

§ 901.140

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

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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, 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.

(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