

(d) *Review of a PHA's audited financial information.* As part of HUD's ongoing quality assurance process, HUD may conduct a quality assurance review of a PHA's IPA or CPA statement and work papers. If a PHA's audit is determined to be deficient as a result of a quality assurance review, HUD may, at its discretion, select the audit firm that will perform a new audit of the PHA and may serve as the audit committee for the audit in question. This quality assurance review is important to determine the accuracy of the grading under Financial Condition Indicator #2.

**§ 902.67 Withholding, denying, and rescinding grades.**

(a) *Withholding, denying, and rescinding grade/designation.* (1) In exceptional circumstances, HUD may conduct any review as it may determine necessary, and may deny or rescind incentives for Grade A, B, C, or D PHA designations even though a PHA has satisfied all of the PHAS indicators for Grade A, B, C, or D PHA designation. HUD may do so only 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 under this part, are not supported by the facts as evidenced by sources such as a HUD monitoring and/or compliance review, routine reports, a HUD (OIG) investigation and/or audit, an IPA's or CPA's audit, or an investigation by any appropriate legal authority; or
- (v) Demonstrates substantial noncompliance 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, noncompliance with civil rights, procurements, nondiscrimination and fair housing laws and regulations, or the ACC. Substantial noncompliance casts doubt on the capacity of a PHA to preserve and protect its public housing properties and operate them consistent with Federal laws and regulations.

(2) If a Grade A, B, C, or D PHA designation is denied or rescinded, the PHA shall be a Grade F PHA.

(b) *Effect of denial or rescission.* The denial or rescission of a designation of a Grade A, B, C, or D PHA will result in an overall final PHAS grade of zero.

(c) *Procedures for request for reinstatement of grade/designation.* A PHA that disagrees with the denial or rescission of its grade/designation may request reinstatement of the grade/designation. The request, which must be in writing and include reasons for the reinstatement, must be directed to the Assistant Secretary. Requests must be sent to: Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 4100, Washington, DC 20410.

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

(a) *Request for technical reviews.* A PHA may request a technical review of physical inspection results and resident survey results.

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

(2) A PHA's request for technical review must be submitted in writing to the Director of PIH-REAC, 1280 Maryland Avenue, SW., Suite 800, Washington, DC 20024-2135. PIH-REAC must receive the written request no later than 15 days following the issuance of the physical inspection results or the resident survey results to the PHA. The request must include the PHA's reasonable evidence that an error occurred.

(b) *Technical review of physical inspection results.* (1) If after review of the results of the physical inspection and grade for a property, the PHA believes that an objectively verifiable and material error (or errors) occurred in the inspection of that property, the PHA may request a technical review of the inspection results for that property.

(2) The PHA's request must include the PHA's evidence that an objectively verifiable and material error occurred. A PHA must submit documentation such as photographic evidence, written material from an objective source such as a local fire marshal or building code official, or other similar evidence. The evidence must have a factual basis other than a disagreement with the inspector's observations or the inspector's finding regarding the severity of the deficiency.

(3) A technical review of a property's physical inspection will not be conducted based on conditions, other than EHS deficiencies, that were corrected subsequent to the inspection, or based on a challenge to the grading class.

(4) After receipt of a PHA's request for technical review of a property's inspection results, PIH-REAC shall review the PHA's file and any objectively verifiable evidence

submitted by the PHA. If PIH-REAC's review determines that an objectively verifiable and material error (or errors) has been documented, then PIH-REAC may take one or a combination of the following actions:

- (i) Undertake a new inspection;
  - (ii) Correct the physical inspection report;
  - (iii) Issue a corrected physical condition grade; or
  - (iv) Issue a corrected PHAS grade.
- (5) In determining whether a new inspection of the property is warranted, PIH-REAC shall review the PHA's file and evidence submitted. PIH-REAC shall then determine whether the evidence supports that there may have been a significant contractor error in the inspection which, if a new inspection were conducted, would result in a significant change from the property's original physical condition grade, overall PHAS grade, and corresponding PHAS designation (*i.e.*, Grade A PHA, Grade B PHA, Grade C PHA, and Grade D PHA). If the new inspection results in a significant change in the PHA's original physical condition grade, PHAS grade and corresponding designation, PIH-REAC shall issue a new PHAS grade and corresponding designation to the PHA.

(6) Material errors are the only grounds for technical review of physical inspection results. There are three types of material errors.

(i) Building data error. A building data error occurs if the inspection includes the wrong building, a building that was not owned by the PHA, or a common area or site areas that are not a part of the property. Incorrect building data that does not affect the grade, such as the address, the building name, the year built, etc., are not considered material. However, HUD requests notification of these errors so they may be corrected in the database.

(ii) Unit count error. A unit count error occurs if the total number of public housing units used in the grading is incorrect. Because the grading uses total public housing units, PIH-REAC shall review instances when the participant can provide evidence that the total units used is incorrect.

(iii) Non-existent deficiency error. A non-existent deficiency error occurs if the inspection cites a deficiency that does not exist.

(c) *Technical review of resident survey results.* If after review of the results of the resident service and satisfaction survey, the PHA believes that the contracted third party administrator can be shown to be in error, the PHA may request a technical review of a PHA's resident survey results.