### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5747–N–01]

**Public Housing Assessment System (PHAS) Capital Fund Interim Scoring Notice: Reinstitution of Five Points for Occupancy Sub-Indicator and Request for Comment**

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** This notice advises public housing agencies (PHAs), as well as members of the public, that HUD intends to reinstitute, temporarily, the award of 5 points for the occupancy sub-indicator of the Capital Fund Program Indicator to all PHAs for the PHAS Capital Fund Program Indicator. This award of points is provided as regulatory relief from a non-statutory subindicator required by statute focusing on a PHA’s performance under the Capital Fund Indicator, which is timely obligation of the Capital Funds and will in no way limit HUD’s oversight and monitoring of PHAs.

HUD welcomes public comment on the scoring adjustment HUD intends to make as provided in this notice.

**DATES:**

**Comment due date:** January 15, 2014.

**ADDRESSES:** Interested persons are invited to submit comments regarding this notice to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500.

Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. **Submission of Comments by Mail.** Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500.

2. **Electronic Submission of Comments.** Interested persons may submit comments electronically through the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the [www.regulations.gov](http://www.regulations.gov) Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

**Note:** To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule. No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

**Public Inspection of Public Comments.** All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339. Additional information is available from the REAC Internet site at [http://www.hud.gov/offices/reac/](http://www.hud.gov/offices/reac/).

**SUPPLEMENTARY INFORMATION:**

### I. Background

The purpose of PHAS is to provide a management tool for measuring the performance of a PHA in essential housing operations of projects, on a program-wide basis and individual project basis. PHAS measures a PHA’s performance through four indicators: physical condition, financial condition, management operations and performance under the Capital Fund Program. Each of these indicators contains subindicators, and the scores for the subindicators are used to determine a single score for each of these PHAS indicators. The PHAS regulations, codified at 24 CFR part 902, were revised and updated by an interim rule published on February 23, 2011, at 76 FR 10136.

The Capital Fund Program Indicator consists of two subindicators. One subindicator required by statute focuses on the timeliness taken by a PHA to obligate Capital Funds (see 42 U.S.C. 1437g(j)). The other subindicator, which is regulatory, focuses on a PHA’s occupancy rate as of the end of a PHA’s fiscal year. Each subindicator is worth up to 5 points for a total possible score of 10 points for the Capital Fund Program Indicator. (See 24 CFR 902.50.) In addition to measuring a PHA’s occupancy rate under the Capital Fund Program Indicator, a PHA’s occupancy rate...
SUPPLEMENTARY INFORMATION: Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;
2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;
3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the Federal Register. These notices (each covering the period since the most recent previous notification) shall:
   a. Identify the project, activity, or undertaking involved;
   b. Describe the nature of the provision waived and the designation of the provision;
   c. Indicate the name and title of the person who granted the waiver request;
   d. Describe briefly the grounds for approval of the request; and
   e. State how additional information about a particular waiver may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

This notice follows procedures provided in HUD’s Statement of Policy on Waiver of Regulations and Directives issued on April 22, 1991 (56 FR 16337). In accordance with those procedures and with the requirements of section 106 of the HUD Reform Act, waivers of regulations are granted by the Assistant Secretary with jurisdiction over the regulations for which a waiver was requested. In those cases in which a General Deputy Assistant Secretary granted the waiver, the General Deputy Assistant Secretary was serving in the absence of the Assistant Secretary in accordance with the office’s Order of Succession.

This notice covers waivers of regulations granted by HUD from July 1, 2013 through September 30, 2013. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Fair Housing and Equal Opportunity, the Office of Housing, and the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the regulatory section of title 24 of the Code of Federal Regulations (CFR) that is being waived. For example, a waiver of a provision in 24 CFR part 58 would be listed before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement that appears in 24 CFR and that is being waived. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waivers of regulations that involve the same initial regulatory citation are in