
CHAPTER 2. PROGRAM REQUIREMENTS FOR CIVIL RIGHTS

- 2-1. OVERVIEW This chapter describes civil rights and equal opportunity requirements in the State CDBG program. This chapter:
- a. distinguishes civil rights regulations which are mandatory from those which simply provide guidance to States and recipients;
 - b. highlights the unique characteristics of civil rights requirements; and
 - c. outlines civil rights related records and reports required.
- 2-2. APPLICABLE CIVIL RIGHTS AND EQUAL OPPORTUNITY LAWS
- a. Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall , on the ground of race, color, or national origin, be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance.
 - b. Title VIII, Civil Rights Act of 1968, as amended prohibits discrimination in housing on the basis of race, color, religion, sex or national origin. This law also mandates that HUD administer its programs of housing and community development in a manner to affirmatively further fair housing.
 - c. Section 3, Housing and Urban Development Act of 1968, as amended provides that, to the greatest extent feasible, opportunities for training and employment shall be given to lower-income residents of the unit of local government or the metropolitan area (or non-metropolitan county), as determined by the Secretary, in which the project is located; contracts for work in connection with such projects shall be awarded to business concerns which are located in, or which are owned in substantial part by persons residing in the same metropolitan area (or non-metropolitan county) as the project.
 - d. Section 504 of the Rehabilitation Act of 1973, as amended provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of his/her handicap, be excluded from the participation in, be denied the benefits of, or be discriminated against under any program or activity receiving Federal financial assistance.

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- (2-2) e. Age Discrimination Act of 1975, as amended 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.
- f. Executive Order 11063, as amended 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 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. Coverage is limited to programs of insurance or guarantee except where there are allegations of discrimination based on religion and sex.
- g. Executive Order 11246, as amended 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.
- h. Section 104, Housing and Community Development Act of 1974, as amended requires each State to certify that it will affirmatively further fair housing.
- i. Section 106, Housing and Community Development Act of 1974, as amended requires that a State receive from funded units of local government, a certification to affirmatively further fair housing. Local government recipients must take some action that will facilitate fair housing choice.
- j. Section 109, Housing and Community Development Act of 1974, as amended requires that no person in the United States shall on the grounds of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under Title I. Further, Section 109 provides that any prohibition against discrimination on the basis of age under the Age discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 shall also apply to any program or activity funded in whole or in part with funds made available pursuant to Title I. This Section prohibits discrimination in employment as well as in the provision of facilities, services and benefits.
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- 2-3. REGULATIONS IMPLEMENTING CIVIL RIGHTS LAWS. Federal regulations implementing the various civil rights and equal opportunity laws contain an explanation of the objectives, policies and procedures for carrying out the intent of the laws in HUD assisted programs such as the State CDBG program. In addition, HUD regulations at 24 CFR 570, Subpart I, governing the State CDBG Program describe policies and procedures applicable to State which elect to receive CDBG funds for distribution to units of general local government in the State's nonentitlement areas. These "program regulations" enumerate applicable civil rights and equal opportunity laws and regulations. States must follow provisions of certain civil rights regulations, while, with respect to others, States may refer to the provisions of the federal regulations for guidance (see Appendix 2).
- a. Applicable "Civil Rights" Regulations. The State must comply with the provisions of the following civil rights regulations. These regulations are in addition to any requirements of a civil rights nature contained in Subpart I of 24 CFR Part 570, the State CDBG Program regulations.
- (1) 24 CFR Part 1 - Nondiscrimination in Federally Assisted Programs of HUD, (implements Title VI, Civil Rights Act of 1964).
 - (2) 24 CFR Part 107, Nondiscrimination and Equal Opportunity in Housing, (implements Executive Order 11063, as amended).
 - (3) 41 CFR Chapter 60 - Obligations of Contractors and Subcontractors (implements Executive Order 11246, as amended).
- b. Non-applicable "Civil Rights" Regulations. Although the following regulations are not mandatory, States may use them as guidance in developing their own procedures. Where HUD regulations do not exist, guidance is provided in government-wide regulations issued by other Federal agencies. See Appendix 1.
- (1) Title VIII, Civil Rights Act of 1968, as amended:
 - (a) 24 CFR Part 200, Subpart M, Affirmative Fair Housing Marketing Regulations
 - (b) 24 CFR Part 105, Fair Housing (Complaint Process)

(2-3b.) (c) 24 CFR Part 108, Compliance Procedures for Affirmative Fair Housing Marketing

(2) Section 3, HUD Act of 1968, as amended:

24 CFR Part 135, Employment Opportunities for Businesses and Lower-Income Persons in Connection with Assisted projects.

(3) Section 504, Rehabilitation Act of 1973, as amended:

28 CFR Part 42, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.

(4) Age Discrimination Act of 1975, as amended:

45 CFR Part 91, Nondiscrimination on the Basis of Age in Programs or Activities Receiving Financial Assistance.

c. Program Regulations Include Guidance on Civil Rights Laws. Subpart I of 24 CFR Part 570 notes the applicability of civil rights regulations set forth in subparagraph "a" above and includes specific requirements with respect to the civil rights laws listed below (see paragraph 2-2 for an explanation of these laws).

(1) 24 CFR Part 570.496(a) implementing Section 104, Housing and Community Development Act of 1974.

(2) 24 CFR Part 570.496(b) implementing Section 109, Housing and Community Development Act of 1974.

(3) 24 CFR Part 570.496(e) implementing Section 3, HUD Act of 1968. States are directed to develop appropriate procedures and requirements to assure good faith efforts towards compliance with the statutory directive regarding training, employment and business opportunities. States may refer to regulations at 24 CFR 135 as guidance indicative of the Secretary's view of the statutory objective in Section 3.

2-4. CHARACTERISTICS OF CIVIL RIGHTS REQUIREMENTS. Certain aspects of civil rights requirements set them apart from other Federal requirements in the State CDBG program.

- a. 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.
- b. 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	National Origin	Religion	Age	Handicap
Title VI	X	X		X		X*	X*
Section 109	X	X	X	X			
Title VIII	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

Section 3--Coverage relates to lower-income residents and certain businesses located in or owned by persons residing in the same metropolitan area (or non-metropolitan county) as the project.

- c. Overlapping Coverage of Activities. More than one civil rights law may apply to a single type of activity. Appendix 3 is a description of some of the major CDBG activities and the corresponding civil rights laws that affect them.
- d. Nature of the Requirements. Most civil rights laws are expressed in terms of prohibiting discrimination. HUD's implementing regulations, such as those for Title VI, frequently enumerate the types of actions which are prohibited, but do not prescribe specific actions which a State or recipient must to conform with the civil rights requirements.

*NOTE: Age and handicap are only covered to the extent provided under the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973.

- a. General. The State must keep records that are sufficient for HUD to make reviews of States to determine whether:
 - (1) the program is being carried out in accordance with the State's certification;
 - (2) the State has made such reviews and audits of the recipients as may be necessary or appropriate to determine whether the recipients have carried out activities and certifications in accordance with the requirements and primary objective of Title I.
- b. The records do not have to demonstrate a recipient's conformance; they have to demonstrate that the State has reviewed recipients civil rights performance and determined that this performance meets civil rights requirements or that corrective action(s) are necessary and are being implemented by the recipients, as appropriate.
- c. Recordkeeping requirements under civil rights regulations. The State must comply with requirements for recordkeeping as set forth in regulations governing Title VI and Executive Order 11063 (see appendix 4).
- d. Recordkeeping requirements under 24 CFR Part 570. RESERVED

2-6. CIVIL RIGHTS RELATED REPORTING REQUIREMENTS - RESERVED
