
CHAPTER 2. EQUAL OPPORTUNITY LAWS AND EXECUTIVE ORDERS; DEFINITIONS

- 2-1. LEGISLATIVE AUTHORITIES AND EXECUTIVE ORDERS. The following laws and Executive Orders are applicable to programs listed in paragraph 1-2. In addition, for those programs authorized by Title I of the Housing and Community Development Act of 1974, Section 104 of the Act requires that the applicant provide a satisfactory assurance that the program will be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968, as amended.
- a. Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
 - b. Title VIII, Civil Rights Act of 1968, as amended, prohibits discrimination in housing on the basis of race, color, religion, sex or national origin. This law also mandates that HUD administer its programs in a manner to affirmatively further fair housing.
 - c. Section 109, Housing and Community Development Act of 1974 provides that no person in the United States shall, on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under Title I of the Housing and Community Development Act of 1974.
 - d. Section 3 of the Housing and Urban Development Act of 1968, as amended, provides that, to the greatest extent feasible, opportunities for training and employment shall be given to lower-income residents of the unit of local government or the metropolitan area (or non-metropolitan county) as determined by the Secretary in which the project is located; contracts for work in connection with such projects shall be awarded to business concerns which are located in, or which are owned in substantial part by persons residing in the same metropolitan area (or non-metropolitan county) as the project. Note: The definition of project area stated above was added by the Housing and Community Development Act of 1980.

-
- (2-1) e. Section 504 of the Rehabilitation Act of 1973, as amended provides that no otherwise qualified handicapped individual in the United States, shall solely by reason of his/her handicap be excluded from the participation in, be denied the benefits of, or be discriminated against under any program or activity receiving Federal financial assistance. A discussion of monitoring benefits to handicapped persons is restricted in this Handbook to a limited review by the CPD representative. A more detailed discussion is reserved, pending issuance of final Departmental regulations implementing the requirements of Section 504 in HUD programs.
- f. Age Discrimination Act of 1975, as amended provides that no persons in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A discussion of monitoring relative to the requirements of this Act is reserved in this Handbook pending issuance of final Departmental regulations implementing the requirements of the Age Discrimination Act in HUD programs.
- g. Executive Order 11063 provides that no person in the United States because of race, color, creed or national origin, shall be denied equal opportunity in housing and related facilities provided with Federal financial assistance, and that all Federal executive departments and agencies shall take action to promote the abandonment of discriminatory practices with regard to residential property and related facilities provided with Federal financial assistance.
- h. Executive Order 11246 provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in any phase of employment during the performance of Federal or federally-assisted construction contracts in excess of \$10,000.
- i. Executive Order 11625 charges the Secretary of Commerce to coordinate the plans, programs and operations of the Federal Government which affect or may contribute to the establishment, preservation and strengthening of minority business enterprise. This includes the development of comprehensive plans and specific program goals for the minority enterprise program.

2-2. OTHER REQUIREMENTS. The following requirements also apply to grantee performance:

- a. Equal Employment Opportunity Provision of the Grant Agreement. In the CDBG programs, the Grant Agreement provides that the grantee shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The grantee is also required to take affirmative action to insure that applicants for employment are employed and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. This provision must be incorporated in all contracts not subject to Executive Order 11246.
- b. OMB Circular A-102, Attachment O Paragraph 9(a) provides that the grantee shall take affirmative steps to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, construction and services. Paragraph 9(b) requires that the grantee take similar appropriate affirmative action in support of women's business enterprises.

2-3. DEFINITIONS. The following terms are used throughout this Handbook.

- a. Apparent Non-Compliance Finding. Substantial evidence gained by HUD as a result of an indepth examination by the Regional Office of FHEO which indicates noncompliance with the authorities set forth under subparagraphs 2-1(a), (c), (d), (e) and 2-2(a).
- b. Areas of Monitoring. Subjects in which the grantee's performance may be monitored in terms of implementing fair housing and equal opportunity requirements (e.g., benefits to minorities, women and handicapped persons; fair housing; grantee employment).
- c. Compliance Review. A comprehensive examination and analysis of the operation and administration of HUD-funded programs and activities to determine whether a grantee is complying with applicable civil rights laws providing for nondiscrimination on the grounds of race, color, national origin, age, sex or handicap. A compliance review may also include an examination of the employment policies and practices of departments, agencies, subgrantees, private groups and organizational units of corporations which administer HUD-assisted programs and activities. Compliance activity is conducted by Regional FHEO staff.

-
- (2-3) d. Direct Benefit Activity. An activity which provides a service to specific individuals. Generally a beneficiary would be required to submit an application or complete a personal record as an integral part of receiving the benefit of the activity.
- e. FHEO Staff - A staff that includes a Director and Equal Opportunity Specialists who are knowledgeable in technical areas which require expertise in fair housing and equal opportunity requirements, regulations and program standards.
- f. Focused Monitoring - Monitoring of a grantee's performance under selected fair housing and equal opportunity requirements.
- g. FORMS/CPD - An automated management information system on certain community development programs which provides for the collection and dissemination of data useful to FHEO and CPD staff. The "Field Operations Reporting System/Community Planning and Development" (FORMS/CPD) is now operational in all Area Offices. The data elements of particular interest to FHEO are listed in Appendix G.
- h. Full Program Monitoring - Monitoring of a grantee's performance under all applicable fair housing and equal opportunity requirements.
- i. Grantee. A state or unit of local government for which funds have been approved under Title I of the Housing and Community Development Act of 1974 as amended; a unit of local government which has an approved Urban Homesteading Program; a unit of general local government or other public agency which administers or carries out the Section 312 rehabilitation loan program.
- j. Handicapped Person. Any person who has (1) a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has a record of such impairment, or (3) is regarded as having such an impairment.
- k. Minority. A person who is a member of one of the following racial and/or ethnic groups:
- (1) Black. A person having origins in any of the Black racial groups of Africa, but not of Hispanic origin.

- (2-3) (2) American Indian or Alaskan Native. A person having origins in any of the original people of North America, and who maintains cultural identification through tribal affiliation or community recognition.
- (3) Hispanic. A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- (4) Asian or Pacific Islander. A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, and Samoa.
- l. Minority Business Enterprise means a business that is owned and controlled by one or more socially and economically disadvantaged persons. Such persons include, but are not limited to, Blacks, American Indians, Alaskan Natives, Hispanics, Asians and Pacific Islanders. Generally, a minority business enterprise is one in which management and daily business operations are controlled by one or more socially and economically disadvantaged persons.
- m. Monitoring. An ongoing process of reviewing grantee performance which uses all available data in making judgments about grantee performance and ensures that grantees take any necessary remedial and corrective actions. A review of grantee performance includes activities undertaken by subgrantees.
- n. Monitoring Finding. A determination made by HUD Area Office staff that a grantee is in nonconformance (as defined in subparagraph (q)) with a specific requirement of applicable laws or regulations. Findings are negative conclusions.
- o. Monitoring Visit. A visit to a locality by HUD which has as its principal purpose a determination of grantee performance, progress and conformance with the requirements of applicable laws or regulations. A monitoring visit could include on-site reviews of specific projects, etc., as well as a review of documentation contained in grantee files.
- p. On-site Review. A visit to a special project or an activity or a meeting with citizens or citizen organizations which has as its principal purpose a determination of grantee performance, progress and conformance with the requirements of applicable laws or regulations.

-
- (2-3) q. Nonconformance. Failure, or substantial evidence of failure, to comply with the authorities set forth under paragraph 2-1(a), (b), (c), (d) and (e) and 2-2(a), including implementing regulations, and failure to conform to any provisions in the approved community development block grant program which includes certifications constituting special assurances or conditions in furtherance of such authorities. It should be noted that substantial evidence of any failure to "comply" under this paragraph is distinguished from the indepth examination which characterizes a finding of apparent noncompliance defined in paragraph 2-3a. Procedures outlined in paragraph 6-3 should be followed wherever there is a finding of nonconformance.
- s. Program. The total of approved projects and activities undertaken by a grantee (e.g., the Community Development Block Grant Program, Section 312 Rehabilitation Program, Urban Homesteading Program).
- t. Project. A single activity or a group of integrally related activities designed by the applicant to accomplish, in whole or in part, a specific goal. Geographically or functionally related activities designed to accomplish a specific goal, irrespective of the funding source of those activities, shall be grouped together for consideration as a single project. A project may take a number of years to complete and may require funds in addition to the amount provided in a single program year.
- u. Project Area Benefit Activity. An activity which is tied to a geographic area and which provides a service to all residents of the geographic area to the same general extent.
- v. Subgrantee. A governmental or non-governmental entity, other than a Contractor providing goods and services to the grantee, which receives funds from the grantee for activities designed to implement the grantee's community development program.