

§ 985.103

24 CFR Ch. IX (4-1-99 Edition)

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,

the HA's corrective action plan must be approved in writing by HUD.

EFFECTIVE DATE NOTE: At 63 FR 48560, Sept. 10, 1998, in §985.105, paragraphs (a), (b), (d), and (e) were stayed indefinitely.

**§985.106 Required actions for SEMAP deficiencies.**

(a) When the HA receives the HUD notification of its SEMAP rating, an HA must correct any SEMAP deficiency (indicator rating of zero) within 45 calendar days from date of HUD notice.

(b) The HA must send a written report to HUD describing its correction of any identified SEMAP deficiency.

(c) If an HA fails to correct a SEMAP deficiency within 45 calendar days as required, HUD may then require the HA to prepare and submit a corrective action plan for the deficiency within 30 calendar days from the date of HUD notice.

(Information collection requirements in this section have been approved by the Office of Management and Budget under control number 2577-0215)

**§985.107 Required actions for HA with troubled performance rating.**

(a) *Required on-site review.* Upon assigning an overall performance rating of troubled, HUD must conduct an on-site review of HA program management to assess the magnitude and seriousness of the HA's noncompliance with performance requirements.

(b) *HUD written report.* HUD must provide the HA a written report of its on-site review containing HUD findings of program management deficiencies, the apparent reasons for the deficiencies, and recommendations for improvement.

(c) *HA corrective action plan.* Upon receipt of the HUD written report on its on-site review, the HA must write a corrective action plan and submit it to HUD for approval. The corrective action plan must:

- (1) Specify goals to be achieved;
- (2) Identify obstacles to goal achievement and ways to eliminate or avoid them;
- (3) Identify resources that will be used or sought to achieve goals;

(4) Identify an HA staff person with lead responsibility for completing each goal;

(5) Identify key tasks to reach each goal;

(6) Specify time frames for achievement of each goal, including intermediate time frames to complete each key task; and

(7) Provide for regular evaluation of progress toward improvement.

(8) Be signed by the HA board of commissioners chairperson and by the HA executive director. If the HA is a unit of local government or a state, the corrective action plan must be signed by the Section 8 program director and by the chief executive officer of the unit of government or his or her designee.

(d) *Monitoring.* The HA and HUD must monitor the HA's implementation of its corrective action plan to ensure performance targets are met.

(e) *Use of administrative fee reserve prohibited.* Any HA assigned an overall performance rating of troubled may not use any part of the administrative fee reserve for other housing purposes (see 24 CFR 982.155(b)).

(f) *Upgrading poor performance rating.* HUD shall change an HA's overall performance rating from troubled to standard or high performer if HUD determines that a change in the rating is warranted because of improved HA performance and an improved SEMAP score.

(Information collection requirements in this section have been approved by the Office of Management and Budget under control number 2577-0215)

EFFECTIVE DATE NOTE: At 63 FR 48560, Sept. 10, 1998, §985.107 was stayed indefinitely.

**§985.108 SEMAP records.**

HUD shall maintain SEMAP files, including certifications, notifications, appeals, corrective action plans, and related correspondence for at least 3 years.

(Information collection requirements in this section have been approved by the Office of Management and Budget under control number 2577-0215)