

§ 902.77

24 CFR Ch. IX (4–1–05 Edition)

remaining in troubled status before being referred to the DEC is two years.

(h) *Audit review.* For a PHA designated as troubled, REAC will perform an audit review and may, at its discretion, select the audit firm that will perform the audit of the PHA and REAC may, at its discretion, serve as the audit committee for the audit in question.

(i) *Continuation of services to residents.* To the extent feasible, while a PHA is under a referral to a TARC, all services to residents will continue uninterrupted.

§ 902.77 Referral to the Departmental Enforcement Center (DEC).

(a) *Referral of Troubled PHA to the DEC for failing to execute or meet MOA requirements.* (1) Failure of a troubled PHA to execute or meet the requirements of a MOA in accordance with § 902.75 constitutes a substantial default under § 902.79 and may result in referral of the PHA to the DEC. The TARC will recommend to the Assistant Secretary for Public and Indian Housing that a troubled performer PHA be declared in substantial default. In accordance with §§ 902.79, the Assistant Secretary shall notify the PHA of the default and allow the PHA an opportunity to cure the default. A PHA shall be referred to the DEC if the PHA fails to cure the default within the a period not to exceed 30 days unless the Assistant Secretary for Public and Indian Housing determines that a longer period is appropriate.

(2) *Actions of the DEC.* The DEC shall initiate:

(i) The judicial appointment of a receiver, or

(ii) An administrative receivership at HUD's option but only:

(A) With respect to PHAs with fewer than 1250 units, or

(B) While HUD's petition for judicial receivership is pending; and

(iii) Upon the recommendation of the Assistant Secretary for Public and Indian Housing, the interventions provided in § 902.83, and may initiate such other sanctions available to HUD, including, limited denial of participation, suspension, debarment, and referral to the appropriate Federal govern-

ment agencies or offices for the imposition of civil or criminal sanctions.

(b) *Referral of PHAs in Substantial Default to the DEC.* A PHA that is not designated as troubled but that has been found to be in substantial default under the provisions of § 902.79 shall also be referred to the DEC. The Assistant Secretary for Public and Indian Housing makes the determination that a PHA is in substantial default. In accordance with § 902.79, the Assistant Secretary shall notify the PHA of the default and allow the PHA an opportunity to cure the default. If the PHA fails to cure the default within the specified period time, the PHA shall be referred to the DEC. The DEC shall initiate the judicial appointment of a receiver or the interventions provided in § 902.83 as recommended by the Assistant Secretary for Public and Indian Housing and may initiate such other sanctions available to HUD, including, limited denial of participation, suspension, debarment, and referral to the appropriate Federal government agencies or offices for the imposition of civil or criminal sanctions.

(c) *Receivership/Possession of PHA by HUD.* (1) If a judicial receiver is appointed, the receiver, in addition to the powers provided by the court, shall have available the powers provided by section 6(j)(3)(C) of the Act (42 U.S.C. 1437d(j)(3)(C)).

(2) If HUD assumes responsibility for all or part of the PHA, the Secretary of HUD shall have available the powers provided by section 6(j)(3)(D) of the Act (42 U.S.C. 1437d(j)(3)(D)).

(3) If an administrative receiver is appointed, the Secretary may delegate to the administrative receiver any of the powers provided to the Secretary as described in paragraph (e)(2) of this section, in accordance with section 6(j)(3)(D).

(4) The appointments of receivers, the actions of receivers, and HUD's responsibilities toward the receivers are governed by the provisions of section 6(j)(3).

(d) To the extent feasible, while a PHA is under a referral to the DEC, all services to residents will continue uninterrupted.

[65 FR 1738, Jan. 11, 2000, as amended at 65 FR 36046, June 6, 2000]