less than or equal to 6%.

(5) *Grade E:* The PHA is in one of the following categories:

(i) An actual vacancy rate of greater than 9% and less than or equal to 10%; or

(ii) An adjusted vacancy rate of greater than 5% and less than or equal to 6%; or

(iii) The PHA has reduced its actual vacancy rate by at least five percentage points within the past three years and has an adjusted vacancy rate of greater than 6% and less than or equal to 7%.

(6) *Grade F*: The PHA is in one of the following categories:

(i) An actual vacancy rate greater than 10%; or

(ii) An adjusted vacancy rate greater than 7%; or

(iii) An adjusted vacancy rate of greater than 6% and less than or equal to 7% and the PHA has not reduced its actual vacancy rate by at least five percentage points within the past three years.

(d) *Component #2, unit turnaround time*. This component is to be completed only by PHAs scoring below a grade C on component #1. This component has a weight of x1.

(1) *Grade A*: The average number of calendar days between the time when a unit is vacated and a new lease takes effect for units re-occupied during the PHA's assessed fiscal year, is less than or equal to 20 calendar days.

(2) *Grade B*: The average number of calendar days between the time when a unit is vacated and a new lease takes effect for units re-occupied during the PHA's assessed fiscal year, is greater than 20 calendar days and less than or equal to 25 calendar days.

(3) *Grade C*: The average number of calendar days between the time when a unit is vacated and a new lease takes effect for units re-occupied during the PHA's assessed fiscal year, is greater than 25 calendar days and less than or equal to 30 calendar days.

(4) *Grade D*: The average number of calendar days between the time when a unit is vacated and a new lease takes effect for units re-occupied during the PHA's assessed fiscal year, is greater than 30 calendar days and less than or equal to 40 calendar days.

(5) *Grade E*: The average number of calendar days between the time when a unit is vacated and a new lease takes effect for units re-occupied during the PHA's assessed fiscal year, is greater

than 40 calendar days and less than or equal to 50 calendar days.

(6) *Grade F*: The average number of calendar days between the time when a unit is vacated and a new lease takes effect for units re-occupied during the PHA's assessed fiscal year, is greater than 50 calendar days.

§ 901.15 Indicator #2, modernization.

This indicator is automatically excluded if a PHA does not have a modernization program. This indicator examines the amount of unexpended funds over three Federal fiscal years (FFY) old, the timeliness of fund obligation, the adequacy of contract administration, the quality of the physical work, and the adequacy of budget controls. All components apply to both the Comprehensive Grant Program (CGP), the Comprehensive Improvement Assistance Program (CIAP) and lead based paint risk assessment funding (1992-1995), and any successor program(s) to the CGP or the CIAP. Only components #3, #4 and #5 apply to funding under the Hope VI Program and the Vacancy Reduction Program for the assessment of this indicator. This indicator has a weight of x1.5.

(a) *Component #1, unexpended funds over three Federal fiscal years (FFYs) old*. This component has a weight of x1.

(1) *Grade A*: The PHA has no unexpended funds over three FFYs old or is able to demonstrate one of the following:

(i) The unexpended funds are leftover funds and will be recaptured after audit;

(ii) There are no unexpended funds past the original HUD-approved implementation schedule deadline that allowed longer than three FFYs; or

(iii) The PHA has extended the time within 30 calendar days after the expenditure deadline and the time extension is based on reasons outside of the PHA's control, such as need to use leftover funds, unforeseen delays in contracting or contract administration, litigation, material shortages, or other non-PHA institutional delay.

(2) *Grade F*: The PHA has unexpended funds over three FFYs old and is unable to demonstrate any of the above three conditions; or the PHA requests HUD approval of a time extension

based on reasons within the PHA's control.

(b) *Component #2, timeliness of fund obligation.* This component has a weight of x2.

(1) *Grade A:* The PHA has no unobligated funds over two FFYs old or is able to demonstrate one of the following:

(i) There are no unobligated funds past the original HUD-approved implementation schedule deadline that allowed longer than two FFYs; or

(ii) The PHA has extended the time within 30 calendar days after the obligation deadline and the time extension is based on reasons outside of the PHA's control, such as need to use left-over funds, unforeseen delays in contracting or contract administration, litigation, material shortages, or other non-PHA institutional delay.

(2) *Grade F:* The PHA has unobligated funds over two FFYs old and is unable to demonstrate any of the above two conditions; or the PHA requests HUD approval of a time extension based on reasons within the PHA's control.

(c) *Component #3, adequacy of contract administration.* For the purposes of this component, the term "findings" means a violation of a statute, regulation, Annual Contributions Contract or other HUD requirement in the area of contract administration. This component has a weight of x1.5.

(1) *Grade A:* Based on HUD's latest on-site inspection and/or audit, where a written report was provided to the PHA at least 75 calendar days before the end of the PHA's fiscal year, there were no findings related to contract administration or the PHA has corrected all such findings.

(2) *Grade C:* Based on HUD's latest on-site inspection and/or audit, where a written report was provided to the PHA at least 75 calendar days before the end of the PHA's fiscal year, there were findings related to contract administration and the PHA is in the process of correcting all such findings.

(3) *Grade F:* Based on HUD's latest on-site inspection and/or audit, where a written report was provided to the PHA at least 75 calendar days before the end of the PHA's fiscal year, there were findings related to contract administration and the PHA has failed to initi-

ate corrective actions for all such findings or those actions which have been initiated have not resulted in progress toward remedying all of the findings.

(d) *Component #4, quality of the physical work.* For the purposes of this component, the term "findings" means a violation of a statute, regulation, Annual Contributions Contract or other HUD requirement in the area of physical work quality. This component has a weight of x3.

(1) *Grade A:* Based on HUD's latest on-site inspection, where a written report was provided to the PHA at least 75 calendar days before the end of the PHA's fiscal year, there were no findings related to the quality of the physical work or the PHA has corrected all such findings.

(2) *Grade C:* Based on HUD's latest on-site inspection, where a written report was provided to the PHA at least 75 calendar days before the end of the PHA's fiscal year, there were findings related to the quality of the physical work and the PHA is in the process of correcting all such findings.

(3) *Grade F:* Based on HUD's latest on-site inspection, where a written report was provided to the PHA at least 75 calendar days before the end of the PHA's fiscal year, there were findings related to the quality of the physical work and the PHA has failed to initiate corrective actions for all such findings or those actions which have been initiated have not resulted in progress toward remedying all of the findings.

(e) *Component #5, adequacy of budget controls.* This component has a weight of x1.

(1) *Grade A:* The CGP PHA has expended modernization funds only on work in HUD-approved CGP Annual Statements, CGP Five-Year Action Plan, excluding emergencies, or CIAP Budgets, or has obtained prior HUD approval for required budget revisions. The CIAP PHA has expended modernization funds only on work in HUD-approved CIAP Budgets or related to originally approved work or has obtained prior HUD approval for required budget revisions.

(2) *Grade F:* The CGP PHA has expended modernization funds on work

that was not in HUD-approved CGP Annual Statements, CGP Five-Year Action Plan, excluding emergencies, or CIAP Budgets, and did not obtain prior HUD approval for required budget revisions. The *CIAP PHA* has expended modernization funds on work that was not in HUD-approved CIAP Budgets or was unrelated to originally approved work and did not obtain prior HUD approval for required budget revisions.

§901.20 Indicator #3, rents uncollected.

This indicator examines the PHA's ability to collect dwelling rent owed by residents in possession during the immediate past fiscal year by measuring the balance of dwelling rents uncollected as a percentage of total dwelling rents to be collected. This indicator has a weight of x1.5.

(a) *Grade A:* The percent of dwelling rent uncollected in the immediate past fiscal year is less than or equal to 2% of total dwelling rent to be collected.

(b) *Grade B:* The percent of dwelling rent uncollected in the immediate past fiscal year is greater than 2% and less than or equal to 4% of total dwelling rent to be collected.

(c) *Grade C:* The percent of dwelling rent uncollected in the immediate past fiscal year is greater than 4% and less than or equal to 6% of total dwelling rent to be collected.

(d) *Grade D:* The percent of dwelling rent uncollected in the immediate past fiscal year is greater than 6% and less than or equal to 8% of total dwelling rent to be collected.

(e) *Grade E:* The percent of dwelling rent uncollected in the immediate past fiscal year is greater than 8% and less than or equal to 10% of total dwelling rent to be collected.

(f) *Grade F:* The percent of dwelling rent uncollected in the immediate past fiscal year is greater than 10% of total dwelling rent to be collected.

§901.25 Indicator #4, work orders.

This indicator examines the average number of days it takes for a work order to be completed, and any progress a PHA has made during the preceding three years to reduce the period of time required to complete maintenance work orders. Implicit in

this indicator is the adequacy of the PHA's work order system in terms of how a PHA accounts for and controls its work orders, and its timeliness in preparing/issuing work orders. This indicator has a weight of x1.

(a) *Component #1, emergency work orders completed within 24 hours or less.* All emergency work orders should be tracked. This component has a weight of x1.

(1) *Grade A:* At least 99% of emergency work orders were completed or the emergency was abated within 24 hours or less during the PHA's immediate past fiscal year.

(2) *Grade B:* At least 98% of emergency work orders were completed or the emergency was abated within 24 hours or less during the PHA's immediate past fiscal year.

(3) *Grade C:* At least 97% of emergency work orders were completed or the emergency was abated within 24 hours or less during the PHA's immediate past fiscal year.

(4) *Grade D:* At least 96% of emergency work orders were completed or the emergency was abated within 24 hours or less during the PHA's immediate past fiscal year.

(5) *Grade E:* At least 95% of emergency work orders were completed or the emergency was abated within 24 hours or less during the PHA's immediate past fiscal year.

(6) *Grade F:* Less than 95% of emergency work orders were completed or the emergency was abated within 24 hours or less during the PHA's immediate past fiscal year.

(b) *Component #2, average number of days for non-emergency work orders to be completed.* All non-emergency work orders that were active during the assessed fiscal year should be tracked (including preventive maintenance work orders), except non-emergency work orders from the date they are deferred for modernization, issued to prepare a vacant unit for re-rental, or issued for the performance of cyclical maintenance. This component has a weight of x2.

(1) *Grade A:* All non-emergency work orders are completed within an average of 25 calendar days.

(2) *Grade B:* All non-emergency work orders are completed within an average

of greater than 25 calendar days and less than or equal to 30 calendar days.

(3) *Grade C*: The PHA is in one of the following categories:

(i) All non-emergency work orders are completed within an average of greater than 30 calendar days and less than or equal to 40 calendar days; or

(ii) The PHA has reduced the average time it takes to complete non-emergency work orders by at least 15 days during the past three years.

(4) *Grade D*: The PHA is in one of the following categories:

(i) All non-emergency work orders are completed within an average of greater than 40 calendar days and less than or equal to 50 calendar days; or

(ii) The PHA has reduced the average time it takes to complete non-emergency work orders by at least 10 days during the past three years.

(5) *Grade E*: The PHA is in one of the following categories:

(i) All non-emergency work orders are completed within an average of greater than 50 calendar days and less than or equal to 60 calendar days; or

(ii) The PHA has reduced the average time it takes to complete non-emergency work orders by at least 5 days during the past three years.

(6) *Grade F*: The PHA is in one of the following categories:

(i) All non-emergency work orders are completed within an average of greater than 60 calendar days; or

(ii) The PHA has not reduced the average time it takes to complete non-emergency work orders by at least 5 days during the past three years.

§ 901.30 Indicator #5, annual inspection of units and systems.

This indicator examines the percentage of units that a PHA inspects on an annual basis in order to determine short-term maintenance needs and long-term modernization needs. Implicit in this indicator is the adequacy of the PHA's inspection program in terms of the quality of a PHA's inspections, and how a PHA tracks both inspections and needed repairs. All occupied units are required to be inspected. This indicator has a weight of x1.

(a) Units in the following categories are exempted and not included in the calculation of the total number of

units, and the number and percentage of units inspected. Systems that are a part of individual dwelling units that are exempted, or a part of a building where all of the dwelling units in the building are exempted, are also exempted from the calculation of this indicator:

(1) Occupied units where the PHA has made two documented attempts to inspect, but only if the PHA can document that appropriate legal action (up to and including eviction of the legal or illegal occupant(s)), has been taken under provisions of the lease to ensure that the unit can be subsequently inspected.

(2) Units vacant for the full immediate past fiscal year for the following reasons, as defined at § 901.5:

(i) Vacant units undergoing modernization; and

(ii) Vacant units that are documented to be uninhabitable for reasons beyond a PHA's control due to:

(A) High/unsafe levels of hazardous/toxic materials;

(B) By order of the local health department or a directive of the Environmental Protection Agency;

(C) Natural disasters; and

(D) Units kept vacant because they became structurally unsound.

(b) *Component #1, annual inspection of units*. This component refers to an inspection using either the local housing and/or occupancy code, or HUD HQS if there is no local code or the local code is less stringent than HQS. This component has a weight of x1.

(1) *Grade A*: The PHA inspected 100% of its units and, if repairs were necessary for local code or HQS compliance, either completed the repairs during the inspection; issued work orders for the repairs; or referred similar work items to the current year's modernization program, or to next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was completed.

(2) *Grade B*: The PHA inspected less than 100% but at least 97% of its units and, if repairs were necessary for local code or HQS compliance, either completed the repairs during the inspection; issued work orders for the repairs; or referred similar work items to the

current year's modernization program, or to next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was completed.

(3) *Grade C:* The PHA inspected less than 97% but at least 95% of its units and, if repairs were necessary for local code or HQS compliance, either completed the repairs during the inspection; issued work orders for the repairs; or referred similar work items to the current year's modernization program, or to next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was completed.

(4) *Grade D:* The PHA inspected less than 95% but at least 93% of its units and, if repairs were necessary for local code or HQS compliance, either completed the repairs during the inspection; issued work orders for the repairs; or referred similar work items to the current year's modernization program, or to next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was completed.

(5) *Grade E:* The PHA inspected less than 93% but at least 90% of its units and, if repairs were necessary for local code or HQS compliance, either completed the repairs during the inspection; issued work orders for the repairs; or referred similar work items to the current year's modernization program, or to next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was completed.

(6) *Grade F:* The PHA has failed to inspect at least 90% of its units; or failed to correct deficiencies during the inspection or issue work orders for the repairs; or failed to refer similar work items to the current year's modernization program, or to next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was completed.

(c) *Component #2, annual inspection of systems.* This component examines the inspection of buildings and sites ac-

ording to the PHA's maintenance plan, including performing the required maintenance on structures and systems in accordance with manufacturer's specifications and established local/PHA standards, or issuing work orders for maintenance/repairs, or including identified deficiencies in this year's modernization program, or in next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was performed. This component has a weight of x1.

(1) *Grade A:* The PHA inspected all major systems at 100% of its buildings and sites, according to its maintenance plan. The inspection included performing the required maintenance on structures and systems in accordance with manufacturer's specifications and established local/PHA standards, or issuing work orders for maintenance/repairs, or including identified deficiencies in the current year's modernization program, or in next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was performed.

(2) *Grade B:* The PHA inspected all major systems of at least a minimum of 90% but less than 100% of its buildings and sites, according to its maintenance plan. The inspection included performing the required maintenance on structures and systems in accordance with manufacturer's specifications and established local/PHA standards, or issuing work orders for maintenance/repairs, or including identified deficiencies in the current year's modernization program, or in next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was performed.

(3) *Grade C:* The PHA inspected all major systems of at least a minimum of 80% but less than 90% of its buildings and sites, according to its maintenance plan. The inspection included performing the required maintenance on structures and systems in accordance with manufacturer's specifications and established local/PHA standards, or issuing work orders for

maintenance/ repairs, or including identified deficiencies in the current year's modernization program, or in next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was performed.

(4) *Grade D*: The PHA inspected all major systems of at least a minimum of 70% but less than 80% of its buildings and sites, according to its maintenance plan. The inspection included performing the required maintenance on structures and systems in accordance with manufacturer's specifications and established local/PHA standards, or issuing work orders for maintenance/ repairs, or including identified deficiencies in the current year's modernization program, or in next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was performed.

(5) *Grade E*: The PHA inspected all major systems of at least a minimum of 60% but less than 70% of its buildings and sites, according to its maintenance plan. The inspection included performing the required maintenance on structures and systems in accordance with manufacturer's specifications and established local/PHA standards, or issuing work orders for maintenance/ repairs, or including identified deficiencies in the current year's modernization program, or in next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was performed.

(6) *Grade F*: The PHA failed to inspect all major systems of at least 60% of its buildings and sites and perform the required maintenance on these systems in accordance with manufacturers specifications and established local/PHA standards, or did not issue work orders for maintenance/repairs, or did not include identified deficiencies in the current year's modernization program, or in next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was performed.

§ 901.35 Indicator #6, financial management.

This indicator examines the amount of cash reserves available for operations and, for PHAs scoring below a grade C on cash reserves, energy/ utility consumption expenses. This indicator has a weight of x1.

(a) *Component #1, cash reserves*. This component has a weight of x2.

(a) *Grade A*: Cash reserves available for operations are greater than or equal to 15% of total actual routine expenditures, or the PHA has cash reserves of \$3 million or more.

(2) *Grade B*: Cash reserves available for operations are greater than or equal to 12.5%, but less than 15% of total actual routine expenditures.

(3) *Grade C*: Cash reserves available for operations are greater than or equal to 10%, but less than 12.5% of total actual routine expenditures.

(4) *Grade D*: Cash reserves available for operations are greater than or equal to 7.5%, but less than 10% of total actual routine expenditures.

(5) *Grade E*: Cash reserves are greater than or equal to 5%, but less than 7.5% of total actual routine expenditures.

(6) *Grade F*: Cash reserves available for operations are less than 5% of total actual routine expenditures.

(b) *Component #2, energy consumption*. Either option A or option B of this component is to be completed only by PHAs that score below a grade C on component #1. Regardless of a PHA's score on component #1, it will not be scored on component #2 if all its units have tenant paid utilities. Annual energy/utility consumption expenses includes water and sewage usage. This component has a weight of x1.

(1) *Option A, annual energy/utility consumption expenses*.

(i) *Grade A*: Annual energy/utility consumption expenses, as compared to the average of the three years' rolling base consumption expenses, have not increased.

(ii) *Grade B*: Annual energy/utility consumption expenses, as compared to the average of the three years' rolling base consumption expenses, have not increased by more than 3%.

(iii) *Grade C*: Annual energy/utility consumption expenses, as compared to the average of the three years' rolling

base consumption expenses, have increased by more than 3% and less than or equal to 5%.

(iv) *Grade D*: Annual energy/utility consumption expenses, as compared to the average of the three years' rolling base consumption expenses, have increased by more than 5% and less than or equal to 7%.

(v) *Grade E*: Annual energy/utility consumption expenses, as compared to the average of the three years' rolling base consumption expenses, have increased by more than 7% and less than or equal to 9%.

(vi) *Grade F*: Annual energy/utility consumption expenses, as compared to the average of the three years' rolling base consumption expenses, have increased by more than 9%.

(2) *Option B, energy audit.*

(i) *Grade A*: The PHA has completed or updated its energy audit within the past five years and has implemented all of the recommendations that were cost effective.

(ii) *Grade C*: The PHA has completed or updated its energy audit within the past five years, has developed an implementation plan and is on schedule with the implementation plan, based on available funds. The implementation plan identifies at a minimum, the items from the audit, the estimated cost, the planned funding source, and the anticipated date of completion for each item.

(iii) *Grade F*: The PHA has not completed or updated its energy audit within the past five years, or has not developed an implementation plan or is not on schedule with its implementation plan, or has not implemented all of the recommendations that were cost effective, based on available funds.

§901.40 Indicator #7, Resident Services and Community Building.

This indicator examines the PHA's efforts to deliver quality customer services and to encourage partnerships with residents, resident organizations, and the local community, including non-PHA service providers, that help improve management operations at the PHA; and to encourage programs that promote individual responsibility, self improvement and community involvement among residents and assist them

to achieve economic uplift and develop self-sufficiency. Also, if applicable, this indicator examines PHA performance under any special HUD grant(s) administered by the PHA. PHAs can get credit for performance under non-HUD funded programs if they choose to be assessed for these programs. PHAs with fewer than 250 units or with 100% elderly developments will not be assessed under this indicator unless they request to be assessed at the time of PHMAP certification submission. This indicator has a weight of x1.

(a) *Component #1, economic uplift and self-improvement.* PHAs will be assessed for all the programs that the PHA has HUD funding to implement. Also, PHAs can get credit for implementation of programs through partnerships with non-PHA providers, even if the programs are not funded by HUD or the PHA, if they choose to be assessed for them. PHAs must select either to be assessed for all or none of the non-HUD funded programs. This component has a weight of x1.

(1) *Grade A*: The PHA Board of Commissioners, by resolution, has adopted one or more economic uplift and self-improvement programs, examples include but are not limited to, the Section 3 program, homeownership, PHA support for resident education, training, child-care, job-placement programs, Head Start, etc., and the PHA can document that it has implemented these programs in developments covering at least 90% of its family occupied units, either directly or through partnerships with non-PHA providers, and the PHA monitors performance under the programs and issues reports concerning progress, including residents receiving services and residents employed, under these programs.

(2) *Grade C*: The PHA Board of Commissioners, by resolution, has adopted one or more economic uplift and self-improvement programs, including but not limited to, the programs described in grade A, above, and the PHA can document that it has implemented these programs in developments covering at least 60% of its family occupied units, either directly or through partnerships with non-PHA providers, and the PHA staff monitors performance under the programs and issues reports

to the Board concerning progress, including residents receiving services and residents employed, under these programs.

(3) *Grade F*: The PHA Board of Commissioners, by resolution, has not adopted one or more economic uplift and self-improvement programs, including but not limited to, the programs described in grade A, above, or the PHA has not implemented these programs in developments covering at least 60% of its family occupied units, either directly or through partnerships with non-PHA providers.

(b) *Component #2*, resident organization. This component has a weight of x1.

(1) *Grade A*: The PHA can document formal recognition of, a system of communication and collaboration with, and support for resident councils where these exist, and where no resident council exists, the PHA can document its encouragement for the formation of such councils.

(2) *Grade F*: The PHA cannot document formal recognition of, or a system of communication and collaboration with, or document its support for resident councils where these exist, or where no resident council exists, the PHA cannot document its encouragement for the formation of such councils.

(c) *Component #3*, resident involvement. Implicit in this component is the need to ensure a PHA's delivery of quality customer services to residents. This component has a weight of x1.

(1) *Grade A*: The PHA Board of Commissioners, by resolution, provides for resident representation on the Board and committees, and the PHA has implemented measures that ensure the opportunity for regular resident input into plans and the evaluation for ongoing quality of life and housing management conditions, including but not limited to, modernization and development programs, screening and other occupancy matters, relocation, the operating budget, resident programs, security and maintenance programs.

(2) *Grade C*: The PHA Board of Commissioners, by resolution, provides for resident representation on the Board and committees, and the PHA has implemented measures that ensure the

opportunity for regular resident input into plans and the evaluation for ongoing quality of life and housing management conditions in the modernization and development programs and at least three of the remaining six areas described in grade A, above.

(3) *Grade F*: The PHA Board of Commissioners, by resolution, did not provide for resident representation on the Board and committees, or the PHA has not implemented measures that ensure the opportunity for regular resident input into plans and the evaluation for ongoing quality of life and housing management conditions in the modernization and development programs and at least three of the remaining six areas described in grade A, above.

(d) *Component #4*, resident programs management. This component examines a PHA's management of HUD funded resident programs. However, PHAs can also get credit for performance under non-HUD funded programs if they choose to be assessed for them. PHAs must select either to be assessed for all or none of the non-HUD funded programs. This component has a weight of x1.

(1) *Grade A*: If the PHA has any HUD funded special programs that benefit the residents, including but not limited to, the Family Investment Center (FIC), Youth Sports (YS), Food Banks, Health Clinics, Youth Apprenticeship Program (YAP), Family Self-Sufficiency (FSS), or a Resident Management (RM) or Tenant Opportunity Programs (TOP) where the PHA is the contract administrator, the PHA can document that it is meeting at least 90% of its goals under the implementation plan for any and all of these programs.

(2) *Grade C*: If the PHA has any HUD-funded special programs that benefit the residents, including but not limited to, the programs described in grade A, above, the PHA can document that it is meeting at least 60% of its goals under the implementation plan for any and all of these programs.

(3) *Grade F*: If the PHA has any HUD-funded special programs that benefit the residents, including but not limited to, the programs described in grade A, above, the PHA cannot document that it is meeting at least 60% of its goals

under the implementation plan for all of these programs.

§ 901.45 Indicator #8, security.

This indicator evaluates the PHAs performance in tracking crime related problems in their developments, reporting incidence of crime to local law enforcement agencies, the adoption and implementation of tough applicant screening and resident eviction policies and procedures, and, as applicable, PHA performance under any HUD drug prevention or crime reduction grant(s). PHAs can get credit for performance under non-HUD funded programs if they choose to be assessed for these programs. PHAs with fewer than 250 units will not be assessed under this indicator unless they request to be assessed at the time of PHMAP certification submission. This indicator has a weight of x1.

(a) Component #1, Tracking and Reporting Crime Related Problems. This component has a weight of x1.

(1) *Grade A:* The PHA Board, by resolution, has adopted policies and the PHA has implemented procedures and can document that it (1) tracks crime and crime-related problems in at least 90% of its developments, and (2) has a cooperative system for tracking and reporting incidents of crime to local police authorities to improve law enforcement and crime prevention.

(2) *Grade C:* The PHA Board, by resolution, has adopted policies and the PHA has implemented procedures and can document that it (1) tracks crime and crime-related problems in at least 60% of its developments, and (2) reports incidents of crime to local police authorities to improve law enforcement and crime prevention.

(3) *Grade F:* The PHA Board, by resolution, has not adopted policies and the PHA has not implemented procedures or cannot document that it (1) tracks crime and crime-related problems in at least 60% of its developments, or (2) reports incidents of crime to local police authorities to improve law enforcement and crime prevention.

(b) *Component #2, Screening of Applicants.* This component has a weight of x1.

(1) *Grade A:* The PHA Board, by resolution, has adopted policies and the

PHA has implemented procedures and can document that it successfully screens out and denies admission to a public housing applicant who:

(i) Has a recent history of criminal activity involving crimes to persons or property and/or other criminal acts that would adversely affect the health, safety or welfare of other residents or PHA personnel;

(ii) Was evicted, because of drug-related criminal activity, from housing assisted under the U.S. Housing Act of 1937, for a minimum of a three year period beginning on the date of such eviction, unless the applicant has successfully completed, since the eviction, a rehabilitation program approved by the public housing agency;

(iii) The PHA has reasonable cause to believe is illegally using a controlled substance; or

(iv) The PHA has reasonable cause to believe abuses alcohol in a way that causes behavior that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents or PHA personnel.

(2) *Grade C:* The PHA Board, by resolution, has adopted policies and the PHA has implemented procedures, but cannot document results in successfully screening out and denying admission to a public housing applicant who meets the criteria as described in grade A, above.

(3) *Grade F:* The PHA has not adopted policies or has not implemented procedures that result in screening out and denying admission to a public housing applicant who meets the criteria as described in grade A, above, or the screening procedures do not result in the denial of admission to a public housing applicant who meets the criteria as described in grade A, above.

(c) *Component #3, Lease Enforcement.* This component has a weight of x1.

(1) *Grade A:* The PHA Board, by resolution, has adopted policies and the PHA has implemented procedures and can document that it appropriately evicts any public housing resident who:

(i) The PHA has reasonable cause to believe engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or PHA personnel;

(ii) The PHA has reasonable cause to believe engages in any drug-related criminal activity (as defined at section 6(l) of the 1937 Act (42 U.S.C. 1437d(l)) on or off the PHA's property; or

(iii) The PHA has reasonable cause to believe abuses alcohol in such a way that causes behavior that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents or PHA personnel.

(2) *Grade C:* The PHA Board, by resolution, has adopted policies and the PHA has implemented procedures, but cannot document results in appropriately evicting any public housing resident who meets the criteria as described in grade A, above.

(3) *Grade F:* The PHA has not adopted policies or has not implemented procedures that document results in the eviction of any public housing resident who meets the criteria as described in grade A, above, or the eviction procedures do not result in the eviction of public housing residents who meet the criteria as described in grade A, above.

(d) *Component #4, Grant Program Goals.* This component examines a PHA's management of HUD-funded drug prevention or crime reduction programs. However, PHAs can also get credit for performance under non-HUD funded programs if they choose to be assessed for them. PHAs must select either to be assessed for all or none of the non-HUD funded programs. This component has a weight of x1.

(1) *Grade A:* If the PHA has any special drug prevention program or crime reduction program funded by any HUD funds, the PHA can document that the goals are related to drug and crime rates, and it is meeting at least 90% of its goals under the implementation plan for any and all of these programs.

(2) *Grade C:* If the PHA has any special drug prevention program or crime reduction program funded by any HUD funds, the PHA can document that the goals are related to drug and crime rates, and it is meeting at least 60% of its goals under the implementation plan for any and all of these programs.

(3) *Grade F:* If the PHA has any special drug prevention program or crime reduction program funded by any HUD funds, the PHA does not have a system for documenting or cannot document

that the goals are related to drug and crime rates, or cannot document that it is meeting 60% or more of its goals under the implementation plan for any and all of these programs.

§ 901.100 Data collection.

(a) Information on some of the indicators will be derived by the State/Area Office from existing reporting and data forms.

(b) A PHA shall provide certification as to data on indicators not collected according to paragraph (a) of this section, by submitting a certified questionnaire within 60 calendar days after the end of the fiscal year covered by the certification:

(1) The certification shall be approved by PHA Board resolution, and signed and attested to by the Executive Director.

(2) PHAs shall maintain documentation for three years verifying all certified indicators for HUD on-site review.

(3) A PHA may include along with its certification submission, rather than through an exclusion or modification request, any information bearing on the accuracy or completeness of the data used by HUD (corrected data, late reports, previously omitted required reports, etc.) in grading an indicator. HUD will consider this assertion in grading the affected indicator.

(4) If a PHA does not submit its certification, or submits its certification late, appropriate sanctions may be imposed, including a presumptive rating of failure in all of the PHMAP indicators, which may result in troubled and mod-troubled designations.

(5) A PHA that cannot provide justifying documentation to HUD during the conduct of a confirmatory review, or other verification review(s), for any indicator(s) or component(s) certified to, shall receive a failing grade in that indicator(s) or component(s), and its overall PHMAP score shall be lowered.

(6) If the data for any indicator(s) or component(s) that a PHA certified to cannot be verified by HUD during the conduct of a confirmatory review, or any other verification review(s), the State/Area Office shall change a PHA's grade for any indicator(s) or component(s), and its overall PHMAP score,

as appropriate, to reflect the verified data obtained during the conduct of such review.

(7) A PHA that cannot provide justifying documentation to the independent auditor for the indicator(s) or component(s) that the PHA certified to, as reflected in the audit report, shall receive a grade of F for that indicator(s) or component(s), and its overall PHMAP score shall be lowered.

(8) A PHA's PHMAP score for individual indicators or components, or its overall PHMAP score, may be changed by the State/Area Office pursuant to the data included in the independent audit report, as applicable.

(9) A PHA's certification and supporting documentation will be post-reviewed by HUD during the next on-site review as determined by risk management, but is subject to verification at any time. Appropriate sanctions for intentional false certification will be imposed, including suspension or debarment of the signatories, the loss of high performer designation, a lower grade for individual indicators and a lower PHMAP total weighted score.

(c) For those developments of a PHA where management functions have been assumed by an RMC, the PHA's certification shall identify the development and the management functions assumed by the RMC. The PHA shall obtain a certified questionnaire from the RMC as to the management functions undertaken by the RMC. The PHA shall submit the RMC's certified questionnaire along with its own. The RMC's certification shall be approved by its Executive Director or Chief Executive Officer of whatever title.

§ 901.105 Computing assessment score.

(a) Grades within indicators and components have the following point values:

- (1) Grade A = 10.0 points;
- (2) Grade B = 8.5 points;
- (3) Grade C = 7.0 points;
- (4) Grade D = 5.0 points;
- (5) Grade E = 3.0 point; and
- (6) Grade F = 0.0 points.

(b) If indicators or components are designated as having additional weight (e.g., x1.5 or x2), the points in each grade will be multiplied times the additional weight.

(c) Indicators will be graded individually. Components within an indicator will be graded individually, and then will be used to determine a single grade for the indicator, by dividing the total number of component points by the total number of component weights and rounding off to two decimal places. The total number of component weights for this purpose includes a one for components that are unweighted (i.e., they are weighted x1, rather than x1.5 or x2).

(d) *Adjustment for physical condition and neighborhood environment.* The overall PHMAP score will be adjusted by adding additional points that reflect the adjustment to be given to the differences in the difficulty of managing developments that result from physical condition and neighborhood environment:

(1) Adjustments shall apply to the following three indicators only:

- (i) Indicator #1, vacancy rate and unit turnaround;
- (ii) Indicator #4, work orders; and
- (iii) Indicator #5, annual inspection and condition of units and systems.

(2) Definitions of physical condition and neighborhood environment are:

(i) *Physical condition:* refers to units located in developments over ten years old that require major capital investment in order to meet local codes or minimum HQS standards, whichever is applicable. This excludes developments that have been comprehensively modernized.

(ii) *Neighborhood environment:* refers to units located within developments where the immediate surrounding neighborhood (that is a majority of the census tracts or census block groups on all sides of the development) has at least 51% of families with incomes below the poverty rate as documented by the latest census data.

(3) Any PHA with 5% or more of its units subject to either or both of the above conditions shall, if they so choose, be issued an adjusted PHMAP score in addition to the regular score based solely upon the certification of the PHA. The adjusted score shall be calculated as follows:

§ 901.110

Percent of units subject to physical condition and/or neighborhood environment	Extra points
At least 5% but less than 10%5
At least 10% but less than 20%6
At least 20% but less than 30%7
At least 30% but less than 40%8
At least 40% but less than 50%9
At least 50%	1.0

(i) These extra points will be added to the score (grade) of the indicator(s) to which these conditions may apply. A PHA is required to certify on form HUD-50072, PHMAP Certification, the extent to which the conditions apply, and to which of the indicators the extra scoring points should be added.

(ii) Units in developments that have received substantial rehabilitation within the past ten years are not eligible to be included in the calculation of total PHA units due to physical condition only.

(iii) A PHA that receives a grade of A under indicators #4 and/or #5 may not claim the additional adjustment for indicator #1 based on physical condition of its developments, but may claim additional adjustment based on neighborhood environment.

(iv) A PHA that receives the maximum potential weighted points on indicators #1, #4 and/or #5 may not claim any additional adjustment for physical condition and/or neighborhood environment for the respective indicator(s).

(v) A PHA's score for indicators #1, #4 and/or #5, after any adjustment(s) for physical condition and/or neighborhood environment, may not exceed the maximum potential weighted points assigned to the respective indicator(s).

(4) If only certain units or developments received substantial rehabilitation, the additional adjustment shall be prorated to exclude the units or developments with substantial rehabilitation.

(5) The Date of Full Availability (DOFA) shall apply to scattered site units, where the age of units and buildings vary, to determine whether the units have received substantial rehabilitation within the past ten years and are eligible for an adjusted score for the physical condition factor.

(6) PHAs shall maintain supporting documentation to show how they arrived at the number and percentage of

units out of their total inventory that are subject to adjustment.

(i) If the basis was neighborhood environment, the PHA shall have on file the appropriate maps showing the census tracts or census block groups surrounding the development(s) in question with supporting census data showing the level of poverty. Units that fall into this category but which have already been removed from consideration for other reasons (permitted exemptions and modifications and/or exclusions) shall not be counted in this calculation.

(ii) For the physical condition factor, a PHA would have to maintain documentation showing the age and condition of the units and the record of capital improvements, indicating that these particular units have not received modernization funds.

(iii) PHAs shall also document that in all cases, units that were exempted for other reasons were not included in the calculation.

§ 901.110 PHA request for exclusion or modification of an indicator or component.

(a) A PHA shall have the right to request the exclusion or modification of any indicator or component in its management assessment, thereby excluding or modifying the impact of those indicator's or component's grades in its PHMAP total weighted score.

(b) Exclusion and modification requests shall be submitted by a PHA at the time of its PHMAP certification submission to the State/Area Office along with supporting documentary justification, rather than during the appeal process.

(c) Requests for exclusions and modifications that do not include supporting documentary justification will not be considered.

(d) Indicator #2, modernization, shall be automatically excluded by the State/Area Office if a PHA does not have an open modernization program.

(e) Indicator #7, resident services and community building, shall be automatically excluded by the State/Area Office for PHAs with fewer than 250

units, or with 100% elderly developments, unless they request to be assessed at the time of the PHMAP certification submission.

(f) Indicator #8, security, shall be automatically excluded by the State/Area Office for PHAs with fewer than 250 units unless they request to be assessed at the time of the PHMAP certification submission.

§ 901.115 PHA score and status.

(a) PHAs that achieve a total weighted score of 90% or greater shall be designated high performers. A PHA shall not be designated as a high performer if it scores below a grade of C for any indicator. High performers will be afforded incentives that include relief from reporting and other requirements, as described in § 901.130.

(b) PHAs that achieve a total weighted score of 90% or greater on its overall PHMAP score and on indicator #2, modernization, shall be designated mod-high performers.

(c) PHAs that achieve a total weighted score of less than 90% but not less than 60% shall be designated standard. Standard performers will be afforded incentives that include relief from reporting and other requirements, as described in § 901.130.

(d) PHAs that achieve a total weighted score of less than 60% shall be designated as troubled.

(e) PHAs that achieve 60% of the maximum calculation for indicator #2, modernization, shall be designated as mod-troubled.

(f) Each PHA shall post a notice of its final PHMAP score and status in appropriate conspicuous and accessible locations in its offices within two weeks of receipt of its final score and status. In addition, HUD will publish every PHA's score and status in the FEDERAL REGISTER.

(g) A PHA that cannot provide justifying documentation to HUD during the conduct of a confirmatory review, or other verification review(s), for any indicator(s) or component(s) certified to, shall receive a failing grade in that indicator(s) or component(s), and its overall PHMAP score shall be lowered.

(h) If the data for any indicator(s) or component(s) that a PHA certified to cannot be verified by HUD during the

conduct of a confirmatory review, or any other verification review(s), the State/Area Office shall change a PHA's grade for any indicator(s) or component(s), and its overall PHMAP score, as appropriate, to reflect the verified data obtained during the conduct of such review.

(i) A PHA that cannot provide justifying documentation to the independent auditor for the indicator(s) or component(s) that the PHA certified to, as reflected in the audit report, will receive a grade of F for that indicator(s), and its overall PHMAP score will be lowered.

(j) A PHA's PHMAP score for individual an indicator(s), component(s) or its overall PHMAP score may be changed by the State/Area Office pursuant to the data included in the independent audit report, as applicable.

(k) In *exceptional circumstances*, even though a PHA has satisfied all of the indicators for high or standard performer designation, the State/Area Office may conduct any review as necessary, including a confirmatory review, and deny or rescind incentives or high performer status, as described in paragraphs (a) and (b) of this section in the case of a PHA that:

(1) Is operating under a special agreement with HUD;

(2) Is involved in litigation that bears directly upon the management of a PHA;

(3) Is operating under a court order;

(4) Demonstrates substantial evidence of fraud or misconduct, including evidence that the PHA's certification of indicators is not supported by the facts, resulting from such sources as a confirmatory review, routine reports and reviews, an Office of Inspector General investigation/audit, an independent auditor's audit or an investigation by any appropriate legal authority; or

(5) Demonstrates substantial non-compliance in one or more areas (including areas not assessed by the PHMAP). Areas of substantial non-compliance include, but are not limited to, noncompliance with statutes (e.g., Fair Housing and Equal Opportunity statutes); regulations (e.g., 24 CFR § 85); or the Annual Contributions Contract (ACC) (e.g., the ACC, form HUD-53012A, Section 4, Mission of the PHA).

Substantial noncompliance would cast doubt on the PHA's capacity to preserve and protect its public housing developments and operate them consistent with Federal law and regulations.

(l) When a State/Area Office Public Housing Director acts for any of the reasons stated in paragraph (k) of this section, the State/Area Office will send written notification to the PHA with a specific explanation of the reasons. An information copy will be forwarded to the Assistant Secretary for Public and Indian Housing.

(m) A PHA may appeal denial of high performer status in accordance with § 901.125.

§ 901.120 State/Area Office functions.

(a) The State/Area Office will assess each PHA within its jurisdiction on an annual basis:

(1) The State/Area Office will make determinations for high-performing, standard, troubled PHAs and mod-troubled PHAs in accordance with a PHA's PHMAP weighted score.

(2) The State/Area Office will also make determinations for exclusion and modification requests.

(b) Each State/Area Office will notify each PHA of the PHA's grade and the grade of the RMC (if any) assuming management functions at any of the PHA's developments, in each indicator; the PHA's management assessment total weighted score and status, and if applicable; its adjustment for physical condition and neighborhood environment; any determinations concerning exclusion and modification requests; and any deadline date by which appeals must be received. PHA notification should include offers of pertinent technical assistance in problem areas, suggestions for means of improving problem areas, and areas of relief and incentives as a result of high performer status. The PHA must notify the RMC (if any) in writing, immediately upon receipt of the State/Area Office notification, of the RMC's grades.

(c) An on-site confirmatory review may be conducted of a PHA by HUD. The purpose of the on-site confirmatory review is to verify those indicators for which a PHA provides certification, as well as the accuracy of the information received in the State/Area

Office pertaining to the remaining indicators.

(1) Whenever practicable, a confirmatory review should be conducted by HUD prior to the issuance of a PHA's initial notification letter. The results of the confirmatory review shall be included in the PHA's initial notification letter.

(2) If, in an exceptional circumstance, a confirmatory review is conducted after the State/Area Office issues the initial notification letter, the State/Area Office shall explain the results of the confirmatory review in writing, correct the PHA's total weighted score, as appropriate, and re-issue the initial notification letter to the PHA.

(3) The State/Area Office shall conduct a confirmatory review of a PHA with 100 or more units under management that scores less than 60% for its total weighted score, or less than 60% on indicator #2, modernization, before initially designating the PHA as troubled or mod-troubled. The results of the confirmatory review shall be included in the PHA's initial notification letter.

(4) The State/Area Office shall conduct a confirmatory review on a yearly basis of all troubled and mod-troubled PHAs.

(5) The State/Area Office shall conduct a confirmatory review of a PHA with 100 or more units under management prior to the removal of troubled or mod-troubled designation.

(6) Independent confirmatory reviews (team members from other State/ Area Offices) shall be conducted of troubled PHAs with 1250 or more units under management prior to the removal of troubled designation.

(d) A PHA that cannot provide justifying documentation to HUD during the conduct of a confirmatory review, or other verification review(s), for any indicator(s) or component(s) certified to, shall receive a failing grade in that indicator(s) or component(s), and its overall PHMAP score shall be lowered by the State/Area Office. The State/Area Office shall explain to the PHA

the reason(s) for the change(s) in writing, correct the PHA's grade for an individual component(s) and/or indicator(s) and total weighted score, as appropriate, and reissue the initial notification letter to the PHA.

(e) If the data for any indicator(s) or component(s) that a PHA certified to cannot be verified by HUD during the conduct of a confirmatory review, or any other verification review(s), the State/Area Office shall change a PHA's grade for any indicator(s) or component(s), and its overall PHMAP score, as appropriate, to reflect the verified data obtained during the conduct of such review. The State/Area Office shall explain to the PHA the reason(s) for the change(s) in writing, correct the PHA's grade for an individual component(s) and/or indicator(s) and total weighted score, as appropriate, and reissue the initial notification letter to the PHA.

(f) A PHA that cannot provide justifying documentation to the independent auditor for the indicator(s) or component(s) that the PHA certified to, as reflected in the audit report, will receive a grade of F for that indicator(s), and its overall PHMAP score will be lowered by the State/Area Office. The State/Area Office shall explain to the PHA the reason(s) for the change(s) in writing, correct the PHA's grade for an individual component(s) and/or indicator(s) and total weighted score, as appropriate, and reissue the initial notification letter to the PHA.

(g) A PHA's PHMAP score for an individual indicator(s), component(s) or its overall PHMAP score may be changed by the Area/State Office pursuant to the data included in the independent audit report, as applicable. The State/Area Office shall explain to the PHA the reason(s) for the change(s) in writing, correct the PHA's grade for an individual component(s) and/or indicator(s) and total weighted score, as appropriate, and reissue the initial notification letter to the PHA.

(h) Determinations on appeals and on petitions to remove troubled or mod-troubled status will be made by the State/Area Office.

(i) Determinations of intentional false certifications will be made by the State/Area Office. State/Area Offices

shall consult with the local Office of Inspector General for guidance in cases of determinations of intentional false certification.

(j) In exceptional circumstances, the State/Area Office may deny or rescind a PHA's status as a standard or high performer, in accordance with §901.115(i), so that it will not be entitled to any of the areas of relief and incentives.

(k) The State/Area Office will maintain PHMAP files for public inspection in accordance with §901.155.

§901.125 PHA right of appeal.

(a) A PHA has the right to appeal its PHMAP score to the State/Area Office, including a troubled designation or a mod-troubled designation. A PHA may appeal its management assessment rating on the basis of data errors (any dispute over the accuracy, calculation, or interpretation of data employed in the grading process that would affect a PHA's PHMAP score), the denial of exclusion or modification requests when their denial affects a PHA's total weighted score, the denial of an adjustment based on the physical condition and neighborhood environment of a PHA's developments, or a determination of intentional false certification:

(1) A PHA may appeal its management assessment rating to the State/Area Office only for the reasons stated in paragraph (a) of this section:

(i) A PHA may not appeal its PHMAP score to the State/Area Office unless it has submitted its certification to the State/Area Office.

(ii) A PHA may not appeal its PHMAP score to the State/Area Office if the reason the PHA received a deficient grade in any indicator or component was due to the fact the PHA did not submit a required report in a timely manner or without an approved time extension.

(iii) A PHA may not appeal its PHMAP score to the State/Area Office if the reason the PHA received a failing grade in any indicator or component was due to the fact that the PHA did not provide justifying documentation to the independent auditor for any indicator(s) or component(s) the PHA certified to.

(2) The appeal shall be submitted to the State/Area Office and shall include supporting documentary justification of the reasons for the appeal.

(3) The State/Area Office will make determinations on initial appeals and will transmit the determination of the appeal to the PHA in a notification letter that will also include the date and place for submitting any further appeal.

(4) Appeals submitted to the State/Area Office without appropriate documentation will not be considered and will be returned to the PHA.

(b) Appeals of rescission of high performer designation shall be made directly to the Assistant Secretary for Public and Indian Housing.

(c) A PHA may appeal the denial of an initial appeal by the State/Area Office to the Assistant Secretary for Public and Indian Housing for the following reasons:

(1) Initial appeals denying high performer designation;

(2) Initial appeals denying the removal of troubled designation;

(3) Initial appeals denying the removal of mod-troubled designation;

(4) The denial of an appeal of a determination of intentional false certification;

(5) Data errors;

(6) The denial of exclusion or modification requests when their denial affects a PHA's total weighted score;

(7) The denial of an adjustment based on the physical condition and neighborhood environment of a PHA's developments;

(8) The refusal of a petition in accordance with § 901.140 to remove troubled or mod-troubled designations.

(d) A PHA may appeal its management assessment rating to the Assistant Secretary for Public and Indian Housing only for the reasons stated in paragraph (c) of this section.

(e) A PHA may not appeal its PHMAP score to the Assistant Secretary unless it has submitted its certification to the State/Area Office.

(f) Appeals submitted to the Assistant Secretary for Public and Indian Housing without appropriate documentation will not be considered and will be returned to the PHA.

(g) The date and place by which any appeal must be submitted will be specified in the letter from the State/Area Office notifying the PHA of any determination or action. For example, the State/Area Office initial notification letter or denial of initial appeal letter will specify the date and place by which appeals must be received. The date specified will be the 15th calendar day after the letter is mailed, not counting the day the letter is mailed. If the 15th day falls on a weekend or holiday, the date specified will be the next day that is not on a weekend or a holiday. Any appeal not received by the specified time and place will not be considered.

§ 901.130 Incentives.

(a) A PHA that is designated high performer or standard performer will be relieved of specific HUD requirements, effective upon notification of high or standard performer designation.

(b) A PHA shall not be designated a mod-high performer and be entitled to the applicable incentives unless it has been designated an overall high performer.

(c) High-performing PHAs, and RMCs that receive a grade of A on each of the indicators for which they are assessed, will receive a Certificate of Commendation from the Department as well as special public recognition.

(d) Representatives of high-performing PHAs may be requested to serve on Departmental working groups that will advise the Department in such areas as troubled PHAs and performance standards for all PHAs.

(e) State/Area Offices may award incentives to PHAs on an individual basis for a specific reason(s), such as a PHA making the right decision that impacts long-term overall management or the quality of a PHA's housing stock, with prior concurrence from the Assistant Secretary.

(f) Relief from any standard procedural requirements does not mean that a PHA is relieved from compliance with the provisions of Federal law and regulations or other handbook requirements. For example, although a high or standard performer may be relieved of requirements for prior HUD approval

for certain types of contracts for services, it must still comply with all other Federal and State requirements that remain in effect, such as those for competitive bidding or competitive negotiation (see 24 CFR 85.36):

(1) PHAs will still be subject to regular independent auditor (IA) audits.

(2) Office of Inspector General (OIG) audits or investigations will continue to be conducted as circumstances may warrant.

(g) In exceptional circumstances, the State/Area Office will have discretion to subject a PHA to any requirement that would otherwise be omitted under the specified relief, in accordance with §901.115(i).

§901.135 Memorandum of Agreement.

(a) After consulting the independent assessment team and reviewing the report identified in section 6(j)(2)(b) of the 1937 Act, a Memorandum of Agreement (MOA), a binding contractual agreement between HUD and a PHA, shall be required for each PHA designated as troubled and/or mod-troubled. The scope of the MOA may vary depending upon the extent of the problems present in the PHA, but shall include:

(1) Baseline data, which should be raw data but may be the PHA's score in each of the indicators identified as a problem, or other relevant areas identified as problematic;

(2) Annual and quarterly performance targets, which may be the attainment of a higher grade within an indicator that is a problem, or the description of a goal to be achieved, for example, the reduction of rents uncollected to 6% or less by the end of the MOA annual period;

(3) Strategies to be used by the PHA in achieving the performance targets within the time period of the MOA;

(4) Technical assistance to the PHA provided or facilitated by the Department, for example, the training of PHA employees in specific management areas or assistance in the resolution of outstanding HUD monitoring findings;

(5) The PHA's commitment to take all actions within its control to achieve the targets;

(6) Incentives for meeting such targets, such as the removal of troubled or

mod-troubled designation and Departmental recognition for the most improved PHAs;

(7) The consequences of failing to meet the targets, including such sanctions as the imposition of budgetary limitations, declaration of substantial default and subsequent actions, limited denial of participation, suspension, debarment, or the imposition of operating funding and modernization thresholds; and

(8) A description of the involvement of local public and private entities, including PHA resident leaders, in carrying out the agreement and rectifying the PHA's problems. A PHA shall have primary responsibility for obtaining active local public and private entity participation, including the involvement of public housing resident leaders, in assisting PHA improvement efforts. Local public and private entity participation should be premised upon the participant's knowledge of the PHA, ability to contribute technical expertise with regard to the PHA's specific problem areas and authority to make preliminary/tentative commitments of support, financial or otherwise.

(b) A MOA shall be executed by:

(1) The PHA Board Chairperson and accompanied by a Board resolution, or a receiver (pursuant to a court ordered receivership agreement, if applicable) or other AME acting in lieu of the PHA Board;

(2) The PHA Executive Director, or a designated receiver (pursuant to a court ordered receivership agreement, if applicable) or other AME-designated Chief Executive Officer;

(3) The Director, State/Area Office of Public Housing, except as stated in (d) of this section; and

(4) The appointing authorities of the Board of Commissioners, unless exempted by the State/Area Office.

(c) The Department encourages the inclusion of the resident leadership in MOA negotiations and the execution of the MOA.

(d) Upon designation of a large PHA (1250 or more units under management) as troubled, the State/Area Office shall make a referral to HUD Headquarters for appropriate recovery intervention and the execution of an MOA by the

Assistant Secretary for Public and Indian Housing.

(e) A PHA will monitor MOA implementation to ensure that performance targets are met in terms of quantity, timeliness and quality.

§ 901.140 Removal from troubled status and mod-troubled status.

(a) A PHA has the right to petition the State/Area Office for the removal of a designation as troubled or mod-troubled.

(b) A PHA may appeal any refusal to remove troubled and mod-troubled designation to the Assistant Secretary for Public and Indian Housing in accordance with § 901.125.

(c) A PHA with fewer than 1250 units under management will be removed from troubled status by the State/Area Office upon a determination by the State/Area Office that the PHA's assessment reflects an improvement to a level sufficient to remove the PHA from troubled status, or mod-troubled, i.e., a total weighted management assessment score of 60% or more, and upon the conduct of a confirmatory review for PHAs with 100 or more units under management.

(d) A PHA with 1250 units or more under management will be removed from troubled status by the Assistant Secretary for Public and Indian Housing upon a recommendation by the State/Area Office when a PHA's assessment reflects an improvement to a level sufficient to remove the PHA from troubled or mod-troubled status, i.e., a total weighted management assessment score of 60% or more, and upon the conduct of an independent confirmatory review (team members from other State/Area Offices).

§ 901.145 Improvement Plan.

(a) After receipt of the State/Area Office notification letter in accordance with § 901.120(b) or receipt of a final resolution of an appeal in accordance with § 901.125 or, in the case of an RMC, notification of its indicator grades from a PHA, a PHA or RMC shall correct any deficiency indicated in its management assessment within 90 calendar days.

(b) A PHA shall notify the State/Area Office of its action to correct a deficiency. A PHA shall also forward to the

State/Area Office an RMC's report of its action to correct a deficiency.

(c) If the State/Area Office determines that a PHA or RMC has not corrected a deficiency as required within 90 calendar days after receipt of its final notification letter, the State/Area Office may require a PHA, or a RMC through the PHA, to prepare and submit to the State/Area Office an Improvement Plan within an additional 30 calendar days:

(1) The State/Area Office shall require a PHA or RMC to submit an Improvement Plan, which includes the information stated in (d) of this section, for each indicator that a PHA or RMC scored a grade of F.

(2) The State/Area Office may require, on a risk management basis, a PHA or RMC to submit an Improvement Plan, which includes the information stated in paragraph (d) of this section, for each indicator that a PHA scored a grade D or E, as well as other performance and/or compliance deficiencies as may be identified as a result of an on-site review of the PHA's operations.

(d) An Improvement Plan shall:

(1) Identify baseline data, which should be raw data but may be the PHA's score in each of the indicators identified as a problem in a PHA's or RMC's management assessment, or other relevant areas identified as problematic;

(2) Describe the procedures that will be followed to correct each deficiency; and

(3) Provide a timetable for the correction of each deficiency.

(e) The State/Area Office will approve or deny a PHA's or RMC's Improvement Plan, and notify the PHA of its decision. A PHA must notify the RMC in writing, immediately upon receipt of the State/Area Office notification, of the State/Area Office approval or denial of the RMC's Improvement Plan.

(f) An Improvement Plan that is not approved will be returned to the PHA with recommendations from the State/Area Office for revising the Improvement Plan to obtain approval. A revised Improvement Plan shall be resubmitted by the PHA or RMC within 30 calendar days of its receipt of the State/Area Office recommendations.

(g) If a PHA or RMC fails to submit an acceptable Improvement Plan, or to correct deficiencies within the time specified in an Improvement Plan or such extensions as may be granted by HUD, the State/Area Office will notify the PHA of its or the RMC's non-compliance. The PHA, or the RMC through the PHA, will provide HUD its reasons for lack of progress in submitting or carrying out the Improvement Plan within 30 calendar days of its receipt of the noncompliance notification. HUD will advise the PHA as to the acceptability of its reasons for lack of progress and, if unacceptable, will notify the PHA that it will be subject to sanctions provided for in the ACC and HUD regulations.

§901.150 PHAs troubled with respect to the program under section 14 (mod-troubled PHAs).

(a) PHAs that achieve a total weighted score of less than 60% on indicator #2, modernization, may be designated as mod-troubled.

(b) PHAs designated as mod-troubled may be subject, under the Comprehensive Grant Program, to a reduction of formula allocation or other sanctions (24 CFR §968, Subpart C) or under the Comprehensive Improvement Assistance Program to disapproval of new funding or other sanctions (24 CFR §968, Subpart B).

§901.155 PHMAP public record.

The State/Area Office will maintain PHMAP files, including certifications, the records of exclusion and modification requests, appeals, and designations of status based on physical condition and neighborhood environment, as open records, available for public inspection for three years consistent with the Freedom of Information Act (5 U.S.C. 552) and in accordance with any procedures established by the State/Area Office to minimize disruption of normal office operations.

§901.200 Events or conditions that constitute substantial default.

(a) The Department may determine that events have occurred or that conditions exist that constitute a substantial default if a PHA is determined to be in violation of Federal statutes, in-

cluding but not limited to, the 1937 Act, or in violation of regulations implementing such statutory requirements, whether or not such violations would constitute a substantial breach or default under provisions of the relevant ACC.

(b) The Department may determine that a PHA's failure to satisfy the terms of a Memorandum of Agreement entered into in accordance with §901.135 of this part, or to make reasonable progress to meet time frames included in a Memorandum of Agreement, are events or conditions that constitute a substantial default.

(c) The Department shall determine that a PHA that has been designated as troubled and does not show significant improvement (10 percentage point increase) in its PHMAP score within one year after final notification of its PHMAP score are events or conditions that constitute a substantial default:

(1) A PHA shall be notified of such a determination in accordance with §901.205(c).

(2) A PHA may waive, in writing, receipt of explicit notice from the Department as to a finding of substantial default, and voluntarily consent to a determination of substantial default. The PHA must concur on the existence of substantial default conditions which can be remedied by technical assistance, and the PHA shall provide the Department with written assurances that all deficiencies will be addressed by the PHA. The Department will then immediately proceed with interventions as provided in §901.210.

(d) The Department may declare a substantial breach or default under the ACC, in accordance with its terms and conditions.

(e) The Department may determine that the events or conditions constituting a substantial default are limited to a portion of a PHA's public housing operations, designated either by program, by operational area, or by development(s).

§901.205 Notice and response.

(a) If information from an annual assessment, as described in §901.100, a management review or audit, or any other credible source indicates that there may exist events or conditions

constituting a substantial breach or default, the Department shall advise a PHA of such information. The Department is authorized to protect the confidentiality of the source(s) of such information in appropriate cases. Before taking further action, except in cases of apparent fraud or criminality, and/or in cases where emergency conditions exist posing an imminent threat to the life, health, or safety of residents, the Department shall afford the PHA a timely opportunity to initiate corrective action, including the remedies and procedures available to PHAs designated as "troubled PHAs," or to demonstrate that the information is incorrect.

(b) In any situation determined to be an emergency, or in any case where the events or conditions precipitating the intervention are determined to be the result of criminal or fraudulent activity, the Assistant Secretary is authorized to intercede to protect the residents' and the Department's interests by causing the proposed interventions to be implemented without further appeals or delays.

(c) Upon a determination or finding that events have occurred or that conditions exist that constitute a substantial default, the Assistant Secretary shall provide written notification of such determination or finding to the affected PHA. Written notification shall be transmitted to the Executive Director, the Chairperson of the Board, and the appointing authority(s) of the Board, and shall include, but need not necessarily be limited to:

(1) Identification of the specific covenants, conditions, and/or agreements under which the PHA is determined to be in noncompliance;

(2) Identification of the specific events, occurrences, or conditions that constitute the determined noncompliance;

(3) Citation of the communications and opportunities to effect remedies afforded pursuant to paragraph (a) of this section;

(4) Notification to the PHA of a specific time period, to be not less than 10 calendar days, except in cases of apparent fraud or other criminal behavior, and/or under emergency conditions as described in paragraph (a) of this sec-

tion, nor more than 30 calendar days, during which the PHA shall be required to demonstrate that the determination or finding is not substantively accurate; and

(5) Notification to the PHA that, absent a satisfactory response in accordance with paragraph (d) of this section, the Department will take control of the PHA, using any or all of the interventions specified in § 901.210, and determined to be appropriate to remedy the noncompliance, citing § 901.210, and any additional authority for such action.

(d) Upon receipt of the notification described in paragraph (c) of this section, the PHA must demonstrate, within the time period permitted in the notification, factual error in the Department's description of events, occurrences, or conditions, or show that the events, occurrences, or conditions do not constitute noncompliance with the statute, regulation, or covenants or conditions to which the PHA is cited in the notification.

§ 901.210 Interventions.

(a) Interventions under this part (including an assumption of operating responsibilities) may be limited to one or more of a PHA's specific operational areas (e.g., maintenance, modernization, occupancy, or financial management) or to a single development or a group of developments. Under this limited intervention procedure, the Department could select, or participate in the selection of, an AME to assume management responsibility for a specific development, a group of developments in a geographical area, or a specific operational area, while permitting the PHA to retain responsibility for all programs, operational areas, and developments not so designated.

(b) Upon determining that a substantial default exists under this part, the Department may initiate any interventions deemed necessary to maintain decent, safe, and sanitary dwellings for residents. Such intervention may include:

(1) Providing technical assistance for existing PHA management staff;

(2) Selecting or participating in the selection of an AME to provide technical assistance or other services up to

and including contract management of all or any part of the public housing developments administered by a PHA;

(3) Assuming possession and operational responsibility for all or any part of the public housing administered by a PHA; and

(4) The provision of intervention and assistance necessary to remedy emergency conditions.

(c) HUD may take the actions described in this part sequentially or simultaneously in any combination.

§901.215 Contracting and funding.

(a) Upon a declaration of substantial default or breach, and subsequent assumption of possession and operational responsibility, the Department may enter into agreements, arrangements, and/or contracts for or on behalf of a PHA, or to act as the PHA, and to expend or authorize expenditure of PHA funds, irrespective of the source of such funds, to remedy the events or conditions constituting the substantial default.

(b) In entering into contracts or other agreements for or on behalf of a PHA, the Department shall comply with requirements for competitive procurement consistent with 24 CFR 85.36, except that, upon determination of public exigency or emergency that will not permit a delay, the Department can enter into contracts or agreements on a noncompetitive basis, consistent with the standards of 24 CFR 85.36(d)(4).

§901.220 Resident participation in competitive proposals to manage the housing of a PHA.

(a) When a competitive proposal to manage the housing of a PHA in substantial default is solicited in a Request for Proposals (RFP) pursuant to section 6(j)(3)(A)(i) of the 37 Act, the RFP, in addition to publishing the selection criteria, will:

(1) Include a requirement for residents to notify the Department if they want to be involved in the selection process; and

(2) Include a requirement for the PHA that is the subject of the RFP to post a notice and a copy of the RFP in a prominent location on the premises of each housing development that would be subject to the management

chosen under the RFP, for the purposes of notifying affected residents that:

(i) Invites residents to participate in the selection process; and

(ii) Provides information, to be specified in the RFP, on how to notify the Department of their interest.

(b) Residents must notify the Department by the RFP's application due date of their interest in participating in the selection process. In order to participate, the total number of residents that notify the Department must equal at least 20 percent of the residents, or the notification of interest must be from an organization or organizations of residents whose membership must equal at least 20 percent of the PHA's residents.

(c) If the required percentage of residents notify the Department, a minimum of one resident may be invited to serve as an advisory member on the evaluation panel that will review the applications in accordance with applicable procurement procedures. Resident advisory members are subject to all applicable confidentiality and disclosure restrictions.

§901.225 Resident petitions for remedial action.

The total number of residents that petition the Department to take remedial action pursuant to sections 6(j)(3)(A)(i) through (iv) of the 1937 Act must equal at least 20 percent of the residents, or the petition must be from an organization or organizations of residents whose membership must equal at least 20 percent of the PHA's residents.

§901.230 Receivership.

(a) Upon a determination that a substantial default has occurred and without regard to the availability of alternate remedies, the Department may petition the court for the appointment of a receiver to conduct the affairs of the PHA in a manner consistent with statutory, regulatory, and contractual obligations of the PHA and in accordance with such additional terms and conditions that the court may provide. The court shall have authority to grant appropriate temporary or preliminary relief pending final disposition of any petition by HUD.

(b) The appointment of a receiver pursuant to this section may be terminated upon the petition to the court by the PHA, the receiver, or the Department, and upon a finding by the court that the circumstances or conditions that constituted substantial default by the PHA no longer exist and that the operations of the PHA will be conducted in accordance with applicable statutes and regulations, and contractual covenants and conditions to which the PHA and its public housing programs are subject.

§ 901.235 Technical assistance.

(a) The Department may provide technical assistance to a PHA that is in substantial default.

(b) The Department may provide technical assistance to a troubled or non-troubled PHA if the assistance will enable the PHA to achieve satisfactory performance on any PHMAP indicator. The Department may provide such assistance if a PHA demonstrates a commitment to undertake improvements appropriate with the given circumstances, and executes an Improvement Plan in accordance with § 901.145.

(c) The Department may provide technical assistance to a PHA if without abatement of prevailing or chronic conditions, the PHA can be projected to be designated as troubled by its next PHMAP assessment.

(d) The Department may provide technical assistance to a PHA that is in substantial default of the ACC.

(e) The Department may provide technical assistance to a PHA whose troubled designation has been removed and where such assistance is necessary to prevent the PHA from being designated as troubled within the next two years.

PARTS 902-903 [RESERVED]

PART 904—LOW RENT HOUSING HOMEOWNERSHIP OPPORTUNITIES

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APPENDIX I—ANNUAL CONTRIBUTIONS CONTRACT

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APPENDIX III—CERTIFICATION OF HOMEBUYER STATUS

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