

State	Direct/state grantee designation	CDBG-DR Allocation	Minimum % spent in most impacted county(ies)	Minimum \$ spent in most impacted county(ies)
	State Grant .....	3,600,000	0	0
	Total .....	28,800,000	.....	25,200,000
OK .....	Direct Grantees .....	26,300,000	100	26,300,000
	State Grant .....	10,600,000	30.4	3,220,000
	Total .....	36,900,000	.....	29,520,000

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5747-N-01]

### Public Housing Assessment System (PHAS) Capital Fund Interim Scoring Notice: Reinstitution of Five Points for Occupancy Sub-Indicator and Request for Comment

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** This notice advises public housing agencies (PHAs), as well as members of the public, that HUD intends to reinstitute, temporarily, the award of 5 points for the occupancy sub-indicator of the Capital Fund Program Indicator to all PHAs for the PHAS Capital Fund Program Indicator. This award of points is provided as regulatory relief from a non-statutory element of PHAS and intended to help lessen the impact of decreases in funding in recent appropriations acts. Adding automatic points for the occupancy sub-indicator will allow PHAs to focus on the statutory criteria for assessing performance under the Capital Fund Indicator, which is timely obligation of the Capital Funds and will in no way limit HUD's oversight and monitoring of PHAs.

HUD welcomes public comment on the scoring adjustment HUD intends to make as provided in this notice.

**DATES:** *Effective Date:* December 16, 2013.

*Comment due date:* January 15, 2014.

**ADDRESSES:** Interested persons are invited to submit comments regarding this notice to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410-0500. Communications must refer to the above docket number and title. There are two

methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410-0500.

2. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the [www.regulations.gov](http://www.regulations.gov) Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

**Note:** To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule. *No Facsimile Comments.* Facsimile (FAX) comments are not acceptable.

*Public Inspection of Public Comments.* All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at (202) 708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at 1-800-877-8339. Copies of all comments submitted are available for

inspection and downloading at [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Claudia J. Yarus, Real Estate Assessment Center (REAC), Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone 202-475-8830 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339. Additional information is available from the REAC Internet site at <http://www.hud.gov/offices/reac/>.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The purpose of PHAS is to provide a management tool for measuring the performance of a PHA in essential housing operations of projects, on a program-wide basis and individual project basis. PHAS measures a PHA's performance through four indicators: physical condition, financial condition, management operations and performance under the Capital Fund Program. Each of these indicators contains subindicators, and the scores for the subindicators are used to determine a single score for each of these PHAS indicators. The PHAS regulations, codified at 24 CFR part 902, were revised and updated by an interim rule published on February 23, 2011, at 76 FR 10136.

The Capital Fund Program Indicator consists of two subindicators. One subindicator required by statute focuses on the time taken by a PHA to obligate Capital Funds (see 42 U.S.C. 1437g(j)). The other subindicator, which is regulatory, focuses on a PHA's occupancy rate as of the end of a PHA's fiscal year. Each subindicator is worth up to 5 points for a total possible score of 10 points for the Capital Fund Program Indicator. (See 24 CFR 902.50.) In addition to measuring a PHA's occupancy rate under the Capital Fund Program Indicator, a PHA's occupancy

rate is accounted for under another indicator, the management operations indicator, at 24 CFR 902.43(a)(1).

Scoring for this indicator as originally implemented is described in the Capital Fund Scoring Notice, also published on February 23, 2011, at 76 FR 10053.

Under this indicator, PHAs can receive up to 5 points for the timeliness of fund obligation and up to 5 points for the occupancy rate. That scoring notice was modified to award an automatic 5 points for the occupancy sub-indicator of the Capital Fund by an interim notice for public comment, 77 FR 34399 (Monday, June 11, 2012), which was, after consideration of the public comments, made final at 78 FR 21623 (April 11, 2013). At that time, this action was done to give PHAs time to adjust their systems and procedures to the new scoring regime.

As a result of automatic across-the-board funding cuts required under the Budget Control Act of 2011, Public Law 112-15 (approved August 2, 2011), which became effect in January 2013, funding for public housing was significantly cut. HUD recognizes PHAs' resources are more severely strained and they need the flexibility to make choices about how Capital Funds are expended in accord with statutory requirements.

Given the current funding environment and the fact that the occupancy rate is also addressed under the management operations indicator, HUD believes that reinstating and extending the automatic 5 points for the occupancy sub-indicator of the Capital Fund Program Indicator is appropriate, and will provide some relief to PHAs as they weigh options for expenditure of limited Capital Funds and will result in no PHA losing any Capital Funds as the result of the non-statutory portion of the regulatory PHAS Capital Fund Program indicator.

## II. Action

This notice advises that HUD will award an automatic 5 points for the Capital Fund occupancy sub-indicator for PHAs with fiscal years ending March 31, 2014, June 30, 2014, September 30, 2014, December 31, 2014, March 31, 2015, June 30, 2015, September 30, 2015, and December 31, 2015.

HUD welcomes public comment on this interim notice, and will consider all significant and relevant issues raised in issuing a final notice.

Dated: December 6, 2013.

**Sandra B. Henriquez,**

*Assistant Secretary for Public and Indian Housing.*

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5711-N-03]

### Notice of Regulatory Waiver Requests Granted for the Third Quarter of Calendar Year 2013

**AGENCY:** Office of the General Counsel, HUD.

**ACTION:** Notice.

**SUMMARY:** Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice covers the quarterly period since the previous **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the period beginning on July 1, 2013, and ending on September 30, 2013.

**FOR FURTHER INFORMATION CONTACT:** For general information about this notice, contact Camille E. Acevedo, Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, 451 7th Street SW., Room 10282, Washington, DC 20410-0500, telephone 202-708-1793 (this is not a toll-free number). Persons with hearing- or speech-impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

For information concerning a particular waiver that was granted and for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waivers that have been granted in the third quarter of calendar year 2013.

**SUPPLEMENTARY INFORMATION:** Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all

waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request; and

e. State how additional information about a particular waiver may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

This notice follows procedures provided in HUD's Statement of Policy on Waiver of Regulations and Directives issued on April 22, 1991 (56 FR 16337). In accordance with those procedures and with the requirements of section 106 of the HUD Reform Act, waivers of regulations are granted by the Assistant Secretary with jurisdiction over the regulations for which a waiver was requested. In those cases in which a General Deputy Assistant Secretary granted the waiver, the General Deputy Assistant Secretary was serving in the absence of the Assistant Secretary in accordance with the office's Order of Succession.

This notice covers waivers of regulations granted by HUD from July 1, 2013 through September 30, 2013. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Fair Housing and Equal Opportunity, the Office of Housing, and the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the regulatory section of title 24 of the Code of Federal Regulations (CFR) that is being waived. For example, a waiver of a provision in 24 CFR part 58 would be listed before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement that appears in 24 CFR and that is being waived. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver of regulations that involve the same initial regulatory citation are in