

# Voluntary Compliance Agreement - - (VCA)

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SIGNED ON SEPTEMBER 29, 2016

# Introduction

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- On **September 24, 2003**, the Department and PRPHA entered into a **seven-year Voluntary Compliance Agreement (“2003 VCA”)** in order to address the issues raised in the Department’s preliminary LOF and comply with Section 504, Section 109, the ADA, the FHAct and the ABA.
- The **2003 VCA expired on August 31, 2010** without PRPHA having been able to show compliance with any of its requirements.
- On **December 27, 2011**, HUD executed an **Extended Voluntary Compliance Agreement (“2011 Extended VCA”)** which granted a **four-year extension**.

# Introduction

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- The Department is executing **this third and final VCA** as last opportunity to **bring PRPHA into full compliance with its statutory obligations under Section 504, Section 109, the ADA, the FHAct and the ABA.**
- This new Agreement grants an additional, non-extensible **five-year period** for PRPHA to provide satisfactory proof of full compliance with each of the conditions contained hereunder.
- Failure to meet any obligation under this Agreement shall put **PRPHA's federal subsidies in immediate peril, and trigger the initiation of all enforcement actions that correspond under HUD's statutory authorities and regulations.**

[http://www.avp.pr.gov/documentos/seccion504/Voluntary-Compliance-Agreement-\(VCA\).pdf](http://www.avp.pr.gov/documentos/seccion504/Voluntary-Compliance-Agreement-(VCA).pdf)

# Specific Provisions: Voluntary Compliance Agreement Administrator

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- In conformity with the requirements of the 2003 and 2011 VCA, **on September 30, 2014, PRPHA appointed its current VCA Administrator, Eng. Kiomy Lamb.**

The PRPHA Administrator, or anyone else having the delegated authority of PRPHA's Governing Board, agrees to grant **full autonomy and independence to its VCA Administrator** by vesting it with all necessary administrative powers, such as the authority to:

- **Oversee the VCA-related operations to assure PRPHA's implementation of the provisions of this Agreement;**
- **Coordinate PRPHA's civil rights compliance efforts;**
- **Monitor VCA activities with personnel;**
- **Submit all reports, records and plans required by this Agreement or HUD pursuant to its VCA monitoring activities**

# Specific Provisions: Section 504/ADA Coordinators

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- In conformity with the requirements of previous Agreements, on September 30, 2014, PRPHA appointed its current **Section 504/ADA Coordinator**, Arq. Jose Ramos
- The Section 504/ADA Coordinator shall continue to report to the VCA Administrator concerning the performance of the following functions:
  - Ensuring PRPHA's compliance with Section 504, the ADA and HUD's implementing regulations,
  - Managing and overseeing PRPHA's responsibility to provide reasonable accommodations to prospective applicants, public housing tenants and members of the public,
  - Promptly and equitably resolving fair housing complaints alleging disability discrimination and any other duty covered in the VCA.

# Specific Provisions: SECTION 504/ADA COORDINATORS

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- Pursuant to the regulatory requirements of 24 C.F.R. § 8.53(a) and 28 C.F.R. § 35.107(a), PRPHA shall require that each of its contracted management agents, both municipal and private, who **employs fifteen or more individuals designate a Section 504/ADA Coordinator no later than December 31, 2016. PRPHA shall ensure that the appointee is solely charged with the performance of 504/ADA-related responsibilities, including providing prompt and equitable resolution of disability discrimination complaints and handling VCA-related obligations.**

# Specific Provisions: VCA Compliance Team

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. To ensure the horizontal and vertical integration of PRPHA's offices and resources, within thirty (30) days of the signatory execution of this Agreement, PRPHA shall create a VCA compliance team which will support all activities under this Agreement. This compliance team will be comprised of career personnel designated from each of PRPHA's office divisions, including Admissions and Occupancy, Legal Counsel, Finance and Administration, VCA Administrator, Project Development and Construction, Asset Management, and Regulations and Compliance.

# Compliance Team -

| NOMBRE                                     | ÁREA                        | CLASIFICACIÓN DE CARRERA                  |
|--|-----------------------------|---|
| Rafael Morales Acevedo (Enlace)            | Selección y Ocupación       | Gerente - Oficinas Regionales de Arecibo, |
| Frances Feliciano Tarafa (Alternativa)     | Selección y Ocupación       | Funcionaria de Determinación de           |
| Edward La Luz Robles (Enlace)              | Administración de Proyectos | Coordinador de Intervención y Evaluación  |
| Ramón Antonio Calzada Jiménez (Enlace)     | Programas Comunales         | Director - Negociado de Servicios de      |
| Jorge Luis Rodríguez Colón (Alternativo)   | Programas Comunales         | Especialista en Operaciones y             |
| Brigida Franco Figueroa (Enlace)           | Sistemas de Información     | Coordinadora de Redes de Sistemas de      |
| Wilberto Barbosa Feliciano (Alternativo)   | Sistemas de Información     | Subadministrador Auxiliar                 |
| Arturo García de la Noceda Castro (Enlace) | Desarrollo y Construcción   | Coordinador de Proyecto                   |
| Orison Trossi Oliveras (Alternativo)       | Desarrollo y Construcción   | Coordinador de Proyectos de Ingeniería    |
| Germán Acevedo Marín (Alternativo)         | Desarrollo y Construcción   | Director - Negociado de Gerencia y        |
| Dante Espinosa Lara (Alternativo)          | Desarrollo y Construcción   | Especialista en Proyectos                 |
| Ana M. Montalvo Santiago (Enlace)          | Asesoramiento Legal         | Abogada                                   |
| César Candelario Candelario (Enlace)       | Finanzas                    | Analista de Presupuesto                   |
| Zaida Mercado Dávila (Alternativo)         | Finanzas                    | Monitor Fiscal                            |
| Héctor González Cardona (Enlace)           | Adquisición y Contratación  | Director - Negociado de Contratos y       |
| Ovidio Pesante Otero (Enlace)              | Auditoría                   | Auditor                                   |
| Edwin Carreras Rivera (Alternativo)        | Auditoría                   | Auditor                                   |
| Kiomy Lamb Mercado                         | Oficina Cumplimiento 504    | Administrador VCA                         |

# Housing Program: Provision of Accessible Units

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- Consistent with the 2003 and 2011 VCA, this Agreement extends PRPHA's obligation to convert a total of **1,024 dwelling units to UFAS-accessible for the hearing and visually impaired.**
- As of July 2016, PRPHA had certified and delivered to HUD seven hundred and fifty-one **(751) units** for being sensory accessible.
- Under this VCA, PRPHA is being required to produce a minimum of **273 sensory accessible units by December 31, 2017**, with credit given solely to units certified as UFAS-sensory compliant by either a management agent or a third party certifier.

# Housing Program: Provision of Accessible Units

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- Consistent with previously executed Agreements, this VCA extends PRPHA's obligation to convert a total of **2,560 dwelling units to UFAS-accessible for the mobility-impaired.**
- As of July 2016, PRPHA had managed to certify seventy-four **(74) units** for being mobility accessible. **No later than December 31, 2021, PRPHA agrees to have certified 2,560 of its housing stock as mobility accessible.**
- PRPHA projects to meet this 2,560 certification quota through a combination of prescribed strategies which are projected to eventually yield a total production of 3,806 units.

# Housing Program: Provision of Accessible Units

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- **Once the 2,560 unit production requirement is met, PRPHA will continue working towards delivering the remaining 1,246 mobility-accessible units.**
- **To ensure that the 2,560 unit production quota is met, during the term of this Agreement, PRPHA will biannually construct or convert and certify a minimum of 256 mobility accessible units.**
- **Specifically, PRPHA will deliver to HUD 256 unit certifications on June 30th and December 31st of each covered year, starting in 2017 and ending in 2021, for a total annual production rate of 512.**
- **By December 31st, 2021, PRPHA must prove having produced and certified a cumulative of 2,560 mobility accessible dwellings.**

# Housing Program: Provision of Accessible Units

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- Failure to accurately or timely meet any of the requirements specified above will trigger an automatic referral to the **Attorney General of the United States** to seek in federal court the specific performance of any or all the provisions of this Agreement, **the redress of violations to the FHAct, UFAS, the ADA and the ABA, the reimbursement from local nonfederal funding sources of HUD funding, the establishment of a fund for the monetary compensation of disabled tenant victims and all other applicable relief.**
- HUD has **clarified eleven (11) design standards that PRPHA may employ when certifying existing housing which construction was finalized prior to the signatory execution of this VCA.**

# Housing Programs: Accessible Unit Plan

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- **PRPHA's VCA Administrator, in collaboration with the Project Development and Construction Office ("Construction Office") shall submit to HUD on or before December 31, 2016 and on a biannual basis thereafter, an updated list of all units it plans to build or convert in the manner described.**

# Housing Programs: Accessible Unit Plan

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**The plan's data will be broken down by project and shall provide:**

- (1) project name, number, address, elderly or family designation,
- (2) original construction date and of any modernization or rehabilitation activity performed thereafter,
- (3) total housing units in each development,
- (4) total number of sensory and mobility accessible units to be converted, constructed, modernized or newly built,
- (5) address, bedroom size and site distribution of 504-designated units,
- (6) type and source of funding being used to pay for retrofitting works,
- (7) Scheduled date of unit completion,
- (8) projected date of unit certification,
- (9) actions undertaken by the ACOP office to ensure the livability and accessibility of temporary housing arrangements offered to affected tenants, particularly disabled ones,
- (10) Projected date for certifying the common areas and Non-Housing Programs at each development,
- (11) total unit and project conversion cost,
- (12) interim timeframes and benchmarks being employed by PRPHA to ensure that the biannual production rates set i

# Housing Program: Partially-Accessible Unit Plan

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- **PRPHA's VCA Administrator and Construction Office shall develop and submit to HUD by December 31, 2016 and on a biannual basis thereafter a partial accessibility unit plan covering the 1,209 units at 184 public housing developments that were built, modernized or rehabilitated before July 11, 1988.**

# Housing Program: Status Reports of Housing Programs

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- **Certification of Accessible Units**
- **Status Reports of Housing Programs:**
- PRPHA will provide biannual reports to HUD on the status of the Housing Program Requirements;
- PRPHA shall submit these biannual reports in printed and electronic format;
- The first report will be due on December 31, 2016;
- Unless otherwise required, subsequent reports shall be due at six-month intervals (June 30th and December 31st) until the expiration of this Agreement

# Non-Housing Program: Non-Housing Programs' Accessibility Plan

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- PRPHA will ensure that its Non-Housing Programs are accessible to persons with disabilities.
- Non-Housing Programs include, but are not limited to:
  - all common areas (including common areas in HOPE VI developments);
  - accessible routes;
  - PRPHA's central, regional and management agent offices, leasing offices;
  - public restrooms and laundry rooms, mail delivery, trash disposal, meeting rooms, recreation rooms, community centers and day care facilities including restrooms
- PRPHA will **biannually report to HUD the total number of Non-Housing program areas which have been certified as accessible under UFAS and the ADA during the prior six months.**

# Non-Housing Programs: Certification of Administrative Offices

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- No later than **sixty (60) days** of the signatory execution of this Agreement, PRPHA shall require in writing that private and municipal management agents provide fully accessible offices which meet the scoping requirements of both UFAS and the ADA.
- PRPHA shall further warn private and municipal management agents that failure to comply with this or any other VCA requirement shall be deemed **as cause for immediate contract termination**.
- No later than December 31, 2017 PRPHA shall submit to HUD signed certifications from a HUD-approved third-party which verifies that PRPHA's central, regional, and management agent offices meet the scoping requirements of UFAS and the ADA.

# Non-Housing Programs: On-site Inspections

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- HUD reserves the right to conduct periodic on-site inspections of all of the foregoing Non-Housing facilities to ensure compliance with **both UFAS and the ADA**. In addition, HUD reserves the right to verify and require that Non-Housing programs, services and activities, when viewed in their entirety, are made accessible to individual with disabilities.

# Need Assessment

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- **No later than December 31, 2016 and subsequently thereafter on a biannual basis, PRPHA will update its Section 504-ADA Needs Assessment to ensure that all disabled public housing tenants have been properly identified either at the point of admission or annual re-certification (re-examination).**

# Needs Assessment

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- The VCA Administrator and ACOP Office shall ensure **that PRPHA's submitted Needs Assessments include problem-solving analyses remediating the identified needs of each disabled tenant.** The Needs Assessments **shall provide interim solutions to help alleviate disabled tenants' needs as well as conclusive, long-term remedies.**

# Need Assessments

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- **Within sixty (60) days of the signatory execution of this Agreement and subsequently thereafter on a biannual basis, PRPHA's Asset Management shall audit 504-ADA Needs Assessment reports to secure the completeness and accuracy of the data being reported to HUD. It shall further ensure that PRPHA has taken all possible measures to resolve the residents' identified needs, prior to deciding to leave the disabled tenant in waiting.**
- **Within sixty (60) days of the signatory execution of this Agreement and on a biannual basis thereafter, PRPHA's ACOP Office will update its asset/property management software as well as HUD's PIC system (or any other HUD database being used at the time) to ensure that the tenant data reported in these systems corresponds with the information being collected through the Needs Assessment reports and vice versa.**
- **PRPHA's ACOP Office further agrees to biannually report to HUD the data updates made to its asset/property management software and HUD's PIC system to adequately reflect PRPHA's disabled population.**

# Need Assessment

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- **No later than June 30, 2017, PRPHA will create a computerized, Internet-based unit relocation system which prioritizes disabled residents' transfer requests over regular residents' relocation petitions and new admissions.**
- **This computerized system shall be used by PRPHA's VCA Administrator, ACOP Office and management agents when resolving transfer requests.**
- It will provide users with:
  - (a) detection of first-floor regular units, broken down by project and bedroom size, that require mandatory transfers due to occupancy issues (under-housed or over-housed),
  - (b) identification of 504-designated units, broken down by project and bedroom size, being occupied by families without disabilities or with disabling conditions that bear no nexus or relationship to the accessibility features provided by such unit,
  - (c) identification of disabled residents' and regular tenants' transfer requests, broken down by project, bedroom size, petition date, and other relevant information.

# Reasonable Accommodations

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- PRPHA's VCA Administrator will maintain documentation of each reasonable accommodation request which shall include:
  - (a) date and time of the request or inquiry,
  - (b) nature of the request or inquiry,
  - (c) action taken on the accommodation request(s) or inquiry,
  - (d) if the request was rejected or changes made in the requested accommodation(s),
  - (e) documentation reflecting the final disposition of the requests.
- If any of the requests are sent directly to the private or municipal management agents, then these shall also keep a date and time log that contains the above information.
- **No later than five (5) days after a management agent has denied a request for reasonable accommodation(s), the private or municipal management agent's Section 504/ADA Coordinator shall forward the determination(s) to PRPHA's VCA Administrator for review.**

# Reasonable Accommodations

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- **No later than December 31, 2016 and subsequently thereafter on a biannual basis, PRPHA's VCA Administrator, ACOP Office and management agents shall submit reports which provide a narrative describing each reasonable accommodation request and/or inquiry.** The biannual Reasonable Accommodation Reports will include:
  - (a) a list of each applicant's and/or resident's accommodation request or inquiry,
  - (b) the date of each applicant or resident request or inquiry,
  - (c) the final disposition of the request or inquiry, including information regarding modification or rejection of the reasonable accommodation request(s).

The narrative will also reflect any preference(s) indicated by a resident to remain in the current unit during modification(s) or transfer to an alternate, accessible unit.

- PRPHA's **Asset Management shall annually audit all Reasonable Accommodation Reports** to secure these are complete and accurate prior to being submitted to HUD. It shall ensure that **reports include problem-solving analyses aimed at remediating disabled tenants' accommodation needs in a temporary and conclusive manner**, prior to leaving the request outstanding and the disabled tenant in waiting.
- **No later than June 30, 2017, PRPHA will create a computerized, Internet-based system that will provide first priority to disabled residents' reasonable accommodations and/or modification requests over regular residents' petitions.** It will show the date in which each accommodation request was made and will provide a tickler system that will be activated every two months to warn of unresolved petitions requiring immediate attention from PRPHA's VCA Administrator, ACOP Office and management agents.

# Effective Communications

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- As part of PRPHA's commitment to ensure effective communications in public housing, in 2015 it acquired auxiliary aids and other assistive technology equipment. On June 4, 2015, PRPHA's VCA Administrator further established a protocol for the usage of assistive equipment and sign language interpreters.
- **PRPHA shall ensure that persons with disabilities affecting vision, hearing, color perception, speech, dexterity, strength or reach may effectively apply to and participate in its public housing programs.** In providing direct program access, PRPHA shall ensure that disabled applicants and participants have access to and can use information.

# Effective Communications

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- No later than **December 31, 2016**, PRPHA shall submit proof to HUD verifying **its effective communications system as well as the accessibility of its public housing program and webpage.**
- PRPHA shall employ the **Section 508 Standards of the U.S. Access Board as a guideline** for gauging the level of accessibility afforded to applicants and participants whose disabilities affect vision, hearing, color perception, speech, dexterity, strength or reach.

# Employee Education - Plan

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- No later than sixty (60) days of the signatory execution of this Agreement, PRPHA shall have developed an **educational program** for all appropriate administrative and contracted employees, including staff person employed by its municipal and private management agents.
- The appropriate PRPHA employees, agents, contractors and management agent employees include principal and administrative staff, housing managers, housing assistants, application/occupancy specialists and other admissions personnel, maintenance supervisors and hearing officers, and other employees or contractors who have contact with applicants, residents or members of the public.
- The training will inform **existing employees of PRPHA's duties, responsibilities and procedures under this Agreement, Section 504, the ADA, the FHAct, the ABA, and their respective regulations.**

# Employee Education: Structural Accessibility Training

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- Within sixty (60) days of the signatory execution of this Agreement, PRPHA shall have developed a **structural accessibility training for all persons employed by its Asset Management and Construction Office**. The training will instruct employees on the requirements of this VCA.
- It will further instruct personnel on the scoping requirements of UFAS, the ADA, the ABA and the FHAct and will cover subjects such as design reviews, accessibility assessments of existing developments, retrofitting of existing housing and monitoring of construction projects to ensure code observance.
- No later than December 31, 2016, PRPHA's Asset Management and Construction Office will have received its first structural accessibility training.

**Date:** Friday, December 2, 2016 – 6 hour session

# Employee Education: Civil Rights

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- No later than sixty (60) days of the signatory execution of this Agreement, PRPHA shall have developed an **in-depth civil rights training** for all hearing, regulatory and compliance staff, including hearing officers, administrative law judges and PRPHA's Office of Regulations and Compliance.
- The training will instruct hearing, regulatory and compliance staff on the non-discrimination obligations under Section 504, the ADA, the ABA and the FHAct, and will cover subjects such as reasonable accommodations, reasonable modifications, program accessibility, barrier-free housing and the automatic pre-emption of local laws, policies and/or practices that run afoul or in any way conflict with federal civil rights.
- **Dates:** December 6<sup>th</sup> – 6 hour session  
December 7<sup>th</sup> – 6 hour session  
December 8<sup>th</sup> – 6 hour session  
\*All employees are expected to participate on any of the six sessions



# Employee Education:

## New Employees:

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- The appropriate new PRPHA employees, agents, contractors staff and management agent employees include principal and administrative staff, housing managers, private housing managers, housing assistants, application/occupancy specialists, other admissions personnel, maintenance supervisors and hearing officers, and other employees or contractors who have contact with applicants, residents or members of the public.
- The New Employee Training will be provided to new employees within a **hundred and eighty (180) days of their entry date of service**. The training will inform the new employees of PRPHA's duties, responsibilities and procedures under this Agreement, Section 504, the ADA, the FHAct, the ABA, and their implementing regulations.
- **Dates: November 2016, April 2017, November 2017**

# Employee Education: Expectations

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- Within ninety (90) days of the signatory execution of this Agreement and biannually thereafter, PRPHA shall submit its proposed educational plans for existing and new employees. Its plan shall specify training curricula, objectives and projected training schedules. **PRPHA's proposed educational schedule must provide sessions of a minimum of six (6) training hours.**
- **PRPHA's Human Resources Office shall maintain attendance logs for each training session conducted for the duration of this Agreement; the logs will document training attendance for both existing and new employees.**

# Policies and Procedures

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- **By December 31, 2016, PRPHA shall have reviewed and submitted for HUD's approval all of the English and Spanish versions of the policies and procedures referenced in this Agreement to ensure their full compliance with housing civil rights laws, especially disability rights.**
- **PRPHA shall specifically revise and submit:**
  - (a) Admissions, Occupancy and Transfer Policies;
  - (b) Reasonable Accommodations Policy;
  - (c) Effective Communications Policy;
  - (d) Pet Policy;
  - (e) Lease/Lease Addendum;
  - (f) Grievance Procedures;
  - (g) Discrimination Complaints Policy;
  - (h) Hearing Procedures
- **Within sixty (60) days of HUD's approval, PRPHA will fully adopt and implement the above-listed policies. PRPHA shall further register the English and Spanish versions of the HUD-amended policies with the Puerto Rico Department of State and upload an accessible version to its webpage, complying with the conditions prescribed.**

# Other Requirements

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- Publication and Notice
- Contingency Plan
- Reporting Requirements
- Record Keeping Requirements
- Implementation Monitoring and Enforcement
  - HUD Meetings
  - Governing Board Designee Monthly Meetings

# Effect of Non-Compliance

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- Upon a finding of non-compliance, HUD will provide PRPHA with a written statement specifying the facts of the alleged noncompliance and a reasonable opportunity to resolve or cure the alleged non-compliance or in the alternative, an opportunity to negotiate in good faith HUD's findings of noncompliance.
- **If the Department determines that PRPHA has not satisfactorily resolved the findings of non-compliance, the Department has the right to pursue any or all of these remedies, as well as any other remedies available under relevant laws.**

# Effect of Non-Compliance

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- Breached of Annual Contribution Contract
- Capital Fund Program Funds withhold
- Denial of high performance status
- Seek redress in Federal Courts
- Declare the Agency ineligible for NOFA funds
- Pursue the Agency as Civil Rights Violator
- Debarment