

CHAPTER 9. MEMORANDUM OF AGREEMENT (MOA) FOR
TROUBLED AND MOD-TROUBLED PHAS

- 9-1 OBJECTIVE. The objective of this Chapter is to provide guidance in addressing troubled and mod-troubled PHAs (PHAs which are troubled with respect to 14) which have major problems in key management performance areas.
- 9-2 MEMORANDUM OF AGREEMENT (MOA) REQUIREMENT.
- A. A Memorandum of Agreement (MOA), a binding contractual agreement, shall be required for each PHA designated as troubled and/or mod-troubled. (6)(j)(2)(B) of the Act and 24 CFR §901.140(a)
1. A PHA may be designated as troubled, regardless of size, which achieved a total weighted PHMAP score of less than 60%.
24 CFR 901.115(c)
 2. A PHA may be designated as mod-troubled, regardless of size, which achieved a total weighted PHMAP modernization score on indicator #2, modernization, of less than 60%. 24 CFR 901.115(d)
 3. A PHA that is designated both troubled and mod-troubled shall be required to develop and execute a combined MOA.
- B. The scope of the MOA will vary depending upon the extent of the problems present in the PHA, but shall include the elements listed in paragraph 9-6, below.
- C. An MOA for a mod-troubled PHA shall address modernization deficiencies as well as any other deficiencies discovered as a result of the PHMAP assessment.

9-3 DESIGNATION OF A PHA AS TROUBLED AND/OR MOD-TROUBLED.

- A. Field Office responsibility.
1. The Field Office shall assess PHAs, utilizing the PHMAP SMIRPH module, and conduct the Annual Performance Review, utilizing the PHA Performance Profile module in SMIRPH, or Form HUD-52413, PHA Performance Profile, Appendix 1, The Field Office Monitoring of Public Housing Agencies (PHAs) Handbook 7460.7, as revised, of all

after PHA FYB). 24 CFR 901.120(a)

2. In the initial year of PHMAP implementation and for the purposes of the CGP, the Field Office shall assess PHAs under the PHMAP and conduct the Annual Performance Review of PHAs in accordance with Chapter 4, paragraphs 4-2C1, C2 and C3, of this Handbook. 24 CFR 901.120(b)(2)
3. The performance indicators and components included in indicators #1 through #12 shall constitute the criteria by which PHAs shall be evaluated for the purpose of determining whether a PHA is troubled. (6)(j)(2)(A)(i) of the Act
4. The components included in indicator #2, modernization, shall constitute the criteria by which PHAs shall be evaluated for the purpose of determining whether a PHA is mod-troubled. (6)(j)(1)(I)(iii) of the Act and (2)(A)(i)
5. The designation of troubled and mod-troubled will depend upon the criteria listed in paragraphs 9-2A1 and A2, above. 24 CFR 901.115(c) and (d) and 901.150(a)
6. The Field Office may conduct an on-site confirmatory review of PHAs within its jurisdiction within 90 calendar days after the due date for PHA certification submission to verify the indicators a PHA has certified to as well as the accuracy of the information received in the Field Office pertaining to the remaining indicators. 24 CFR 901.120(c)
7. In the initial year of PHMAP implementation and for the purposes of CGP, the Field Office may conduct an on-site confirmatory review of PHAs in accordance with Chapter 4, paragraph 4-3B, of this Handbook. 24 CFR 901.120(c)
8. The Field Office shall make the initial determination of troubled and mod-troubled designation. 24 CFR 901.120(a)(1)
9. The Field Office shall notify each PHA in its jurisdiction of its determination for each respective PHA within 90 calendar days after

Chapter 9, paragraph 9-3A9 (continued)

the due date for PHA certification submission (180 calendar days after PHA FYB). PHA notification will include, at a minimum: 24 CFR 901.120(b)

- a. A copy of the SMIRPH PHA Performance Profile module, or Form HUD-52413, PHA Performance Profile, Appendix 1,

The Field Office Monitoring of Public Housing Agencies (PHAs) Handbook 7460.7, as revised, which includes the score for indicators, components, the total weighted PHMAP score, and the total weighted PHMAP modernization score; 24 CFR 901.120(b)

- b. The grade in each indicator and component; 24 CFR 901.120 (b)
- c. A PHA's troubled and/or mod-troubled designation; 24 CFR 901.120(b)
- d. Any determination concerning exclusion and modification requests; 24 CFR 901.120(b)
- e. The requirements for and the purpose of an MOA are to be stated, as follows:
 - (1) The statutory basis upon which an MOA is required for the PHA (24 CFR 901.140);
 - (2) The purpose that the MOA is to serve; e.g., the improvement of a PHAs total weighted PHMAP score or modernization score to 60% or above; and
 - (3) Indication that failed performance by the PHA under its MOA may result in HUD's imposition of financial and/or other sanctions, including the petitioning for the court appointment of a receiver to conduct the affairs of the PHA in a manner consistent with the United States Housing Act of 1937. 24 CFR 901, subpart C
- f. The types and dates of additional reviews, such as a coordinated review for a troubled PHA or an in-depth modernization review

for a mod-troubled PHA, necessary as a result of the management assessment; and

- g. When a coordinated review for a troubled PHA or an in-depth modernization review for a mod-troubled PHA is not to be conducted, the notification letter shall indicate the proposed date to initiate the on-site development of the MOA (refer to paragraph 9-5D, below); and
- h. Any final date by which appeals may be received. 24 CFR 901.120(b)

10. In the initial year of PHMAP implementation and for the purposes of the CGP, the Field Office shall notify PHAs of their initial designation of troubled in accordance with Chapter 4, paragraph 4-3B, of this Handbook. 24 CFR 901.120(b)(2)
11. The Field Office shall send a copy of this notification to the PHAs Executive Director and Chairperson of the Board of Commissioners.
12. The Field Office shall send a letter to the appointing official(s) of the Board within 15 calendar days after the notification letter to the PHA if the PHA does not appeal its designation, or after the appeals process has been completed, which should point out the importance of the local government's active participation in assisting efforts to improve the PHA and the need for financial support, technical expertise and linkages to the private sector, as is appropriate to the PHAs troubled and/or mod-troubled condition and needs.
13. The Field Office should, on a risk analysis basis, conduct and complete a coordinated review of a troubled PHA or an in-depth modernization review of a mod-troubled PM as soon as possible after the Annual Performance Review of the PHA, or after the appeals process, if any, has been completed unless such a review has been completed within the past 12 months.
 - a. If the Field Office does not have adequate resources to conduct a coordinated review of a troubled PHA or an in-depth modernization review of a mod-troubled PHA, the respective review shall be conducted as soon as practicable. If the Field Office cannot conduct the respective review within 12 months

Chapter 9, paragraph 9-3A13a (continued)

- after the Annual Performance Review of the PHA, the Assistant Secretary shall be notified.
 - b. If the respective review is not conducted, a period of not longer than 60 calendar days should elapse from the date of the conclusion of the Annual Performance Review to the arrival of the team participants at the PHA to work on the development of the MOA (refer to paragraph 9-5D, below).
14. The Field Office shall issue the final report of the coordinated review, if conducted, in accordance with the Field Office Monitoring of Public Housing Agencies (PHAs) Handbook 7460.7, as revised. If a coordinated review is

conducted, the final report shall indicate the proposed date to initiate the on-site development of the MOA and an explanation of the role the PHA/HUD/local government team participants are requested to play.

- B. Regional Office responsibility. The Regional Administrator may review a PHA's score and modification and exclusion requests prior to the transmission of the notification letter to the PHA, except as specified in 901.125(b). 24 CFR 901.125(a)
 - 1. In the initial year of PHMAP implementation and for the purposes of the CGP, the Regional Administrator may review a PHA's score and modification and exclusion requests prior to the transmission of the notification letter to the PHA, except as specified in 901.125(b), in accordance with Chapter 4, paragraph 4-3B, of this Handbook. 24 CFR 901.125(a)
 - 2. The Assistant Secretary shall be notified by the Regional Administrator in instances where high performer designation is rescinded by the Regional Administrator.

9-4 NOTIFICATION OF HEADQUARTERS. Immediately following the designation of a PHA as troubled and/or mod-troubled, the Regional Administrator shall forward a memorandum to the Assistant Secretary, Attention: Director, Office of Assisted Housing, providing the following information on each troubled and/or mod-troubled PHA:

- A. Name of the PHA:

9-5

3/92

7460.5

Chapter 9, paragraph 9-4 (continued)

- B. Number of PHA-owned public housing dwelling unit;
- C. Name and telephone number of the Executive Director, Board Chairperson and Chief Executive of local government;
- D. Each PHA's total weighted PHMAP score and/or PHMAP modernization score;
- E. Initiatives to be taken by the Field and Regional Office in assisting the PHA to seek public and private entity involvement and any suggestions/ recommendations to the PHA as to how this might be best accomplished; (6)(j)(2)(B) of the Act and 24 CFR 901.140(a)(8) and (b)
- F. Proposed date of the coordinated review; and
- G. Proposed date to begin on-site negotiation of the MOA, with a listing of participants and their areas of expertise, as well as any request for special technical expertise from Headquarters.

- H. Headquarters notification will be incorporated into SMIRPH as soon as possible, thereby eliminating the need for the Regional Administrator to transmit a memorandum to Headquarters.

9-5 MOA DEVELOPMENT. The development of the MOA requires extremely close communication and coordination between all parties involved. This is particularly true regarding local government and private sector involvement. (6)(j)(2)(B) of the Act and 24 CFR 901.140(a)(8) and (b)

- A. PHA responsibility. The PHA shall have primary responsibility for obtaining active local government and private sector participation in assisting PHA improvement efforts. 24 CFR 901.140(b)
1. Private sector and local government involvement should be encouraged in MOA negotiations. Such technical advice, hands-on assistance and monetary support should be pursued by the PHA and supported by the Field and Regional Offices. (6)(j)(2)(B) of the Act and 24 CFR 901.140(a)(8) and (b)
 2. The Regional Administrator and Field Office Manager shall be vested with the responsibility for taking all possible actions to help the PHA

3/92

9-6

7560.5

Chapter 9, paragraph 9-5A2 (continued)

in attaining such participation. (6)(j)(2)(B) of the Act and 24 CFR 901.140(a)(8) and (b)

- a. This participation should include active involvement in the establishment of performance targets and identification of strategies to attain the targets.
 - b. To the extent it is determined that improvement in specific areas is dependent upon other than local resources (e.g., HUD) consideration shall be given to HUD resources and constraints, including but not limited to technical assistance.
- B. The available resources and capabilities.
1. One of the primary purposes of the on-site work (refer to paragraph 9-5D, below) is to arrive at preliminary agreements among the participants as to available resources and capabilities.
 2. Resources and capabilities relate to the:
 - a. PHA's management capability;

- b. PHA's financial resources;
 - c. Local government's willingness to provide technical and/or financial assistance in making on-going improvements; and
 - d. Degree and type of private sector assistance which can be obtained.
- C. Participants. The participants in MOA development and negotiations should include representatives of the entities listed below.
- 1. Representatives from HUD's Field Office.
 - 2. Representative from HUD's Regional Office, if appropriate (refer to paragraph 9-512, below).
 - 3. PHA staff.
 - 4. Board Chairperson and/or members.

9-7

3/92

7460.5

Chapter 9, paragraph 9-5C (continued)

- 5. Resident representative.
 - a. It is expected that the resident representative would be selected by the city-wide resident organization where one exists.
 - b. Otherwise, the most equitable and representative process possible shall be used.
 - c. The resident representative shall participate in MOA negotiation but shall not be a signatory to the MOA. The resident representative is expected to play a role in follow-up monitoring of MOA performance.
 - 6. Local government and private sector representatives shall be included as determined appropriate in accordance with paragraph 9-6D3, below.
- D. On-Site work. The team participants shall meet at the PHA as soon as possible following the PHA being designated as troubled and/or mod-troubled.
- 1. This effort shall be coordinated by the Regional Administrator or his/her designee.
 - 2. A period of not longer than 60 calendar days should elapse from the date of the conclusion of the coordinated review to the arrival of the team participants to work on the

development of the MOA.

3. The intent of an MOA is to assist a PHA in improving its management capabilities. The PHA as an entity, comprised of the Board of Commissioners and all PHA personnel, rather than a specific individual, is accountable and responsible for improving its management capabilities. Therefore, the development and execution of an MOA for troubled and mod-troubled PHAs shall not be delayed due to changing circumstances at the PHA. Such changes include, but are not limited to:
 - a. Change in the Executive Director;
 - b. Change in executive staff;
 - c. Change in Board composition; or

3/92

9-8

7560.5

Chapter 9, paragraph 9-5D3 (continued)

- d. Change in the Chief Executive of local government.
4. One of the primary purposes of the on-site work is to arrive at preliminary agreements among the participants as to the MOA. Based in significant part on the results of the Field Office's on-site coordinated review, the team shall work together to arrive at agreements in accordance with paragraph 9-2B, above.
 5. The end product resulting from the on-site work should be a draft MOA.
- E. Organizational review. The team participants shall be responsible for the concurrent review of the draft MOA by their respective organizations (e.g., PHA Board of Commissioners and Executive Director, resident representative, Chief Executive Officer of the local government, Field Office Manager and Regional Administrator).
1. It is extremely important at this juncture that all parties to the impending MOA work together in a spirit of mutual cooperation in order to resolve any differences.
 2. It is anticipated that the team participants will converse via telephone, conference calls and local meetings.
- F. Field Office responsibility. The Field Office shall be the primary party responsible for following up with the PHA, residents, local government and the private sector to ensure to the maximum extent possible that any differences of approach or opinion on the draft MOA are resolved and, if not, raised to the attention of the Regional Office.

- G. Regional Office responsibility. The Regional Office shall be responsible for coordinating the review process within HUD to resolve any differences as quickly as possible on the content of the MOA.
- H. On-Site reassessment. Although not intended as a normal operating procedure, there may be instances arising from the organizational reviews which dictate the return of team participants to the PHA. This may be necessary in order to collect additional information, present new proposals and to finalize an MOA on which the PHA and HUD can agree.
- I. Final negotiations/execution of the MOA.

7460.5

Chapter 9, paragraph 9-5I (continued)

- 1. Field Office responsibility.
 - a. The Field Office shall have the lead responsibility in coordinating with all other MOA participants, internal or external to HUD, to schedule the on-site gathering of all key parties for the purpose of signing the MOA as well as to negotiate any remaining points which could not otherwise be resolved.
 - b. The key participants may meet on site at the PHA or office of the Chief Executive of local government, or such other local site as is deemed appropriate.
 - c. The Field Office shall be responsible for working with the PHA to ensure that public awareness and attention are focused on the participants' mutual, cooperative efforts to bring about improvement in the local PHA's condition. Media (newspaper, television, etc.) coverage should be pursued as one means of accomplishing this end.
 - 2. Regional Office responsibility. The Regional Administrator may redelegate to the Field Office Manager the responsibility of all MOA activities for PHAs with less than 1250 units.
 - 3. Key participants. The primary signatories to the MOA shall be in accordance with paragraph 9-6H, below.
- J. The development of the MOA is a means to the objectives of improving PHA management capabilities and improving residents' quality of life. Therefore, the MOA should be developed and executed as expeditiously as possible. An MOA should be developed and executed within 60 calendar days after the conclusion of any required on-site work.

K. If the MOA is not developed and executed within 60 calendar days after the conclusion of any required on-site work, HUD will impose improvement requirements on the troubled and/or mod-troubled PHA.

9-6 SPECIFIC REQUIREMENTS OF THE MOA.

A. The MOA is a binding contractual agreement between HUD and the troubled and/or mod-troubled PHA. It shall set forth the targets agreed upon and the PHA's commitment to taking all actions within its control to

3/92

9-10

7560.5

Chapter 9, paragraph 9-6A (continued)

achieve the targets as well as the consequences of failing to meet the targets. 24 CFR 901.140(a), (a)(2), (a)(5) and (a)(7)

B. ACC requirement. An MOA does not supersede, modify or amend a PHAs ACC or in any way excuse a PHA from complying fully with its ACC. In particular, the Department does not waive its rights under Part 11, 501 and 502 of the ACC. A PHAs satisfaction of, or failure to meet, the goals set forth in an MOA does not limit, modify or preclude the Department's right to take any remedial action allowed by the ACC or any provision of the Act or the regulations thereunder. Therefore, the Department has the right to declare a substantial default or a substantial breach of a PHA under the terms of the PHA's ACC at any time for sufficient cause regardless of the terms of an MOA,

C. Part A, Participants, of the MOA shall include pertinent information regarding the PHA and a listing of the name, agency, title and phone number of MOA participants.

D. Part B, Public and Private Entity Involvement, of the MOA shall include information regarding the types and monetary value of assistance provided to the PHA by the local government and private entities in carrying out the MOA and rectifying the PHAs problems. (6)(j)(2)(B) of the Act and 24 CFR 901.140(a)(8)

1. A PHA shall have primary responsibility for obtaining active local public and private entity participation in assisting PHA improvement efforts. (6)(j)(2)(B) of the Act and 24 CFR 901.140(a)(8) and (b)

2. Private sector involvement may include active participation in PHA improvement efforts, as evidenced by a commitment to effecting change at the PHA and/or a commitment to provide assistance, financial or otherwise, to the PHA.

3. Local public and private entity participation should be

premised upon:

- a. The participant's knowledge of the PHA;
- b. The ability to contribute technical expertise with regard to the PHAs specific problem areas; and

9-11

3/92

7460.5

Chapter 9, paragraph 9-6D3 (continued)

- c. The authority to make preliminary/tentative commitments of support, financial or otherwise.
4. A representative from the private sector, where appropriate, may be agreeable to providing a letter of support, etc.
- E. Part C, Performance Targets, of the MOA shall include the deficient indicators, baseline data for each deficient indicator, the MOA annual performance goal, and quarterly targets for improvement of performance indicators. The inclusion of targets for improving PHA performance in the MOA is a statutory requirement. (6)(j)(2)(B)(i) of the Act and 24 CFR 901.140(a)(2)
1. Deficiencies to be addressed in the MOA may be prioritized in cases where a PHA's management capabilities are minimal. For example, an MOA goal may be for all PHA management staff to receive management training and certification before increasing operating reserves to at least 20%.
 2. Baseline data, which may be the PHAs performance level in each of the indicators identified as a problem. 24 CFR 901.140(a)(1)
 3. The annual MOA performance goal for each deficient indicator is the target for improvement of each deficient indicator for each year of the MOA.
 4. Quarterly performance targets for each deficient indicator, which may be the attainment of a higher level of performance within an indicator that is a problem. For example, the reduction of rents uncollected to 3% or less by the end of the respective MOA annual period. (6)(j) (2)(B)(2) of the Act and 24 CFR 901.140(a)(2)
 5. The annual and quarterly performance targets shall span a maximum time period of five years, or a lesser period in which the PHA achieves a total weighted PHMAP and/or modernization score of at least 60%.
 - a. For the first year, targets for the effective MOA shall include annual and quarterly performance targets.

Chapter 9, paragraph 9-6E5 (continued)

- b. Targets for the remaining years of the MOA may include annual and quarterly performance targets, but at a minimum, shall include annual performance targets.
 - c. To the extent possible, annual and quarterly performance targets will be quantified (e.g., vacancies reduced to 3% within one year).
 - d. It may be appropriate to include non-quantified targets to achieve improvement (e.g., the development and implementation of a PHA preventive maintenance program by a specified date).
6. A PHA operating budget submission and CIAP application or CGP annual statement will be considered unapprovable if it fails to reflect an assignment of resources and financial expenditures that support attaining the performance targets.
- F. Part D, Strategies, of the MOA shall include a listing of those major strategies to be used by the PHA in achieving the annual and quarterly performance targets within the time period of the MOA in accordance with Part C and a description of HUD technical assistance which shall be provided to the PHA. The inclusion of PHA strategies and a description of the technical assistance to be provided to the PHA in the MOA are statutory requirements. (6)(j)(2)(B)(ii) of the Act and 24 CFR 901.140 (a)(3) and (4)
- 1. The strategy portion of Part D is prepared by the PHA. It documents how the PHA proposes to achieve the annual and quarterly performance targets, with the exception of HUD technical assistance to the PHA, which is prepared by HUD in consultation with the PHA. A PHA's strategies should reflect the PHA's CGP management needs assessment, and the CGP management needs assessment should reference the MOA.
 - 2. It is expected that these major strategies will have evolved from the on-site coordinated review and the MOA processes, and may be subject to revision by the PHA, on a yearly basis, to ensure the achievement of the annual and quarterly performance targets in Part C.
 - 3. The development of PHA strategies is the sole responsibility of the PHA as to content and implementation. However, a PHA's strategies

to achieve the annual and quarterly performance targets are expected to be realistic and achievable within the respective time frames.

4. Part D shall include the technical assistance to the PHA provided by the Field Office. For example, the training of PHA employees in specific management areas or the resolution of outstanding HUD monitoring findings. (6)(j)(2)(B)(ii) of the Act and 24 CFR 901.140(a)(4)

- G. Part E, Incentives and Sanctions, of the MOA shall include PHA incentives for meeting specific targets and sanctions for failure to meet the annual and quarterly performance targets. The inclusion of incentives and sanctions in the MOA are statutory requirements. (6)(j)(2)(B)(iii) of the Act and 24 CFR 901.140(a)(6) and (7)
 1. Incentives for meeting such targets, such as:
(6)(j)(2)(B)(iii) of the Act and 24 CFR 901.140(a)(6)
 - a. The removal of troubled or mod-troubled designation; and
 - b. A higher capacity rating for competitive grant programs as a PHA improves its performance under the MOA.
 2. The consequences of failing to meet the targets, including sanctions, as described in the Field Office Monitoring of Public Housing Agencies (PHAs) Handbook 7460.7, as revised. Sanctions include, but are not limited to:
(6)(j)(2)(B)(iii) of the Act and 24 CFR 901.140(a)(7)
 - a. The imposition of budgetary limitation;
(6)(j)(2)(B)(iii) of the Act and 24 CFR 901.140(a)(7)
 - b. Declaration of substantial default and subsequent action under 901.200; (6)(j)(2)(B)(iii) of the Act and 24 CFR 901.140(a)(7)
 - c. Limited denial of participation; (6)(j)(2)(B)(iii) of the Act and 24 CFR 24 and 901.140(a)(7)
 - d. Suspension; (6)(j)(2)(B)(iii) of the Act and 24 CFR 24 and 901.140(a)(7)

- e. Debarment; and (6)(j)(2)(B)(iii) of the Act and 24 CFR 24 and 901.140(a)(7)

- f. The imposition of operating funding and modernization thresholds. (6)(j)(2)(B)(iii) of the Act and 24 CFR 901.140 (a) (7)

- H. Part F, Signatories and PHA Assurances, of the MOA shall provide for the signatures of the executing parties as stated below, and the PHAs assurances of its commitment to take all actions within its control to achieve the annual and quarterly performance targets. 24 CFR 901.140(c)(1), (2),(3) and (4)
 - 1. PHA assurances shall also be included in the Board resolution executing the MOA and shall precede the signatures of the PHA Chairperson and Executive Director.
 - 2. The MOA shall be executed by the following: 24 CFR 901.140(c)
 - a. The Executive Director; 24 CFR 901.140(c)(2)
 - b. The Chairperson of the Board; 24 CFR 901.140(c)(1)
 - c. The appointing authorities of the Board of Commissioners, when the PHA is a part of local government, unless exempted by the Regional Administrator (i.e., for reasons of the refusal on the part of the appointing authorities to execute the MOA, or unreasonable delays in the execution of the MOA); 24 CFR 901.140(c)(4)
 - d. The Field Office Manager; and/or 24 CFR 901.140(c)(3)
 - e. The Regional Administrator. 24 CFR 901.140(c)(3)
 - 3. The date the Regional Administrator executes the MOA shall be the date the MOA becomes effective.

- I. A PHA shall monitor MOA implementation to ensure that performance targets are met in terms of quantity, timeliness and quality. 24 CFR 901.140(d)

- J. MOA duration. The initial MOA under the PHMAP will be negotiated and executed for a time period of six quarters. This will allow for the negotiation and execution of a second-year MOA, if necessary, prior to the expiration of the initial MOA (refer to paragraph 9-13C, below). Subsequent year MOAs will be negotiated and executed for a period of four to six quarters, depending on whether or not a PHA appeals subsequent years' PHMAP designations.

9-7 RELATIONSHIP OF MOA TO OTHER APPROVED PLANS. Pursuant to HUD guidelines, PHAs may have been required to develop other planning documents (e.g., Comprehensive Occupancy Plan (COP), Nondiscrimination Plan (NP) or Action Plan). Part C of the MOA which delineates annual and quarterly performance targets must be completed for failed indicators even though they may have been previously listed in another plan(s).

- A. Additional strategies need not be developed for those failed indicators that the MOA participants deem to have been appropriately addressed in another plan(s). In such instances, the MOA, Part D, Strategies, shall include such previously developed strategies and the other plan(s) shall be referenced in Part D of the MOA.
- B. Although other approved plans may have annual and quarterly performance targets and strategies that span a period of less than five years, the annual and quarterly performance targets in Part C and the strategies in Part D of the MOA shall reflect a maximum five-year rolling base time period, if appropriate, or a period of time sufficient for a PHA to achieve a total weighted PHMAP or modernization score of 60% or above.
- C. Following approval and execution of the MOA the Field Office and/or Regional Office and the PHA may determine that adjustments to other plans are warranted.

9-8 RELATIONSHIP OF MOA TO BUDGET AND BUDGET APPROVAL.

- A. The PHA's budget bears a direct relationship to the PHA's MOA. The operating budget must support all annual and quarterly performance targets outlined in Part C of the MOA
 - 1. To ensure this, troubled and mod-troubled PHA budgets shall be subject to a detailed budget review by the Field Office.

3/92

9-16

7560.5

Chapter 9, paragraph 9-8A (continued)

- 2. The primary financial impact on a mod-troubled PHA is its funding under the CGP.
- B. A PHA budget submission shall be considered unapprovable under Part II, 407(E)(1) of the ACC, if it fails to reflect an assignment of resources and financial expenditures supportive of attaining the performance targets in Part C of the MOA. The Field Office's review of Part D, Strategies, of the MOA will be very helpful in arriving at this determination. Refer to paragraph D, below, regarding the use of a letter of intent where the budget is not considered approvable.
- C. Budget approval shall not be withheld on the basis of an MOA which is yet to be approved where any of the following

circumstances may apply.

1. The Regional or Field Office is satisfied that the proposed operating budget reflects the MOA which is considered approvable, but not yet approved.
 2. The MOA is still under development. In such instances, the Regional Office shall be satisfied that the budget proposal meets the requirements of 24 CFR 990.112(a)(1) and Part II, 407(E)(1) of the ACC, relative to efficient and economical operation.
 3. The Field Office shall exercise care in giving PHAs appropriate notification, within required time frames, to ensure that automatic budget approval does not ensue. Part II, 407(F) of the ACC)
- D. For use of letter of intent, refer to the Financial Management Handbook 7475.1, as revised.

9-9 PUBLIC AND PRIVATE SECTOR INVOLVEMENT. PHAs are encouraged on an ongoing basis to aggressively pursue obtaining local assistance (refer to paragraph 9-5A and B, above). Involvement of outside organizations, public and private, will be necessary if a troubled or mod-troubled PHA is to attract the resources necessary to assist it in bringing about substantial improvements. (6)(j)(2)(B) of the Act and 24 CFR 901.140(b)

- A. Failure to initiate such outreach may severely limit a PHAs ability to bring about significant changes in its public housing condition.

7460.5

Chapter 9, paragraph 9-9 (continued)

- B. Many PHAs have been successful in receiving Community Development Block Grant funding, additional police support, etc., from their cities. Private enterprise has provided expertise in such areas as data processing, fiscal management, etc., at little or no cost to some PHAs. However, attracting such assistance requires that the PHA aggressively promote its role as a vital part of the community.
- C. The Field Office Manager and Regional Administrator shall ensure that they support, as much as possible, the PHA attempts to enlist the assistance of local government, the community and the private business sector. (6)(j)(2)(B) of the Act and 24 CFR 901.140(b)
- D. Attempts should be made to seek local press coverage regarding City, private sector, HUD and PHA cooperative efforts to improve the local public housing program (refer to paragraph 9-5I1c, above).

9-10 ONGOING PHA COMMITMENT TO APPROVED MOA. Once approved by a PHA and HUD, a PHA shall be bound by the contractual terms of its MOA. 24 CFR 901.140(a)

- A. Subsequent changes in the membership of a PHAs Board do not entitle the new Board to disregard the provisions of the MOA adopted by the previous Board, since the MOA is a contractual agreement between the PHA and HUD.
- B. Should a new Board approve actions inconsistent with the PHA's obligations under the previously adopted MOA, HUD may proceed to impose those sanctions which may be appropriate.

9-11 REMOTE MONITORING. HUD and the PHA shall monitor MOA implementation to ensure that annual and quarterly performance targets are met in terms of quantity, timeliness and quality.

- A. MOA Quarterly Performance Target Progress Report (MOAQPTPR). A PHAs progress subsequent to MOA approval will be monitored through the SMIRPH module (Form HUD-53333), MOA Quarterly Performance Target Progress Report (MOAQPTPR). The MOAQPTPR shall be prepared by the Field Office on the basis of information provided by the PHA. The PHA shall provide the resident representative with like information.

3/92

9-18

7560.5

Chapter 9, paragraph 9-11 (continued)

- B. Report submittal. The Field Office shall initiate those actions necessary to ensure the receipt of thorough and accurate information from the PHA in a timely manner, so as to allow for Field Office review and comment, preparation of the MOAQPTPR, and be available for review and comment by the Regional Office within 60 calendar days following the end of the quarter covered by the MOAQPTPR.
 - 1. The MOAQPTPR shall be available for review by Headquarters within 75 calendar days following the end of the quarter covered by the MOAQPTPR.
 - 2. Reporting shall begin with the close of the quarter in which a PHA's MOA is executed by HUD (e.g., the initial MOAQPTPR on a troubled or mod-troubled PHA shall cover the first quarter addressed under the approved MOA).
- C. Letter to the Board Chairperson and local government. Concurrent with the Field Office's preparation of the MOAQPTPR, the responsible HUD office should determine whether the troubled or mod-troubled PHA's performance should be brought to the attention of the PHA Board Chairperson and its Chief Executive of local government.

1. At a minimum, this action should be taken at the time of the Annual Performance Review.
2. Copies of the letters shall be forwarded to the Regional Administrator.

9-12 ON-SITE MONITORING. The Field Office shall perform a PHA on-site analysis on a risk analysis basis. Such visits may be coordinated with other reviews, if timely, to minimize staff and travel fund impact. On-site monitoring should be performed if necessitated by the PHA's MOA performance.

- A. The purpose of the on-site analysis shall be to assess the accuracy of PHA-reported MOA target achievements and the quality of the PHA's work resulting in target achievements.
 1. For example, a sample of turnaround units would be inspected to determine whether they were adequately turned around (cleaned, repairs made, etc.) prior to being re-rented, and to determine whether the number of vacancy days for the sample was accurately calculated.

9-19

3/92

7460.5

Chapter 9, paragraph 9-12A (continued)

2. Technical assistance should be provided by HUD, as needed.
(6)(j) (2)(B)(ii) of the Act and 24 CFR 901.140(a)(4)
- B. In addition to the on-site monitoring, a coordinated review shall be conducted on a risk analysis basis until troubled or mod-troubled designation is removed.

9-13 ANNUAL MOA NEGOTIATIONS.

- A. An MOA shall be negotiated on an annual basis (refer to paragraph 9-6I, above).
- B. The first-year MOA, with a maximum five-year rolling base time period, for troubled and mod-troubled PHAs may not result in improved PHA performance to a point where HUD can remove the troubled or mod-troubled designation. In such instances, a new MOA, with a maximum five-year rolling base time period, shall be negotiated and executed for the subsequent year(s).
- C. NO LAPSE OF TIME SHALL OCCUR BETWEEN THE FIRST MOA AND SUBSEQUENT MOAS. The MOA is a contractual document and the subsequent year(s) MOA shall be negotiated and executed as expeditiously as possible. A "labor/management negotiation strategy" should be utilized by Field and Regional Offices.
 1. The Field Office and Regional Office shall repeat the MOA development process described in paragraph 9-5, above.

2. The content of the new MOA shall rely heavily upon the PHAs past performance.
3. As a result of the PHAs past performance, the MOA may need:
 - a. A heavier infusion of City support and involvement;
 - b. A revision of the projected rate at which annual and quarterly performance targets are anticipated to improve;
 - c. A substantial revision of the strategies to be relied upon;
 - d. Additional or different technical assistance provided by HUD; or

3/92

9-20

7560.5

Chapter 9, paragraph 9-13C3 (continued)

- e. A heavier reliance on sanctions.
4. It is at the point of negotiation of the new MOA, if not having occurred earlier, that HUD shall normally make a final determination regarding the PHAs compliance with the previous MOA and whether it is appropriate to proceed with the enforcement of sanctions.
- D. If the subsequent year(s) MOA is not developed and executed within 60 calendar days after the conclusion of any required on-site work, HUD will impose improvement requirements on the troubled and/or mod-troubled PHA.

9-14 REMOVAL FROM TROUBLED AND MOD-TROUBLED PHA DESIGNATION.

PHAs have the statutory right to petition for the removal of troubled and mod-troubled designation, and to appeal the denial of such a petition. A PHA shall have a troubled and/or mod-troubled designation removed based upon a recommendation by the Field Office, as concurred upon by the Regional Office when the PHA achieves a total weighted PHMAP and/or modernization score of 60% or greater.

(6)(j)(2)(A)(iii) of the Act and 24 CFR 901.142(a)

A. PHA responsibility.

1. A PHA has the right to petition the Field Office Manager for the removal of troubled and mod-troubled designation, documenting justification for such removal.

(6)(j)(2)(A)(iii) of the Act and 24 CFR 901.130(a) and 901.142(a)

 - a. The Field Office shall make recommendations on petitions to remove troubled or mod-troubled status to the Regional Administrator, except where authority to

remove troubled and mod-troubled status has been redelegated to the Field Office Manager by the Regional Administrator. (6)(j)(2)(A)(iii) of the Act and 24 CFR 901.120(d) and 901.142(a)

- b. The Regional Administrator shall rule on petitions to remove troubled and mod-troubled status, except where authority to remove troubled and mod-troubled status has been redelegated to the Field Office Manager by the Regional Administrator. (6)(j)(2)(A)(iii) of the Act and 24 CFR 901.125(e) and 901.142(a)

9-21

3/92

7460.5

Chapter 9, paragraph 9-14A (continued)

2. A PHA has the right to appeal any refusal to remove troubled and mod-troubled designation to the Assistant Secretary, Attention: Director, Office of Assisted Housing. (6)(j)(2)(A)(iii) of the Act and 24 CFR 901.130(d) and 901.142(b)

B. Field Office responsibility.

1. The Field Office Manager may determine, independent of such a petition, that based on a PHA's subsequent total weighted PHMAP score or total weighted PHMAP modernization score which is 60% or greater, the troubled or mod-troubled designation should be removed. 24 CFR 901.140(e)
2. In either instance (PHA petition to remove troubled or mod-troubled designation or a PHA's annual PHMAP total weighted PHMAP and/or annual PHMAP modernization score is 60% or greater), the Field Office Manager shall make a recommendation to the Regional Administrator for a final determination on the removal or nonremoval of troubled and mod-troubled designation. 24 CFR 901.140(e)

C. Regional Office responsibility.

1. The Regional Administrator shall make a final determination on the Field Office's recommendation on the petition for removal or nonremoval of troubled or mod-troubled designation within 30 calendar days of receipt of the petition. 24 CFR 901.130(f) and 901.140(e)
 - a. Such ruling on the petition should be made after an on-site review, if one is conducted.
 - b. Such ruling on the petition shall include documented justification.
2. The Regional Administrator may redelegate to the Field Office Manager the authority to remove PHAs under 1250 units

from troubled and mod-troubled status. 24 CFR
901.140(e)

- D. Headquarters responsibility. The Assistant Secretary shall make a final determination on the appeal of a Regional Office's denial on a PHA's petition for removal of troubled or mod-troubled designation within 30 calendar days from the receipt of the appeal. 24 CFR 901.130(c)(1)

3/92

9-22

7560.5

Chapter 9, paragraph 9-14 (continued)

- E. A PHA shall have troubled and/or mod-troubled designation removed upon recommendation by the Field Office and concurrence by the Regional Office when the PHA achieves a total weighted PHMAP and/or modernization score of 60% or greater, except in an unusual circumstance(s) where extreme noncompliance issues exist. 24 CFR 901.140(e)
- F. A PHA may be required to develop an Improvement Plan (IP) (refer to Chapter 10 of this Handbook) to continue correcting deficient indicators after a PHA achieved a total weighted PHMAP and/or modernization score of 60% or greater and troubled and/or mod-troubled designation has been removed by HUD.

9-23

3/92