**FHA Multifamily Housing Policy Handbook**

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1. Departmental Enforcement Center (DEC)
2. Purpose
3. This Section describes the Departmental Enforcement Center’s (DEC) role in providing analytical and enforcement services for the Office of Multifamily Housing (MFH). The DEC, part of the Office of General Counsel (OGC), works with and provides assistance to MFH to ensure that owners, agents, and other program participants comply with statutory and regulatory requirements and their business agreements with U.S. Department of Housing and Urban Development (HUD). Consistent enforcement of HUD’s requirements promotes HUD’s mission of providing decent, safe and sanitary housing to multifamily housing tenants.
4. There is a reduced risk of claims to the Federal Housing Administration’s (FHA) insurance fund when FHA-insured projects are financially sound. The DEC’s mission is to “promote integrity, management accountability, and the physical and financial viability of FHA-insured and assisted housing by taking effective and aggressive civil or administrative action against those who violate or abuse HUD’s requirements.” The DEC works with MFH and program participants to achieve voluntary compliance. If voluntary compliance is not achieved, the DEC may recommend or pursue additional enforcement action.
5. The DEC also provides enforcement and analytical services to other HUD program offices, including the Office of Healthcare Programs, Office of Public and Indian Housing, Office of Native American Programs and Community Planning and Development.
6. Applicability

The DEC assists MFH by: 1) assessing the statutory, regulatory and contractual compliance of MFH’s program participants; 2) working with willing program participants to regain compliance; and 3) taking appropriate enforcement action against unwilling participants or others when timely compliance is not achieved or sustained. The DEC provides a quality assurance function for MFH in its review of the Administrative Record. By reviewing owners’ financial statements, DEC has improved the quality of such statements. This, in turn, reduces the risk of claims to FHA insurance funds. In addition, DEC financial reviews have resulted in recoveries of project funds and payments to HUD (i.e., recalculated amounts due on Mortgage Restructuring Notes and payments on other subordinate loans).

1. The Referral Process
2. Automatic DEC Referrals
3. Referral types

There are three types of automatic DEC referrals:

1. Physical – Currently, an automatic physical referral to the DEC is made when a project receives a physical inspection score of 30 or less. This number is subject to change.
2. Non-Filer – REAC generates a non-filer referral to the DEC when an owner has failed to file its required annual financial statement (AFS) submission within 41 days after the due date.
3. Financial – REAC will create a financial referral to the DEC when its analysts identify Compliance Flags for a financial issue that meets the thresholds set out in the Protocol for a DEC referral.
4. Assignments to DEC Offices

With some exceptions, automatic referrals to the DEC go into the integrated Real Estate Management System (iREMS) queue for the satellite office that has jurisdiction in the project’s location (see Exhibit 5 – 6). In some situations, however, the DEC may reassign automatic referrals from one satellite office to another with capacity to handle the work, regardless of geographic locations. In most cases, the Account Executive should be able to identify the DEC Satellite Office and Analyst assigned to the project from the Referral ID screen in iREMS within a few business days of the DEC’s receipt of the referral.

1. Elective DEC Referrals
2. MFH may make elective referrals to the DEC when additional enforcement assistance will help to obtain owner compliance, deter others from similar actions, or protect the government from irresponsible persons. Elective referrals should start with a conversation between MFH management and DEC management. During the conversations, the DEC may be able to provide feedback to MF staff that could make a referral to the DEC unnecessary, or the DEC may offer additional asset management suggestions that might be prudent prior to making a referral. In the field, the MF Regional Director or MF Satellite Office Director should contact the appropriate DEC Satellite Office Director to discuss making an elective referral. MFH Asset Management at Headquarters may likewise contact DEC Headquarters about making elective referrals. For information about civil rights statutory and programmatic violations, and how MFH and FHEO coordinate to achieve recipient compliance through sanctions and penalties, refer to Chapter 9. Once a verbal agreement is made for the DEC to take an elective referral, the MF Director should send an email to the applicable DEC Director memorializing the agreement regarding the elective referral. At a minimum, the email should include:
3. Name of Project.
4. Programmatic identifying numbers (iREMS, FHA, Section 8 or other).
5. A brief summary articulating the reason for the referral, including an explanation of the business or contractual obligation, the date of the non-compliance(s), and the identity of the non-compliant party and their relationship to the contractual obligation.
6. Supporting documentation, of applicable business documents, correspondence and reports.
7. The identity of the requesting office and a point of contact name, email address, and telephone number.
8. The DEC will formally acknowledge the elective referral after receipt of MFH’s and accept the referral or, alternatively, request additional information. If a particular Satellite Office is unable to accept the referral, the Satellite Office Director will consult with the DEC management at Headquarters to see if another Satellite Office could accept the referral. The DEC will notify the sender whether the DEC accepts the referral and if so, which DEC office will handle the matter. Upon receiving the DEC’s acceptance of the elective referral MFH will make the elective referral in iREMS for the referral to appear in the DEC workload queue.
9. Elective Referral Types

Within iREMS there are five types of elective referrals:

1. Physical – Per 24 CFR, part 200, subpart P, §200.857(h), MFH may elect to refer a project for poor physical condition regardless of the REAC score.
2. Financial – MFH may elect to refer a project when the financial statements reveal non-compliance issues and the Account Executive seeks the DEC’s expertise and assistance.
3. Non-filer – MFH may make elective non-filer referrals in rare cases where there was a change in ownership or Tax Identification Numbers (TIN) that impacted the REAC overdue tracking schedule (which only looks back one year).
4. Office of Inspector General (OIG) audit – MFH may make an elective referral to the DEC to assist in the resolution of OIG audit findings.
5. Other non-compliance – MFH may make elective referrals for matters that do not fall within the above categories. Such “other non-compliance” referrals may be based on:
6. Recommendations to take administrative action, such as a limited denial of participation (LDP), suspension or debarment from federal programs;
7. An owner or manager’s violations of tenants’ rights to organize; or
8. An owner’s violations of use agreement restrictions or property disposition covenants.

The Account Executive should consult with the Supervisory Account Executive or local MFH management if there are any questions about whether an elective referral is appropriate under the circumstances. See Chapter 9 for a discussion of non-compliance with civil rights statutes and program requirements and the protocol for coordination between MFH and FHEO on such issues.

1. Teamwork and Collaboration

It is critical that DEC Analysts and Account Executives communicate with each other throughout the DEC’s handling of the project referral. Depending upon the matter, DEC Analysts may need to make regular contacts with an assigned Account Executive for information and documentation, while other referrals may require less interaction. Similarly, depending upon the complexity of the asset management servicing, an Account Executive may need to have regular communications with the assigned DEC Analyst. The frequency of these communications should be guided by the level of asset management and DEC analysis required to resolve a particular matter.

1. Responsibilities

The Account Executive and the DEC Analyst will collaborate on the strategy for handling the non-compliance issues of a project. Working as a team, the Account Executive and DEC Analyst will communicate with each other about the significant issues that arise while a DEC referral is under evaluation.

1. Account Executive’s Responsibilities:
2. The Account Executive is responsible for maintaining iREMS data entries to assure accurate information related to the project, its owner, management and representatives.
3. The Account Executive is responsible for providing the DEC Analyst with relevant documentation (electronic or paper versions), maintaining communications, and alerting the DEC Analyst to any owner request for servicing actions.
4. Pursuant to current MFH policy guidance, the Account Executive will flag the owner in the Active Partners Performance System (APPS) when making an elective referral to the DEC.
5. While the DEC is handling the matter, the Account Executive still retains responsibility for the project with respect to routine servicing matters, such as handling tenant complaints, owner requests for release of reserves or residual receipts, and rent adjustments or other matters involving routine asset management functions.
6. The Account Executive will notify the DEC Analyst of pending servicing activities, such as rent increase requests, Reserve for Replacements releases, management reviews, or Housing Assistance Payments (HAP) Contract renewals, which require HUD approval. Certain requests from program participants (e.g., TPAs, refinancing applications, HAP contract assignments) present unique opportunities to obtain compliance. Account Executives should advise the DEC when such requests are made, and work with the DEC to obtain compliance prior to approval of the requested action.
7. DEC Analyst’s Responsibilities:
8. The DEC Analyst is also responsible for maintaining iREMS data entries to assure accurate information related to the project, its owner, management and representatives.
9. The DEC Analyst is responsible for providing the Account Executive with copies of all correspondence (initiated or received) related to the project’s referral.
10. The DEC Analyst is responsible for communicating with the Account Executive concerning appropriate strategies and enforcement remedies.
11. The DEC Analyst is responsible for providing the Account Executive with written close out information, such as memoranda, email, or notations in the iREMS problem statement.
12. DEC Analyses, Recommendations and Actions
13. In handling referrals, the DEC Analysts review the facts and validate or invalidate the flags that triggered the referral. They may also discover other issues that raise compliance questions. Analysts consider whether the owner’s questionable acts or omissions violate statutory, regulatory and business agreement requirements. Some analyses are straightforward whereas others can be quite complicated.
14. Upon receiving the referral, the DEC Analyst will analyze the facts to determine if the program participants comply with applicable laws, regulations, and business agreements. Analysts do so, in part, by considering applicable regulations, notices, and business agreements. They also review and analyze physical inspection reports, occupancy reviews, management reviews, AFSs, monthly accounting reports, audit reports, and all other pertinent documents in the Administrative Record.
15. Analysts will check iREMS for information and will initiate their analyses based on iREMS data. Accurate iREMS data is necessary to assure efficient review and analysis. If certain iREMS data fields are not accurate, DEC Analysts may spend significant time on the matter before discovering the error. Some examples of such critical iREMS data fields include:
16. The “*Financial Statement Required” indicator* on the Owner Detail screen. An inaccurate entry (“yes” when an AFS is not required) will trigger an erroneous referral.
17. The *“Date Owner Assumed Financial Responsibility”* and *“Cost Certification Cut Off Date”* may impact whether an owner is responsible for filing an AFS for a particular period of time. Account Executives should note the date of a transfer of ownership in iREMS in a narrative statement as well as in date format. This is especially critical in situations involving a TPA and a new substantial rehabilitation loan. In such cases the “Date Owner Assumed Financial Responsibility” for the new owner will be the day after cost certification cutoff rather than the day of ownership transfer. Unfortunately, when the Account Executive enters the “new” owner’s “Date Owner Assumed Financial Responsibility” into iREMS (the day after cost certification cutoff), the iREMS overrides the former owner’s dates of ownership and extends those dates to the day of cost certification cutoff for the new owner. This system extension of time will trigger false non-filer referrals for the former owner unless the AFS required indicator is turned to “no” at that time.
18. All dates and amounts the Account Executive approves for changes in Reserve for Replacements (RfR) deposits*.*
19. All dates and amounts the Account Executive approves for withdrawals from the RfR or Residual Receipts accounts.
20. All dates and amounts reflecting changes in *management fee approvals*.
21. As part of the fact finding process, the DEC Analyst may contact the owner, on-site management agent/company, or accountants to discuss the issues presented by the referral. The owner or owner’s representative may provide answers to the DEC’s questions and the matter may be quickly resolved; however, on other occasions, especially those which involve complicated financial statement reviews, the DEC Analyst may ask the owner to respond to specific questions about particular accounts. Such letters are called “30-day letters” because the DEC usually provides the owner with 30 days to respond.
22. DEC Recommendations and Actions

Based on the results of the DEC Analyst’s analysis, the DEC may recommend closing the referral or suggest an enforcement strategy.

1. Per 24 CFR, part 200, subpart P, §200.857(i), the DEC takes enforcement actions to gain compliance and/or penalties or to exclude irresponsible persons from participating in HUD programs. In closing financial referrals, the DEC usually provides MFH with a report of the issues raised in the financial statements and the resolution of those issues.
2. The DEC issues warning or cautionary letters to owners, advising them of non-compliance matters.
3. The DEC warns owners to take corrective action to avoid repeat referrals. Such letters become part of the Administrative Record. They can be used in subsequent actions to establish that the owner acted knowingly in violation of HUD’s warning.
4. The DEC has authority to act for HUD in a number of ways. The DEC’s Director is HUD’s Debarring Official and the DEC may exclude an irresponsible party from doing business with the Federal Government. In addition, the DEC has authority:
5. To issue a notice of violation (including Compliance, Disposition and Enforcement (CDE) plans) under the terms of a regulatory agreement;
6. To issue a notice of default (including CDE plans) under the terms of HAPs, Rental Assistance Payment Contracts, or Project Rental Assistance Contracts; and
7. To take all actions permitted by 24 CFR § 30.45 and 30.68, to impose civil money penalties.
8. Mortgagor/Owner Requirements
9. Purpose

This Section sets out the basic requirements for FHA-MFH owners. It is not intended to be exhaustive in its summary of those requirements. However, the Section will highlight those areas of significant non-compliance that may arise in the course of servicing MFH projects.

1. Background

HUD’s authority to regulate FHA MFH owners derives from the National Housing Act (12 USC §§ 1701 et seq.) and the various FHA-insured housing loan programs thereunder. MFH loan programs include:

1. Section 207 (12 USC § 1713) Rental Housing Insurance;
2. Section 213 (12 USC § 1715e) Cooperative Housing Insurance;
3. Section 220 (12 USC § 1715k) Rehabilitation and Neighborhood Conservation Housing Insurance;
4. Section 221(d)(3) (12 USC § 1715l(d)(3)) and Section 221(d)(4) (12 USC § 1715l(d)(4)) Mortgage Insurance for Rental and Cooperative Housing;
5. Section 221(d)(5) (12 USC § 1715l(d)(5)) of the National Housing Act (221(d)(3) (12 USC § 1715l(d)(3)) BMIR);
6. Section 223 (12 USC § 1715n);
7. Section 231 (12 USC § 1715v) Housing for Elderly Persons;
8. Section 234 (12 USC § 1715y) Mortgage Insurance for Condominiums; and
9. Section 236 (12 USC § 1715z-1) Rental Housing.

Likewise, HUD’s authority to regulate direct loans, grants, and other forms of rental assistance, flow from the following statutory authority:

1. Section 202 (12 USC § 1701q) Supportive Housing for the Elderly;
2. Section 202/8 of the Housing Act of 1959 (12 USC 1701q) Direct Loan Program for Housing for the Elderly or Persons with Disabilities;
3. Section 202 (12 USC § 1701q-2) Assisted Living Conversion Program;
4. Section 811 (42 USC § 8013) Supportive Housing for Persons with Disabilities;
5. Section 201 of the Housing and Community Development Amendments Act of 1978, as amended (12 USC § 1715z-1a) (Flexible Subsidy and Capital Improvement Loans). This is an inactive program;
6. Section 101 of the Housing and Urban Development Act of 1965 (12 USC § 1701s) (Rent Supplement);
7. Section 8 Project-Based Rental Certificates/Vouchers (42 USC § 1473f(o)(13);
8. Section 542 (b) and (c) of the Housing and Community Development Act of 1992 (Risk Sharing Programs) (42 USC § 1473f(b) and (c)); and
9. Low Income Housing Tax Credit Programs (LIHTC). The Treasury Department is the administering agency for LIHTCs.
10. Mortgagor/Owner Benefits
11. In exchange for obtaining a non-recourse loan insured by the Federal Government or other rental assistance, the owner agrees, among other things, to maintain the project in acceptable physical condition, to operate the project according to HUD’s regulations and programmatic requirements, and to take distributions only according to the limitations provided in applicable regulations and business agreements.
12. Applicability

The requirements of this Section apply to FHA-insured or HUD-assisted projects listed in section 5.1.2.B) above, and projects with project-based rental subsidy, in the MFH portfolio.

1. Compliance with Statutes, Regulations, Business Agreements and Program Requirements

MFH owners must comply with the statutes, regulations, business agreements and program requirements relating to their project. All of the MFH loan programs have statutory and regulatory requirements for those who participate in the programs. For instance, all regulatory agreements include important requirements that project funds must only be used for “reasonable operating expenses and necessary repairs” and that distributions may only be taken from surplus cash. The following sub-sections identify some of the other most significant mortgagor requirements.

1. Federal Criminal Law Requirements

Certain owner or management agent actions violate federal criminal laws. Account Executives who suspect criminal violations must refer them to HUD’s OIG. The following are possible owner/agent criminal acts:

###### Equity Skimming (12 USC §1715z-19). An owner, agent, or manager may be fined up to $250,000 or imprisoned not more than five years for willfully using or authorizing the use of any part of the rents, assets, proceeds, income or other funds derived from the project during a period when the mortgage note is in default or the project is in a non-surplus cash position for any purpose other than to meet actual or necessary project expenses.

###### False Statements (18 USC §1001). A person may be fined not more than $10,000 or imprisoned not more than 5 years, or both, for knowingly and willfully falsifying, concealing or making any false, fictitious or fraudulent statements or representations or making or using any false document knowing it to contain any false, fictitious or fraudulent statement.

###### False Statements (18 USC §1010). A person may be fined not more than $5,000 or imprisoned not more than 2 years or both, for (a) knowingly making or signing false statements or (b) willfully overvaluing any security, asset or income for purposes of obtaining any FHA insured loan or advance of credit or for the purpose of obtaining any extension or renewal of any loan, advance of credit or mortgage or acceptance, release or substitution of any security on such loan.

###### HUD Transactions (18 USC §1012). A person may be fined not more than $1,000 or imprisoned not more than one year or both for making any false entry in any book of HUD or making any false report or statement to HUD or for receiving any compensation with intent to defraud HUD or unlawfully to defeat its purposes.

1. Requirements to Maintain the Project’s Physical Condition

MFH owners must comply with the uniform physical conditions standards, found at 24 CFR § 5.703. These standards apply to all MFH identified in 24 CFR § 200.853, which include all FHA-insured and HUD-assisted projects under MFH’s jurisdiction. The standards address the major areas of HUD housing (defined in 24 CFR § 5.701(d)):

###### The site must be free of health and safety hazards and be in good repair.

###### Each building exterior must be structurally sound, secure, habitable and in good repair.

###### The building systems, including water, electrical, elevators, emergency power, fire protection, HVAC and sanitary systems of each building must be free of health and safety hazards, be functionally adequate, operable and in good repair.

###### Each dwelling unit must be structurally sound, habitable and in good repair; where applicable, each unit must have hot and cold running water; facilities must operate properly – in private and adequately for personal hygiene and disposal of human waste – and there must be a smoke detector on each level of the unit in proper working condition.

###### The common areas must be structurally sound, secure and functionally adequate for the purposes intended.

###### All areas of the housing must be free of health and safety hazards: This includes air quality, electrical hazards, elevators, emergency/fire exits, flammable materials, garbage and debris, handrail hazards, pest infestations, and lead-based paint.

###### Compliance with state and local codes. HUD’s standards do not supersede or pre-empt state and local codes.

HUD’s business agreements with the owners describe the physical condition standard in varying ways. Generally, most documents contain the following language, but documents may vary:

###### Regulatory Agreement: For Regulatory Agreements using form version HUD-92466 (11/2002) or earlier: “Owners shall maintain the mortgaged premises, accommodations and the grounds and equipment appurtenant thereto, in good repair and condition.” For Regulatory Agreements using form version HUD-92466M-11 (04/11) or later: The applicable standards can be found at Section 19, “Preservation, Management and Maintenance of the Mortgaged Property” *available at* (<http://portal.hud.gov/hudportal/documents/huddoc?id=92466m.pdf>

###### HAP Contract: “Maintain and operate the project in a decent, safe, and sanitary manner.”

ii) By regulation, projects that meet the uniform physical conditions standards

are deemed “decent, safe, sanitary and in good repair.” (See 24 CFR §

5.703).

1. Owners must also comply with the physical inspection requirements set out in HUD’s regulations at 24 CFR § 200.855 (a). REAC has standardized the physical inspection process for MFH projects. The REAC inspection reports describe the deficiencies discovered in the inspection and establish a score. Scoring ranges from one to 100; a score of 100 is the highest score possible. A low REAC score indicates that a property may not comply with the applicable physical condition standard. Owners may challenge their REAC score by requesting a technical review or a database adjustment. REAC must receive the owner’s request for a technical review in writing no later than 30 calendar days from the date the inspection report is issued to the owner. An owner may submit a request for a database adjustment prior to the inspection and up to 45 days from the submission of the inspection report. (See 24 CFR § 200.857(d) and (e).)

Section 230 of the Consolidated Appropriations Act of 2014 and Section 226 of HUD’s Fiscal Year 2015 Appropriations Act[[1]](#footnote-2) require the Department to take certain steps in cases when a multifamily housing property receives a score of 59 or below on a Real Estate Assessment Center (REAC) physical inspection report. An inspection score of 59 or below shows that the project does not comply with the required physical condition standard. See Housing Notice H 2015-02, and all superseding notices, for the procedures to follow to comply with these requirements. Properties scoring 30 points or less on their REAC inspection will continue to be referred to the DEC. The MFH may continue to make elective referrals to the DEC of any project based on poor physical condition, regardless of the REAC score.

##### Financial Requirements

HUD requires MFH borrowers to establish and maintain financial accounts and records for the project, although the language in the Regulatory Agreement may vary from one version to another. Some HAP Contracts do not have specific requirements for the owner to maintain financial accounts and may not even require the submission of financial statements to HUD. Thus, depending on the business agreements at issue the financial requirements for an owner may vary.

Nonetheless, REAC reviews the AFSs to determine whether the owner has complied with HUD requirements. REAC’s review of the financial statements could reveal any of the following compliance issues:

###### Adverse, disclaimed or qualified audit opinion;

###### Failure to make deposits to the RfR account;

###### Unauthorized withdrawals from the RfR account;

###### Failure to properly invest RfR funds;

###### Failure to make deposits to the residual receipts account;

###### Unauthorized withdrawals from the residual receipts account;

###### Underfunded security deposit accounts;

###### Commingling of funds;

###### Acquisition of liabilities which encumber project assets;

###### Unauthorized loans from project funds;

###### Unauthorized management fees;

###### Unauthorized disposal of project assets;

###### Failure to make mortgage payments timely; and/or

###### Unauthorized change in ownership.

Based on the Protocol, REAC will refer the project to MFH or the DEC for follow up on the compliance issues noted above.

##### Requirement to Submit AFS

HUD’s regulations and business agreements with MFH owners generally require the owner to submit AFS to HUD. Note, however, that some HAP contracts do not require owners to submit AFS to HUD.

Prior to 1998, most HUD Regulatory Agreements and HAP Contracts required owners to submit AFS to HUD within sixty (60) days after the close of the project’s fiscal year end. Beginning with fiscal year end 1998, HUD required owners to submit their financial statements electronically to REAC through the Financial Assessment Subsystem (FASS). A final rule published in the March 27, 2000 Federal Register, effective April 26, 2000, changed the submission requirement from sixty (60) days to ninety (90) days after the close of the owners’ fiscal year end. Notwithstanding the applicable business agreement requirements, however, and depending upon their annual federal awards, not-for-profit owners have different AFS filing requirements, which are discussed in more detail in the Annual Financial Statements chapter. If an AFS is not submitted within 10 days after the owner’s fiscal year end, REAC sends an email to the owner indicating that the AFS is late and giving the owner an additional thirty (30) days to electronically submit their AFS to REAC. If the AFS is not submitted to REAC by the 30th day, then REAC refers the project to the DEC through iREMS.

For other information about the AFS filing requirements, see the separate chapter on Annual Financial Statements at Chapter 2.01 Financial Statements.

##### Other Requirements

###### Management Acceptable to HUD

HUD has an interest in assuring that the properties in the MFH portfolio are managed properly. For projects with HUD-insured and HUD-held mortgages, the failure to provide acceptable management for the project is one of the statutory bases for civil money penalties (see 12 U.S.C. § 1735f-15 (c)(1)(B)(xiv)). Often, the Regulatory Agreement requires the owner’s contract with a management agent to include a provision allowing HUD to terminate the contract with or without cause. The Account Executive may invoke this provision and direct the mortgagor of a poorly managed project to change management agents or to hire a management agent (in cases of self-management) to protect HUD’s interest in the operations of the FHA-insured asset.

###### Allow Tenants the Right to Organize

Pursuant to 24 CFR Part 245, Subpart B, mortgagors must allow tenants the right to establish and operate a legitimate tenant organization. Such mortgagors must recognize legitimate tenant organizations and give reasonable consideration to the concerns raised by such organizations (see 24 CFR § 245.100 and 245.105). Owners and their agents must allow tenants to distribute leaflets under tenant doors and in common areas, to post information on bulletin boards, and to convene regular meetings in a manner fully independent of the management (see 24 CFR § 245.115). Owners, management agents, principals, or affiliates of projects with an insured and assisted mortgage described in 24 CFR § 245.10(a)(1) who violate any provision of 24 CFR Part 245, Subpart B, are subject to enforcement sanctions, such as debarments, suspensions, limited denials of participation (LDP) and civil money penalties.

###### Use Agreement Restrictions

HUD requires owners to enter Use Agreements upon the purchase of a HUD owned property at a property disposition sale. In certain cases, HUD will require the execution of a Use Agreement upon an owner’s prepayment of an insured loan prior to the expiration of the loan’s original term. In addition, HUD required some owners to enter into Use Agreements as a condition for receiving a flexible subsidy loan. The terms of the Use Agreements may vary from one to another. However, most Use Agreements contain rental use and/or affordability restrictions for some or all of the unis in the project as well as a requirement that the owner annually certify that it is in compliance with all applicable obligations. Some Use Agreements may require the owner to submit financial statements to HUD. See the chapter on Use Agreements for additional information.

### 5.1.4 Enforcement Tools

#### Introduction

##### Purpose

This section provides an overview of the enforcement tools that HUD may use when dealing with non-compliant owners, managers and their representatives.

##### Background

While most participants in HUD’s Multifamily Housing MFH programs fulfill their obligations and serve the needs of their tenants, some do not. Congress and the American people expect that HUD will monitor compliance with its programs and take appropriate actions when HUD discovers violations of its program requirements. HUD therefore works to assure compliance with the regulatory provisions. Where appropriate, HUD will take enforcement actions to deter non-compliance and protect HUD from doing business with irresponsible parties.

##### Applicability

Knowing the enforcement tools available to address non-compliant actions will allow Account Executives to be better equipped in servicing their portfolio. Account Executives can warn the owners of the possible consequences of their actions in order to prevent non-compliant behaviors. The possibility of facing an enforcement action may cause some MFH owners and their representatives to comply with HUD’s requirements. If the owners properly manage the project’s financial accounts and keep the property in acceptable physical condition because they wish to avoid enforcement actions, then a strong enforcement presence is also likely to reduce the risk of claims on HUD’s insurance fund.

#### Account Executive Servicing Tools

The following are examples of “servicing tools” that Account Executives may find helpful in obtaining an owner’s compliance. Some of these tools may require the signature/concurrence of supervisors or Program Center Directors or Hub Directors to implement:

##### Flag participants in APPS;

##### Change management agents to obtain improved management;

##### Require periodic reports relating to the compliance issue(s);

##### Delay or deny release of residual receipts funds until the owner corrects non-compliance;

##### Refuse to renew a HAP contract and take actions to relocate tenants;

##### Issue a Notice of Regulatory Agreement Violation;

##### Issue a Notice of Default of HAP contract;

##### After issuance of requisite notice(s), abate the HAP contract;

###### Temporary Abatement or Suspension occurs when HAP payments are stopped due to non-compliance, but HUD intends to resume payments when corrective action has been taken;

###### Redirection occurs when HAP payments are redirected to a third party instead of the project. An example of redirection is a utility threating to cut off service to a project unless past due payments are made;

###### Permanent Abatement or termination occurs when HAP payments are stopped with no intention of resuming the payments in the future.

**NOTE:** Once a HAP contract has been terminated, the HAP payments cannot be used to fund relocation expenses or pay future subsidies;

##### Issue a Declaration of Default of the Regulatory Agreement, which, if not cured, could lead to one or more of the enforcement actions described in the Regulatory Agreement or any other available statutory or contractual remedy;

##### Issue a Notice to the lender that the borrower is in default with instructions to the lender to accelerate the outstanding indebtedness of the FHA-insured mortgage and assign the mortgage to HUD; and

##### Issue a foreclosure hearing letter (also known as a “21-day letter”) on HUD-held mortgages.

#### DEC Enforcement Tools

The DEC has a number of enforcement tools that it may use depending on the facts and statutory and regulatory circumstances of any given situation. The following is a list of some of these tools:

##### Contact owners and request explanations for flagged non-compliance issues;

##### Contact owners and request corrective actions, including recoveries of project funds;

##### Issue Notices of Violations of Regulatory Agreements to owners and other applicable parties;

##### Issue Notices of Default of HAP contracts, PRACs to owners and other applicable parties;

##### Issue warning or cautionary letters;

##### Seek Civil Money Penalties, as authorized by legislation or regulation;

##### Issue limited denial of participation in HUD programs, geographically and program based, up to 12 months --2 CFR Part 2424, Subpart J);

##### Issue Suspensions (used to prohibit participation where there is evidence of likely immediate harm to the public’s interest-- 2 CFR part 180, subpart G);

##### Issue Proposed and Final Debarments (generally for three years --2 CFR Part 180, Subpart H);

##### Recommend to OGC that it refer the matter to the DOJ or U.S. Attorney’s Office for Double Damages (For Regulatory Agreement violations --12 USC § 1715z-4a); and/or

##### Recommend to OGC that it refer the matter to the DOJ or U.S. Attorney’s Office for a civil lawsuit for specific performance.

The following sections describe some of these enforcement tools with more specificity. It should also be noted that the Office of Inspector General (OIG) is the only Office at HUD can handle criminal prosecutions.

* + - * 1. Civil Money Penalties

The regulations for Civil Money Penalties can be found at 24 CFR part 30, subparts A -Sec 30.1, 30.5, 30.10, 30.15 and B-Sec. 30.20, 30.25, 30.30, 30.35, 30.36, 30.40, 30.45, 30.50, 30.55, 30.60, 30.65. While the civil money penalty statute for multifamily mortgages identifies specific actions which would lead to a penalty, those actions are, in every case, violations of the Regulatory Agreement (12 U.S.C. §§ 1437f-15(c)(1)(B)(i-xv). Therefore, civil money penalties should be considered a potential remedy whenever an owner has violated the Regulatory Agreement. Where an owner has a HAP contract, civil money penalties can be imposed for violation of the contract but not for statutory or regulatory violations (42 U.S.C. §1437z-11(b)(2)).

A civil money penalty is:

* A punitive measure used by HUD to achieve compliance with its regulations and business agreements by eliminating the economic incentive for non-compliance;
* Assessed by HUD pursuant to federal law;
* Assessed in an administrative proceeding and enforced, if necessary in a civil action in federal courts; and is
* For a specific amount and up to a maximum amount as provided by federal law.

The civil money penalties described in this section are in addition to any other available civil remedy or criminal penalty, and may be imposed regardless of whether HUD imposes other administrative sanctions. However, HUD cannot impose penalties for violations in which HUD’s own failure to comply with its existing agreements were a material cause of the violation.

Currently, HUD can impose CMPs against certain participants in MFH projects with insured or HUD-held mortgages, projects with Section 8 HAP contracts, and projects with 202 direct loans or capital grants.

The maximum civil money penalty that can be imposed on the owner of a multifamily insured or HUD-held project or 202 project is, as of June 15, 2016, $47,340. The maximum for violation of a HAP contract is now $36,794. (81 F. Reg. 38931 June 15, 2016).

In all situations, the penalty will depend on the facts of the case and HUD’s consideration of specific statutory factors. In determining the penalty, HUD considers:

* The severity of the offense;
* The injury to tenants;
* Any history of prior offenses, including but not limited to any violations of federal requirements listed in 24 C.F.R. § 5.105;
* The ability to pay the penalty, in which ability shall be presumed unless specifically raised as an affirmative defense or mitigating factor by the respondent;
* The injury to the public;
* Any benefits received by the violator;
* The extent of potential benefit to other persons;
* Deterrence of future violations;
* The degree of the violator's culpability; and
* Such other matters as justice may require.

##### Civil Court Lawsuits

At times HUD may need to go to court to obtain compliance from an owner. In such a case HUD’s OGC will work with the Department of Justice or the United States Attorneys’ Office to file the lawsuit. The following are examples of sanctions and remedies that can be imposed or completed through civil court cases:

###### Specific Performance.

Specific performance is a remedy that requires the defendant to perform its obligations under a contract. This remedy is in place of, or in addition to, any damages that could be awarded for the defendant’s breach of the contract. An example would be a case where HUD sued an owner for failing to comply with the terms of a Use Agreement to provide housing for low-income tenants. A Court could order the owner to house low-income tenants as a specific performance remedy.

Specific performance presupposes the existence of a valid contract between the parties and that performance is still possible. If the defendant refuses to obey an order for specific performance, then the defendant may be cited for contempt of court.

###### Collection of Civil Money Penalties

The Attorney General may sue on behalf of HUD to obtain a monetary judgment against a party that fails to comply with the Secretary’s order imposing a civil money penalty (see 12 USC § 1735f-15(f), 12 USC § 1701q-1(f), and 42 USC § 1437z-1(e)(1)(A)).

###### Double Damages

The Attorney General may sue in U.S. District Court to recover any assets or income used by any person in violation of a Regulatory Agreement or any applicable regulation (see 12 USC § 1715z-4a). The Attorney General may recover double the value of the misappropriated assets and income along with reasonable attorney and auditing fees.

###### False Claims

Title 31 USC § 3730 authorizes the Attorney General of the U.S. to investigate and sue any person in a civil action in the U.S. District Court for damages which the Government sustained due to false claims that were knowingly presented for payment or approval. A false claims action includes the making false records to support a false or fraudulent claim or the retaining of property or money intended to be used by the government.

At this time, liability for a false claim consists of a civil penalty of not less than $5,500 and not more than $11,000, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990, plus three times the amount of damages which the Government sustains because of the act of that person.

#### D. Exclusionary Sanctions

2 CFR 180.800(d) provides that an agency may debar a person for “any other cause of so serious or compelling a nature that it affects your present responsibility.” A lack of present responsibility may be demonstrated in a number of ways, including through violations of civil rights statutes and non-discrimination and equal opportunity program regulations. In those instances, where the non-compliance demonstrates a program participant’s lack of present responsibility, HUD may pursue an exclusionary sanction. HUD may pursue an exclusionary sanction in addition to any other penalty or remedy pursued.

A “show cause” letter is typically used to initiate exclusionary sanctions, such as LDPs. The “show cause” letter begins by specifying the non-compliance and asserting that the non-compliance demonstrates the participant lacks present responsibility. The letter then invites the participant to respond with information and documentation to show that the participant has present responsibility.

##### LDP

An LDP excludes a specific person (natural person or entity) from participating in a particular program or programs, within a HUD field office's geographic jurisdiction, for a specific period of time up to 12 months. An LDP is a discretionary act and is based upon the best interests of the Federal Government. LDPs are issued to protect HUD and are not to punish a participant.

###### Basis for an LDP

HUD may issue an LDP against a program participant (person or entity) based upon:

Adequate evidence of any of the following causes:

1. There are irregularities in the person's past performance in a HUD program;
2. The person has failed to maintain the prerequisites of eligibility to participate in a HUD program;
3. The person has failed to honor contractual obligations, or to proceed in accordance with contract specifications or HUD regulations;
4. The person has failed to satisfy, upon completion, the requirements of an assistance agreement or contract;
5. The person has deficiencies in ongoing construction projects;
6. The person is falsely certified in connection with any HUD program, whether or not the certification was made directly to HUD;
7. The person has made, or procured to be made, any false statement for the purpose of influencing in any way a HUD action;
8. The person has violated any law, regulation, or procedure related to the application for financial assistance, insurance, or guarantee, or to the performance of obligations incurred pursuant to a grant of financial assistance, or pursuant to a conditional or final commitment to insure or guarantee;
9. The person has committed any act or omission that would satisfy a cause for debarment; or
10. There is an imposition of an LDP by any other HUD office.

Filing a criminal indictment or information is adequate evidence for the purpose of LDP actions. The indictment or information need not be based on offenses against HUD.

Imposing an LDP by any other HUD office is adequate evidence for a concurrent LDP. Where such a concurrent LDP is imposed, participation may be restricted on the same basis without the need for an additional conference or further hearing.

The existence of an affiliation with a person or entity subject to an LDP regardless of the party’s knowledge of, or participation in, the acts providing cause for the sanction. The burden of proving that a particular affiliate or organizational element is currently responsible and not controlled by the primary sanctioned party (or by an entity that itself is controlled by the primary sanctioned party) is on the affiliate or organizational element.

###### Authorized Officials

An LDP is normally issued by a HUD field office, but may be issued by a Headquarters office, the DEC, or anyone else the Secretary designates.

###### Processing Procedures

To initiate an LDP, the referring party should identify, at a minimum: 1) who the party is referring for LDP; 2) how that person or entity was a participant or is a foreseeable participant in HUD programs; 3) what the person or entity did or failed to do in the program and how that action or inaction violated program rules or was otherwise irresponsible; and 4) when the alleged action(s) or inaction(s) occurred.

##### Suspension/Debarment

Suspensions and Debarments are actions that HUD may take to protect the Government from irresponsible actions of HUD participants. Suspensions and debarments are not penalties. HUD’s regulations for suspension and debarment can be found at 2 CFR Part 2424, which augment and implement Government-wide regulations at 2 CFR Part 180. The DEC Director in Headquarters is HUD’s Suspension/Debarment official. Both suspensions and debarments are Government-wide, and cannot be invoked for only HUD programs.

A suspension or debarment does not have to result from actions relating to HUD programs. For instance, if a HUD participant is convicted of a crime unrelated to a HUD program (e.g., bankruptcy fraud), HUD may take an action to debar the participant.

Suspension – Suspensions are temporary and have immediate effect. They become effective upon issuance by HUD of notice upon the participant, and are typically invoked when HUD believes it has a basis for debarment. Suspensions remain in effect while HUD takes a debarment action or while awaiting some other legal action. For example, when a MFH participant is indicted (charged) with a crime, but has not yet been convicted, HUD may suspend the participant while HUD awaits the final outcome of the criminal prosecution.

Debarments – Debarments are for a fixed period and are final. A typical debarment period is three years, but may be shorter or longer, depending upon the circumstances. Unlike suspensions, debarment proceedings have two stages: proposed and final. Upon issuing notice of a proposed debarment, the DEC Director offers the participant an opportunity for a hearing. If the participant is unable or unwilling to provide evidence that the participant should not be debarred, the DEC Director will debar the participant for a specified period of time.

For information on how to refer a participant for suspension or debarment, please refer to Exhibit 5-1. Of course, it may also be helpful to discuss the matter first with your local DEC satellite office or the DEC’s Compliance Division Director in Headquarters.

# Exhibit 5-1Elective Referral Process for Suspensions, Debarments or Limited Denials of Participation (LDP)

Office of Multifamily Housing (MFH) Account Executives wishing to make an elective referral to the Departmental Enforcement Center (DEC) for an exclusory action should prepare a referral package that includes the following:

1. For all parties (individuals or entities) being considered for exclusion, the complete names, aliases, current addresses (including zip codes) and a list of known affiliates of the person or entities.

2. A narrative statement in chronological order identifying the criminal, civil or program violations that form the basis for the recommended exclusion.

3. Evidence showing that the referred party participated in programs of the U.S. Department of Housing and Urban Development (HUD).

4. Copies of all documents/records relating to the referral, such as correspondence and emails between HUD and the referred party, audit/investigative reports and their status, involved supporting forms, related newspaper clippings, regulatory and management agreements, property inspection reports, signed interviews, affidavits, written and signed statements, and grant applications and agreements, etc.

5. Any information that mitigates, justifies, or explains the violations from the standpoint of the referred party/parties.

6. The names and telephone numbers of the HUD staff and other persons who are most familiar with the facts of the case and the HUD staff who are knowledgeable with the HUD requirements.

7. If applicable, a statement of justification as to why immediate suspension of the party is necessary to protect the public interest.

8. Information concerning any other field offices, if known, in which the referred party is participating and the status of their participation.

9. Social Security Numbers and/or Tax Identification Numbers of the referred parties, if available.

10. Any additional information that would be helpful in evaluating the referral.

**Submit the Referral by mail to:**

Department of Housing and Urban Development, Compliance Division

Departmental Enforcement Center

Attn: Director, Compliance Division

1250 Maryland Avenue, SW, Portals Building, Suite 200

Washington, DC 20024

# Exhibit 5-2 Acronyms

**ABA** – Architectural Barriers Act of 1968 (ABA)

**ADA** – Americans with Disabilities Act

**AFHMP** – Affirmative Fair Housing Marketing Plans

**AFS** – Annual Audited Financial Statements

**APPS** – Active Partners Performance System

**CA** – Contract Administrator

**CMP** – Civil Money Penalty

**DEC** – Departmental Enforcement Center

**DOJ** – Department of Justice

**FHA** – Federal Housing Administration

**FHEO** – Fair Housing and Equal Opportunity (HUD's Office of)

**GOP** – General Operating Procedures

**HAP** – Housing Assistance Payment

**HDCA** – Housing and Community Development Act of 1992

**HUD** – US Department of Housing and Urban Development

**iREMS** – Integrated Real Estate Management System

**LDP** – Limited Denial of Participation

**LEP** - Limited English Proficiency

**LIHTC** – Low Income Housing Tax Credit

**MFH** – Office of Multifamily Housing

**MSA** – Metropolitan Statistical Area

**OCAF** – Operating Cost Adjustment Factor

**OGC** – Office of General Counsel

**OIG** – Office of Inspector General

**OMB** – Office of Management and Budget

**PASS** – Physical Inspection Subsystem

**PBCA** – Performance Based Contract Administrators

**PHA** – Public Housing Agency

**RAP** – Rental Assistance payment

**REAC** – Real Estate Assessment Center

**SECTION 504** - Section 504 for the Rehabilitation Act of 1973

**TCA** – Traditional Contract Administrators

**TIN** – Tax Identification Number

**TPA** – Transfer of physical assets

# Exhibit 5-3 Glossary

**Administrative Record** – HUD’s history of interaction with an owner, agent or representative of a project. The Administrative Record includes all signed business agreements, written communication (paper and electronic), oral communication (telephonic and in person), including notes of such communications, all notes to the “file,” all data entries in the Integrated Real Estate Management System (iREMS) (see definition below) and SharePoint relating to the project, all REAC (see definition below) physical inspection reports and all financial assessment subsystems (FASS) financial statements (see definition below). The following Departmental Enforcement Center (DEC) documents are also part of the Administrative Record: Warning letters, notices, pre-penalty notices, settlement agreements, data entries in iREMS, emails to Account Executives, memoranda to the file, and close out letters to the owner. It is important that the Administrative Record be current and accurate. HUD’s attorneys will use the Administrative Record to support HUD’s enforcement actions. The owners may be able to “discover” the Administrative Record in court or administrative proceedings. Therefore, all entries made in the Administrative Record should reflect the highest degree of professionalism.

**Annual Financial Statements (AFS)** – the accounting reports for a multifamily housing project owner covering a fiscal year period or the “stub” period for those reports covering less than a year’s duration. The owner is responsible for submitting the annual financial statement (AFS) electronically in FASS according to HUD requirements. See REAC’s website for greater details. The Office of Inspector General (OIG) Handbook 2004. 4 [*Consolidated Audit Guide for Audits of HUD Programs*](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/oigh/2000.4) sets out the audit requirements for profit motivated entities. Non-profit owners follow Office of Management and Budget (OMB) requirements established through Circular A-133.

The AFS is due no later than 90 days after the end of the fiscal year period or as otherwise provided by law. This requirement is found in HUD’s regulation at 24 CFR § 5.801(c)(3). HUD uses the 90-day period even though many Regulatory Agreements and Housing Assistance Payments Contracts have a shorter due date. HUD requires non-profit owners receiving subsidy of $500,000 or more annually in combined federal assistance to submit electronic owner certified (un-audited) AFS within 90 days after the end of their fiscal year period. Pursuant to OMB Circular A-133, those same owners must submit their audited AFS no later than nine months after the end of the fiscal year.

**Active Participation Performance System (APPS) Flag** – an indicator of a performance problem with an individual or entity. Some DEC referrals, such as non-filer and physical referrals will trigger system-generated flags on the owner in APPS. Upon closing a referral, the DEC will often advise the Account Executive whether the APPS flag should be cleared or retained. The DEC staff lack authority to make changes in the APPS so the Account Executives must do so.

**Automatic DEC Referrals** – those referrals that meet certain agreed-upon thresholds as noted in the Protocol. The Real Estate Assessment Center (REAC) makes the automatic referrals in iREMS via the Physical Assessment Subsystem (PASS) or FASS.

**Civil Money Penalties** – fines that are assessed against program participants for specific knowing and material actions in violation of the statute, regulation or business agreements. HUD can only impose a civil money penalty if it has statutory authority to do so. HUD must consider specific statutory factors in determining the amount of the civil money penalty to be imposed. Owners cannot use project funds to pay for civil money penalties.

**Departmental Enforcement Center (DEC)** – a programmatic service organization that has direct authority to impose civil money penalties against multifamily owners. The DEC also has authority to issue notices to multifamily owners for violation of Regulatory Agreements, notices of default of housing assistance payments (HAP) contracts, or notices of default of Use Agreements. In many instances the DEC negotiates with owners and enters into settlement agreements. The DEC also negotiates recoveries of funds to projects and to HUD, as warranted by the facts presented.

**Integrated Real Estate Management System (iREMS)** – the database system for MFH. The DEC receives automatic referrals in iREMS. Account Executives or other MFH staff can make elective referrals to the DEC in iREMS, as more fully explained below.

**Protocol** – an agreement among the DEC, MFH and REAC. The Protocol addresses the roles and responsibilities of DEC and MFH staff when the DEC receives a project for review, analysis and possible enforcement action.

**The Real Estate Assessment Center** (**REAC)** – the organization that provides Multifamily Housing with assessment services relating to its portfolio. REAC oversees the physical inspection process through the PASS and posts the physical inspection reports in iREMS. REAC also controls the process for owners to file electronic AFS in the FASS – FHA. REAC will generate automatic referrals of a project to the DEC when an owner has failed to file its required AFS by the 41st day from the due date. REAC Analysts assess the statements upon receipt. REAC Analysts will assign the project to MFH or the DEC depending upon what issues they see as “compliance flags” of potential non-compliances.

**A REAC Compliance Flag** – an indicator in REAC’s FASS Compliance Chart that reflects possible problems of non-compliance with a project. The FASS system conducts a compliance check of each AFS. The FASS system generates flags for specific non-compliances, such as “Unauthorized Distribution of Project Funds” or “Failure to make deposits to the RfR.” The FASS system also lists what the auditor saw as problems. The REAC Analysts will assess the AFS and based on the existing Protocol they will determine whether they agree with the initial automated recommendations, refer the matter to the DEC or MFH, or decide that no action is necessary. In REAC’s FASS system, these decisions are described as “accepting” the flags, “upgrading” the flag to the DEC, or “downgrading” the flags, either to Multifamily Housing or to a non-referral status.

**Elective DEC Referrals** – those issues upon which MFH opts to seek DEC assistance to obtain owner compliance with HUD’s requirements, or to protect HUD from irresponsible persons.

##### **Exhibit 5-4 Suspension and Debarment Comparison**

The table below summarizes the significant differences between suspensions and debarments.

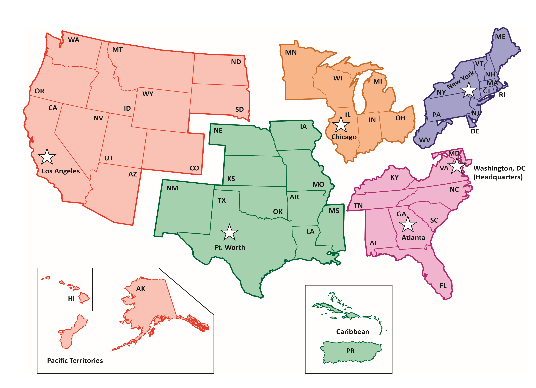
|  |  |
| --- | --- |
| **Suspension** | **Debarment** |
| A *temporary status of ineligibility* for procurement and non-procurement transactions, pending completion of an investigation or legal proceedings. | A *final determination* that a person is not presently responsible. |
| Based on adequate evidence that there may be a cause for debarment of a person and the need for immediate action to protect federal interests. | Based on a preponderance of the evidence that the person has engaged in conduct that warrants debarment. |
| The suspension is imposed first, and then notification is provided to the suspended person. | Debarment is imposed only after giving the respondent notice of the action and an opportunity to contest the proposed debarment. |

**Exhibit 5-5 Enforcement Tools**

**Example Issues and Typical Enforcement Actions**

| **Non-compliance/Issues** | **Typical Enforcement Action** | **Notes** |
| --- | --- | --- |
| Failure to comply with a requirement to file AFSs | Civil Money Penalties | Identify the parties (entities and natural persons) that can be reached under the various statutes and consider how the civil money penalty factors for assessing a penalty will affect the efficacy of any penalty in correcting the non-compliance.  Consider LDP, Suspension, and Debarment, particularly for persistent or repeated violations. |
| Failure to comply with restrictions concerning the use of project funds a.k.a. Unauthorized Distributions of Project Funds | Civil Money Penalties  Or Civil Lawsuit (Double Damages) for large sums | Identify the parties (entities and natural persons) that can be reached under the various statutes and consider how the civil money penalty factors for assessing a penalty will affect the efficacy of any penalty in correcting the non-compliance.  If the unauthorized disbursements are not returned to the project and the losses are sufficiently large, consider pursuing double damages. Consider the Government’s ability to collect any potential judgment.  Also consider LDP, Suspension, and Debarment, particularly for persistent or repeated violations. |
| Any Use Agreement non-compliance (absent any other business agreements with HUD) | Civil Lawsuit (Specific Performance and/or Liquidated Damages) | Consider LDP, Suspension, and Debarment if the responsible party conducts business with HUD or any other federal agency.  Available remedies depend on the specific terms of the Use Agreement. |
| Any behavior by a program participant that demonstrates a lack of “Present Responsibility.” | LDP, Suspension, or Debarment | LDP is effective only for participants seeking to do business with HUD. Suspension and Debarment are effective throughout the Federal Government.  If immediate action is needed to protect federal interests, suspension can be sought based on “adequate evidence” that there may be a cause for debarment. |
| Failure to maintain required physical standards (i.e., Decent/Safe/Sanitary) | Notice of Violation, Notice of Default, and/or Civil Money Penalties | After issuance of the proper notice(s), HUD may move to foreclose and/or abate the Section 8 contract if the conditions are not remedied. |

**Exhibit 5-6 DEC Satellite Office Jurisdictions**



1. Section 226 of Title II of Division K of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235, approved December 16, 2014) reiterates the direction first provided in section 230 of the Consolidated Appropriations Act, 2014 (Public Law 113-76, approved January 17, 2014) for HUD to take certain actions for multifamily projects, as described in general provision 230, and repeated in general provision 226, that have failing REAC scores. [↑](#footnote-ref-2)