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CHAPTER 4. AREAS TO BE MONITORED BY FHEO STAFF

- 4-1. INTRODUCTION. The fair housing and equal opportunity requirements which are applicable to the Community Development programs listed in paragraph 1-2 cover many aspects of a grantee's program. This chapter discusses in detail all areas of FHEO concerns, prioritizes them within each Community Development program ("focused monitoring") and provides guidance on various ways of analyzing information gained as a result of monitoring to determine the extent to which minorities, and certain other identifiable segments of the lower income population, are benefiting from the programs. It is important to remember that conclusions, positive or negative, should take into account the full range of factors that affect performance of the grantee.
- 4-2. FULL PROGRAM MONITORING. To the fullest extent possible FHEO staff should monitor each major area of a Community Development program. Areas to be examined as a part of FHEO monitoring are listed below. Guidance for conducting monitoring in each of the areas listed is provided in paragraphs 4-4 through 4-18.
- a. Benefits to Minorities
  - b. Benefits to Women (Reserved)
  - c. Benefits to Handicapped Persons (Reserved)
  - d. Nondiscrimination Based on Age (Reserved)
  - e. Housing Assistance Plan Implementation
  - f. Relocation Activities
  - g. Fair Housing Actions
  - h. Grantee Employment
  - i. Minority Business Utilization
  - j. Minority Equity Participation
  - k. Program Generated Employment
  - l. Citizen Participation
  - m. FHEO Recordkeeping Requirements
  - n. FHEO-Related Contract Provisions
  - o. Training, Employment and Contracting Opportunities for Section 3 Residents and Businesses
- 4-3. FOCUSED MONITORING. In some instances, "focused monitoring" may be required because of the complexity or size of a particular program and the limited time available for monitoring. When it is not feasible to undertake comprehensive monitoring, the areas to be monitored should be selected so as to focus on the most urgent and critical equal opportunity issues within a community. The emphasis given to monitoring areas will vary by type of community development program. If monitoring is to be focused, the following areas should be emphasized.

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- (4-3) a. CDBG Entitlement and Small Cities Comprehensive Grants. The following areas shall be emphasized during FHEO monitoring of recipients of entitlement and small cities comprehensive grants:
- (1) Benefits provided through the Community Development program including services and facilities provided.
  - (2) Relocation, if any is occurring, where minority households are affected.
  - (3) Fair housing actions.
  - (4) Grantee employment.
  - (5) Housing Assistance Plan Implementation, where the needs of minority and/or female-headed households are great.
- b. CDBG Small Cities - Single Purpose Grants. Small Cities - Single Purpose Grants are more limited in scope and duration than Entitlement or Small Cities - Comprehensive Grants. Consistent with the Operating Plan, selection of specific Single Purpose Grants for monitoring should be based on such factors as continuous participation of a grantee under this program for three or more years, receipt of a FHEO-related complaint or receipt of other information which indicates a possible fair housing or equal opportunity problem. The following areas shall be emphasized during the FHEO monitoring of Small Cities - Single Purpose Grants.
- (1) Benefits.
  - (2) Grantee employment.
- c. CDBG Secretary's Discretionary Grants. The focus of monitoring of discretionary grants will depend on the purpose of the grant. For example, fair housing actions should be emphasized when monitoring an Innovative Grant for addressing displacement of lower-income persons; grantee employment should be emphasized when monitoring a technical assistance grant for the development of local rehabilitation programs; program benefits should be emphasized when monitoring grants to New Communities.

- d. Categorical Program Settlement Grants. Generally, monitoring of Categorical Program Settlement Grants should be performed only when it appears feasible to do so within the context of other workload that has a higher priority, e.g., monitoring of Entitlement and Small Cities Comprehensive Grants, application reviews, and other activities emphasized in the current year's Priority Objectives. The following areas shall be emphasized during the FHEO monitoring of Categorical Program Settlement Grants.
  - (1) Benefits.
  - (2) Grantee employment.
- e. Urban Development Action Grants. The eligibility of Urban Development Action Grant grantees can be reconsidered at any time based on evidence of significant civil rights problems in the areas of employment and fair housing. Guidance provided in this Handbook relates to monitoring of UDAG projects. The focus of monitoring of UDAG projects shall be as follows, in order of priority listed.
  - (1) Program generated permanent employment.
  - (2) Utilization of minority businesses.
  - (3) Relocation of minority households and businesses, if funded projects will cause displacement.
  - (4) Minority equity participation.
  - (5) Benefits.
- f. Urban Homesteading Program. Program benefits shall be the focus of FHEO monitoring of the Urban Homesteading Program.
- g. Section 312 Rehabilitation Loan Program. Program benefits shall be the focus of FHEO monitoring of the Section 312 Rehabilitation Loan program.

4-4. BENEFITS TO MINORITIES. The programs covered by this Handbook shall be monitored to determine the extent to which minorities receive benefits from the community development program. FHEO staff shall examine activities funded in whole or in part with HUD assistance. All activities, not just those designed to benefit persons of low- and moderate-income, should be examined.

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(4-4) This paragraph discusses those benefits which are the result of physical revitalization (e.g., utilities installation and street

construction) administrative and service activities (e.g., housing counseling and health care) and housing assistance loan and grant programs (e.g., CDBG-funded Rehabilitation Grants, Section 312 Rehabilitation Loans, Urban Homesteading Grants). When examining benefits to minorities from other housing activities, FHEO staff shall follow the procedures outlined in paragraph 4-8 (HAP Implementation). See paragraphs 4-12 thru 4-14 for a discussion of economic benefits generated from HUD-funded activities (e.g., minority equity participation, utilization of minority business enterprises, and program generated permanent employment).

- a. Data Sources. Monitoring conclusions regarding benefits to minorities shall be based on a review of data obtained from a number of sources including, but not limited to the following:
- (1) Reports submitted to the Area Office by the grantee (e.g., Grantee Performance Report for the Community Development Block Grant Program and Quarterly Progress Report for the Urban Development Action Grant);
  - (2) Grantee records maintained in the locality (e.g., in the CDBG program, line item changes less than 10 percent of the amount approved for the affected program year, except emergency interim assistance activities and local option activities; and records as set forth in HUD regulations 24 CFR 570.907 (f) of racial and ethnic data showing extent to which members of minority groups are beneficiaries of federally-assisted programs;
  - (3) Meetings with administering agency(s) staff.
  - (4) Interviews with project area residents and businesses.
  - (5) Inspections of a sample of funded projects.
  - (6) Contacts with local minority, women and civil rights groups.
  - (7) Other Federal agency reports or studies, e.g., Department of Commerce, Department of Labor, Community Services Administration, and Small Business Administration, which are readily available to FHEO staff.

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- (4-4) b. Discriminatory Actions Prohibited and Corrective Actions.  
The analysis described below is based on the application of

provisions of Title VI, Civil Rights Act of 1964, and Section 109 of the HCD Act of 1974. With respect to Section 109 requirements, 24 CFR 570.601 states:

"(b) Specific discriminatory actions prohibited and corrective actions. (1) A recipient may not, under any program or activity to which the regulations of this Part may apply, directly or through contractual or other arrangements, on the ground of race, color, national origin, or sex:

(i) Deny any facilities, services, financial aid or other benefits provided under the program or activity.

(ii) Provide any facilities, services, financial aid or other benefits which are different, or are provided in a different form from that provided to others under the program or activity.

(iii) Subject to segregated or separate treatment in any facility in, or in any matter or process related to receipt of any service or benefit under the program or activity.

(iv) Restrict in any way access to, or in the enjoyment of any advantage or privilege enjoyed by others in connection with facilities, services, financial aid or other benefits under the program or activity.

(v) Treat an individual differently from others in determining whether the individual satisfies any admission, enrollment, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any facilities, services or other benefit provided under the program or activity.

(vi) Deny an opportunity to participate in a program or activity as an employee.

(2) A recipient may not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination on the basis of race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to individuals of a particular race, color, national origin, or sex.

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(4-4) (3) A recipient, in determining the site or location of housing or facilities provided in whole or in part with

funds under this part, may not make selections of such site or location which have the effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination on the ground of race, color, national origin, or sex; or which have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act and of this section.

(4)(i) In administering a program or activity funded in whole or in part with community development block grant funds regarding which the recipient has previously discriminated against persons on the ground of race, color, national origin or sex, the recipient must take affirmative action to overcome the effects of prior discrimination.

(ii) Even in the absence of such prior discrimination, a recipient in administering a program or activity funded in whole or in part with community development block grant funds should take affirmative action to overcome the effects of conditions which would otherwise result in limiting participation by persons of a particular race, color, national origin or sex. Where previous discriminatory practice or usage tends, on the ground of race, color, national origin or sex, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this part applies, the recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purpose of the Housing and Community Development Act of 1974 .

(iii) A recipient shall not be prohibited by this part from taking any action eligible under Subpart C to ameliorate an imbalance in services or facilities provided to any geographic area or specific group of persons within its jurisdiction, where the purpose of such action is to overcome prior discriminatory practice or usage.

(5) Notwithstanding anything to the contrary in this section, nothing contained herein shall be construed to prohibit any recipient from maintaining or constructing separate living facilities or rest room facilities for the different sexes. Furthermore, selectivity on the basis of sex is not prohibited when institutional or custodial services can properly be performed only by a member of the same sex as the recipients of the services."

(4-4) c. Assessment Tools. One measure of benefit to, and extent of participation by, minorities is expenditures in relation to need. A second measure is actual number of persons participating in relation to need. Generally, however, data on need by minority group for a particular benefit is not available except for direct benefits such as housing assistance. An analysis of program administration is a third means of assessing benefits to minorities. Using these assessment tools, the reviewer can carry out a comparative analysis to determine benefits to minorities and to nonminorities. The analysis should be done for each minority group separately where data exists on which to base the analysis.

(1) Expenditures in Relation to Need. The analysis process described below provides one measure of expenditures in relation to need. Although it is not the only measure possible, the analysis should be followed as the primary means of focusing review on minority benefits from activities which are designed to principally benefit lower income persons. The review shall examine each CDBG activity undertaken during the program year and calculate expenditures for each minority group (defined in subparagraph 2-3(k)) to the extent sufficient data exists for each such group. Data required includes minority population(s) at the census tract or project level and income for minority population(s). Where the data required for analysis is not available, the procedures described in 4-4d(2) should be followed. (Note: Where such data does not exist for one or more subgroups of the minority population, analysis should be based on the data that does exist and the assumption made that it will be applied to minorities as a whole.) The steps are described below:

(a) If a grantee is undertaking project area benefit activity in a project area whose residents include both minorities and nonminorities or residents of more than one minority category, the reviewer would determine expenditures for each group by multiplying the respective percentage of the population within the project area by the total dollars expended for that activity. For example, if a grantee has expended \$50,000 for street reconstruction undertaken in a concentrated area whose population profile is 30 percent Black, 40

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percent White and 20 percent Hispanic, benefits to all minorities would be calculated by multiplying  $\$50,000 \times .50 (.30 + .20)$ ; the benefits to Blacks would be calculated by multiplying  $\$50,000 \times .30$ ; the benefits to Hispanics by multiplying,  $\$50,000 \times .20$ ; and the benefits to nonminorities by multiplying  $\$50,000 \times .50$ .

- (b) If a grantee is undertaking project area benefit activities in two separate areas of lower income concentration whose residents differ by minority/nonminority category, the reviewer could use total amount of expenditures for the activity in each location as one measure and basis of comparison of benefits to minorities and to nonminorities. For example, if at the end of a 3-year program a grantee installed water and sewer lines for  $\$30,000$  in a concentrated area whose residents are 100 percent nonminority, benefits measured by expenditures would be  $\$30,000$ ; if the grantee also installed water and sewer lines for  $\$40,000$  in a concentrated area whose residents are 100 percent Hispanic, benefits to Hispanics measured by expenditures would be  $\$40,000$ .
- (c) If a grantee is undertaking direct benefit activities, for example housing counseling, the reviewer would determine expenditures for each group by multiplying the percentage of minority persons who actually received assistance, e.g. counseling service, by the total expenditures for the activity. In the CDBG program, this data is provided in the Grantee Performance Report, form HUD 4950.5 "Direct Benefit Activities" provides the percent of total number of direct beneficiaries for each activity by minority/nonminority category; form HUD 4950.2 "Project Progress" provides expenditures for each project. If the grantee is undertaking direct benefit activities where the units of benefit can be translated into money, e.g. loan and grant programs, in addition to the number (or percentage) of minority beneficiaries, as part of visit to the grantee, the reviewer may examine the dollar amounts of loans and grants actually received by each group.

- (4-4) (d) Once the amount in each activity is determined for each group, in accordance with the above procedure, the amounts are added together for each group and subtotal of all expenditures determined. Divide the total dollars expended into this subtotal to determine the percent of dollars expended on each minority group. Having determined amounts expended and the percentage they represent of total expenditures, the next task is to determine need, or a rough estimate thereof.
- (e) For each minority group, determine its percentage of the total low income population of the jurisdiction. Then, for each group determine its percentage of the total lower income population of the jurisdiction. Add these two percentages together and divide by two (2). These figures for each minority group serve as a rough estimate of need, just as demographic information by project area or census tract serves as a rough estimate of beneficiaries. Compare each percentage with the percentage, for each group, obtained as a result of the process in (c) above.
- (f) Where the percentage of need is equal to or less than the percentage of expenditures, it can be assumed that minorities are benefiting in relation to their need. FHEO staff is not required to look further to examine, for example, benefit on a project by project basis, or methods of administration, unless the review of expenditures or other information (e.g., an administrative complaint, Title VI/109 compliance review, newspaper article) available to the reviewer raises a question regarding benefits to, or participation by, minorities in one or more individual HUD-funded projects or activities.

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- (4-4) (g) Additional analysis is required where a problem appears to exist in a particular activity or project and/or the percentage of dollars expended, overall, is substantially less than the percentage of need. The reviewer shall not make a monitoring finding based solely on the analysis of expenditures in relation to need. A further analysis is required, as described in subparagraphs 4-4c(2) or 4-4c(3) and the reviewer shall consider factors

such as those listed in subparagraph 4-4d prior to reaching a monitoring conclusion.

- (2) Participation in Relation to Need. Where the data exists, the FHEO staff shall determine the extent to which minorities are participating in both project area and direct benefit activities.
- (3) Program Administration. In an effort to determine reasons for substantial disparities, the reviewer shall look at the methods or process of planning and carrying out HUD-funded projects and activities. The reviewer shall examine such factors as the following:
  - (a) Types of Activities. Although selection of eligible activities to be funded is a matter of local discretion, information gathered as a result of the monitoring process may raise questions regarding disparities in selection criteria. For example, in the CDBG program, selection criteria may be raised as an FHEO concern if there is substantial evidence that the grantee is undertaking activities which address the identified needs of greatest severity for lower-income nonminorities but that the grantee is not undertaking activities which address the identified needs of greatest severity for lower income minorities. Such evidence may include records of public hearings, meetings with neighborhood groups, meetings with civil rights organizations or government studies.

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- (4-4) (b) Project Progress. FHEO staff may compare the rate of progress in activities and projects which are benefiting minorities with the rate of progress for those projects and activities which benefit nonminorities. Classifying projects and activities by predominant, if any, racial and ethnic classification of beneficiaries, the reviewers examination would include but need not be limited to the amount and percentage of total funds obligated, the number and percentage of projects which have commenced and the number and percentage of activities which have been completed. This type of analysis is most useful when comparing projects and activities whose beneficiaries can be classified as minority nonminority, or as benefiting one of the racial/

ethnic groups defined as minority in paragraph 2-3.

1. Appendix A is a worksheet which may be used to compare progress of activities restricted to defined project areas (e.g., NSAs) which have beneficiaries of a single predominant minority/nonminority category.
  2. Appendix B is a worksheet which may be used in connection with a comparison of progress of similar activities with beneficiaries which differ by minority/nonminority category.
- (c) Project Procedures and Eligibility Requirements. Administering procedures, including eligibility requirements, if applicable, for activities should be examined to determine whether any criteria or methods of administration may have the effect of subjecting individuals to discrimination on the basis of race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to individuals of a particular race, color, or national origin. Remembering that differences in administration may be due to differences in needs or to efforts of the grantee to take affirmative action to overcome the effects of condition which would otherwise result in limiting participation by persons of a particular race, color, or national origin, FHEO staff should examine such factors as illustrated in the following examples:

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1. A direct benefit activity restricted to two or more defined concentrated areas whose potential beneficiaries differ by racial/ethnic classification. Two examples follow:
    - (i) A management assistance project for small businesses--are the locations of offices that perform outreach and other functions related to the activity comparable in terms of accessibility? Are hours of operation comparable? Is comparable assistance given in providing information and taking

applications?

(ii) A rehabilitation loan and grant assistance project for lower income homeowners--Are the maximum loan amounts comparable? Are the income eligibility requirements comparable? Are the eligible repair items comparable? Are the loan interest rates and repayment terms comparable?

2. A project area benefit activity restricted to two or more defined concentrated areas whose potential beneficiaries differ by racial/ethnic classification. Two examples follow:

(i) A library extension service using bookmobiles--Are the frequency and length of bookmobile services comparable?, or

(ii) A street reconstruction project--Is approximately the same amount of money being expended? Is approximately the same number of linear feet being paved? Is the activity in one geographic area correcting the problem to the same general standard of quality as in another geographic area?

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(4-4) (d) Location and accessibility of facilities and/or services for each racial, ethnic and/or color group. On-site inspections of projects will provide more accurate information regarding location and accessibility of funded facilities and services than the project area maps submitted with applications. Minority residents shall not be counted as beneficiaries in instances such as the following:

1. Under the CDBG Small Cities - Comprehensive Grant Program, sidewalk construction is approved to be undertaken in an eight block, predominantly minority area. An on-site inspection reveals that sidewalks were only constructed in two blocks whose residents are nonminority. In this case, minorities are not beneficiaries of the so-called "project

area benefit activity."

2. Under the CDBG - Entitlement Program, a former school building is approved for rehabilitation as a neighborhood facility in an NSA which includes an equal number of minority and nonminority residents. An on-site inspection reveals that the neighborhood facility is in an area of the NSA which is divided from the predominant minority portion of the residents by a freeway. In this case, minorities are not primary beneficiaries of the so-called "project area benefit activity."
- d. Factors to be Considered in Reaching Monitoring Conclusions. It is important to remember that conclusions, positive or negative, should not be based solely on the results obtained from one type of analysis, but can take into account the performance of the grantee measured by other means. Differences in benefits from projects and activities may result from a number of complex factors. The objective of the reviewer is to determine whether there is any apparent pattern based on the predominant racial or ethnic characteristics of the beneficiaries which is in nonconformance with the fair housing and equal opportunity laws. In making judgments regarding any differences as measured by expenditures, needs and programs administration, the reviewer should take into account such factors as the following:

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- (1) Whether the extent to which minorities are (or are not) benefiting is a result of the boundaries of the HUD-approved NSA or area of concentrated activity.
  - (2) Whether differences in benefits are the result of the grantee's affirmative efforts to overcome the effects of conditions which would otherwise result in limiting participation by persons of a particular race, color, or national origin.
  - (3) Whether differences in benefits are the result of the grantee's affirmative efforts to remove or overcome the consequences of prior discriminatory practice or usage.
  - (4) Whether the grantee has encountered problems beyond its control which have resulted in differences in

benefits received. In the CDBG program, if the grantee has encountered problems in carrying out a project or activity, a narrative description of those problems and any actions taken by the grantee to overcome those problems may be attached to the GPR by the grantee and would provide further information to be considered by the reviewer in any comparative analysis of project progress.

- (5) Whether the rate of progress for specific activities is in accordance with a program schedule that, over a three-year period, will compensate for current year differences.
  - (6) Whether differences in rate of progress are the result of efforts to avoid displacement.
  - (7) Whether differences in rate of progress are the result of different types of projects funded in areas of concentrated activity.
- e. Actions to be Taken on Based on Data Analysis. After completion of data analysis and consideration of such factors as set forth in subparagraph 4-4(c) above, where there is nonconformance relating to benefits to minorities, the FHEO staff shall make recommendations to the Area Manager regarding actions to be taken to address identified findings and concerns.

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- (1) Where there are concerns of benefits to minorities which appear to relate to the selection of funded activities or boundaries of project areas, FHEO staff shall discuss with the grantee the resulting low benefits to minorities, and through discussion with the grantee and other HUD staff, explore the feasibility of appropriate program changes which may be made on a subsequent year's application. FHEO Area Office staff also may make a referral to the Regional Director of FHEO for possible compliance action.
  - (2) Where there are findings which appear to relate to administration of the HUD-approved projects and activities, FHEO staff shall recommend to the Area Manager appropriate corrective and remedial actions as set forth in paragraph 6-3. Prior to reaching findings, FHEO shall consult with the grantee as provided in paragraph 3-7.

f. Determining Benefits Where Lower Income Persons are Not the Primary Beneficiaries. Benefits to minorities from activities which are not designed to principally benefit lower income persons should be analyzed as follows:

- (1) If the grantee is undertaking a project benefit activity which potentially benefits all residents of the community, e.g., parking lot in the central business district, it can be assumed that minority benefit reflects minority representation in the total population.
- (2) If a grantee is undertaking a direct benefit activity which primarily benefits persons of middle income range, e.g. Urban Homesteading and Section 312 Rehabilitation Loan program, FHEO staff shall determine whether minorities have been provided an opportunity to participate in the program by examining program administration as described in subparagraph 4-4c(3).

4-5. BENEFITS TO WOMEN. RESERVED

4-6. BENEFITS TO HANDICAPPED PERSONS. RESERVED

4-7. NONDISCRIMINATION BASED ON AGE. RESERVED

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4-8. HOUSING ASSISTANCE PLAN IMPLEMENTATION. Every applicant for Community Development Block Grant funds must submit a Housing Assistance Plan (HAP) which includes a summary of the conditions of its housing, the needs for housing assistance among lower income persons residing (and expected to reside) in the jurisdiction, and goals for addressing the identified needs. HUD shall review the grantee's performance in implementing the housing assistance plan to determine the extent to which minorities, female-headed households, and handicapped persons are benefiting from this assistance in relation to their respective needs as reported in the HAP. It should be noted that prior to August 1978, housing needs and goals for the handicapped were not required to be separately identified. Using the data listed in paragraph 4-8a, the reviewer can determine the need for housing assistance among minority and female-headed households and the receipt of housing assistance by these households. The analysis and assessment described in paragraph 4-8 are based on the requirements of Title VIII, Civil Rights Act of 1968, as amended, Title VI, Civil Rights Act of 1964 and Section 109, Housing and Community Development Act of 1974.

a. Data Sources. Evaluation of Housing Assistance Plan

implementation requires reference to and analysis of data from several sources, including but not necessarily limited to the following sources:

- (1) HUD Approved Application--including the Narrative Statements of Housing Needs and the Housing Assistance Plan (HAP).
- (2) Grantee Performance Report or Status Report.
- (3) Area Office CDBG Monitoring Reports.
- (4) FHEO Division Section 8 Existing and Moderate Rehabilitation Program Monitoring Reports, if applicable.
- (5) FHEO Division Monitoring Report of the Public Housing Agency.
- (6) FHEO Division Monitoring Report of initial rent-up activity in HUD-assisted developments (e.g., Section 8 New Construction).
- (7) FHEO Division Monitoring of Affirmative Fair Housing Marketing Plans for Section 8 New Construction and/or Substantial Rehabilitation projects.

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- (4-8) (8) Section 8 Management Information System (MIS).
  - (9) Field Office Reporting Management System (FORMS) - for Public Housing projects in the active pipeline or projects terminated or completed during or subsequent to Fiscal Year 1979.
- b. Determining Needs of Handicapped Persons for Housing Assistance. RESERVED.
  - c. Determining Housing Assistance Needs of Minority and Female-headed Renter Households. The Housing Assistance Plan (HAP) Table II, Form HUD 7092 "Housing Assistance Needs of Lower-Income Households" includes data by household type regarding housing assistance needs for all renter households, all minority renter households and all female-headed renter households. An analysis of needs shall be done for each minority group for which data is presented in the HAP. Appendix D contains a worksheet which can be used in analyzing needs for housing assistance.
- (1) Overall needs for housing assistance by minority renter

households can be calculated from HAP Table II-1 by dividing line 5 of column (c-1) by line 5 of column (b-1). Overall need for housing assistance by female-headed renter households is calculated from HAP Table II-1 by dividing line 5 of column (d-1) by line 5 of column (b-1).

- (2) The housing assistance needs of female-headed renter households is calculated by household type from HAP Table II-1. For example, the representation of female-headed households among all large family renter households is calculated by dividing line 5 of column (d-4) by line 5 of column (b-4).
- (3) The housing assistance needs of each minority group is calculated by household type from HAP Table II-1 and Table II-2. For example, the representation of Hispanic renter households among all small family renter households is calculated by dividing line 4 of the column on HAP Table 11-2 marked for Hispanics (x-3) by line 5 of column (b-3), on HAP Table 11-1.

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- (4-8) d. Determining Housing Assistance Needs of Minority and Female-headed Owner Households. The HAP Table II, Form HUD 7092, "Housing Assistance Needs of Lower-Income Households", includes data, by household type, for all owner households, all minority owner households, and all female-headed owner households. Overall need for housing assistance by minority owner households is calculated from HAP Table II by dividing line 1 of column (c-1) by line 1 of column (b-1). Overall need for housing assistance by female-headed owner households is calculated from HAP Table II-1 by dividing line 1 of column (d-1) by line 1 of column (b-1).
  - e. Determining Participation of Minority and Female-headed Households in Housing Assistance Programs. FHEO staff shall determine the extent to which minorities and female-headed households are participating in housing assistance programs which have identified in the HAP, Table III "Three-Year Housing Program" (Form HUD 7093) and Table V "Annual Housing Action Program" (Form HUD 7095). In the GPR, Form HUD 4950.5 "Housing Opportunities Part II" reports occupancy by low- and moderate-income persons for each housing program providing assistance to lower income households. Data is provided by minority group, by household tenure, and for female-headed households. Note that the Section 312 Rehabilitation Loan Program should be counted only to the extent that loans are made to low- and moderate-income

persons. In the GPR, Form HUD 4950.5 "Direct Benefit Activities" reports beneficiaries of CDBG-funded rehabilitation loans and grants by income group, by race, and for female-headed households. Benefits to minorities from CDBG-funded loans and grants are analyzed as set forth in paragraph 4-4. In addition to the GPR, the reviewer may gather more current data from the grantee during monitoring visits. Other sources of information include FHEO monitoring reports of Affirmative Fair Housing Marketing Plans, Section 8 Existing Programs, (including the Equal Opportunity Housing Plans), and Local Housing Authorities.

f. Assessing Housing Assistance Provided to Minority and Female-headed Households.

- (1) Assistance to Owner Households. RESERVED.

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- (4-8) (2) Assistance to Renter Households. Where the participation of each minority group reflects its overall renter housing assistance needs, no further analysis is required. Where the participation of female-headed households reflects the overall renter housing assistance needs of these households, no further analysis is required. Where the participation of any minority group or female-headed households does not reflect the overall renter housing assistance needs, the reviewer shall make a further analysis, considering such factors as outlined in 4-8i.

g. Assessing Housing Assistance Commitments. Prior to occupancy, FHEO staff can receive a general indication of whether housing that is not yet completed but for which there is a firm commitment is likely to address the needs of minorities, female-headed households and handicapped persons. FHEO staff shall examine records relating to housing commitments.

- (1) Records which may be examined include the following:
- (a) CDBG Program's Grantee Performance Report Form HUD 4950.6 "Housing Assistance Performance - Part I" reports firm commitments to low- and moderate-income households. Units which are accessible to handicapped persons are listed separately.
  - (b) CDBG Grantee Performance Report Form HUD 4950.7 "Housing Assistance Performance - Part II" reports

firm financial commitments made during the three-year Community Development Block Grant program, beginning with the effective date of the approved Three-Year Housing Assistance Plan. This form shows the housing units of housing assistance and the household type.

- (c) The Area Office Housing Division would also have current information regarding firm financial commitments on assisted housing, including information on bedroom sizes and locations of assisted housing units.

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- (4-8) (2) Information described above, if examined in conjunction with the needs analysis completed according to subparagraph 4-8e, would give the reviewer a general indication of potential beneficiaries by household type and a forecast of locations of assistance to be provided.
  - h. Assessment of Location of Assisted Housing. FHEO staff shall determine whether assisted housing is being provided in a full range of locations. The FHEO staff shall examine the location of assisted housing (newly constructed, rehabilitated and existing) and the occupancy of assisted housing inside and outside areas of minority concentration. Paragraph 4-10, "Fair Housing Actions" includes a more detailed explanation of evaluating occupancy of assisted housing.
  - i. Factors of to be Considered in Reaching Conclusions. The extent to which housing assistance is being provided to minorities may be the result of many complex factors. In analyzing housing assistance provided, the reviewer should consider whether factors such as the following have a bearing on the participation rates observed:
    - (1) Whether the type of housing assistance being provided by the grantee is the result of a limited number of units in a housing allocation area.
    - (2) Whether the type of housing assistance being provided is in accordance with a schedule for providing housing assistance over a three-year period, as approved by HUD. The provision of assisted housing over a longer time period may have to be considered if funding or construction schedules have caused delays in housing delivery.

- (3) Whether the grantee is relying on a particular program type which results in minorities being underserved; for example, the housing strategy for addressing large family renter needs may rely heavily on the Section 8 Existing Program. The GPR and FHEO Division Section 8 Existing Program Monitoring Reports show that there is low representation of minority large family occupants in that program.

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- (4-8) (4) Whether the grantee is providing housing assistance in proportion to overall housing assistance needs by household type and household tenure. The need of minority households for certain forms of housing may differ significantly from the needs of all households. For example, the needs for assistance to large families may constitute 30 percent of the total housing assistance need but may represent 60 percent of lower income minority households who require housing assistance. The CDBG program requires that the grantee meet total housing assistance goals by household type as specified in its HAP.
- (5) Whether some of the housing assistance need of renter households is being met through homeownership programs. Note that grantees may establish three-year goals to provide assistance to prospective homeowners (Form HUD 7093, "Three-Year Housing Program").
- (6) Whether outreach and affirmative marketing were undertaken by private owners or agencies administering housing programs, e.g., a Public Housing Agency which administers the Section 8 Existing Housing Program.
- j. Actions to be Taken Based on Data Analysis. After completion of data analysis and consideration of such factors as set forth in subparagraph (4-8i), the FHEO staff shall make recommendations to the Area Manager regarding actions to be taken to address any substantial disparities in housing assistance received by minorities and female-headed households and that received by nonminorities and male-headed households.
- (1) Where the overall renter housing assistance received by each minority group and by female-headed renter households reflects the overall renter housing assistance needs of these households, data showing disparities in housing assistance provided to each

minority group and female-headed households by household type shall not be the basis of a monitoring finding which may result in corrective and remedial actions as set forth in paragraph 6-3.

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- (4-8) (2) Where the overall renter housing assistance received by each minority group and by female-headed households does not reflect the overall renter housing assistance needs of these households, FHEO shall examine renter housing assistance provided by household type. FHEO shall take the steps outlined below prior to making a monitoring finding which would require corrective and remedial actions as set forth in paragraph 6-3.
- (a) As a first step, the reviewer shall examine the participation of minorities and female-headed households by program. Where the data indicates a significantly low participation by minority and/or female-headed households in individual programs, additional information may be necessary to provide an explanation. Once this step is completed, such actions as the following may be taken:
1. Discuss with the grantee possible changes in the programs utilized to meet a specific housing assistance need. For example, data listed above may show that in the second year of a three-year HAP, 80 percent of the assistance committed to meet the needs of large family renters is through the Section 8 Existing program; the determination of housing assistance needs indicates that 60 percent of minority households requiring assistance are large family renters and minorities constitute 70 percent of all large family renter households requiring assistance. If the review of housing assistance received, conducted in accordance with subparagraph (1) above indicates that only 20 percent of large family renter households participating in the Section 8 Existing Housing program over the last two years are minorities and the low participation rate appears to be due, at least in part, to lack of large family units in the existing stock, FHEO staff should raise questions relative to the subsequent year's application, regarding the grantee's housing assistance

strategy. (Generally, this would be an observation in a monitoring letter and/or visit and not a monitoring finding.)

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2. Strengthen implementation of requirements for affirmative marketing in assisted housing programs. For example, if there is a low level of occupancy by minority households in Section 8 new construction housing, FHEO staff might intensify its monitoring and technical assistance to developers and management agents. Grantees should be aware of these requirements, as it is in their interests to assure that HAP is implemented in conformance with Title VI and Section 109.
  3. Prepare a monitoring finding which indicates that overall participation by one or more minority groups, and/or female-headed households is not reflective of their need and, therefore, not in conformance with Title VI and Section 109 requirements. Indicate specific programs, if possible, where problems appear.
    - (b) A continued disparity in housing assistance provided to minority and female-headed households overall may result in corrective and remedial actions set forth in paragraph 6-3.
    - (c) The information gained as a result of monitoring may be referred to the Regional Office of FHEO for possible compliance action.
- 4-9. RELOCATION ACTIVITIES. FHEO staff shall monitor a grantee's HUD-funded projects to determine whether minority and female-owned businesses, minority and female individuals, and minority and female-headed families are provided the assistance and payments to which they are entitled under the Uniform Relocation Act and other HUD regulations as appropriate. HUD will also monitor whether minority and female individuals and minority and female-headed households which have been relocated are provided the opportunity to rent or purchase in a full range of neighborhoods, including neighborhoods which are outside areas of minority concentration. The FHEO staff should examine any available relocation project monitoring reports of the grantee and coordinate its review with the Relocation Specialist in the CPD Division. Meetings with civil rights and

neighborhood organizations may also provide pertinent information.

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- a. FHEO staff shall analyze the racial, ethnic and gender characteristics of the relocation workload to determine the extent to which minorities and female-headed households are being displaced by HUD-assisted projects. In the CDBG program, this data may be found in the Grantee Performance Report, Form HUD 4950.10 "Displacement/Relocation," as well as in records maintained by the grantee.
  - b. FHEO staff shall review actions taken by a grantee to assist displaced families to find replacement housing in a wide range of locations. For example, a grantee should provide counseling on how to search for housing, make referrals to available housing within and outside areas of minority concentration and inform displacees of their fair housing rights. A grantee may also provide escort services to minority families who desire to move outside areas of minority concentration.
  - c. FHEO staff is encouraged to examine grantee records and to interview a sample of minority and female-headed households who have been relocated to determine whether they were provided replacement housing which is within their ability to pay and which was consistent with their preferences as indicated to the grantee.
- 4-10. FAIR HOUSING ACTIONS. FHEO staff shall monitor actions taken by a grantee to provide assisted housing in a broad range of locations and to affirmatively further fair housing for minorities and women. Every locality participating in the CDBG, UDAG and Section 312 programs submits a certification providing assurances that the applicant will comply with Executive Order 11063 on equal opportunity in housing and nondiscrimination in the sale or rental of housing built with Federal assistance, and with Title VIII of the Civil Rights Act of 1968, as amended, which prohibits discrimination in the provision of housing because of race, color, religion, sex or national origin. The certification regarding "Title VIII" is an assurance that the applicant will administer its assisted programs and activities relating to housing and community development in a manner to affirmatively further fair housing and that the applicant will take action to affirmatively further fair housing in the sale or rental of housing, the financing of housing and the provision of brokerage services. FHEO staff shall determine whether the grantee has taken specific, substantive actions to carry out the assurances made to take

affirmative actions to promote fair housing.

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- (4-10)a. Community-wide Housing Strategy. In addition to the certification of compliance with the fair housing laws, applicants for the CDBG Entitlement and Small Cities
- Comprehensive grants are required to submit a three-year Community-wide Housing Strategy (HUD 7064) which includes a strategy for increasing the choice of housing opportunities for low- and moderate-income persons, including minority groups and female-headed households. An Annual Housing Action Plan containing specific actions to be taken to carry out the strategy is submitted each year. The housing strategy must include a description of (1) actions to affirmatively further fair housing for minorities; and (2) efforts to increase the availability of assisted housing for lower-income persons outside areas of lower-income or minority concentration. Applicants for CDBG Small Cities
  - Single Purpose grants must include, as part of the Housing Assistance Plan, a statement of actions to be taken to promote fair housing. FHEO staff shall determine whether the grantee has carried out the actions, as set forth in the application, to further fair housing in a manner that adequately addresses the fair housing needs of the grantee.
- b. Types of Fair Housing Activities. Although HUD has not prescribed specific fair housing activities to be undertaken by all community development grantees, activities which should be considered in assessing fair housing actions include, but need not be limited to, the following:
- (1) Location of Assisted Units. Does their location provide housing opportunities for minorities and women outside areas of minority and low-income concentration?
  - (2) Occupancy of Assisted Housing in a Full Range of Locations. Do minorities occupy assisted housing inside and outside areas of minority and low-income concentration. HUD-assisted housing includes housing provided with the direct or indirect assistance of a HUD-funded program, including CDBG, UDAG, and Urban Homesteading Program as well as HUD-subsidized housing programs?
  - (3) Administrative Actions. Has the grantee taken, funded or sponsored marketing, legal, planning, counseling or other administrative actions designed to further, or which have the effect of furthering, fair housing?

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- (4-10) (4) Use of Community Development Funds. Have community development funds (e.g., CDBG) been spent on fair housing activities or allocated to fair housing organizations.
- c. Evaluation of Performance in Providing Expanded Housing Choice. FHEO staff shall determine the extent to which assisted housing is being provided outside areas which contain a high proportion of the grantee's minority or lower-income population and/or areas where the predominant population is minority or lower income:
- (1) The reviewer shall examine the following:
    - (a) The total number and the percentage of assisted units located outside minority areas, as defined above, since the beginning of the CDBG program (FY 1975).
    - (b) The number and the percentage of units located outside minority areas by housing type--i.e., new construction, rehabilitation, existing.
    - (c) The number and percentage of units located inside and outside minority areas by tenure and household type.
  - (2) The reviewer analyzes the data set forth above to determine:
    - (a) Whether assisted housing has been located consistent with the approved HAP.
    - (b) Whether assisted housing for both owners and renters has been/will be provided in a broad range of locations. For example, 75 percent of the assisted housing units for which a grantee has firm financial commitments may be outside concentrated areas; however, all assisted housing units for nonelderly family renters for which there are firm financial commitments may be in minority areas. If 60 percent of all minority households requiring assistance are nonelderly family renters, then it is questionable whether the locational pattern, if continued, would provide an opportunity for lower income nonelderly family minority households to live in a broad range of locations.

- (4-10)d. Evaluation of Occupancy Results. FHEO staff shall evaluate the extent to which minority households actually occupy assisted housing located inside and outside areas of minority and low-income concentration.
- (1) For CDBG recipients, FHEO staff should examine the Grantee Performance Report, form HUD 4950.9 Housing Opportunity - Part II, which shows location and occupancy characteristics of assisted housing occupied during the program year.
  - (2) In evaluating the fair housing aspects of the relocation activity in the CDBG program, GPR form HUD 4950.10 -- "Displacement/Relocation" should be analyzed, as well as on-site records, to determine the extent to which minority and female-headed households have relocated to neighborhoods outside areas of minority and lower income concentration.
- e. Evaluation of Marketing and Other Administrative Actions to Promote Expanded Housing Choice. Many of the actions taken pursuant to the Title VIII certification, which addresses fair housing needs at all income levels, would be administrative in nature. The CDBG program GPR form, HUD 4950.8--Housing Opportunities - Part I, describes actions taken by the grantee to affirmatively further fair housing and actions to increase housing opportunities for lower income households.
- (1) Administrative actions which may be taken to increase housing opportunities specifically for lower income households, include but need not be limited to the following:
    - (a) Outreach, counseling, and referral services to assist lower-income persons residing in areas of minority concentration to find assisted housing outside those areas.
    - (b) Acquisition of housing units outside areas of minority concentration for use as assisted housing.
    - (c) Acquisition of sites outside areas of minority concentration for the development of assisted housing.

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- (4-10) (d) Development of a comprehensive inventory of available land suitable for the development of assisted housing.
- (2) Administrative actions may be taken to increase housing opportunities and to affirmatively promote fair housing throughout the entire housing market at all income levels. Activities may include independent actions by the grantee and cooperative ventures with housing-related industries such as mortgage lenders and home builders. Examples of activities which address the entire housing market are as follows:
- (a) Funding of fair housing organizations.
  - (b) Establishment of an affirmative marketing resource center to develop and disseminate marketing data regarding the availability of assisted and privately-owned housing affordable by lower-income persons.
  - (c) Development and enactment of a local fair housing ordinance which is substantially equivalent to the Federal Fair Housing law, Title VIII, of the Civil Rights Act of 1968, as amended, and provides an effective enforcement mechanism to which local resources are committed.
  - (d) Conducting educational programs for homeseekers, businesses, and local government workers and members of housing-related industries (e.g., real estate agents, mortgagees, homeowners insurance companies) regarding their fair housing rights and responsibilities.
- e. Affirmative Administration of Other Program Efforts to Further Fair Housing. By executing a Certificate of Compliance with Title VIII, the grantee commits itself to administering all HUD-funded programs in a manner to affirmatively further fair housing. Examples of activities to affirmatively administer funded residential projects include, but need not be limited to, the following:
- (1) An examination of local land use and zoning laws to eliminate exclusionary provisions, as part of planning activity to develop a comprehensive development plan.
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- (2) A voluntary affirmative marketing plan, with goals for racially-mixed occupancy, from all developers of residential property which was acquired, developed or rehabilitated with HUD program assistance; and from developers of multifamily residential property who benefit from physical improvements funded with HUD program assistance.
- (a) An example of housing where there is direct expenditure of HUD program funds would be property acquired with HUD assistance and sold with a cost write-down to a developer for rehabilitation and residential re-use.
- (b) An example of housing where there is indirect expenditure of HUD program funds would be property which was acquired and rehabilitated with private funds but for which the grantee used program funds to make physical improvements to the streets, such as a parking lot, alley widening, and new sidewalks, curbs and gutters.

4-11. GRANTEE EMPLOYMENT. In the CDBG program, a grantee's employment policies and practices shall be monitored to determine whether the policies and practices are consistent with the equal employment opportunity and affirmative action requirements of the grant agreement and performance standards established for programs covered by this Handbook. FHEO staff shall examine employment patterns overall and by salary levels. In the CDBG program, FHEO staff shall review employment in the administrative units of local government receiving or using program funds. In the UDAG program, FHEO staff examine all grantee agency employment regarding minorities as reported in the Equal Employment Opportunity Commission Report "State and Local Government Information." FHEO staff also may examine employment practices and policies of subgrantees, private groups and organizational units of corporations which receive HUD assistance to carry out programs and activities under a HUD-funded community development program. Focus of the review shall be full-time, permanent employment.

(4-11)a. Records available in the Area Office include the following:

- (1) Community Development Block Grant Program Fair Housing and Equal Opportunity Report on Recipient Employment (HUD 936). This report is submitted for each department of the unit of government receiving CDBG funds, including administrative or legal departments as well as operating departments or separate agencies. The report contains information regarding full-time, permanent employment and the employment of Section 3 residents. Data is provided, by racial and ethnic category and by gender, on the number of employees, in full-time, permanent positions employed, hired and promoted at the lower, middle, and upper levels.
- (2) Under the CDBG program, the grantee is required to maintain data which records its affirmative action in equal opportunity employment, including but not limited to employment, upgrading, demotions, transfers recruitment or recruitment advertising, lay-offs or terminations, pay or other compensation and selection for training.
- (3) Equal Employment Opportunity Commission Report on "State and Local Government Information" (EEO-4 Form).
- (4) Grantee records which can be examined during a monitoring visit.

b. In the CDBG program, FHEO staff may review employment patterns in each individual administrative unit of local government receiving CDBG funds, or carrying out community development functions funded in whole or in part with CDBG funds.

- (1) FHEO staff shall determine the extent to which minorities are employed overall.
- (2) FHEO staff shall determine the extent to which women are employed overall.
- (3) FHEO staff shall determine the representation of minorities at middle and upper salary levels.
- (4) FHEO staff shall determine the representation of women at middle and upper salary levels.

- (4-11)c. FHEO shall examine the grantee's records regarding its affirmative action in equal employment opportunity, including but not limited to employment, upgrading, demotions, transfers, recruitment or recruitment advertising, layoffs or terminations, pay or other compensation, and selection for training.
- d. FHEO staff shall examine documentation showing the results of affirmative actions in employment including, but not necessarily limited to, the number and percentage of minorities and women hired, promoted, terminated and selected for training.
- e. Factors to be Considered in Reaching Monitoring Conclusions. In reaching monitoring conclusions, the review should consider such factors as the following:
- (1) Minority population in the jurisdiction of the grantee.
  - (2) Minority population in the workforce.
  - (3) Representation of women in the workforce.
  - (4) Total number of employees in administrative units receiving CDBG funds.
  - (5) Total number of grantee employees.
  - (6) Recent results of affirmative actions taken to hire, train and promote minorities, females and lower income persons.
- f. Actions to be Taken Based on Data Analysis. After completion of data analysis and consideration of such factors as set forth in subparagraph 4-11e, where there is data showing a low level of employment, overall or by salary levels, for minorities and/or women, the FHEO staff shall make recommendations to the Area Manager regarding actions to be taken to improve the employment patterns for minorities and/or women.
- (1) In the CDBG program, where the percent of minorities and/or women employed does not reflect the percent of minorities and/or women in the employment market area or the total population of the grantee jurisdiction, the grantee must demonstrate actions in expanding job opportunities for minorities and women, as required by HUD Handbook 6503.1, paragraph 7-4c. This includes an

examination of those identifiable administrative units of a public entity or organizational units of a private entity, carrying out community development functions funded in whole or in part with funds. Corrective and remedial actions are outlined in paragraph 6-3.

- (2) In the UDAG program, where the employment pattern indicates the absence of demonstrated results, the FHEO staff may recommend that UDAG eligibility status be reviewed.

4-12. PROGRAM GENERATED EMPLOYMENT. The FHEO staff shall determine the extent to which minorities and women have been provided training and employment through opportunities generated as a result of activities funded in whole or in part with HUD-financial assistance.

- a. FHEO staff shall assess the number, type, skill level, and location of jobs generated by programs or activities funded in whole or in part with HUD-financial assistance.
- b. An evaluation of the grantee's performance shall include a consideration of the following:
  - (1) The number and types of training positions which were filled by minorities and by women.
  - (2) The number, types and skill levels of short-term positions (e.g., construction jobs) which were filled by minorities and by women.
  - (3) The number, types, skill levels and salaries of permanent positions which were filled by minorities and by women.
- c. As part of its monitoring, FHEO staff shall examine records which document affirmative actions taken to recruit, select, and train minorities and women, and the number of such persons who actually obtained permanent employment in positions generated by a HUD program.

4-13. MINORITY BUSINESS UTILIZATION. FHEO staff shall determine the extent to which the grantee has awarded contracts to minority business enterprises and the extent to which the grantee has provided opportunities for long-term participation of minority business enterprises in connection with programs and activities funded through programs covered under this Handbook.

- a. The grantee's procurement and contracting procedures shall be examined to determine if the procedures facilitate the utilization of minority-owned businesses. Businesses include but are not limited to consultants, professional agencies and construction-related firms. FHEO staff may examine performance regarding direct and indirect business utilization.
- b. FHEO staff shall determine the level of expenditures to minority-owned businesses. FHEO staff shall examine affirmative efforts taken to utilize these businesses.
- c. Records to be examined include the following:
  - (1) Copies of published bid solicitations in commercial media.
  - (2) Listing of organizations which received notice(s) of bid solicitations.
  - (3) Listings of businesses which have been contacted individually for offers of bids.
  - (4) Records showing businesses actually utilized in the HUD-funded project, including data on the race/ethnic identification of the owner(s), location of the business, and dollar amount of the contract award.
- d. Where Community Development program funds (e.g., CDBG, UDAG) have been used to assist or provide leverage for the development of a commercial or industrial facility, FHEO staff shall determine the extent to which minority business enterprises have been provided opportunities for long-term participation in the project.
  - (1) FHEO staff shall monitor actions taken by the grantee and developer, and the results of actions taken, to lease space to minority business enterprises, women business enterprises, and small project area businesses.
  - (2) FHEO staff shall monitor actions taken by the grantee and developers and the results of actions taken, to use targeted businesses as procurement sources for the ongoing operations of the facility. Examples of procurement opportunities include interior landscaping, janitorial services (window washing, carpet cleaning) and printing services.

- (3) Any monitoring of UDAG projects should take into account whether any form of minority benefit commitments were included in the grant agreement or contract for goals for minority employment and, if so, monitor against those goals.

4-14. MINORITY EQUITY PARTICIPATION. FHEO staff shall determine the extent to which the grantee has supported and/or stimulated minority equity investment in HUD-funded projects. If an Urban Development Action Grant project application includes a commitment for minority equity participation, FHEO staff shall determine whether goals for minority equity participation, as contained in the application, were achieved.

4-15. TRAINING, EMPLOYMENT AND CONTRACT OPPORTUNITIES FOR SECTION 3 RESIDENTS AND BUSINESSES. FHEO staff shall determine the extent to which Section 3 residents have been provided opportunities for training and employment in connection with HUD-funded projects and activities, and the extent to which Section 3 businesses have been provided opportunities for and received contracts in connection with HUD-assisted projects and activities consistent with 24 CFR 135.

- a. FHEO staff shall assess the number, type, skill level, and location of jobs generated by HUD-assisted projects and activities.
- b. An evaluation of the grantee's performance regarding training and employment opportunities shall include a consideration of the following:
  - (1) The number and types of training positions which were filled.
  - (2) The number, types and skill levels of permanent positions which were filled by lower income residents.
  - (3) The number, types and skill levels of short-term positions (e.g., construction jobs) which were filled by lower-income residents.
  - (4) Affirmative actions taken to recruit, select, train and employ lower-income residents.

- c. FHEO staff shall assess the type and number of contracting opportunities generated by HUD assisted programs. FHEO staff shall determine the extent to which the grantee has

awarded contracts to businesses located in or substantially owned by persons residing in the metropolitan area or nonmetropolitan county. An evaluation of performance shall include a consideration of the following:

- (1) Procedures used to advise businesses of contract opportunities and to solicit participation in the procurement and/or bid process.
- (2) Goals established by the grantee for the use of "Section 3" businesses, as required by 24 CFR 135.70.
- (3) Actual contract awards to "Section 3" businesses.

4-16. CITIZEN PARTICIPATION. Grantees are required to provide citizens with an adequate opportunity to participate in planning, implementing and assessing community development programs. The FHEO staff shall monitor the grantee's citizen participation process to determine the extent to which minority, women and handicapped persons have been involved in the planning, implementation and assessment of the CDBG and UDAG programs. A review of citizen participation should be coordinated with the CPD representative.

- a. FHEO staff shall determine whether handicapped persons are represented on any community-wide or neighborhood advisory group.
- b. Where there are minority group residents, FHEO staff shall determine whether members of minority group(s) are represented on any community-wide or neighborhood advisory group.
- c. The FHEO staff shall compare the level of technical assistance given to minority groups and to nonminority groups which request assistance in developing proposals and statements of views.
- d. Where there is a substantial bilingual population, the FHEO staff shall determine whether public notices and summaries of basic information are produced in the appropriate languages and whether bilingual opportunities are offered at required public hearings.

- e. FHEO staff shall determine whether minority groups and handicapped persons participated in the assessment of the HUD-funded programs and activities, and whether the assessments were considered by the grantee.

- f. FHEO staff shall examine the grantee's process for securing citizen participation to determine whether women, minority groups and handicapped persons are given an opportunity to become involved in planning, implementing and assessing community development programs.

4-17. RECORDKEEPING REQUIREMENTS. Each grantee shall keep such records and submit to HUD timely, complete and accurate reports at such times, and in such form and containing such information as HUD determines to be necessary to enable the Department to determine whether the grantee has carried out the provisions of Title VI, Civil Rights Act of 1964; Executive Order 11063; Title VIII, Civil Rights Act of 1968, as amended; Section 3, HUD Act of 1968, as amended; and Section 109, HCD Act of 1974. Information recorded in the Grantee Performance Report (certain CDBG programs) and in the Quarterly Progress Report (UDAG program) does not satisfy all of the recordkeeping requirements.

- a. Maintenance of Data. All grantees are required by 24 CFR 1.6(b), pertaining to Title VI, to maintain racial and ethnic data showing the extent to which members of minority groups are beneficiaries of federally assisted programs. In the CDBG program, the FHEO staff shall also examine the grantee's records to determine whether data is maintained as required by HUD regulations 24 CFR 570.907(f) which states:

- (1) "The recipient shall maintain demographic data by census tract. The data shall include prevailing population characteristics relating to race, ethnic group, sex, age, and head of household."
- (2) "The recipient shall maintain racial, ethnic and gender data showing the extent to which these categories of persons have participated in, or benefited from, programs and activities funded under this Part."
- (3) "The recipient shall maintain data which records its affirmative action in equal opportunity employment, including but not limited to employment, upgrading, demotions, transfers, recruitment or recruitment advertising, layoffs or terminations, pay or other compensation, and selection for training."

- (4) "The recipient shall maintain data which records its good faith efforts to identify, train and/or hire lower-income residents of the project area and to utilize business concerns which are located in or owned

in substantial part by persons residing in the area of the project."

b. Documentation of Affirmative Action. During the review of The various FHEO monitoring areas, as set forth in paragraph 4-4 through 4-16, FHEO staff shall review any documentation of affirmative actions taken, and the results of actions taken, to satisfy fair housing and equal opportunity requirements as set forth in the law, regulations and performance standards.

c. Focus of Review.

(1) The focus of an on-site recordkeeping review shall be data which documents any special needs of "identifiable segments of the total group of lower-income persons," particularly minority groups, as defined in paragraph 2-3; and data which records the categories of persons who have participated in, or benefited from HUD-funded projects and activities.

(2) The FHEO staff shall verify the data source for documenting needs and shall determine the recency and, to the extent feasible, accuracy of the data source. For example, a grantee may utilize U.S. Census data, a consultant study, or a local survey to document needs.

4-18. FHEO RELATED CONTRACT PROVISIONS. FHEO staff shall examine contract documents to determine whether the grantee has incorporated all appropriate FHEO contract provisions, as follows:

a. Equal Employment Opportunity Clause. Contract clauses and solicitations for offers and bids should be reviewed to assure that the following requirements have been met:

(1) Contract clauses and solicitations for offers and bids should be reviewed to assure that all construction contracts under \$10,000 and nonconstruction contracts, regardless of dollar amount, include an EEO clause as set forth in the grant agreement for the applicable program. This requirement applies to the CDBG, UDAG and Categorical Program Settlement Grant programs.

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(4-18) (2) All solicitations for offers and bids on federally assisted construction contracts of \$10,000 or more must include the following clauses:

- (a) Notice of Requirement for Affirmative Action to ensure Equal Employment Opportunity as found in 41 CFR 60-42(d).
  - (b) Standard Federal Equal Employment Opportunity Construction Contract Specifications, as found in 41 CFR 60-4.3.
- (3) All federally assisted construction contracts in excess of \$10,000 shall include clauses set forth in subparagraphs (a) and (b) above and the Equal Opportunity Clause as found in 41 CFR 1.4(b).
- b. Section 3 Contract Provisions. All solicitations for offers or bids on assisted contracts, whether a bidding or negotiated procedure is used and regardless of dollar amount, must include advice regarding the requirements of Section 3, HUD Act of 1968, as amended (24 CFR 135.25(b)). All bid documents shall include the grantee's affirmative action plan for the utilization of businesses located in or owned in substantial part by persons residing in the project area (24 CFR 135.70(c)(1)). Where competitive bids are solicited, all accepted bid proposals shall include the bidder's Section 3 business utilization goals. (24 CFR 135.70)
- c. Fair Housing Provisions. Grantees should be encouraged to include language regarding the nondiscrimination in housing provisions of Title VIII, Civil Rights Act of 1968, as amended and Executive Order 11063 in all contracts or other legally binding agreements with developers, neighborhood based nonprofit and similar organizations related to the provision of housing services (e.g., sale of structures to a developer for rehabilitation and re-sale). FHEO staff shall note the incorporation of such provisions as an affirmative action, undertaken by the grantee to further fair housing.

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- (4-18)d. Nondiscrimination in Services Provisions. Grantees should be encouraged to include language regarding the nondiscrimination provisions of Title VI, Civil Rights Act of 1964, and Section 109, Housing and Community Development Act of 1974, and in all disposition agreements, contracts, lease agreements or other legally binding agreements with developers, neighborhood based nonprofit organizations and similar entities to provide public services or nonresidential facilities. For example, a lease agreement with a community organization to operate a

recreational center may include such provisions. Another example would be lease agreements in a commercial facility which was developed in whole or in part with HUD program assistance. FHEO staff shall note the incorporation of a "nondiscrimination in services provision" as an affirmative step taken by the grantee to ensure equal opportunity.