

## CHAPTER 8 PERFORMANCE REQUIREMENTS

- 8-1 BACKGROUND. Section 17(1) and the program regulations at 24 CFR 511.80 state that HUD will review the performance of grantees in carrying out their responsibilities under the program whenever necessary, but at least annually. Comprehensive reviews, conducted after prior notification to the grantee, will analyze the following:
- A. For grantees that are units of general local government or States administering their own rental rehabilitation grant programs, whether the grantee:
    - 1. Has carried out activities in a timely manner, including the commitment of rental rehabilitation grant amounts to specific local projects in accordance with the schedule contained in its Program Description, as provided in Section 511.20(b)(8) and the completion of projects in accordance with 24 CFR 511.11(a);
    - 2. Has carried out its activities in accordance with the requirements of the program regulations (24 CFR Part 511); and
    - 3. Has a continuing capacity to carry out its activities in accordance with 24 CFR 511 and in a timely and cost-effective manner.
  - B. For grantees that are States distributing rental rehabilitation grant amounts to State recipients, whether the State:
    - 1. Has distributed these grant amounts in a timely manner and in accordance with the regulations at 24 CFR Part 511; and
    - 2. Has made such reviews and audits of its recipients as may be appropriate to determine whether they have satisfied the requirements of subparagraphs 1-3 of Paragraph A above.
  - C. In addition, HUD has reserved the right under 24 CFR 511.80(a) to conduct performance reviews to determine grantee compliance with specific provisions of 24 CFR 511 at anytime, with or without notice to the grantee.

primary resources for assessing performance are the Cash and Management Information (C/MI) System for the Program, monitoring visits by HUD Field Office staff, and the grantee's Annual Performance Report (APR). In addition, HUD may also consider complaints received from the public, audit and investigatory reports, and other available information in evaluating the grantee's performance. An explanation of the C/MI System can be found in this Handbook at Chapter 11. Monitoring visits, as well as ongoing interaction and discussions between grantees and HUD staff supplement C/MI System data on grantee performance. Program monitoring in the Rental Rehabilitation Program generally is designed to stimulate production of rental units for lower income families, identify impediments to production, and determine if applicable rules and regulations are being met. Information pertaining to program monitoring can be found in this Handbook at Chapter 15. Comprehensive performance reviews under the standards in 24 CFR 511.80(b) will be conducted after prior notice to the grantee. The balance of this Chapter will deal with the Annual Performance Report and corrective and remedial actions.

#### 8-3 ANNUAL PERFORMANCE REPORT (APR)

A. Timing and Procedure for Submission. The program regulations at 24 CFR 511.81 require the submission of an annual performance report to HUD. Section 17(m) of the United States Housing Act of 1937 requires that this report be submitted prior to the beginning of the fiscal year. Therefore, HUD requires that the APR shall be submitted annually on or before August 31 and cover program activity undertaken with RRP program funds for any fiscal year from August 1 of the previous year through July 31 of the current year. The cover letter must certify that the Chief Executive Officer (CEO), or designated official, believes the information provided to be correct and accurate to the best of his or her knowledge. Two copies of the APR are to be submitted under signature of the CEO to the HUD Field office with jurisdiction for the grantee. The Field Office will then forward one copy to the Office of Urban Rehabilitation, HUD, 451 7th Street SW, Washington, DC 20410. The next Fiscal Year's grant may not be awarded if the APR for the previous year has not been submitted. Single copies of the report shall be provided to the public upon request at no charge.

B. Scope of the APR. The APR has two components: a narrative statement for descriptive information and a form for numeric information. The narrative

statement must include the following information on the Rental Rehabilitation Program: how well the grantee's program is meeting RRP objectives, the cost effectiveness of the program, the grantee's assessment of its efforts to promote utilization of minority, women-owned, and local businesses, affirmative marketing to tenants and minority property owners, and an explanation of all cases of displacement and permanent relocation. The APR form HUD-40070 (Exhibit 8.1) provides data on the amount of program income collected during the reporting period, the use of program income, and, for all projects completed during the reporting period, the utilization of minority and women owned businesses, minority property owners, and the occurrence of displacement and/or permanent relocation. A copy of the C/MI Project Completion Report(s) for all projects funded wholly with RRP program income during the time period must also be submitted with the APR. Instructions for both the narrative statement and the form are outlined in Sections C and D below.

1. C/MI Data. The program regulations at 24 CFR 511.81(b)(2)(ii) also require information to be included on the type and income level of tenants who benefit from the Rental Rehabilitation Program. Because the Program's C/MI System collects information on the type and income levels of tenants benefitting from RRP program funds at the time projects are set up and completed, the Department deems this requirement to be met by the C/MI reports submitted by the grantees and State recipients.

- C. Narrative Statements for the Rental Rehabilitation Program Annual Performance Report. Each APR submitted must provide a narrative statement with the following elements concerning activities funded with RRP grant funds. State grantees shall summarize the results of the activities undertaken by the State and State recipients based on State records and/or review of those records maintained by State recipients.

1. Meeting Rental Rehabilitation Program Objectives. The grantee will provide an analysis of how well RRP activities during the reporting period have met the RRP objective to provide decent, safe and sanitary housing at

rents that are affordable and are likely to remain affordable to lower income families, particularly large families with children. This

must include identification of noteworthy problems, if any, incurred in operating the program.

2. The amount and type of assistance provided to tenants displaced from the projects. This section should be a summary of information on affected tenants, the Section 8 resources provided and/or displacement/relocation benefits provided. It should also include any information on problems or potential problems related to tenant assistance including problems on the availability and timeliness of Section 8 housing vouchers or certificates.
3. Meeting Affirmative Marketing Objectives. This section is an assessment of the effectiveness of the grantee's affirmative marketing efforts as prescribed in 24 CFR 511.13(b). The grantee should include a description of the following:
  - a. Efforts taken by the grantee, the State recipient, and/or owners to affirmatively market vacant units. Include efforts to inform persons in the housing market area not likely to apply for the housing without special outreach, and actions, if any, taken by the grantee or State recipient against owners who failed to follow the affirmative marketing procedures and requirements.
  - b. The results of affirmative marketing efforts. Results may include racial/ethnic characteristics of applicants and other persons attracted to the rehabilitated project, responses by community organizations used as referral agencies, publication of newspaper articles, and other actions generated by the grantees efforts.
  - C. Effectiveness. Considering such factors as the racial/ethnic composition of the neighborhoods in which projects are located and the racial/ethnic composition of the projects' tenants before rehabilitation, were the affirmative marketing procedures

and efforts effective in informing and attracting persons not likely to apply to the project without special outreach. The

grantee is to describe its findings.

4. Minority- and women-owned businesses. The APR form, included in this Handbook as Exhibit 8-1, will report the information on the results of the grantee's efforts to promote the use of minority- and women-owned businesses both as owners and contractors. Where appropriate, a statement of additional actions planned to improve performance in the use of minority and women owned businesses will be included by the grantee in the narrative section of the APR.

- D. Annual Performance Report Form. The APR form is intended to collect numeric data to be aggregated nationally as a complement to data collected through the C/MI System. To complete the form, grantees should follow the instructions on the form (Exhibit 3-1).

8-4 CORRECTIVE AND REMEDIAL ACTIONS. If HUD determines preliminarily that the grantee has not met the performance review standards in 24 CFR 511.80, the grantee will be given notice of this determination and an opportunity to demonstrate, within the time prescribed by HUD and on the basis of facts and data, that it has done so. In the event of a performance deficiency (i.e., failure to meet one of the review standards), HUD may take one or more actions designed to prevent a continuation of the deficiency, mitigate, to the extent possible, its adverse effects or consequences, and prevent its recurrence. In addition, under certain circumstances HUD may make a determination that it has a monetary claim against a grantee for ineligible costs incurred with a rental rehabilitation grant. Following are the actions that HUD may use in response to performance deficiencies.

- A. Corrective Actions. HUD may request the grantee to submit and comply with proposals for action to correct, mitigate and prevent performance deficiencies, including:
  1. Preparing and following a schedule of actions for carrying out the affected rental rehabilitation activities, consisting of schedules, timetables, and milestones necessary to implement the affected activities;

2. Establishing and following a management plan that assigns responsibilities for carrying out the remedial actions;

3. Canceling or revising activities likely to be affected by a performance deficiency, before expending grant amounts for the activities;
  4. Reprogramming rental rehabilitation grant amounts that have not yet been expended from affected activities to other eligible activities; and
  5. Suspending disbursement of grant amounts for affected activities for a period of not more than 60 days.
- B. Conditioning. HUD may condition the use of rental rehabilitation grant amounts from a succeeding fiscal year's allocation upon the satisfactory completion of appropriate corrective action by the grantee. When the use of grant amounts is conditioned, HUD will specify the deficiency, the required corrective actions and the period allowed for taking such actions. The failure of the grantee to complete the actions as specified will result in reduction or withdrawal of the grantee's allocation by up to the amount conditionally granted. Grant conditioning must be done in consultation with the CPD Field Coordination Unit in Headquarters. Field Office staff should also discuss proposed RRP grant conditions with the CPD Office of Urban Rehabilitation in Headquarters.
- C. Grant Reductions. When HUD determines that a grantee has failed to meet one or more of the requirements of this part, HUD may reduce or withdraw rental rehabilitation grant amounts, or take other action as appropriate, except that rental rehabilitation grant amounts already expended on eligible activities will not be recaptured from existing grant allocations or obligations or deducted from future grants made available to the grantee. "Grant amounts already expended on eligible activities" includes all grant amounts that have been disbursed under this part for eligible activities. "Other action as appropriate" means any remedial action legally available, including, without limitation, affirmative litigation, such as suits for declaratory judgment, specific performance, temporary or permanent

injunctions, and any other available remedies other than those for recovery of money.

- D. Monetary Claims. HUD may make a determination that it has a monetary claim against that grantee for

expenditures of rental rehabilitation grant funds for ineligible costs. Where HUD makes a final determination that it has a judicially enforceable claim for money against the grantee in a situation where rental rehabilitation grant amounts have been disbursed to the grantee or State recipient for ineligible costs under this part, HUD will follow the procedures described in the Federal Claims Collection Standards (44 CFR Parts 101-105). In this situation, HUD will:

1. Demand in writing that the grantee or State recipient reimburse HUD in the amount of the ineligible cost, using funds derived from non-Federal sources, and
2. Initiate affirmative litigation to recover the amount of the ineligible costs, if necessary for collection.

HUD's final determination to seek recovery of grant amounts expended on ineligible costs under 24 CFR 511(c)(4) shall constitute a claim within the meaning of 31 U.S.C. 3711, et seq., and interest shall be charged on delinquent claims as required by the Federal Claims Collection Standards.

For more detail on collection procedures, consult 24 CFR 511.82(c) and the Federal Claims Collection Standards at 4 CFR Parts 101-105.