

§ 902.63

Chief Executive Officer or responsible party.

[65 FR 1738, Jan. 11, 2000, as amended at 65 FR 36045, June 6, 2000; 68 FR 37671, June 24, 2003]

§ 902.63 PHAS scoring.

(a) *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.

(b) *Adjustments to the PHAS score.* (1) 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 adjusted (*e.g.*, reduction in points) in accordance with the audited results.

(2) A PHA's PHAS score under individual indicators, sub-indicators or components, or its overall PHAS score, may be changed by HUD in accordance with 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.

(c) *Issuance of score by HUD.* An overall PHAS score will be issued by REAC for each PHA after the later of one month after the submission due date for financial data and certifications, or one month after submission by the PHA of its financial data and certifications. The overall PHAS score becomes the PHA's final PHAS score after any adjustments requested by the PHA and determined necessary under the processes provided in §§ 902.25(c), 902.35(a)(3) and/or 902.68; any adjustments requested by the PHA and determined necessary under the appeal process provided in § 902.69; and/or any adjustments determined necessary as a result of the independent public accountant (IPA) audit, as provided in paragraph (b) of this section.

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(d) *Review of audit.* For a PHA whose audit has been found deficient as a result of a quality control review of the IPA workpapers, a quality control review that is conducted by REAC as part of REAC's on-going quality assurance process, REAC may, at its discretion, select the audit firm that will perform the audit of the PHA and may serve as the audit committee for the audit in question. This review is important to determine the accuracy of the scoring under the Financial Condition Indicator.

(e) *Posting and publication of PHAS scores.* Each PHA (or RMC as the case may be) shall post a notice of its final PHAS score and status in appropriate conspicuous and accessible locations in its offices within two weeks of receipt of its final score and status. In addition, HUD will publish every PHA's score and status in the FEDERAL REGISTER and on HUD's internet site.

§ 902.67 Score and designation status.

A PHA will receive a status designation corresponding to its final PHAS score as follows:

(a) *High performer.* (1) 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 of the total available points under PHAS shall be designated a high performer.

(2) A PHA shall not be designated a high performer if it scores below the threshold established for any indicator.

(3) High performers will be afforded incentives that include relief from reporting and other requirements, as described in § 902.71.

(b) *Standard performer.* (1) A PHA that is not a high performer shall be designated a standard performer if:

(i) The PHA achieves a total PHAS score of not less than 60 percent of the total available points under PHAS; and

(ii) The PHA does not achieve less than 60 percent of the total points available under one of the following indicators, PHAS Indicators #1, #2, or #3

(2) All standard performers must correct reported deficiencies.

(3) A PHA that achieves a total PHAS score of less than 70 percent, but

not less than 60 percent, is required by the HUB/Program Center to submit an Improvement Plan to correct identified deficiencies.

(4) A PHA that achieves a total PHAS score of less than 70 percent but not less than 60 percent is at risk of being designated troubled.

(c) *Troubled performer.* A PHA that is designated as troubled may be:

(1) *Overall troubled.* A PHA that achieves an overall PHAS score of less than 60 percent or achieves less than 60 percent of the total points available under *more than one* of the following indicators, PHAS Indicators #1, #2, or #3, shall be designated as troubled (overall), and referred to the TARC as described in §902.75.

(2) *Troubled in one area.* (i) A PHA that achieves less than 60 percent of the total points available under *only one* of the following indicators, PHAS Indicators #1, #2, or #3, shall be considered a substandard physical, substandard financial, or substandard management performer, and referred to the TARC as described in §902.75.

(ii) In accordance with section 6(j)(2) of the Act, a PHA that receives less than 60 percent of the maximum calculation for the Capital Fund sub-indicator under PHAS Indicator #3 (Management Operations, subpart D of this part; see §902.43(a)) will be subject to the sanctions, provided in section 6(j)(4), as appropriate.

(d) *Withholding designation.* (1) In *exceptional circumstances*, even though a PHA has satisfied all of the PHAS Indicators for high performer or standard performer designation, HUD may conduct any review as it may determine necessary, and may deny or rescind incentives or high performer designation or standard performer designation, in the case of a PHA that:

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

(ii) Is involved in litigation that bears directly upon the physical, financial or management performance of a PHA;

(iii) Is operating under a court order;

(iv) Demonstrates substantial evidence of fraud or misconduct, including evidence that the PHA's certifications, submitted in accordance with this part, are not supported by the facts, as evi-

denced by such sources as a HUD review, routine reports, an Office of Inspector General investigation/audit, an independent auditor's audit or an investigation by any appropriate legal authority; or

(v) Demonstrates substantial non-compliance in one or more areas of a PHA's required compliance with applicable laws and regulations, including areas not assessed under the PHAS. Areas of substantial noncompliance include, but are not limited to, non-compliance with civil rights, non-discrimination and fair housing laws and regulations, or the Annual Contributions Contract. Substantial non-compliance casts doubt on the capacity of a PHA to preserve and protect its public housing developments and operate them consistent with Federal laws and regulations.

(2) If high performer designation is denied or rescinded, the PHA shall be designated either a standard performer or troubled performer depending on the nature and seriousness of the matter or matters constituting the basis for HUD's action. If standard performer designation is denied or rescinded, the PHA shall be designated troubled.

(3) The denial or rescission of a designation of high performer or standard performer does not affect the PHA's numerical PHAS score.

(4) A PHA that disagrees with the basis for denial or rescission of the designation may make a written request for reinstatement of the designation to the Assistant Secretary for Public and Indian Housing which request shall include reasons for the reinstatement.

[65 FR 1738, Jan. 11, 2000, as amended at 65 FR 36045, June 6, 2000]

§902.68 Technical review of results of PHAS Indicators #1 or #4.

(a) *Request for technical reviews.* This section describes the process for requesting and granting technical reviews of physical inspection results and resident survey results.

(1) For both reviews, the burden of proof is on the PHA to show that an error occurred.

(2) For both reviews, a request for technical review must be submitted in writing to the Director of the Real Estate Assessment Center and must be