

score. SEMAP scores shall be rounded off to the nearest whole percent.

EFFECTIVE DATE NOTE: At 63 FR 48560, Sept. 10, 1998, §985.102 was stayed indefinitely.

§985.103 SEMAP score and overall performance rating.

(a) *High performer rating.* HAs with SEMAP scores of at least 90 percent shall be rated high performers under SEMAP. HAs that achieve an overall performance rating of high performer may receive national recognition by the Department and may be given competitive advantage under notices of fund availability.

(b) *Standard rating.* HAs with SEMAP scores of 60 to 89 percent shall be rated standard.

(c) *Troubled rating.* HAs with SEMAP scores of less than 60 percent shall be rated troubled.

(d) *Modified or withheld rating.* (1) Notwithstanding an HA's SEMAP score, HUD may modify or withhold an HA's overall performance rating when warranted by circumstances which have bearing on the SEMAP indicators such as an HA's appeal of its overall rating, adverse litigation, a conciliation agreement under Title VI of the Civil Rights Act of 1964, fair housing and equal opportunity monitoring and compliance review findings, fraud or misconduct, audit findings or substantial noncompliance with program requirements.

(2) Notwithstanding an HA's SEMAP score, if the latest IA report submitted for the HA under the Single Audit Act indicates that the auditor is unable to provide an opinion as to whether the HA's financial statements are presented fairly in all material respects in conformity with generally accepted accounting principals, or an opinion that the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the financial statements taken as a whole, the HA will automatically be given an overall performance rating of troubled and the HA will be subject to the requirements at §985.107.

(3) When HUD modifies or withholds an overall performance rating for any reason it shall explain in writing to the

HA the reasons for the modification or for withholding the rating.

EFFECTIVE DATE NOTE: At 63 FR 48560, Sept. 10, 1998, §985.103 was stayed indefinitely.

§985.104 HA right of appeal of overall rating.

An HA may appeal its overall performance rating to HUD by providing justification of the reasons for its appeal. An appeal made to a HUD hub or program center or to the HUD Troubled Agency Recovery Center and denied may be further appealed to the Assistant Secretary.

§985.105 HUD SEMAP responsibilities.

(a) *Annual review.* HUD shall assess each HA's performance under SEMAP annually and shall assign each HA a SEMAP score and overall performance rating.

(b) *Notification to HA.* No later than 120 calendar days after the HA's fiscal year end, HUD shall notify each HA in writing of its rating on each SEMAP indicator, of its overall SEMAP score and of its overall performance rating (high performer, standard, troubled). The HUD notification letter shall identify and require correction of any SEMAP deficiencies (indicator rating of zero) within 45 calendar days from date of HUD notice.

(c) *On-site confirmatory review.* HUD may conduct an on-site confirmatory review to verify the HA certification and the HUD rating under any indicator.

(d) *Changing rating from troubled.* HUD must conduct an on-site confirmatory review of an HA's performance before changing any annual overall performance rating from troubled to standard or high performer.

(e) *Appeals.* HUD must review, consider and provide a final written determination to an HA on its appeal of its overall performance rating.

(f) *Corrective action plans.* HUD must review the adequacy and monitor implementation of HA corrective action plans submitted under §985.106(c) or §985.107(c) and provide technical assistance to help the HA improve program management. If an HA is assigned an overall performance rating of troubled,