

CHAPTER 1. INTRODUCTION

1-1. PURPOSE. The primary purpose of this handbook is to consolidate, into one manual, procedures for monitoring the civil rights-related program requirements (CRRPR) of Lower-Income Public Housing (LIPH), Section 8 Certificate, Housing Voucher and Moderate Rehabilitation Programs administered by Public Housing Agencies (PHAs).

CRRPR refers to any civil rights-related program requirement which is established by statutory, regulatory, or handbook authority. A description of the procedures and requirements for monitoring the CRRPR of each function and activity of the PHA's programs follows in Chapter 4.

NOTE: This handbook does not establish new policy for evaluating Performance of PHAs in meeting the current provisions of HUD programs. It focuses on policies that are either:

- o stated explicitly in a program regulation and/or civil rights law (see paragraph 1-3D); or
- o designed to provide a mechanism for implementation of a civil rights requirement or objective.

Further, information contained in this Handbook is not freestanding and should be used in conjunction with program handbooks for the Lower-Income Public Housing, Section 8 Certificate and Housing Voucher and Moderate Rehabilitation Programs listed at Appendix 1.

1-2. APPROACH TO MONITORING.

- A. Departmental Objectives-- Tasks carried out during Fair Housing and Equal Opportunity (FHEO) monitoring include data collection to:
1. Determine the extent to which administrators of Housing and Community Development programs meet the CRRPRs of HUD programs; and
 2. Revise FHEO policy and procedures where necessary to meet the provisions of programs of HUD.

To simplify monitoring activities, some of the procedures have been standardized and incorporated into one section of this Handbook. This occurs only where the civil rights requirements are the same for more than one program. This has been done to:

- a. facilitate monitoring by HUD staff; and

- b. assist project managers with implementation of activities to meet the equal opportunity requirements

of their programs.

- B. FHEO Monitoring. Among other purposes, a primary objective of FHEO Field Office monitoring is to determine whether or not PHAs meet the civil rights-related requirements of the programs they manage. The process for conducting this review of PHA operations requires FHEO staff to gather information on each PHA administered program and to assess the impact of the PHA's programs with regard to the objectives of the Office of FHEO. Chapters 2 and 3 provide a detailed discussion of the process for targeting PHA reviews.

Where there are cross-cutting objectives and civil rights requirements, the review should establish data and information about the overall effect of the PHA practices on the familial status, gender, race, ethnicity and handicap status of groups participating in all of the PHA programs.

Therefore, monitoring places great emphasis on:

- o the PHA's past performance in meeting civil rights requirements;
 - o the history regarding the development of the PHA's projects;
 - o the assembly of information about the housing market area and jurisdiction in which the PHA operates and the types of HUD-assisted housing managed by the PHA;
 - o the identification of the CRRPR of each program and how to distinguish each legal requirement; and
 - o evaluation of the overall implementation of all civil rights-related programs and activities administered by the PHA.
1. Areas of Review. Chapter 4 provides procedures for review of key aspects of PHA programs and activities as follows:

- Section 1. Management and Administration
- Section 2. Equal Employment Opportunity and Training
- Section 3. Outreach and Affirmative Marketing
- Section 4. Occupancy Reviews and Tenant Data

Each of the sections describe the process to follow when conducting a monitoring review of the areas targeted. While there is a separate procedure for each area, each section is organized in the same manner. For each aspect of the PHA s program scheduled for monitoring, the procedure includes the following:

- a. Monitoring Requirements: Civil rights-related program requirements. Where there is no specific legal or Handbook requirement, the procedures provide a statement of the monitoring objective or question(s) which the reviewer must address in order to carry out the review.
 - b. Areas to Monitor: Aspects of the PHA's program in relation to the monitoring requirements under review.
 - c. Monitoring Approach: The general approach to monitoring based on the areas to be reviewed and the questions to be answered. The strategy identifies the procedures used to monitor PHA performance, if applicable, and the body of data and information upon which conclusions and recommendations for action are based.
2. Data Sources. Many types of data may be necessary to carry out an effective review of a PHA program. It is extremely important for FHEO staff to follow the procedures discussed in Chapters 2 and 3 with respect to methods for targeting PHAs for review and for developing monitoring plans and strategies.

Those procedures assure that monitoring in each of FHEO's Field Offices is conducted in accordance with goals of the monitoring program to:

- a. Determine whether the PHA's civil rights certifications are acceptable;

- b. Monitor performance of the PHA in conforming with applicable civil rights and equal opportunity-related requirements in the administration of the programs covered by this handbook;
- c. Identify technical assistance needs;
- d. Assist PHAs, as necessary, with management of their programs and activities as they relate to the civil rights-related requirements of their programs;
- e. Collect data and information, only as directed by the Regional Director for FHEO in connection with

activities of the Compliance Division, to:

- (1) Target PHAs for a compliance review;
- (2) Conduct a civil rights complaint investigation; or
- (3) Resolve an action required of the PHA as a result of a complaint investigation or a compliance review.

Monitoring procedures for other aspects of the PHA program that are not listed in Chapter 4 are outlined in Chapter 7.

- C. Relationship with FHEO Compliance and Enforcement Programs. Civil rights laws prohibit discrimination on several basis. Most HUD programs are subject to more than one civil rights law. Under the provisions of those laws, HUD program regulations prescribe specific actions which responsible parties (e.g., participants in insurance programs of the Federal Housing Administration, Public Housing Agencies, Chief Executive Officers of a State or unit of local government under the Community Development Block Grant Program) must carry out in relationship to both the monitoring and compliance and enforcement activities of the Office of Fair Housing and Equal Opportunity.

Even though compliance review and monitoring functions are conducted by different FHEO Offices, the same functional areas of the PHA's program may appear on both civil rights monitoring and compliance review schedules. Further, the review of such functions may be based on the same civil rights legal authorities.

There are, however, significant differences in the procedures, methods of implementation, and the corrective and remedial actions which govern civil rights monitoring and compliance activities.

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Exhibit 1 identifies the civil rights regulations which are applicable to the PHA's program and highlights the unique characteristics of civil rights requirements. A detailed discussion of the circumstances and basis for making monitoring conclusions (including findings and concerns) is provided in Chapter 6.

1-3. APPLICABILITY.

- A. Programs Covered: This handbook applies to the following HUD-assisted multifamily housing projects, Housing Assistance Payments, and programs and activities of PHAs, which are authorized under the U.S. Housing Act of 1937 (42 U.S.C. 1437):

1. Sections 4, 5, and 9, (Lower-Income Public Housing (LIPH))

2. Section 8 Existing (Finders-Keepers) Certificates
3. Section 8 Moderate Rehabilitation
4. Section 8 Housing Voucher Program

This handbook does not cover:

5. Section 8: New Construction
Substantial Rehabilitation
6. Section 202 projects (with or without Section 8)
7. HUD-owned projects
8. Insured and Non-Insured State Housing Agency Projects
9. Section 515/8 Farmers Home Administration Projects
10. Rental Assistance Payments

B. Applicable Civil Rights and Equal Opportunity Laws

1. 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 the benefits of, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance.

2. Federal Fair Housing Act, prohibits discrimination in housing on the basis of race, color, religion, sex, handicap, familial status, or national origin. The Act also requires reasonable accommodation in rules and that permission be granted for reasonable modifications of premises (at tenant expense) if necessary to afford a handicapped person full enjoyment of the premises. This law also mandates that HUD administer its programs of housing and urban development in a manner affirmatively to further fair housing.
3. Section 3, Housing and Urban Development Act of 1968, 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 small 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.
4. Section 504 of the Rehabilitation Act of 1973, provides that

no otherwise qualified handicapped individual in the United States shall, solely by reason of his/her handicap, be excluded from participation in, be denied the benefits of, or be discriminated against under any program or activity receiving Federal financial assistance.

5. Age Discrimination Act of 1975, provides that no person 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.
6. Executive Order 11063, provides that no person in the United States, because of race, color, religion (creed), sex, or national origin, shall be denied equal opportunity in housing and related facilities owned or operated by the Federal Government or 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. Because of the overlap with Title VI of the Civil Rights Act of 1964, HUD regulations provide that coverage under this executive order is limited to programs of insurance or guarantee except where there are allegations of discrimination based on religion and sex.

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7. Executive Order 11246, as amended by Executive Order 12086, 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.
- C. Characteristics of Civil Rights Requirements. Certain aspects of civil rights requirements set them apart from other Federal requirements.
1. Constitutional Basis. The guarantee of civil rights has a constitutional as well as statutory base. Civil rights laws are an extension and interpretation of the equal protection and due process requirements of the United States Constitution.
 2. Variety of Covered Groups. Civil rights laws prohibit discrimination on several different grounds. These grounds are often the same among two or more of these laws. Thus, persons in a variety of "classes" or population groups are covered. These groups include: racial/ethnic groups (e.g. Whites, Blacks, Hispanics, Asians/Pacific Islanders and American Natives); gender groups; groups distinguished by age or religion; and handicapped persons. The chart below indicates which of these classes or groups are covered by

more than one civil rights law:

| | Race | Color | Sex | Nat'l Origin | Religion | Age | Familial Status | Handicap |
|--------------|------|-------|-----|-----------------|----------|-----|--------------------|----------|
| Title VI | X | X | | X | | | | |
| F.H.A. | X | X | X | X | X | | X | X |
| E.O. 11063 | X | X | X | X | X | | | |
| E.O. 11246 | X | X | X | X | X | | | |
| Age Act 1975 | | | | | | X | | |
| Section 504 | | | | | | | | X |

3. Nature of Civil Rights Requirements Incorporated into HUD Program Regulations.

- a. Civil rights laws: Most civil rights laws are expressed in terms of the types of discrimination which are prohibited. In addition to the characteristics outlined above, one or more civil rights laws may apply to a single activity of a major Departmental program.

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When preparing for monitoring, the first step is to refer to the appropriate program regulation to determine coverage of the civil rights laws and regulations. Through this process, the reviewer is able to identify the list of civil rights authorities which are the basis for all monitoring, compliance and enforcement requirements of the program.

- b. Civil rights regulations: Exhibit 1 provides a list of the civil rights regulations that are applicable to the programs covered by this handbook.

Civil rights regulations also enumerate the types of discriminatory actions that are prohibited. However, in many cases the laws and regulations do not prescribe equal opportunity-related management procedures which PHAs follow in the day-to-day administration of their programs. Paragraph 1-3(D) discusses the civil rights-related requirements of HUD Program regulations. Where HUD regulations do not contain steps that managers must follow, government-wide regulations may apply.

D. Civil Rights-Related Program Requirements (CRRPR).

Program requirements and procedures for managing assisted housing programs are detailed in HUD regulations and other directives. These documents describe requirements for implementing the programs and for evaluating the manner in which they operate.

As stated above, the term "CRRPR" refers to any specific civil rights-related requirement which is established in a particular program's statutory, regulatory or handbook authority. Such requirements are incorporated in program documents. Examples of procedures that are incorporated in program regulations or

handbooks that are CRRPR include:

1. PHA civil rights certifications of intent to comply with equal opportunity and civil rights laws;
2. Tenant selection and assignment procedures (24 CFR 1.4);
3. Equal opportunity and affirmative action employment requirements of the Annual Contributions Contract (ACC) and training of project area residents;
4. Application requirements for the Equal Opportunity Housing Plan (EOHP);

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5. Required training for PHA staff regarding Federal, state and local civil rights laws;
6. Outreach and marketing to those who are least likely to apply for the housing and are eligible for housing assistance in the PHA's jurisdiction and/or the housing market areas of the HUD assisted project;
7. Requirements for posting nondiscrimination policies and for referring complaints of housing discrimination to HUD, including posting conspicuously both HUD Fair Housing Posters, HUD-928.1 (3-89) (English version) and HUD-928.1A (6-89) (Spanish version);
8. Protection from retaliation against tenants who participate in civil rights activities;
9. Provision of a Telecommunications Device for the Deaf (TDD) or equally effective communication system to be used when the PHA communicates with applicants and beneficiaries by telephone.

Nondiscrimination policies with respect to admission procedures, applications, suitability for tenancy and tenant selection are described in Handbook 7465.1 , REV-2, Public Housing Occupancy, Chapters 1-6. The EOHP outlines the civil rights related requirements for the Section 8 Existing Housing Programs (24 CFR Parts 882 and 887). CRRPR relating to each of the eight objectives in the plan are incorporated in the monitoring procedures in Chapter 4 of this handbook.

During monitoring, the overriding task for FHEO staff is to assist the PHA with implementation of CRRPR that relate to management and delivery of its programs. Such requirements are designed to:

- o Prevent discrimination because of race, color, religion (creed), sex, national origin, age, familial status or handicap status in the delivery of benefits; and,

- o Ensure that the programs of HUD are conducted in a manner affirmatively to further objectives of the Fair Housing Act. Further, all FHEO monitoring activities must be based on the program requirements outlined in the applicable statute, regulation, HUD Handbook or other HUD-approved document.

FHEO Program Operations Division/Field Office Division (POD/FOD) offices are not authorized at the monitoring stage to issue

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conclusions that a PHA has or has not discriminated (i.e., is in compliance with, or is not in compliance with, a civil rights law). Monitoring requirements and actions to determine the performance of PHAs with respect to "CRRPRS" for the activities which affect PHAs during funding cycles, or daily management of their programs, are covered in Chapter 4.

Exhibit 2, PHA Activities and Related Requirements, provides a list of the key PHA activities, applicable civil rights laws and other CRRPR for each area of the PHA's program.

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EXHIBIT 1

APPLICABLE LAWS AND REGULATIONS

- a. The following chart and information identifies the civil rights regulations which are applicable to the PHA's program; and
- b. highlights the unique characteristics of civil rights requirements.

| APPLICABLE CIVIL RIGHTS LAW | IMPLEMENTING REGULATIONS | NATURE OF REGULATORY GUIDANCE |
|--|--|-------------------------------|
| Title VI, Civil Rights Act of 1964 | 24 CFR Part 1 (HUD) | Applicable |
| Executive Order 11063, as amended | 24 CFR Part 107 (HUD) | Applicable |
| Fair Housing Act | 24 CFR Parts 100, 103, 104, 106, 109, 110, & 121 | Applicable |
| Executive Order 11246, EO 12086, EO 11375* | 41 CFR Chapter 60 (DOL) | Applicable |

| | | |
|--|-----------------------|------------|
| Section 3, Housing Urban Development Act of 1968 | 24 CFR Part 135 (HUD) | Applicable |
| Section 504, Rehabilitation Act of 1973, as amended | 24 CFR Part 8 | Applicable |
| Age Discrimination Act of 1975 | 24 CFR Part 146 | Applicable |
| Title V, Subtitle C, Section 562 HCDA of 1987 Racial and Ethnic Data | 24 CFR Part 121 | Applicable |

* LIPH Program Only
Program regulations that contain specific civil rights related requirements are discussed in paragraph 1-3 (c)(3).

EXHIBIT 2

PHA Activities and Applicable Requirements U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity

| Activity | Applicable Requirements |
|--|---------------------------------|
| Management and Administration | o Title VI |
| o Administrative Plans | o Fair Housing Act |
| o Equal Opportunity Housing Plan | o Section 504 |
| Comprehensive Improvement Assistance Program | o Age Discrimination Act 1975 |
| | o Executive Order 11063 |
| Occupancy Reviews | o Title VI |
| o Tenant Selection and Assignment | o Fair Housing Act |
| o Admission Policies | o Executive Order 11063 |
| o Lease and Grievance Procedures | o Age Discrimination Act 1975 |
| | o Section 504 |
| Employment and Training | o Annual Contributions Contract |
| | o Section 3 |
| | o Executive Order 11246, 12086 |
| | o Age Discrimination Act 1975 |
| | o Section 504 |
| Relocation/Displacement | o Title VI |
| | o Fair Housing Act |

- o Executive Order 11063
 - o Age Discrimination Act 1975
 - o Section 504
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Outreach and Marketing

- o Title VI
 - o Fair Housing Act
 - o Executive Order 11063
 - o Section 504
 - o Age Discrimination Act 1975
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Advertising and Poster Requirements

- o 24 CFR Parts 100.75, 109 and 110
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Records and Reports

- o Title VI
 - o Executive Order 11063
 - o Section 562, HCDA
 - o Section 808(e)(6) Fair Housing Act
-

Minority/Women's Business Enterprise

- o Executive Order 11625
- o Executive Order 12432

Business Opportunity

- o Executive Order 12138
- o Section 3