

§ 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 cir-

cumstances, 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.

PART 902—PUBLIC HOUSING ASSESSMENT SYSTEM

Subpart A—General Provisions

Sec.

- 902.1 Purpose and general description.
- 902.3 Scope.
- 902.5 Applicability.
- 902.7 Definitions.

Subpart B—PHAS Indicator #1: Physical Condition

- 902.20 Physical condition assessment.
- 902.23 Physical condition standards for public housing—decent, safe, sanitary and in good repair (DSS/GR).
- 902.25 Physical condition scoring and thresholds.
- 902.27 Physical condition portion of total PHAS points.

Subpart C—PHAS Indicator #2: Financial Condition

- 902.30 Financial condition assessment.
- 902.33 Financial reporting requirements.
- 902.35 Financial condition scoring and thresholds.
- 902.37 Financial condition portion of total PHAS points.

Subpart D—PHAS Indicator #3: Management Operations

- 902.40 Management operations assessment.
- 902.43 Management operations performance standards.
- 902.45 Management operations scoring and thresholds.
- 902.47 Management operations portion of total PHAS points.

Subpart E—PHAS Indicator #4: Resident Service and Satisfaction

- 902.50 Resident service and satisfaction assessment.
- 902.53 Resident service and satisfaction scoring and thresholds.
- 902.55 Resident service and satisfaction portion of total PHAS points.

Subpart F—PHAS Scoring

- 902.60 Data collection.
- 902.63 PHAS scoring.
- 902.67 Score and designation status.
- 902.69 PHA right of petition and appeal.

Subpart G—PHAS Incentives and Remedies

- 902.71 Incentives for high performers.
- 902.73 Referral to an Area HUB/Program Center.
- 902.75 Referral to a TARC.
- 902.77 Referral to the Enforcement Center.
- 902.79 Substantial default.
- 902.83 Interventions.
- 902.85 Resident petitions for remedial action.

APPENDIX A TO PART 902—AREAS AND ITEMS TO BE INSPECTED

AUTHORITY: 42 U.S.C. 1437d(j), 3535(d).

SOURCE: 63 FR 46617, Sept. 1, 1998, unless otherwise noted.

Subpart A—General Provisions**§902.1 Purpose and general description.**

(a) *Purpose.* The purpose of the Public Housing Assessment System (PHAS) is to enhance trust in the public housing system among public housing agencies (PHAs), public housing residents, HUD and the general public by providing a comprehensive management tool for effectively and fairly measuring the performance of a public housing agency in essential housing operations, including rewards for high performers and consequences for poor performers.

(b) *Responsible office for PHAS assessments.* The Real Estate Assessment Center (REAC) is responsible for assessing and scoring the performance of PHAs.

(c) *PHAS indicators of a PHA's performance.* REAC will assess and score a PHA's performance based on the following four indicators:

(1) PHAS Indicator #1—the physical condition of a PHA's properties (addressed in subpart B of this part);

(2) PHAS Indicator #2—the financial condition of a PHA (addressed in subpart C of this part);

(3) PHAS Indicator #3—the management operations of a PHA (addressed in subpart D of this part); and

(4) PHAS Indicator #4—the resident service and satisfaction feedback on a PHA's operations (addressed in subpart E of this part).

(d) *Assessment tools.* REAC will make use of uniform and objective protocols for the physical inspection of properties and the financial assessment of the PHA, and will gather relevant data from the PHA on the Management Operations Indicator and the Resident Service and Satisfaction Indicator. On the basis of this data, REAC will assess and score the results, advise PHAs of their scores and identify low scoring and failing PHAs so that these PHAs will receive the appropriate attention and assistance.

(e) *Limitation of change of PHA's fiscal year.* To allow for a period of consistent assessment of the PHAS indicators, a PHA is not permitted to change its fiscal year for the first 3 full fiscal years following October 1, 1998.

§902.3 Scope.

The PHAS is a strategic measure of a PHA's essential housing operations. The PHAS, however, does not evaluate a PHA's compliance with or response to every Department-wide or program specific requirement or objective. Although not specifically referenced in this part, PHAs remain responsible for complying with such requirements as fair housing and equal opportunity requirements, requirements under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and requirements of programs under which the PHA is receiving assistance. PHAs' adherence to these requirements will be monitored in accordance with the applicable program regulations and the PHA's annual contributions contract.

§902.5 Applicability.

(a) *PHAs, RMCs, AMEs.* (1) This part applies to PHAs, Resident Management Corporations (RMCs) and Alternate

Management Entities (AMEs). 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) This part is applicable beginning October 1, 1999.

(b) *PHA ultimate responsible entity under ACC.* Due to the fact that the PHA and not the RMC/AME is ultimately responsible to HUD under the Annual Contributions Contract (ACC), the PHAS score of a PHA will be based on all of the developments covered by the ACC, including those with management operations assumed by an RMC or AME (pursuant to a court ordered receivership agreement, if applicable).

(c) *Assumption of management operations by AME.* When a PHA's management operations have been assumed by an AME:

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

(2) 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).

§902.7 Definitions.

As used in this part:

Adjustment for physical condition (project age) and neighborhood environment is a total of 3 additional points added to PHAS Indicator #1 (Physical Condition). The 3 additional points, however, shall not result in a total point value over the total points available for PHAS Indicator #1 (established in subpart B of this part).

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 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 §902.5(c), 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 assessed under the PHAS.

Average number of days nonemergency work orders were active is calculated:

(1) By dividing the total of—

(i) The number of days in the assessed fiscal year it takes to close active nonemergency work orders carried over from the previous fiscal year;

(ii) The number of days it takes to complete nonemergency work orders issued and closed during the assessed fiscal year; and

(iii) The number of days all active nonemergency work orders are open in the assessed fiscal year, but not completed;

(2) By the total number of non-emergency work orders used in the calculation of paragraphs (1)(i), (ii) and (iii) of this definition.

Days Receivable Outstanding is Tenant Receivables divided by Daily Tenant Revenue.

Deficiency means any PHAS score below 60 percent of the available points in any indicator, sub-indicator or component.

Improvement plan is a document developed by a PHA, specifying the actions to be taken, including timetables, that shall be required to correct deficiencies identified under any of the indicators and components within the indicator(s), identified as a result of the PHAS assessment when an MOA is not required.

Reduced actual vacancy rate within the previous 3 years is a comparison of the vacancy rate in the PHAS assessed fiscal year (the immediate past fiscal year) with the vacancy rate of that fiscal year that is 2 years previous to the assessed fiscal year. It is calculated by subtracting the vacancy rate in the assessed fiscal 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 3 years,

the PHA shall retain justifying documentation to support its certification for HUD post review.

Reduced the average time nonemergency work orders were active during the previous 3 years is a comparison of the average time nonemergency work orders were active in the PHAS assessment year (the immediate past fiscal year) with the average time nonemergency work orders were active in that fiscal year that is 2 years previous to the assessment year. It is calculated by subtracting the average time non-emergency work orders were active in the PHAS assessment year from the average time nonemergency work orders were active in the earlier year. If a PHA elects to certify to the reduction of the average time nonemergency work orders were active during the previous 3 years, the PHA shall retain justifying documentation to support its certification for HUD post review.

Vacancy loss is vacant unit potential rent divided by gross potential rent.

Work order deferred for modernization is any work order that is combined with similar work items and completed within the current PHAS assessment year, or will be completed in the following year if there are less than 3 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.

Subpart B—PHAS Indicator #1: Physical Condition

§ 902.20 Physical condition assessment.

(a) *Objective.* The objective of the Physical Condition Indicator is to determine whether a PHA is maintaining its public housing in a condition that is decent, safe, sanitary and in good repair (DSS/GR), as this standard is defined § 902.23.

(b) *Physical inspection under PHAS Indicator #1.* REAC will provide for an independent physical inspection of, at minimum, a statistically valid sample of the units in the PHA's public housing portfolio to determine compliance with DSS/GR standard.

(c) *PHA physical inspection requirement.* The HUD-conducted physical in-

spection required by this part do not relieve the PHA of the responsibility to inspect public housing units as provided in section 6(j)(1) of the U.S. Housing Act of 1937 (42 U.S.C. 1437d(j)(1)), and § 902.43(a)(5).

(d) *Compliance with State and local codes.* The physical condition standards in this subpart do not supersede or preempt State and local building and maintenance codes with which the PHA's public housing must comply. PHAs must continue to adhere to these codes.

§ 902.23 Physical condition standards for public housing—decent, safe, sanitary and in good repair (DSS/GR).

(a) Public housing must be maintained in a manner that meets the physical condition standards set forth in this section in order to be considered decent, safe, sanitary and in good repair. These standards address the major areas of public housing: the site; the building exterior; the building systems; the dwelling units; the common areas; and health and safety considerations.

(1) *Site.* The site components, such as fencing and retaining walls, grounds, lighting, mailboxes/project signs, parking lots/driveways, play areas and equipment, refuse disposal, roads, storm drainage and walkways must be free of health and safety hazards and be in good repair. The site must not be subject to material adverse conditions, such as abandoned vehicles, dangerous walks or steps, poor drainage, septic tank back-ups, sewer hazards, excess accumulations of trash, vermin or rodent infestation or fire hazards.

(2) *Building exterior.* Each building on the site must be structurally sound, secure, habitable, and in good repair. Each building's doors, fire escapes, foundations, lighting, roofs, walls, and windows, where applicable, must be free of health and safety hazards, operable, and in good repair.

(3) *Building systems.* Each building's domestic water, electrical system, elevators, emergency power, fire protection, HVAC, and sanitary system must be free of health and safety hazards, functionally adequate, operable, and in good repair.

(4) *Dwelling units.* (i) Each dwelling unit within a building must be structurally sound, habitable, and in good repair. All areas and aspects of the dwelling unit (for example, the unit's bathroom, call-for-aid, ceiling, doors, electrical systems, floors, hot water heater, HVAC (where individual units are provided), kitchen, lighting, outlets/switches, patio/porch/balcony, smoke detectors, stairs, walls, and windows) must be free of health and safety hazards, functionally adequate, operable, and in good repair.

(ii) Where applicable, the dwelling unit must have hot and cold running water, including an adequate source of potable water.

(iii) If the dwelling unit includes its own sanitary facility, it must be in proper operating condition, usable in privacy, and adequate for personal hygiene and the disposal of human waste.

(iv) The dwelling unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each level of the unit.

(5) *Common areas.* The common areas must be structurally sound, secure, and functionally adequate for the purposes intended. The basement/garage/carport, restrooms, closets, utility, mechanical, community rooms, day care, halls/corridors, stairs, kitchens, laundry rooms, office, porch, patio, balcony, and trash collection areas, if applicable, must be free of health and safety hazards, operable, and in good repair. All common area ceilings, doors, floors, HVAC, lighting, outlets/switches, smoke detectors, stairs, walls, and windows, to the extent applicable, must be free of health and safety hazards, operable, and in good repair.

(6) *Health and safety concerns.* All areas and components of the housing must be free of health and safety hazards. These areas include, but are not limited to, air quality, electrical hazards, elevators, emergency/fire exits, flammable materials, garbage and debris, handrail hazards, infestation, and lead-based paint. For example, the buildings must have fire exits that are not blocked and have hand rails that are undamaged and have no other observable deficiencies. The housing must have no evidence of infestation by rats, mice, or other vermin, or of

garbage and debris. The housing must have no evidence of electrical hazards, natural hazards, or fire hazards. The dwelling units and common areas must have proper ventilation and be free of mold, odor (e.g., propane, natural gas, methane gas), or other observable deficiencies. The housing must comply with all requirements related to the evaluation and reduction of lead-based paint hazards and have available proper certifications of such (see 24 CFR part 35).

(b) Appendix A to this part lists the areas to be inspected and the items in each area to be inspected.

§ 902.25 Physical condition scoring and thresholds.

(a) *Scoring.* Under PHAS Indicator #1, REAC will calculate a score of the overall condition of the PHA's public housing portfolio that reflects weights based on the relative importance of the individual inspectable areas and the relative severity of the deficiencies observed.

(b) *Adjustment for physical condition (project age) and neighborhood environment.* In accordance with section 6(j)(1)(I)(2) of the 1937 Act (42 U.S.C. 1437d(j)(1)(I)(2)), the physical score for a project will be upwardly adjusted to the extent that negative conditions are caused by situations outside the control of the PHA. These situations are related to the poor physical condition of the project or the overall depressed condition of the immediately surrounding neighborhood. The intent of this adjustment is to not unfairly penalize the PHA, and to appropriately apply the adjustment.

(1) *Adjustments in three areas.* Adjustments to the PHA physical project score will be made in three factually observed and assessed areas (inspectable areas):

- (i) Physical condition of the site;
- (ii) Physical condition of the common areas on the project; and
- (iii) Physical condition of the building exteriors.

(2) *Definitions.* Definitions and application of physical condition and neighborhood environment factors are:

- (i) Physical condition applies to projects over 10 years old and that have

not had substantial rehabilitation in the last 10 years.

(ii) Neighborhood environment applies to projects located where the immediate surrounding neighborhood (that is a majority of the population that resides in the census tracts or census block groups on all sides of the development) has at least 51 percent of families with incomes below the poverty rate as documented by the latest census data.

(3) Adjustment is for physical condition (project age) and neighborhood environment. HUD will adjust the physical score of a PHA's project subject to both the physical condition (project age) and neighborhood environment conditions. The adjustments will be made to the scores assigned to the applicable inspectable areas so as to reflect the difficulty in managing. In each instance where the actual physical condition of the inspectable area (site, common areas, building exterior) is rated below the maximum score for that area, 1 point will be added, but not to exceed the maximum number of points available to that inspectable area.

(i) These extra points will be added to the score of the specific inspectable area, by project, to which these conditions may apply. A PHA is required to certify on form HUD-50072, PHAS Certification (which is available from the Department of Housing and Urban Development, HUD Customer Service Center, 451 Seventh Street, SW., Room B-102, Washington, DC 20410; telephone (800) 767-7468), the extent to which the conditions apply, and to the inspectable area the extra scoring point should be added.

(ii) A PHA that receives the maximum potential weighted points on the inspectable areas may not claim any additional adjustments for physical condition and/or neighborhood environments for the respective inspectable area(s). In no circumstance shall a PHA's score for the inspectable area, after any adjustment(s) for physical condition and/or neighborhood environments, exceed the maximum potential weighted points assigned to the respective inspectable area(s).

(4) *Scattered site projects.* The Date of Full Availability (DOFA) shall apply to scattered site projects, where the age of units and buildings vary, to determine whether the projects have received substantial rehabilitation within the past 10 years and are eligible for an adjusted score for the Physical Condition Indicator.

(5) *Maintenance of supporting documentation.* PHAs shall maintain supporting documentation to show how they arrived at the determination that the project's score is subject to adjustment under this section.

(i) If the basis was neighborhood environments, the PHA shall have on file the appropriate maps showing the census block groups surrounding the development(s) in question with supporting census data showing the level of poverty. Projects 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 projects and the record of capital improvements, indicating that these particular projects have not received modernization funds.

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

(c) *Thresholds.* In order to receive a passing score under the Physical Condition Indicator, the PHA's score must fall above a minimum threshold of 18 points or 60 percent of the available points under this indicator. Further, in order to receive an overall passing score under the PHAS, the PHA must receive a passing score on the Physical Condition Indicator.

§ 902.27 Physical condition portion of total PHAS points.

Of the total 100 points available for a PHAS score, a PHA may receive up to 30 points based on the Physical Condition Indicator.

Subpart C—PHAS Indicator #2: Financial Condition

§ 902.30 Financial condition assessment.

(a) *Objective.* The objective of the Financial Condition Indicator is to measure the financial condition of a PHA for the purpose of evaluating whether it has sufficient financial resources and is capable of managing those financial resources effectively to support the provision of housing that is decent, safe, sanitary and in good repair.

(b) *Financial reporting standards.* A PHA's financial condition will be assessed under this indicator on the basis of the annual financial report provided in accordance with § 902.33.

§ 902.33 Financial reporting requirements.

(a) *Annual financial reports.* PHAs must provide to HUD, on an annual basis, such financial information, as required by HUD. The financial information must be:

(1) Prepared in accordance with Generally Accepted Accounting Principles (GAAP) as further defined by HUD in supplementary guidance;

(2) Submitted electronically in the electronic format designated by HUD; and

(3) Submitted in such form and substance prescribed by HUD.

(b) *Annual financial report filing dates.* The financial information to be submitted to HUD in accordance with paragraph (a) of this section, must be submitted to HUD annually, no later than 60 days after the end of the fiscal year of the reporting period, and as otherwise provided by law.

(c) *Reporting compliance dates.* The requirement for compliance with the financial reporting requirements of this section begins with PHAs with fiscal years ending September 30, 1999 and thereafter. Unaudited financial statements will be required 60 days after the PHA's fiscal year end, and audited financial statements will then be required no later than 9 months after the PHA's fiscal year end, in accordance with the Single Audit Act and OMB Circular A-133. (See 24 CFR 84.26). A PHA with a fiscal year ending September 30, 1999 that elects to submit its

unaudited report earlier than the due date of November 30, 1999 must submit its financial report as required in this section. On or after September 30, 1998, but prior to November 30, 1999 (except for a PHA with its fiscal year ending September 30, 1999), PHAs may submit their financial reports in accordance with this section.

§ 902.35 Financial condition scoring and thresholds.

(a) *Scoring.* Under PHAS Indicator #2, REAC will calculate a score that relies on the key components of financial health and management as well as audit and internal control flags.

(1) The key components of PHAS Indicator #2 include:

(i) *Current Ratio*—current assets divided by current liabilities;

(ii) *Number of Months Expendable Fund Balance*—number of months a PHA can operate on the Expendable Fund Balance without additional resources; Expendable Fund Balance is the portion of the fund balance representing expendable available financial resources; unreserved and undesignated fund balance;

(iii) *Days Receivable Outstanding*—average number of days tenant receivables are outstanding;

(iv) *Vacancy Loss*—loss of potential rent due to vacancy;

(v) *Expense Management/Energy Consumption*—expense per unit for key expenses, including energy consumption, and other expenses such as utilities, maintenance, security; and

(vi) *Net Income or Loss divided by the Expendable Fund Balance*—measures how the year's operations have affected the PHA's viability.

(2) *Additional components.* Additional components may be used to identify circumstances in which there exists the possibility of higher risk of waste, fraud and abuse. These components will be used to detect fraud and will be used to generate "flags" that will signal field staff, Enforcement Center staff, or fraud investigators to take appropriate action. These components will primarily relate to financial management, but may also be used to provide a PHA with benchmarking information to allow the PHA to measure its own performance against its peers.

(b) *Thresholds.* In order to receive a passing score under the Financial Condition Indicator, the PHA's score must fall above a minimum threshold of 18 points or 60 percent of the available points under this indicator. Further, in order to receive an overall passing score under the PHAS, the PHA must receive a passing score on the Financial Condition Indicator.

§ 902.37 Financial condition portion of total PHAS points.

Of the total 100 points available for a PHAS score, a PHA may receive up to 30 points based on the Financial Condition Indicator.

**Subpart D—PHAS Indicator #3:
Management Operations**

§ 902.40 Management operations assessment.

(a) *Objective.* The objective of the Management Operations Indicator is to measure certain key management operations and responsibilities of a PHA for the purpose of assessing the PHA's management operations capabilities.

(b) *Management assessment.* PHAS Indicator #3 pertaining to Management Operations incorporates the majority of the statutory indicators of section 6(j) of the U.S. Housing Act of 1937, and an additional nonstatutory indicator (security), as provided in § 902.43.

§ 902.43 Management operations performance standards.

(a) *Management operations indicators.* The following indicators will be used to assess a PHA's management operations:

(1) *Management Indicator #1—Vacancy rate and unit turnaround time.* This management indicator examines the vacancy rate, a PHA's progress in reducing vacancies, and unit turnaround time. Implicit in this management 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.

(2) *Management Indicator #2—Modernization.* This management indicator is automatically excluded if a PHA does not have a modernization program. This management indicator ex-

amines the amount of unexpended funds over 3 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 of this management indicator apply to the Comprehensive Grant Program (CGP), the Comprehensive Improvement Assistance Program (CIAP), the HOPE VI assistance, vacancy reduction, and lead based paint risk assessment funding (1992-1995), and any successor program(s) to the CGP or the CIAP.

(3) *Management Indicator #3—Rents uncollected.* This management indicator examines the PHA's ability to collect dwelling rents 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.

(4) *Management Indicator #4—Work orders.* This management indicator examines the time it takes to complete or abate emergency work orders, the average number of days nonemergency work order were active, and any progress a PHA has made during the preceding 3 years to reduce the period of time nonemergency maintenance work orders were active. Implicit in this management 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.

(5) *Management Indicator #5—PHA annual inspection of units and systems.* This management 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. This management indicator requires a PHA's inspection to utilize the HUD uniform physical condition standards set forth in subpart B of this part. All occupied units are required to be inspected.

(6) *Management Indicator #6—Security.* This management indicator evaluates the PHA's performance in tracking crime related problems in their developments, reporting incidence of crime to local law enforcement agencies, the

adoption and implementation, consistent with section 9 of the Housing Opportunity Program Extension Act of 1996 (One-Strike and You're Out) (42 U.S.C. 1437d(r)), of applicant screening and resident eviction policies and procedures, and, as applicable, PHA performance under any HUD drug prevention or crime reduction grant(s). A PHA may receive credit for performance under non-HUD funded programs if it provides auditable financial and statistical documentation for these programs.

(b) *Reporting on performance under the Management Operations Indicator.* Each PHA will provide to HUD a certification on its performance under each of the management indicators in paragraph (a) of this section. The certifications shall comply with the requirements of § 902.60.

§ 902.45 Management operations scoring and thresholds.

(a) *Scoring.* Under PHAS Indicator #3, REAC will calculate a score of the overall management operations of a PHA that reflects weights based on the relative importance of the individual management indicators.

(b) *Thresholds.* In order to receive a passing score under the Management Operations Indicator, the PHA's score must fall above a minimum threshold of 18 points or 60 percent of the available points under this PHAS Indicator #3. Further, in order to receive an overall passing score under the PHAS, the PHA must receive a passing score on the Management Operations Indicator.

§ 902.47 Management operations portion of total PHAS points.

Of the total 100 points available for a PHAS score, a PHA may receive up to 30 points based on the Management Operations Indicator.

**Subpart E—PHAS Indicator #4:
Resident Service and Satisfaction**

§ 902.50 Resident service and satisfaction assessment.

(a) *Objective.* The objective of the Resident Service and Satisfaction Indicator is to measure the level of resident satisfaction with living conditions at the PHA.

(b) *Reporting information on resident service and satisfaction.* The assessment will be performed through the use of a resident service and satisfaction survey. The survey process will be managed by the PHA in accordance with a methodology prescribed by HUD. The PHA will be responsible for maintaining original copies of completed survey data, subject to independent audit, and for developing a follow-up plan to address issues resulting from the survey.

§ 902.53 Resident service and satisfaction scoring and thresholds.

(a) *Scoring.* Under the PHAS Indicator #4, REAC will calculate a score based upon two components that receive points and a third component that is a threshold requirement. One component will be the point score of the survey results. The survey content will focus on resident evaluation of the overall living conditions, to include basic constructs such as: maintenance and repair (i.e., work order response); communications (i.e., perceived effectiveness); safety (i.e., perception of personal security); services (i.e., recreation and personal programs); and neighborhood appearance. The second component will be a point score based on the level of implementation and follow-up or corrective actions based on the results of the survey. The final component, which is not scored for points, but which is a threshold requirement, is verification that the survey process was managed in a manner consistent with guidance provided by HUD.

(b) *Thresholds.* A PHA will not receive any points under PHAS Indicator #4 if the survey process is not managed as directed by HUD or the survey results are determined to be altered. A PHA will receive a passing score on the Resident Service and Satisfaction Indicator if it receives at least 6 points, or 60% of the available points under this PHAS Indicator #4.

§ 902.55 Resident service and satisfaction portion of total PHAS points.

Of the total 100 points available for a PHAS score, a PHA may receive up to 10 points based on the Resident Service and Satisfaction Indicator.

Subpart F—PHAS Scoring

§ 902.60 Data collection.

(a) *Fiscal Year Reporting Period—limitation on changes after PHAS effectiveness.* An assessed fiscal year for purposes of the PHAS corresponds to a PHA's fiscal year. To allow for a period of consistent assessments to refine and make necessary adjustments to the PHAS, a PHA is not permitted to change its fiscal year for the first 3 full fiscal years following the effective date of this part (see § 902.1(e)).

(b) *Physical Condition information.* Information necessary to conduct the physical condition assessment under subpart B of this part will be obtained from HUD inspectors during the fiscal year being scored through electronic transmission of the data.

(c) *Financial Condition information.* Year-end financial information to conduct the assessment under subpart C, Financial Condition, of this part will be submitted by a PHA through electronic transmission of the data to HUD not later than 60 days after the end of the PHA's fiscal year. An audited report of the year-end financial information is due not later than 9 months after the end of the PHA's fiscal year.

(d) *Management Operations and Resident Service and Satisfaction information.* A PHA shall provide certification to HUD as to data required under subpart D, Management Operations, of this part and subpart E, Resident Service and Satisfaction, of this part not later than 60 days after the end of the PHA's fiscal year.

(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 3 years verifying all certified indicators for HUD on-site review.

(e) *Failure to submit data by due date.* If a PHA without a finding of good cause by HUD does not submit its certifications or year-end financial information, required by this part, or submits its certifications or year-end financial information more than 15 days past the due date, appropriate sanctions may be imposed, including a reduction of 1 point in the total PHAS score for each 15-day period past the

due date. If all certifications or year-end financial information are not received within 90 days past the due date, the PHA will receive a presumptive rating of failure in all of the PHAS indicators and components certified to, which shall result in troubled and troubled designations.

(f) *Verification of information submitted.* (1) A PHA's certifications, year-end financial information and any supporting documentation are subject to verification by HUD at any time. Appropriate sanctions for intentional false certification will be imposed, including civil penalties, suspension or debarment of the signatories, the loss of high performer designation, a lower score under individual PHAS indicators and a lower overall PHAS score.

(2) A PHA that cannot provide justifying documentation to REAC, or to the PHA's independent auditor for the assessment under any indicator(s) or component(s) shall receive a score of 0 for the relevant indicator(s) or component(s), and its overall PHAS score shall be lowered.

(3) A PHA's PHAS score under individual indicators or components, or its overall PHAS score, may be changed by HUD pursuant to the data included in the independent audit report, or obtained through such sources as HUD on-site review, investigations by HUD's Office of Fair Housing and Equal Opportunity, or reinspection by REAC, as applicable.

(g) *Management operations assumed by an RMC.* For those developments of a PHA where management operations 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. Following verification of the RMC's certification, 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 or responsible party.

§ 902.63 PHAS scoring.

(a) *Issuance of score by HUD.* An overall PHAS score will be issued by REAC

for each PHA 60 to 90 days after the end of the PHA's fiscal year.

(b) *Computing the PHAS score.* Each of the four PHAS indicators in this part will be scored individually, and then will be used to determine an overall score for the PHA. Components within each of the four PHAS indicators will be scored individually, and the scores for the components will be used to determine a single score for each of the PHAS indicators.

(c) *Adjustments to the PHAS score.* Adjustments to the score may be made after a PHA's audit report for the year being assessed is transmitted to HUD. If significant differences (as defined in GAAP guidance materials provided to PHAs) are noted between unaudited and audited results, a PHA's PHAS score will be raised or lowered, as applicable, in accordance with the audited results.

(d) *Posting and publication of PHAS scores.* Each PHA shall post a notice of its final PHAS score and status in appropriate conspicuous and accessible locations in its offices within 2 weeks of receipt of its final score and status. In addition, HUD will publish every PHA's score and status in the FEDERAL REGISTER.

§ 902.67 Score and designation status.

Designation status corresponding to score. A PHA will be scored with a corresponding designation of status as follows:

(a) *High performer.* A PHA that achieves a score of at least 60 percent of the points available under each of the four PHAS Indicators (addressed in subparts B through E of this part) and achieves an overall PHAS score of 90 percent or greater shall be designated a high performer. A PHA shall not be designated a high performer if it scores below the threshold established for any indicator. High performers will be afforded incentives that include relief from reporting and other requirements, as described in § 902.71.

(b) *Standard performer.* A PHA that achieves a total PHAS score of less than 90 percent but not less than 60 percent shall be designated a standard performer. All standard performers must correct reported deficiencies. A standard performer that receives a

score less than 70 percent but not less than 60 percent shall be subject to other oversight, as described in § 902.73. A PHA that achieves a score of less than 60 percent of the total points available under PHAS Indicators 1, 2, or 3 shall not be designated a standard performer, but shall be designated a troubled performer, as provided in paragraph (c) of this section.

(c) *Troubled performer.* A PHA that achieves a total PHAS score of less than 60 percent, or achieves a score of less than 60 percent of the total points available under PHAS Indicators 1, 2, or 3, shall be designated as troubled, and referred to the TARC as described in § 902.75. In accordance with section 6(j)(2) of the 1937 Act, a PHA that receives less than 60 percent of the maximum calculation for the modernization indicator under PHAS Indicator #3 (Management Operations, subpart D of this part) may be subject to the following sanctions: under the Comprehensive Grant Program to a reduction of formula allocation or other sanctions (24 CFR part 968, subpart C); under the Comprehensive Improvement Assistance Program to disapproval of new funding or other sanctions (24 CFR part 968, subpart B); or disapproval of funding under the HOPE VI Program.

§ 902.69 PHA right of petition and appeal.

(a) *Appeal of troubled designation and petition for removal.* A PHA may:

(1) Appeal designation as a troubled agency (including designation as troubled with respect to the modernization program);

(2) Petition for removal of such designation; and

(3) Appeal any refusal to remove such designation.

(b) *Appeal process.* The appeal shall be submitted by a PHA to the REAC within 30 days of a PHA's receipt of its score, and shall include supporting documentation and justification of the reasons for the appeal. An appeal submitted to the REAC without appropriate documentation will not be considered and will be returned to the PHA.

(c) *Consideration of appeal by REAC.* Upon receipt of an appeal from a PHA,

the REAC will convene a Board of Review (the Board) to evaluate the appeal and its merits for the purpose of determining whether a reassessment of the PHA is warranted. Board membership will be comprised of a representative from REAC, the Office of Public and Indian Housing, and such other office or representative as the Secretary may designate (excluding, however, representation from the Troubled Agency Recovery Center). For purposes of reassessment, the REAC will schedule a re-inspection and/or acquire audit services, as determined by the Board, and a new score will be issued, if appropriate.

(d) *Final appeal decisions.* HUD will make final decisions of appeals within 30 days of receipt of an appeal, and may extend this period an additional 30 days if further inquiry is necessary. Failure by a PHA to submit requested information within the 30-day period or any additional period granted by HUD is grounds for denial of an appeal.

Subpart G—PHAS Incentives and Remedies

§902.71 Incentives for high performers.

(a) *Incentives for high-performer PHAs.* A PHA that is designated a high performer will be eligible for the following incentives:

(1) *Relief from specific HUD requirements.* A PHA that is designated high performer will be relieved of specific HUD requirements (for example, fewer reviews and less monitoring), effective upon notification of high performer designation.

(2) *Public recognition.* High-performer PHAs and RMCs that receive a score of at least 60 percent of the points available under each of the four PHAS Indicators and achieves an overall PHAS score of 90, will receive a Certificate of Commendation from HUD as well as special public recognition, as provided by the HUB/Program Center.

(3) *Bonus points in funding competitions.* A high-performer PHA will be eligible for bonus points in HUD's funding competitions, where such bonus points are not restricted by statute or regulation governing the funding program.

(b) *Compliance with applicable Federal laws and regulations.* Relief from any

standard procedural requirement that may be provided under this section, 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 performer or standard performer may be relieved of requirements for prior HUD approval for certain types of contracts for services, the PHA 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).

(c) *Audits and reviews not relieved by designation.* A PHA designated as a high performer or standard performer remains subject to:

(1) Regular independent auditor (IA) audits.

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

§902.73 Referral to an Area HUB/Program Center.

(a) Standard performers will be referred to the HUB/Program Center for appropriate action. A standard performer that receives a total score of less than 70 percent but not less than 60 percent shall be required to submit an Improvement Plan to eliminate deficiencies in the PHA's performance. A standard performer that receives a score of not less than 70 percent may be required, at the discretion of the appropriate area HUB/Program Center, to submit an Improvement Plan to address specific deficiencies.

(b) *Submission of an Improvement Plan.*

(1) Within 30 days after a PHAS score is issued, a standard performer with a score less than 70 percent is required to submit an Improvement Plan, which includes the information stated in paragraph (d) of this section and determined acceptable by the HUB/Program Center, for each indicator and/or component identified as deficient 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. An RMC that is required to submit an Improvement Plan must develop the plan in consultation with its

PHA and submit the Plan to the HUB/Program Center through its PHA.

(2) The HUB/Program Center may require, on a risk management basis, a standard performer with a score of not less than 70 percent to submit within 30 days after receipt of its PHAS score an Improvement Plan, which includes the information stated in paragraph (d) of this section, for each indicator and/or component of a PHAS indicator identified as deficient.

(c) *Correction of deficiencies.* (1) *Time period for correction.* After a PHA's receipt of its PHAS score and designation as a standard performer or, in the case of an RMC, notification of its score from a PHA, a PHA or RMC shall correct any deficiency indicated in its assessment within 90 days, or within such period as provided in the HUD approved Improvement Plan if an Improvement Plan is required.

(2) *Notification and report to HUB/Program Center.* A PHA shall notify the HUB/Program Center of its action to correct a deficiency. A PHA shall also forward to the HUB/Program Center an RMC's report of its action to correct a deficiency.

(d) *Improvement Plan.* An Improvement Plan shall:

(1) Identify baseline data, which should be raw data but may be the PHA's score under each individual PHAS indicator and/or component that was identified as a deficiency;

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

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

(4) Provide for or facilitate technical assistance to the PHA.

(e) *Determination of acceptability of Improvement Plan* (1) The HUB/Program Center will approve or deny a PHA's (or RMC's Improvement Plan submitted to the HUB/Program Center through the RMC's PHA), and notify the PHA of its decision. A PHA that submits an RMC's Improvement Plan must notify the RMC in writing, immediately upon receipt of the HUB/Program Center notification, of the HUB/Program Center approval or denial of the RMC's Improvement Plan.

(2) An Improvement Plan that is not approved will be returned to the PHA with recommendations from the HUB/

Program Center for revising the Improvement Plan to obtain approval.

(f) *Submission of revised Improvement Plan.* A revised Improvement Plan shall be resubmitted by the PHA within 30 calendar days of its receipt of the HUB/Program Center recommendations.

(g) *Failure to submit acceptable Improvement Plan.* If a PHA 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 HUB/Program Center will notify the PHA of its noncompliance. The PHA (or the RMC through the PHA) will provide the HUB/Program Center 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 referred to the TARC for remedial actions or such actions as the TARC may determine appropriate in accordance with the provisions of the ACC, this part and other HUD regulations. If the TARC determines that it is appropriate to refer the PHA to the Enforcement Center, it will only do so after the PHA has had 1 year since the issuance of the PHAS score (or, in the case of an RMC, notification of its score from a PHA) to correct its deficiencies.

§ 902.75 Referral to a TARC.

Upon designation of a PHA as troubled, in accordance with the requirements of section 6(j)(2)(B) of the 1937 Act and in accordance with this part, the REAC shall refer each troubled PHA to the PHA's area TARC for remedial action. The actions to be taken by the TARC and the PHA shall be as follows:

(a) *Recovery plan and MOA.* Within 30 days of notification of the designation of a troubled PHA within its area, the appropriate TARC will deploy an on-site team to develop a Recovery Plan. The Recovery Plan shall include recommendations for improvements to correct or eliminate deficiencies that resulted in a failing PHAS score and

designation as troubled. The Recovery Plan will incorporate a memorandum of agreement (MOA) as described in paragraph (c) of this section.

(b) *PHA review of recovery plan and MOA.* The PHA will have 10 days to review the recovery plan and the MOA. During this 10-day period, the PHA shall resolve any claimed discrepancies in the plan with its area TARC, and discuss any recommended changes and target dates for improvement to be incorporated in the final MOA. Unless the time period is extended by the TARC, the MOA is to be executed 15 days following issuance of the preliminary MOA.

(c) *Memorandum of agreement (MOA).* The final MOA is a binding contractual agreement between HUD and a PHA. 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 PHAS indicators or components identified as a deficiency;

(2) Annual and quarterly performance targets, which may be the attainment of a higher score within an indicator that is a problem, or the description of a goal to be achieved;

(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 HUD, 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, but not limited to, such sanctions as the imposition of budget and management controls by the TARC, declaration of substantial default and subsequent actions, including referral to the Enforcement Center for judicial appointment of a receiver, limited denial of partici-

pation, suspension, debarment, or other actions deemed appropriate by the Enforcement Center; 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.

(d) *Maximum recovery period.* Unless extended by the TARC and documented in the MOA, the maximum recovery period for a troubled PHA is the first full fiscal year following execution of the MOA.

(e) *Parties to the MOA.* An 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 of the area TARC; and

(4) The appointing authorities of the Board of Commissioners, unless exempted by the HUD/Program Center.

(f) *Involvement of resident leadership in the MOA.* HUD encourages the inclusion of the resident leadership in the execution of the MOA.

(g) *Failure to execute MOA or make substantial improvement under MOA.* (1) If a troubled PHA does not execute an MOA within the period provided in paragraph (b) of this section, or the TARC determines that the PHA does not show a substantial improvement toward a passing PHAS score following the issuance of the failing PHAS score

by the REAC, the TARC shall refer the PHA to the Enforcement Center, which shall initiate proceedings for judicial appointment of a receiver, and other sanctions as may be appropriate. For purposes of this paragraph (g), *substantial improvement* is defined as 50 percent of the points needed to achieve a passing PHAS score as determined by the REAC. The maximum period of time for remaining in troubled status before being referred to the Enforcement Center is 2 years.

(2) The following example illustrates the provisions of paragraph (g)(1) of this section:

Example: A PHA receives a score of 50; 60 is a passing score. The PHA is referred to the TARC. Within 1 year after the score is issued to the PHA, the PHA must achieve a 5-point increase to continue recovery efforts in the TARC. If the PHA fails to achieve the 5-point increase, the PHA will be referred to the Enforcement Center. The maximum period of time for remaining in troubled status before being referred to the Enforcement Center is 2 years.

(h) To the extent feasible, while a PHA is under a referral to a TARC, all services to residents will continue uninterrupted.

§ 902.77 Referral to the Enforcement Center.

(a) Failure of a troubled PHA to execute or meet the requirements of a memorandum of agreement in accordance with § 902.75 constitutes a substantial default in accordance with § 902.79 and shall result in referral to the Enforcement Center. The Enforcement Center is officially responsible for recommending to the Assistant Secretary for Public and Indian Housing that a troubled performer PHA be declared in substantial default. The Enforcement Center shall initiate the judicial appointment of a receiver or the interventions provided in § 902.83; and may initiate limited denial of participation, suspension, debarment, the imposition of other sanctions available to the Enforcement Center including referral to the appropriate Federal government agencies or offices for the imposition of civil or criminal sanctions.

(b) To the extent feasible, while a PHA is under a referral to the Enforce-

ment Center, all services to residents will continue uninterrupted.

§ 902.79 Substantial default.

(a) *Events or conditions that constitute substantial default.* The following events or conditions shall constitute substantial default.

(1) HUD 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, including 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.

(2) HUD may determine that a PHA's failure to satisfy the terms of a memorandum of agreement entered into in accordance with § 902.75, or to make reasonable progress to execute or meet requirements included in a memorandum of agreement, are events or conditions that constitute a substantial default.

(3) HUD shall determine that a PHA that has been designated as troubled and does not show substantial improvement, as defined in § 902.75(g), in its PHAS score in 1 year following issuance of the failed score is in substantial default.

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

(5) HUD 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).

(b) *Notification of substantial default and response.* If information from an annual assessment or audit, or any other credible source (including but not limited to the Office of Fair Housing Enforcement, the Office of the Inspector General, a judicial referral or a referral from a mayor or other official) indicates that there may exist events or conditions constituting a substantial breach or default, HUD shall advise a PHA of such information. HUD 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, HUD 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.

(1) *Form of notification.* 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(ies) of the Board, and shall include, but is not limited to:

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

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

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

(iv) 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 section, 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

(v) Notification to the PHA that, absent a satisfactory response in accordance with paragraph (b) of this section, HUD will refer the PHA to the Enforcement Center, using any or all of the interventions specified in §902.83, and determined to be appropriate to remedy the noncompliance, citing §902.83, and any additional authority for such action.

(2) *Receipt of notification.* Upon receipt of the notification described in

paragraph (b)(1) of this section, the PHA must demonstrate, within the time period permitted in the notification, factual error in HUD'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.

(3) *Waiver of notification.* A PHA may waive, in writing, receipt of explicit notice from HUD 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 HUD with written assurances that all deficiencies will be addressed by the PHA. HUD will then immediately proceed with interventions as provided in §902.83.

(4) *Emergency situations.* 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 Secretary or the Secretary's designee is authorized to intercede to protect the residents' and HUD's interests by causing the proposed interventions to be implemented without further appeals or delays.

§902.83 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, HUD 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, HUD

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;
- (4) Entering into agreements, arrangements, and/or contracts for or on behalf of a PHA, or acting as the PHA, and expending or authorizing the expenditure of PHA funds, irrespective of the source of such funds, to remedy the events or conditions constituting the substantial default;
- (5) The provision of intervention and assistance necessary to remedy emergency conditions;
- (6) After the solicitation of competitive proposals, select an administrative receiver to manage and operate all or part of the PHA's housing; and
- (7) Petition for the appointment of a receiver to any District Court of the United States or any court of the State in which real property of the PHA is located.

(c) The receiver is 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.

(d) The appointment of a receiver pursuant to this section may be terminated upon the petition to the court by the PHA, the receiver, or HUD, 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.

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

§902.85 Resident petitions for remedial action.

The total number of residents that petition HUD 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.

APPENDIX A TO PART 902—AREAS AND ITEMS TO BE INSPECTED

AREA: Site

Items:

- Fencing and Retaining Walls
- Grounds
- Lighting
- Mail Boxes/Project Signs
- Market Appeal
- Parking Lots/Driveways
- Play Areas and Equipment
- Refuse Disposal
- Roads
- Storm Drainage
- Walkways

AREA: Building Exterior

Items:

- Doors
- Fire Escapes
- Foundations
- Lighting
- Roofs
- Walls
- Windows

AREA: Building Systems

Items:

- Domestic Water
- Electrical System
- Elevators
- Emergency Power
- Fire Protection
- HVAC
- Sanitary System

AREA: Dwelling Unit

Items:

- Bathroom
- Cell-for-Aid
- Ceiling
- Doors
- Electrical System
- Floors

Office of the Assistant Secretary, HUD

§ 903.1

Hot Water Heater
HVAC System
Kitchen
Lighting
Outlets/Switches
Patio/Porch/Balcony
Smoke Detector
Stairs
Walls
Windows

AREA: Common Areas

Items:

Basement/Garage/Carport
Closets/Utility/Mechanical
Community Room
Day Care
Halls/Corridors/Stairs
Kitchen
Laundry Room
Lobby
Office
Other Community Spaces
Patio/Porch/Balcony
Pools and Related Structures
Restroom
Storage
Trash Collection Areas

AREA: Health and Safety

Items:

Air Quality
Electrical Hazards
Elevator
Emergency/Fire Exits
Fire Escapes
Flammable Materials
Garbage and Debris
Ground Fault Interrupters
Handrails
Hazards
Hot Water Heater
Infestation
Lead Paint
Pools and Related Structures
Smoke Detectors

PART 903—PUBLIC HOUSING AGENCY PLANS

Sec.

- 903.1 What are the public housing agency plans?
- 903.3 When must a PHA submit the plans to HUD?
- 903.5 What information must a PHA provide in the 5-Year Plan?
- 903.7 What information must a PHA provide in the Annual Plan?
- 903.9 Must a troubled PHA include additional information in its Annual Plan?
- 903.11 Are certain PHAs eligible to submit a streamlined Annual Plan?

- 903.13 What is a Resident Advisory Board and what is its role in development of the Annual Plan?
- 903.15 What is the relationship of the public housing agency plans to the Consolidated Plan?
- 903.17 Must the PHA make public the contents of the plans?
- 903.19 When is the 5-Year Plan or Annual Plan ready for submission to HUD?
- 903.21 May the PHA amend or modify a plan?
- 903.23 What is the process by which HUD reviews, approves, or disapproves an Annual Plan?
- 903.25 How does HUD ensure PHA compliance with its plans?

AUTHORITY: 42 U.S.C. 1437c; 42 U.S.C. 3535(d).

SOURCE: 64 FR 8181, Feb. 18, 1999, unless otherwise noted.

§903.1 What are the public housing agency plans?

(a) There are two public housing agency plans. They are:

(1) The 5-year plan (the 5-Year Plan) that a public housing agency (PHA) must submit to HUD once every 5 PHA fiscal years; and

(2) The annual plan (Annual Plan) that the PHA must submit to HUD for each fiscal year for which the PHA receives:

(i) Section 8 tenant-based assistance (section 8(o) of the U.S. Housing Act of 1937, 42 U.S.C. 1437f(o)) (tenant-based assistance); or

(ii) Public housing operating subsidy or capital fund (section 9 of the U.S. Housing Act of 1937 (42 U.S.C. 1437g) (public housing)).

(b) The purpose of the plans is to provide a framework for local accountability and an easily identifiable source by which public housing residents, participants in the tenant-based assistance program, and other members of the public may locate basic PHA policies, rules and requirements concerning its operations, programs and services.

(c) HUD may prescribe the format of submission (including electronic format submission) of the plans. PHAs will receive appropriate notice of any prescribed format.

(d) The requirements of this part only apply to a PHA that receives the type of assistance described in paragraph (a) of this section.