

where required, must submit and receive HUD approval of its request for release of funds, or HUD must have completed any part 50 environmental review and notified the PHA of its approval of the property. HUD may not release funds under this part before the appropriate approval is obtained.

(d) *Units to be acquired with federal funds and used for public housing homeownership.* A PHA may not enter into any contract for acquisition of real property to be used in a homeownership program unless the required environmental reviews have been performed and approvals have been obtained.

(e) *Specific units unidentified.* Where the PHA's homeownership program contemplates acquisition of properties not identified at the time of submission, the PHA must certify that it will comply with this section, including paragraph (f) of this section, prior to such acquisition or construction. HUD may conditionally approve such a homeownership program; however, HUD will not give final approval of any site or unit until the required environmental review has been completed.

(f) *Information.* The PHA shall supply all relevant information necessary for the responsible entity, or HUD, if applicable, to perform the environmental review for each property included in the homeownership program, and, if necessary, shall carry out mitigating measures or select alternate eligible properties. Where HUD performs the environmental review, the PHA shall comply with 24 CFR 50.3(h).

(g) *Non-exclusivity.* Nothing in this section relieves the participating PHA, and its partners and contractors, from complying with all requirements of 24 CFR part 50 or part 58, as applicable.

§ 906.49 HUD approval; implementing agreement.

HUD may approve a homeownership program as submitted, conditionally approve it under § 906.47(e), or return it to the PHA for revision and resubmission. Where such conditional approval is given, the PHA, partners, and contractors remain subject to the restrictions in § 906.47. Upon HUD notification to the PHA that the homeownership program is approvable (in final form

that satisfies all applicable requirements of this part), the PHA and HUD will execute a written implementing agreement, in a form prescribed by HUD, to evidence HUD approval and authorization for implementation. The program itself, as approved by HUD, must be incorporated in the implementing agreement. Any of the items of supporting documentation may also be incorporated, if agreeable to the PHA and HUD. The PHA is obligated to carry out the approved homeownership program and other provisions of the implementing agreement without modification, except with written approval by HUD.

PART 907—SUBSTANTIAL DEFAULT BY A PUBLIC HOUSING AGENCY

Sec.

907.1 Purpose and scope.

907.3 Bases for substantial default.

907.5 Procedures for declaring substantial default.

907.7 Remedies for substantial default.

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

SOURCE: 76 FR 10162, Feb. 23, 2011, unless otherwise noted.

§ 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.

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(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 non-competitive 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.

PART 908—ELECTRONIC TRANSMISSION OF REQUIRED FAMILY DATA FOR PUBLIC HOUSING, INDIAN HOUSING, AND THE SECTION 8 RENTAL CERTIFICATE, RENTAL VOUCHER, AND MODERATE REHABILITATION PROGRAMS

Sec.
908.101 Purpose.

908.104 Requirements.
908.108 Cost.
908.112 Extension of time.

AUTHORITY: 42 U.S.C. 1437f, 3535(d), 3543, 3544, and 3608a.

SOURCE: 60 FR 11628, Mar. 2, 1995, unless otherwise noted.

§ 908.101 Purpose.

The purpose of this part is to require Public Housing Agencies (PHAs), including Moving-to-Work (MTW) PHAs, that operate Public Housing, Indian Housing, or Section 8 Rental Certificate, Housing Choice Voucher (HCV), Rental Voucher, and Moderate Rehabilitation programs to electronically submit certain data to HUD for those programs. These electronically submitted data are required for HUD forms: HUD-50058, including the Family Self-Sufficiency (FSS) Addendum. Applicable program entities must retain at a minimum, the last three years of the form HUD-50058, and supporting documentation, during the term of each assisted lease, and for a period of at least 3 years from the end of participation (EOP) date, to support billings to HUD and to permit an effective audit. Electronic retention of form HUD-50058 and HUD-50058-FSS and supporting documentation fulfills the record retention requirement under this section.

[74 FR 68934, Dec. 29, 2009]

§ 908.104 Requirements.

(a) *Automated HAs.* Housing agencies that currently use automated software packages to transmit Forms HUD-50058 and HUD-50058-FSS information by tape or diskette to the Department's data processing contractor must convert to telephonic electronic transmission of that data in a HUD specified format by June 30, 1995.

(b) *Nonautomated HAs.* Housing agencies that currently prepare and transmit the HUD-50058 and HUD-50058-FSS information to HUD paper must:

(1) Complete a vendor search and obtain either:

(i) The necessary hardware and software required to develop and maintain an in-house automated data processing