

(1) The PHA's request must include objectively verifiable evidence that a technical error occurred. Examples of technical errors include, but are not limited to, incorrect material being mailed to residents, or incorrect PHA unit addresses due to the third party administrator's error, such as unit numbers being omitted from the addresses. A PHA that does not update its unit address list pursuant to § 902.51 may not request a technical review based on incorrect addresses.

(2) After receipt of a PHA's request for technical review of resident survey results, PIH-REAC shall review the PHA's file and any evidence submitted by the PHA. If PIH-REAC's review determines that an error has been documented, then PIH-REAC may take one or a combination of the following actions:

- (i) Undertake a new survey;
  - (ii) Correct the resident survey results report;
  - (iii) Issue a corrected resident services and satisfaction grade; or
  - (iv) Issue a corrected PHAS grade.
- (d) *Review of technical review decisions.* The Assistant Secretary will review all technical reviews that are denied by PIH-REAC.

#### **§ 902.69 PHA right of petition and appeal.**

(a) *Appeals and petitions.* A PHA may:

- (1) Appeal its Grade F PHA designation (including Grade F PHA and Capital Fund Grade F PHA as provided in § 902.10(c));
- (2) Appeal its final overall PHAS grade;
- (3) Petition for removal of Grade F PHA designation; and
- (4) Appeal any refusal of a petition to remove its Grade F PHA designation.

(b) *Appeal of final overall PHAS grade.* (1) If a PHA believes that an objectively verifiable and material error (or errors) exists in any of its final PHAS indicator grades, which, if corrected, will result in a significant change in the PHA's final overall PHAS grade and its designation, the PHA may appeal its final overall PHAS grade in accordance with the procedures of this section. A significant change in a final overall PHAS grade is a change that would cause the PHA's final overall PHAS grade to increase, resulting in a higher PHAS designation for the PHA (*i.e.*, from Grade F PHA to Grade D PHA, Grade D PHA to Grade C PHA, Grade C PHA to Grade B PHA, Grade B PHA to Grade A PHA).

(2) A PHA that is under the jurisdiction of the appropriate HUD office having jurisdiction over Grade F PHAs may appeal its overall final PHAS

grade after one year even if granting the appeal does not change its grade of F. This right to appeal provides the PHA with the opportunity to meet the requirements to substantially improve its performance under PHAS pursuant to § 902.75(f).

(c) *Appeal and petition procedures.* (1) To appeal its Grade F PHA designation or its final overall PHAS grade, a PHA shall submit a request in writing to the Director of PIH-REAC at 1280 Maryland Avenue, SW., Suite 800, Washington, DC 20024. PIH-REAC must receive the written request no later than 30 days following the issuance of the designation and the final overall PHAS grade to the PHA.

(2) To petition removal of Grade F PHA designation, a PHA shall submit its request in writing to the Director of PIH-REAC at 1280 Maryland Avenue, SW., Suite 800, Washington, DC 20024.

(3) An appeal of a Grade F designation or petition for removal of Grade F designation must include the PHA's supporting documentation and reasons for the appeal. An appeal of a final overall PHAS grade must include the PHA's reasonable evidence that an objectively verifiable and material error occurred. Any appeal or petition submitted to PIH-REAC without appropriate documentation shall not be considered and shall be returned to the PHA.

(d) *Consideration of petitions and appeals.* (1) *Consideration of appeal of final overall PHAS grade.* After receipt of an appeal of a final overall PHAS grade from a PHA, PIH-REAC shall review the PHA's file and the evidence submitted by the PHA supporting that an objectively verifiable and material error occurred. If PIH-REAC determines that the PHA has documented an objectively verifiable and material error, PIH-REAC shall convene a Board of Review (the Board), in accordance with the procedures of this section, to evaluate the appeal and its merits. If the Board determines that an objectively verifiable and material error existed for any of the PHAS indicators based on the evidence, the Board may determine either that a reassessment of the PHA is warranted or that the PHA's PHAS indicator grade(s) and final overall PHAS grade are changed, resulting in a change of designation. If the Board determines that a reassessment of the PHA is warranted, PIH-REAC shall schedule a reinspection or undertake a new assessment of the financial condition, management operations, or resident service and satisfaction, or any combination thereof. If the Board determines that a grade should be

changed, that change shall be made by PIH-REAC.

(2) *Consideration of appeal of Grade F PHA designation or petition to remove Grade F PHA designation.* After receipt of an appeal of a Grade F PHA designation or petition to remove a Grade F PHA designation, PIH-REAC shall convene a Board to evaluate the appeal or petition and its merits. The Board may determine that a reassessment is necessary or may determine that other actions such as changing the PHA's designation, or removing the PHA's Grade F PHA designation are appropriate. If the Board determines that a reassessment is warranted, PIH-REAC shall schedule a reinspection or undertake a new assessment of the financial condition, management operations or resident service and satisfaction, or any combination thereof. If the Board determines that the designation should be changed, that change shall be made by PIH-REAC.

(3) *Board Membership.* The Board membership shall be comprised of a representative from PIH-REAC, from the Office of Public and Indian Housing, and from such other office or other representatives as the Secretary may designate.

(e) *Appeal and petition decisions.* HUD shall make final decisions of appeals and petitions under this section, within 30 days of receipt of the appeal or petition, and may extend this period for an additional 30 days if necessary. A PHA's failure to submit supporting documentation with its request for appeal or petition, or within any additional period granted by HUD is grounds for denial of the appeal or petition. The Assistant Secretary shall report all final appeal decisions to PHAs.

#### **Subpart G—PHAS Incentives and Remedies**

##### **§ 902.71 Incentives for Grade A PHAs.**

(a) *Incentives for Grade A PHAs.* A PHA that is a Grade A PHA shall be eligible for the following incentives, and any other incentives that HUD may determine appropriate and permissible under program statutes or regulations.

(1) Relief from specific HUD requirements. (i) A Grade A PHA shall be relieved of specific HUD requirements (for example, fewer reviews and less monitoring), effective upon notification of Grade A PHA designation.

(ii) As provided in §§ 902.13 and 902.30, a PHA that is a Grade A PHA shall be next assessed under PHAS in three years. Notwithstanding the PHA's