

CHAPTER 7. PHA REQUEST FOR EXCLUSION OR MODIFICATION
OF AN INDICATOR OR COMPONENT

7-1 OBJECTIVE. The objective of this Chapter is to provide direction for the request of an exclusion or modification to an indicator or component and suggest types of supporting documentation a PHA may submit with its exclusion and modification requests.

7-2 PHA RESPONSIBILITY.

- A. A PHA shall have the right to request the exclusion or modification of a specific indicator(s) or component(s) in its management assessment, thereby excluding or modifying the specific indicator's or component's score in its total weighted PHMAP score and/or total weighted PHMAP modernization score.
 1. An exclusion excludes the indicator or component entirely from a PHA's PHMAP assessment.
 2. A modification modifies the expectation of an indicator or component.
 3. Exclusion and modification requests ensures that PHAs will not be penalized because of factors not applicable or beyond their control. (6)(j)(1)(I)(i) of the Act
 4. An excluded indicator is not included in the calculation of the overall PHMAP score, and a PHA is thereby not penalized for those particular factors not applicable or beyond its control. (6)(j)(1)(I)(i) of the Act
 5. A modification exempts whatever is modified from the calculation of the respective indicator, and a PHA is thereby not penalized for those particular factors not applicable or beyond its control. (6)(j)(1)(I)(i) of the Act
 6. Exclusion and modification requests shall be submitted to the Field Office no later than at the time of a PHA's certification submission, along with supporting documentary justification. A PHA may, if it so chooses, submit exclusion and/or modification requests prior to the PHA's certification submission. Supporting documentation should

Chapter 7, paragraph 7-2A6 (continued)

provide a PHA's reasons and the supporting data for requesting the exclusion or modification. 24 CFR 901.110(b)

7. In the initial year of PHMAP implementation and for the purposes of the CGP, PHAs shall submit their modification and exclusion requests in accordance with Chapter 4, paragraphs 4-2C1, C2 and C3, of this Handbook.
 8. There is no limit on the number of modification and exclusion requests a PHA may submit.
 9. Requests for exclusions and modifications that do not include supporting documentary justification will not be considered. 24 CFR 901.110(c)
- B. It is anticipated that a valuable check of a particular indicator's or component's reliability will be the opportunity, given to PHAs, to request the exclusion or modification of an indicator(s) or component(s) in a management assessment based on a PHA's circumstances. The submission of exclusion and modification requests will provide HUD with the opportunity to examine the continuing validity of the indicators and components.

7-3 FIELD OFFICE RESPONSIBILITY.

- A. The Field Office will make the determination on exclusion and modification requests, using the standard of whether the exclusion or modification request is reasonable under all of the circumstances considered. 24 CFR § 901.120(a)(2)
1. Field Offices shall review the modification and exclusion requests to:
 - a. Determine if the request reflects a PHA's unique and unusual circumstances;
 - b. Determine if the supporting justifying documentation is accurate; and
 - c. Determine if the supporting justifying documentation supports a PHA's unique and unusual circumstances.

3/92

7-2

7460.5

Chapter 7, paragraph 7-3A (continued)

2. Field Offices may be required by the Regional Administrator to forward copies of exclusion and modification requests to the Regional Administrator (refer to paragraph 7-4A, below) within 90 calendar days after the due date for PHA certification submission in accordance with the time frames in Chapter 4, paragraph 4-3C, of this Handbook.
3. In the initial year of PHMAP implementation and for the purposes of the CGP, the Field Office shall forward copies of exclusion and modification requests to the Regional

Administrator (refer to paragraph 7-4B, below) in accordance with the time frames in Chapter 4, paragraph 4-3B, of this Handbook.

- B. Each Field Office shall notify PHAs, within 90 calendar days after the due date for PHA certification submission (180 calendar days after PHA FYB), of any determination concerning exclusion and modification requests in accordance with the time frames in Chapter 4, paragraph 4-3C, of this Handbook. If a modification or exclusion request is denied by the Field Office, the reason for the denial shall be stated in the notification letter to the PHA. 24 CFR 901.120(b)
- C. In the initial year of PHMAP implementation and for the purposes of the CGP, the Field Office shall notify PHAs, within 90 calendar days after the due date for PHA certification submission (180 calendar days after PHA FYB), of any determination concerning exclusion and modification requests in accordance with Chapter 4, paragraph 4-3B, of this Handbook. If a modification or exclusion request is denied by the Field Office, the reason for the denial shall be stated in the notification letter to the PHA. 24 CFR 901.120(b)(2)
- D. The Field Office shall maintain PHMAP files, including exclusion and modification requests, as open records, available for public inspection for a minimum of three years in accordance with any procedures established by the Field Office to minimize disruption of normal office operations. Field Offices are encouraged to maintain PHMAP files for five years for the purpose of analyzing PHA trends. 24 CFR 901.155
 - 1. The decision to grant an exclusion or modification request and the basis on which it was made shall be an open record that gives the public confidence in the integrity of the process.

7-3

3/92

7460.5

Chapter 7, paragraph 7-3D (continued)

- 2. An open record of exclusion or modification requests that are denied can dispel any suggestion of favoritism, provide guidance for future actions and insure consistency in the program.

7-4 REGIONAL OFFICE RESPONSIBILITY.

- A. The Regional Administrator may review the Field Office scores and PHA status, including any determination concerning exclusion and modification requests in accordance with the time frames in Chapter 4, paragraph 4-3C, of this Handbook. 24 CFR 901.125(a)
- B. In the initial year of PHMAP implementation and for the purposes

of the CGP, the Regional Office may review the Field Office scores and PHA status, including any determination concerning exclusion and modification requests in accordance with the time frames in Chapter 4, paragraph 4-3B, of this Handbook. 24 CFR 901.125(a)

7-5 EXAMPLES OF EXCLUSION REQUESTS AND SUPPORTING DOCUMENTATION. Exclusion requests are primarily applicable to indicator #2, modernization; indicator #11, resident initiatives; and indicator #12, development. HUD does not believe it would be appropriate to exclude other indicators from a PHA's PHMAP assessment. HUD will, nevertheless, consider exclusion requests for other indicators on an exception basis.

A. Modernization.

1. Indicator #2, modernization, shall be excluded by the Field Office from a PHA's PHMAP assessment if a PHA does not have a funded modernization program in progress. A PHA is not required to submit an exclusion request for this indicator if it does not have a funded modernization program in progress.
2. A PHA may request an exclusion of one or more components within this indicator, if the components do not apply to the PHA.

B. Resident initiatives. A PHA may request an exclusion to this indicator. For example: a PHA may consist entirely of housing for the elderly, and the residents are not interested in implementing any of the resident initiative programs. The PHA may request an exclusion of this indicator from its PHMAP calculation. Supporting documentation shall include a copy of resident organization minutes, if applicable, which state that a majority of

3/92

7-4

7460.5

Chapter 7, paragraph 7-5B (continued)

the residents in that particular development are not interested in implementing any of the resident initiative programs at that development.

C. Development.

1. Indicator #12, development, shall be excluded by the Field Office from a PHA's PHMAP assessment if a PHA does not have a funded development program in progress (from fund reservation through 12 months after Actual Development Cost Certification). A PHA is not required to submit an exclusion request for this indicator if it does not have a funded development program in progress.

2. A PHA may request an exclusion of one or more components within this indicator, if the components do not apply to the PHA.

7-6 EXAMPLES OF MODIFICATION REQUESTS AND SUPPORTING

DOCUMENTATION. Examples of modification requests and supporting documentation are provided for each indicator and component, where applicable. Modification requests and supporting documentation are not limited to the examples listed below. Since all modification requests are part of public record, such requests must be well documented and justify the PHA's request.

- A. Indicator #1, vacancy number and percentage. Example of a modification request: a PHA may have just received approval to convert zero and one bedroom units to two bedroom units, but the project will not start until after PHA certification submission. The PHA may request a modification to exempt these units from the calculation of this indicator. Supporting documentation may include copies of the letter approving the conversion and a copy of the implementation schedule for the project.
- B. Indicator #2, modernization. Example of a modification request for component #1, unexpended funds over three years old: a PHA has unexpended funds over three years old, but funds were not expended due to valid reasons outside of the PHA's control, such as litigation. The PHA may request a modification to exempt the subject funds from the calculation of this indicator. Supporting documentation may include a copy of the documentation regarding litigation.
- C. Indicator #3, rents uncollected. Examples of modification requests:

Chapter 7, paragraph 7-6C (continued)

1. A PHA may be under court order not to collect residents' rent at a specific development until court determined deficiencies are corrected. The PHA may request a modification to exempt these units from the calculation of this indicator. Supporting documentation may include a copy of the court order which prohibits the PHA from collecting residents' rent until court determined deficiencies are corrected.
 2. A PHA may be prohibited by State law from collecting overdue rent beyond a specific time period. The PHA may request a modification to exempt the subject overdue rents from the calculation of this indicator. Supporting documentation may include a copy of the pertinent State law.
- D. Indicator #4, energy consumption. Examples of modification requests:

1. A PHA may have added 200 new units to its inventory which resulted in an increase in annual utility consumption of more than 5%. A PHA may request a modification to exempt the excess utility consumption from the calculation of this indicator. Supporting documentation may include applicable utility bills which show an increase of more than 5% in utility consumption.
2. A PHA may have installed new exterior lighting at all of its developments which resulted in an increase in annual utility consumption of more than 5%. A PHA may request a modification to exempt the excess utility consumption from the calculation of this indicator. Supporting documentation may include applicable utility bills which show an increase of more than 5% in utility consumption.
3. Other modification requests may be submitted for:
 - a. Negotiated or court ordered increases in utility allowances because of threatened or pending litigation; and
 - b. The initiation of new programs or increases in social services to residents which increases the usage of community space and results in an increase of energy consumption of over 5%.

E. Indicator #5, unit turnaround. Examples of modification requests:

3/92

7-6

7460.5

Chapter 7, paragraph 7-6E (continued)

1. A PHA may have scheduled and started the repair of several severely damaged units over a period of three years, with the repairs being made with routine operating funds. The PHA is proceeding in accordance with a schedule approved by HUD and the PHA is meeting the schedule. The PHA may request a modification to exempt these units from the calculation of this indicator. Supporting documentation may include a copy of implementation schedule for the repair of the severely damaged units, plans and specifications for the units needing repair, the repair costs included in the PHA's current operating budget, and estimates of the cost of repairs for the next two budget years.
2. A PHA may have units that have construction/design deficiencies such as sinking slabs, crumbling foundations, etc., which make the units unfit for healthy and safe habitation. The PHA is proceeding in accordance with a repair schedule approved by HUD and the PHA is meeting the HUD-approved schedule. The PHA may request a modification

to exempt these units from the calculation of this indicator. Supporting documentation may include copies of the inspection reports for the subject units and a copy of the implementation schedule for the repair of these units.

3. Other modification requests may be submitted for units that are vacant due to natural disaster.
- F. Indicator #6, outstanding work orders. Example of a modification request: one of a PHA's buildings consisting of several units may have blown an electrical transformer panel and the electrical transformer panel needs to be manufactured to order. The PHA may request a modification to exempt this work order from the calculation of this indicator. Supporting documentation may include a copy of the purchase order for the electrical transformer panel.
- G. Indicator #7, annual inspection and condition of units and systems. Example of a modification request: a PHA may have a system in place which shows that the PHA has attempted to annually inspect each unit in its inventory, but the PHA could not gain entrance to 2% of its units. The PHA may request a modification to exempt these units from the calculation of this indicator. Supporting documentation may include copies of the inspection forms for the units that could not be inspected, which documents specific reasons for not being able to enter the units.

7460.5

Chapter 7, paragraph 7-6 (continued)

- H. Indicator #8, tenants accounts receivable (TAR). Example of a modification request: a PHA may be operating under a court order which limits the number of evictions the PHA can perform, which increases the PHA's TARs. The PHA may request a modification to exempt the increase in TARs, due to the court order, from the calculation of this indicator. Supporting documentation may include a copy of the court order which limits the number of evictions the PHA can perform.
- I. Indicator #9, operating reserves. Example of a modification request: during a PHA's immediate past fiscal year, the local government may have passed new legislation which resulted in the PHA having to pay new fees for the use of the municipal landfill for dumping purposes, with the payment of these new fees resulted in the PHA's operating reserves falling below 20%. The PHA may request a modification to exempt the amount of new fees from the calculation of this indicator until the budget can be appropriately adjusted. Supporting documentation may include a copy of the local government legislation, a copy of the new charges and copies of PHA payment of the new charges.
- J. Indicator #10, routine operating expenses. Example of a modification request: a PHA may have had an unexpected disruption

in heating during the winter which resulted in maintenance staff working overtime to correct the problem, which caused the routine operating expenses to exceed income and subsidy for the year. The PHA may request a modification to exempt the cost of these repairs from the calculation of this indicator. Supporting documentation shall be included in the submission of Form HUD-52599, Statement of Operating Receipts and Expenditures, for the PHA's fiscal year.

K. Indicator #11, resident initiatives. Example of a modification request: a PHA may have a senior development where the residents are not interested in implementing one or more of the resident initiative programs at that development. The PHA may request a modification to change the number of activities implemented needed to achieve grades "A" - "C". Supporting documentation shall include a copy of resident organization minutes which state that a majority of the residents in that particular development are not interested in implementing one or more of the resident initiative programs at that development.

L. Indicator #12, development. Examples of modification requests:

3/92

7-8

7460.5

Chapter 7, paragraph 7-6L (continued)

1. A PHA may be involved in litigation which has delayed the construction of the PHA's new development. The PHA may request a modification to this indicator which takes into consideration the delay caused by the litigation. Supporting documentation may include a copy of the pertinent litigation.
2. A PHA may lose its site options(s) if the site is determined to be unacceptable and another must be found, or if jurisdictional roadblocks and requires additional time to resolve. The PHA may request a modification to this indicator which takes into consideration the delay caused by the selection of another site or jurisdictional roadblocks. Supporting documentation may include HUD notification that the site is unacceptable, copies of documentation pertaining to jurisdictional roadblocks.

7-7 PHA APPEAL OF MODIFICATION AND EXCLUSION REQUESTS TO INDICATORS AND COMPONENTS. PHAs may appeal the denial of modification and exclusion requests to indicators and components in accordance with Chapter 8, paragraphs 8-2B3 and 8-2F, of this Handbook.

7-9

3/92