

provide necessary relief for small agencies," but "still not pose a risk to the Department, residents or the taxpaying public."

HUD response. HUD appreciates the support expressed by the commenters. The final rule will alleviate the administrative burden imposed on small PHAs, while still requiring basic accountability. These deregulatory changes will better enable small PHAs to focus on their primary mission of providing housing assistance to low-income families.

Comment: Deregulation of procurement and contracting procedures is also required. One commenter wrote that many small PHAs have difficulty complying with the multiple regulatory and paperwork requirements related to the procurement process and requested that HUD also undertake efforts to streamline and simplify these requirements. The commenter noted that many contractors in the locality of a small PHA are frequently small businesses themselves. The commenter wrote that these small businesses are also ill-equipped to deal with the procurement requirements and, therefore, not inclined to contract with small PHAs. In particular, the commenter wrote that two changes would make it more attractive for these small businesses to contract with small PHAs: (1) raising the dollar value threshold that triggers Davis-Bacon wage rates from \$2,000 to \$10,000; and (2) relaxing the Section 3 low-income hiring requirements. The commenter noted that these are both sensitive issues and would probably require statutory changes, but urged that HUD at least consider these points to alleviate procurement problems for small PHAs and lower the costs for businesses that wish to deal with them.

HUD response. As the commenter notes, the requested changes involve issues that will require further consideration and may require statutory changes in order to be implemented. Further, the procurement and contracting issues highlighted by the commenter are not regulatory in nature and, therefore, outside the scope of this rulemaking. Accordingly, the final rule does not adopt the recommendations made by the commenter.

Comment: HUD should exercise its statutory authority to provide small PHAs with greater flexibility in the management of the public housing Capital and Operating Funds. One commenter noted that section 9(g)(2) of the 1937 Act authorizes small PHAs to use amounts allocated from these funds for eligible capital and operating costs, "regardless of the fund from which the

amounts were allocated." The commenter wrote that, contrary to this statutory flexibility, the current HUD regulations require that small PHAs submit a Capital Fund plan for using allocations from the Capital Fund solely for capital activities. The commenter wrote that implementing section 9(g) would greatly benefit small PHAs by providing relief from the administrative burden of separately tracking allocations from the two public housing funds.

HUD response. HUD has not adopted the recommendations made by the commenter. The suggested regulatory changes were not included as part of the August 14, 2002, proposed rule. Since the changes suggested by the commenter are outside the scope of the proposed rule, HUD has not revised the rule in response to this comment.

Comment: High performing PHAs that do not participate in the Operating Fund should be granted the ability to use operating funds, operating reserves, and funds in excess of operating reserves for development and modernization. One commenter submitted this recommendation. The commenter wrote that these PHAs create their own excess revenues that, due to current HUD regulatory requirements, are locked into reserves. The commenter wrote that the suggested deregulatory changes would allow these PHAs to perform their housing operations, and provide additional improvements and additional affordable housing, without imposing any added burden on HUD. The commenter agrees with current regulations providing that any additional units or developments built with these funds are not eligible for future subsidy under the Operating Fund.

HUD response. HUD has not revised the rule in response to this comment. The amendment recommended by the commenter is outside the scope of this final rule, which is concerned with deregulatory changes designed to assist small PHAs.

Comment: HUD needs to provide small PHAs with additional assistance regarding the use and implementation of automated systems. One commenter recommended that HUD develop outreach and technical assistance specifically for small PHAs with regard to automated systems, and that HUD improve its communication overall with small PHAs regarding its plans for information technology. The commenter wrote that small PHAs do not possess the best hardware or software for connecting with HUD's systems. The commenter wrote that an early-warning system of several months for changes and new products, coupled with

appropriate technical assistance, would help small PHAs prepare and assimilate to HUD's requirements.

HUD response. The proposed rule has not been revised to reflect the commenter's suggestion. The issue of technical assistance is not regulatory in nature and, therefore, outside the scope of this final rule. However, HUD currently provides, and will continue to provide, technical assistance to PHAs.

Comment: Further review and streamlining of data collection requirements is required. Two commenters wrote that HUD should reevaluate the type and amount of information that small PHAs are required to collect and report to HUD. The commenters wrote that HUD should then assess whether there are duplicative or excessively burdensome requirements that should be eliminated. For example, one of the commenters wrote that the reporting requirements under the PHAS Management Assessment Sub-System (MASS) and the Financial Assessment Sub-System (FASS) are administratively burdensome and need to be simplified. The commenter also wrote that several of the MASS reporting requirements, such as the dates units became vacant, are already available through the electronic PIH Information Center (PIC), and are, therefore, duplicative.

HUD response. HUD has not revised the proposed rule in response to this public comment. In response to the commenter's statement concerning duplicative data, HUD notes that MASS and PIC are concerned with different types of information. To use the example of vacancy rate data raised by the commenter, MASS collects and measures information regarding a PHA's performance in leasing vacant units, while PIC collects information on the number of vacant units a PHA has on an annual basis. However, HUD will review the PHAS data collection requirements and determine whether any can be streamlined or consolidated as part of future changes to the PHAS.

Comment: HUD should monitor PHAs to determine whether the deregulatory changes will have an impact on the number of units that a PHA operates. One commenter cautioned that the rule might have the unintended negative consequence of causing PHAs to reduce the availability of public housing or vouchers in their jurisdictions, in order to have the benefit of the regulatory relief.

HUD response. HUD does not anticipate that PHAs will violate their mission by intentionally reducing the number of families they serve in order to benefit from regulatory relief. As