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Title 24 —Housing and Urban Development

Subtitle B —Regulations Relating to Housing and Urban Development

Chapter IX —Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development

Part 907 Substantial Default by a Public Housing Agency

§ 907.1 Purpose and scope.

§ 907.3 Bases for substantial default.

§ 907.5 Procedures for declaring substantial default.

§ 907.7 Remedies for substantial default.

PART 907—SUBSTANTIAL DEFAULT BY A PUBLIC HOUSING AGENCY

Authority: 42 U.S.C. 1437d(j), 42 U.S.C. 3535(d).

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§ 907.1 Purpose and scope.

This part provides the criteria and procedures for determining and declaring substantial default by a public housing agency (PHA) and the actions available to HUD to address and remedy substantial default by a PHA. Nothing in this part shall limit the discretion of HUD to take any action available under the provisions of section 6(j)(3)(A) of the 1937 Act (42 U.S.C. 1437d(j)(3)(A)), any applicable annual contributions contract (ACC), or any other law or regulation that may authorize HUD to take actions against a PHA that is in substantial default.

§ 907.3 Bases for substantial default.

(a) **Violations of laws and agreements.** A PHA may be declared in substantial default when the PHA:

- (1) Violates a federal statute;
- (2) Violates a federal regulation; or
- (3) Violates one or more terms of an ACC, or other covenants or conditions to which the PHA is subject.

(b) **Failure to act.** In addition to the violations listed in paragraph (a) of this section, in the case where a PHA is designated as a troubled performer under PHAS, the PHA shall be in substantial default if the PHA:

- (1) Fails to execute an MOA;
- (2) Fails to comply with the terms of an MOA; or
- (3) Fails to show substantial improvement, as provided in § 902.75(d) of this chapter.

§ 907.5 Procedures for declaring substantial default.

- (a) **Notification of finding of substantial default.** If the PHA is found in substantial default, the PHA shall be notified of such determination in writing. Except in situations as described in paragraph (d) of this section, the PHA shall have an opportunity to respond to the written determination, and an opportunity to cure the default, if a cure of the default is determined appropriate by HUD. The determination of substantial default shall be transmitted to the Executive Director of the PHA, the Chairperson of the Board of the PHA, and the appointing authority(ies) of the PHA's Board of Commissioners, and shall:
- (1) Identify the specific statute, regulation, covenants, conditions, or agreements of which the PHA is determined to be in violation;
 - (2) Identify the specific events, occurrences, or conditions that constitute the violation;
 - (3) Specify the time period, which shall be a period of 10 but not more than 30 days, during which the PHA shall have an opportunity to demonstrate that the determination or finding is not substantively accurate, if required;
 - (4) If determined by HUD to be appropriate, provide for an opportunity to cure and specify the time period for the cure; and
 - (5) Notify the PHA that, absent a satisfactory response in accordance with paragraph (b) of this section, action shall be taken as determined by HUD to be appropriate.
- (b) **Receipt of notification and response.** Upon receipt of the notification described in paragraph (a) of this section, the PHA may submit a response, in writing and within the specified time period, demonstrating:
- (1) The description of events, occurrences, or conditions described in the written determination of substantial default is in error, or establish that the events, occurrences, or conditions described in the written determination of substantial default do not constitute noncompliance with the statute, regulation, covenants, conditions, or agreements that are cited in the notification under paragraph (a) of this section; or
 - (2) If any opportunity to cure is provided, that the violations have been cured or will be cured in the time period specified by HUD.
- (c) **Waiver of notification and the opportunity to respond.** A PHA may waive, in writing, receipt of written notification from HUD of a finding of substantial default and the opportunity to respond to such finding. HUD may then immediately proceed with the remedies as provided in § 907.7.
- (d) **Emergency situations.** A PHA shall not be afforded the opportunity to respond to a written determination or to cure a substantial default in any case where:
- (1) HUD determines that conditions exist that pose an imminent threat to the life, health, or safety of public housing residents or residents of the surrounding neighborhood; or
 - (2) The events or conditions precipitating the default are determined to be the result of criminal or fraudulent activity.

§ 907.7 Remedies for substantial default.

- (a) Except as provided in § 907.7(c), upon determining that events have occurred or conditions exist that constitute a substantial default, HUD may:
- (1) Take any action provided for in section 6(j)(3) of the Act (42 U.S.C. 1437d(j)(3));

- (2) Provide technical assistance for existing PHA management staff; or
 - (3) Provide assistance deemed necessary, in the discretion of HUD, to remedy emergency conditions.
- (b) HUD may take any of the actions described in paragraph (a) of this section sequentially or simultaneously in any combination.
- (c) In the case of a substantial default by a troubled PHA pursuant to § 902.83(b):
 - (1) For a PHA with 1,250 or more units, HUD shall petition for the appointment of a receiver pursuant to section 6(j)(3)(A)(ii) of the 1937 Act (42 U.S.C. 1437d(j)(3)(A)(ii)); or
 - (2) For a PHA with fewer than 1,250 units, HUD shall either petition for the appointment of a receiver pursuant to section 6(j)(3)(A)(ii) of the Act (42 U.S.C. 1437d(j)(3)(A)(ii)), or take possession of the PHA (including all or part of any project or program of the PHA) pursuant to section 6(j)(3)(A)(iv) of the 1937 Act (42 U.S.C. 1437d(j)(3)(A)(iv)), and appoint, on a competitive or noncompetitive basis, an individual or entity as an administrative receiver to assume the responsibilities of HUD for the administration of all or part of the PHA (including all or part of any project or program of the PHA).
- (d) To the extent feasible, while a PHA is operating under any of the actions that may have been taken by HUD, all services to residents will continue uninterrupted.
- (e) HUD may limit remedies under this part to one or more of a PHA's specific operational areas (e.g., maintenance, capital improvement, occupancy, or financial management), to a single program or group of programs, or to a single project or a group of projects. For example, HUD may select, or participate in the selection of, an AME to assume management responsibility for a specific project, a group of projects in a geographical area, or a specific operational area, while permitting the PHA to retain responsibility for all programs, operational areas, and projects not so designated.