

budget authority expended during the last PHA fiscal year was 95 percent or more following the methodology of § 985.3(n).

[63 FR 48555, Sept. 10, 1998, as amended at 64 FR 40497, July 26, 1999; 64 FR 67983, Dec. 3, 1999; 65 FR 16733, Mar. 29, 2000; 65 FR 16823, Mar. 30, 2000; 65 FR 58875, Oct. 2, 2000; 66 FR 50005, Oct. 1, 2001]

Subpart B—Program Operation

§ 985.101 SEMAP certification.

(a) An PHA must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year.

(1) The certification must be approved by PHA board resolution and signed by the PHA executive director. If the PHA is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Section 8 program director.

(2) An PHA that subcontracts administration of its program to one or more subcontractors shall require each subcontractor to submit the subcontractor's own SEMAP certification on the HUD-prescribed form to the PHA in support of the PHA's SEMAP certification to HUD. The PHA shall retain subcontractor certifications for 3 years.

(3) An PHA may include with its SEMAP certification any information bearing on the accuracy or completeness of the information used by the PHA in providing its certification.

(b) Failure of an PHA to submit its SEMAP certification within 60 calendar days after the end of its fiscal year will result in an overall performance rating of troubled and the PHA will be subject to the requirements at § 985.107.

(c) An PHA's SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time. (Information collection requirements in this section have been approved by the Office of Management and Budget under control number 2577-0215)

[63 FR 48555, Sept. 10, 1998, as amended at 66 FR 50006, Oct. 1, 2001]

§ 985.102 SEMAP profile.

Upon receipt of the PHA's SEMAP certification, HUD will rate the PHA's performance under each SEMAP indicator in accordance with § 985.3. HUD will then prepare a SEMAP profile for each PHA which shows the rating for each indicator, sums the indicator ratings, and divides by the total possible points to arrive at an PHA's overall SEMAP score. SEMAP scores shall be rounded off to the nearest whole percent.

§ 985.103 SEMAP score and overall performance rating.

(a) *High performer rating.* PHAs with SEMAP scores of at least 90 percent shall be rated high performers under SEMAP. PHAs that achieve an overall performance rating of high performer may receive national recognition by the Department and may be given competitive advantage under notices of fund availability.

(b) *Standard rating.* PHAs with SEMAP scores of 60 to 89 percent shall be rated standard.

(c) *Troubled rating.* PHAs with SEMAP scores of less than 60 percent shall be rated troubled.

(d) *Modified rating on an indicator.* A rating on any of the indicators at §§ 985.3(a) through 985.3(h) will be subject to change after HUD receives the PHA's annual audit report or after HUD conducts a confirmatory review if the audit report or the confirmatory review report contains information that the PHA's SEMAP certification concerning an indicator is not accurate.

(e) *Modified or withheld overall rating.*

(1) Notwithstanding an PHA's SEMAP score, HUD may modify or withhold an PHA's overall performance rating when warranted by circumstances which have bearing on the SEMAP indicators such as an PHA's appeal of its overall rating, adverse litigation, a conciliation agreement under Title VI of the Civil Rights Act of 1964, fair housing and equal opportunity monitoring and compliance review findings, fraud or misconduct, audit findings or substantial noncompliance with program requirements.

(2) Notwithstanding an PHA's SEMAP score, if the latest IA report

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submitted for the PHA under the Single Audit Act indicates that the auditor is unable to provide an opinion as to whether the PHA's financial statements are presented fairly in all material respects in conformity with generally accepted accounting principals, or an opinion that the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the financial statements taken as a whole, the PHA will automatically be given an overall performance rating of troubled and the PHA will be subject to the requirements at § 985.107.

(3) When HUD modifies or withholds a rating for any reason, it shall explain in writing to the PHA the reasons for the modification or for withholding the rating.

[63 FR 48555, Sept. 10, 1998, as amended at 64 FR 40498, July 26, 1999]

§ 985.104 PHA right of appeal of overall rating.

An PHA may appeal its overall performance rating to HUD by providing justification of the reasons for its appeal. An appeal made to a HUD hub or program center or to the HUD Troubled Agency Recovery Center and denied may be further appealed to the Assistant Secretary.

§ 985.105 HUD SEMAP responsibilities.

(a) *Annual review.* HUD shall assess each PHA's performance under SEMAP annually and shall assign each PHA a SEMAP score and overall performance rating.

(b) *Notification to PHA.* No later than 120 calendar days after the PHA's fiscal year end, HUD shall notify each PHA in writing of its rating on each SEMAP indicator, of its overall SEMAP score and of its overall performance rating (high performer, standard, troubled). The HUD notification letter shall identify and require correction of any SEMAP deficiencies (indicator rating of zero) within 45 calendar days from date of HUD notice.

(c) *On-site confirmatory review.* HUD may conduct an on-site confirmatory review to verify the PHA certification and the HUD rating under any indicator.

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(d) *Changing rating from troubled.* HUD must conduct an on-site confirmatory review of an PHA's performance before changing any annual overall performance rating from troubled to standard or high performer.

(e) *Appeals.* HUD must review, consider and provide a final written determination to an PHA on its appeal of its overall performance rating.

(f) *Corrective action plans.* HUD must review the adequacy and monitor implementation of PHA corrective action plans submitted under § 985.106(c) or § 985.107(c) and provide technical assistance to help the PHA improve program management. If an PHA is assigned an overall performance rating of troubled, the PHA's corrective action plan must be approved in writing by HUD.

§ 985.106 Required actions for SEMAP deficiencies.

(a) When the PHA receives the HUD notification of its SEMAP rating, an PHA must correct any SEMAP deficiency (indicator rating of zero) within 45 calendar days from date of HUD notice.

(b) The PHA must send a written report to HUD describing its correction of any identified SEMAP deficiency.

(c) If an PHA fails to correct a SEMAP deficiency within 45 calendar days as required, HUD may then require the PHA to prepare and submit a corrective action plan for the deficiency within 30 calendar days from the date of HUD notice.

(Information collection requirements in this section have been approved by the Office of Management and Budget under control number 2577-0215)

§ 985.107 Required actions for PHA with troubled performance rating.

(a) *Required on-site review.* Upon assigning an overall performance rating of troubled, HUD must conduct an on-site review of PHA program management to assess the magnitude and seriousness of the PHA's noncompliance with performance requirements.

(b) *HUD written report.* HUD must provide the PHA a written report of its on-site review containing HUD findings of program management deficiencies,