
CHAPTER 7. CIVIL RIGHTS COMPLIANCE ACTIVITIES

7-1. OVERVIEW.

This chapter describes procedures for carrying out compliance reviews and processing complaints under certain civil rights laws. This chapter:

- a. defines civil rights compliance activities;
- b. establishes procedures for conducting civil rights investigations and compliance reviews under Title VI and Section 109; and
- c. describes roles of FHEO staff in carrying out HUD's civil rights compliance and enforcement responsibilities.

7-2. DEFINITIONS.

- a. Administrative complaints regarding Community Planning and Development (CPD) Programs. Administrative complaints are written allegations about violations of regulatory requirements in the administration of the CPD Program. Complaints may be filed against the State or local government recipient. Complaints may be filed with HUD, the State, or a recipient.
 - (1) Administrative complaints vary in their relationship to civil rights requirements. Administrative complaints may:
 - (a) have no relationship to the civil rights requirements in the program; for example, complaints about the use of CDBG funds for activities that, in the opinion of the complainant, are not eligible activities.
 - (b) without alleging violation of civil rights laws, raise civil rights concerns because of the racial, ethnic or gender characteristics of the person or group of persons affected by the alleged management or performance irregularity or deficiency; for example, a complaint about a failure to comply with the "Uniform Relocation Act" where a majority of the displaced persons are minority, elderly, or female-headed households.

- (7-2a.) (c) allege violations under one or more civil rights laws, as well as other programmatic requirements; for example, a complaint which alleged that a State failed to hold a public hearing on the final statement of community development objectives and developed a method of fund distribution that precluded the participation of jurisdictions with substantial minority populations in need of CDBG funded benefits.
- (2) HUD staff should be familiar with the guidance provided in HUD Handbook, 5552.0 REV.-1 , CPD Complaints Handbook. This Handbook explains general procedures for handling administrative complaints, including those containing issues relating to civil rights implementation, and describes procedures for handling:
- (a) complaints alleging HUD deficiencies (except complaints alleging civil rights violations);
- (b) complaints concerning the State Block Grant Program (not involving civil rights violations); and
- (c) complaints alleging violations of civil rights requirements.

b. Civil Rights Complaints.

Civil Rights complaints allege a violation of one or more of the following legal authorities:

- (1) Title VI of the Civil Rights Act of 1964
- (2) Title VIII of the Civil Rights Act of 1968, as amended
- (3) Section 109 of the HCD Act of 1974, as amended
- (4) Section 504 of the Rehabilitation Act of 1973, as amended
- (5) Age Discrimination Act of 1975, as amended
- (6) Section 3 of the HUD Act of 1968, as amended
- (7) Executive Order 11246, as amended
- (8) Executive Order 11063, as amended

is an indepth review of Federally assisted programs or activities for which allegations of discrimination, in violation of civil rights laws, have been received. The primary purpose of the investigation is to determine whether the program or activities in which discriminatory conduct has been alleged will be examined during a complaint investigation. Investigative procedures are similar to those used to conduct a compliance review described below.

d. Civil Rights Compliance Reviews.

- (1) A compliance review is a fact-finding process designed to determine whether a recipient, and in the case of the State program, the State as grantee, is complying with applicable civil rights laws and requirements in the administration and operation of Federally assisted programs and activities. A compliance review:
 - (a) involves an analysis of data covering the administration and operation of all such programs and activities;
 - (b) is intended to determine whether there is a denial of benefits and services or a substantial adverse disparity in the delivery of the benefits and services provided on one or more bases that are prohibited by civil rights laws; and
 - (c) may include a review of the employment policies and practices of the State and recipients, as these policies and practices are carried out by departments, agencies, subgrantees and private groups which administer HUD funded programs or activities.
- (2) A compliance review usually involves an examination of only those programs and activities funded in whole or in part with CDBG funds. However, the review may be expanded to include other activities of the administrative unit to which CDBG funds have been disbursed.
- (3) HUD may initiate a compliance review even in the absence of a complaint.

7-3. RELATIONSHIP OF CIVIL RIGHTS MONITORING AND ACTIVITIES.

- a. General. Civil rights monitoring and compliance activities are reviews of the State's (and in some instances the local government recipients'), performance to ensure compliance with

civil rights requirements. Monitoring and compliance activity share civil rights legal authorities; however, there are significant differences in the procedures, determinations and the corrective and remedial actions which govern these two activities. Information gained through monitoring activity may result in referral of a grantee/recipient for a compliance review. Information gained through compliance activity may affect the focus and scope of monitoring activity. FHEO staffs carrying out these two functions must coordinate their activities.

b. Statutory and regulatory bases.

(1) Monitoring is carried out pursuant to the Secretary's review responsibilities under Section 104 (d) of Title I of the Housing and Community Development Act of 1974, as amended. Regulations governing HUD's review responsibilities are found in 24 CFR Part 570. The specific applicability of Title VI is incorporated into Title I, the program statute. 24 CFR Part 1, the regulations governing Title VI are incorporated into the program and regulations at 24 CFR Part 570. Where monitoring reveals deficiencies, FHEO staff use the remedies and corrective actions available under Title I and Part 570.

(2) Compliance reviews are part of the civil rights enforcement authority delegated to the Assistant Secretary for Fair Housing and Equal Opportunity. Compliance reviews are conducted pursuant to the provisions of Title VI and 24 CFR Part 1 as well as Section 109 of Title I and 24 CFR Part 570. Where a compliance review reveals noncompliance, FHEO staff will seek a remedy through a negotiated compliance agreement with the recipient. If voluntary compliance efforts fail, the Assistant Secretary for FHEO shall use the remedies and corrective actions available under Title VI, Section 109, Part 1 and Part 570.

c. Level of review. HUD may conduct a civil rights compliance review at both the State level and the recipient level, as deemed appropriate and necessary to HUD. Monitoring is focused at the State level.

12/85

7-4

8005.2

(7-3) d. State's responsibilities relative to recipients. States review (monitor) recipients performance under all applicable civil rights and equal opportunity requirements; forward complaints of discrimination to the HUD Regional Office of FHEO and cooperates with HUD in collecting data and, if necessary, securing corrective actions in connection

with a compliance review.

- e. Scope and priorities. HUD's priorities for conducting compliance reviews in the State CDBG program will be those programs and activities covered by Title VI and Section 109. HUD has sole authority for conducting civil rights compliance reviews at the local government level. Only a selected number of States and recipients are reviewed each year. In comparison, HUD monitoring includes an annual review of all civil rights requirements of every State administering the CDBG program.
- f. Handling complaints. Complaints that contain allegations of discrimination in the State CDBG program are forwarded to the Regional Office of FHEO for processing, including complaints that also contain other allegations under Title I that do not relate to civil rights requirements. In such instances, only the civil rights allegations are investigated by the Regional Office of FHEO. Administrative complaints with a civil rights concern are handled by CPD and FHEO staff in Category A Offices and Program Operations Divisions in Regional Offices of FHEO.
- g. Monitoring precedes compliance activity.
 - (1) Because the monitoring process is ongoing, monitoring provides HUD an opportunity to give technical assistance on a regular basis to help the State and recipient fulfill their civil rights requirements and meet equal opportunity objectives. Thus, successful monitoring efforts can eliminate the need for a compliance review.
 - (2) Monitoring assists the Regional Office Compliance Division in:
 - (a) targeting compliance reviews on States and localities with severe civil rights problems, and
 - (b) focusing compliance activity on those specific projects and activities where deficiencies in performance appear to approach the level of preliminary noncompliance with Title VI and Section 109.

7-4. RESPONSIBILITIES FHEO STAFFS

- a. Compliance Division, Regional Office of FHEO. Under the direction of the Regional Director for FHEO, this Division:
 - (1) conduct civil rights complaint investigations and compliance reviews;

- (2) coordinates with other HUD program staff regarding these investigations and reviews;
- (3) makes initial determinations of substantial compliance;
- (4) consults with the Assistant Secretary for FHEO on all cases which have preliminary findings of noncompliance against recipients;
- (5) seeks informal voluntary resolution where a complaint investigation has resulted in preliminary findings of apparent noncompliance; and
- (6) reviews and approves voluntary compliance plans proposed by the State, or any of its recipients, with preliminary findings of non-compliance.

b. Category A Offices, FHEO Divisions and Regional Office of FHEO, Program Operations Division. The staff in these Divisions:

- (1) identify problems in the State's CDBG program that, if allowed to continue, might become violations of civil rights laws;
- (2) target for monitoring those State where complaints raise civil rights concerns or where compliance review findings indicate the need for technical assistance;
- (3) assist in providing data required as background for a complaint investigation or compliance review (at the request of the Compliance Division, Regional Office of FHEO);
- (4) refer civil rights complaints received to the Compliance Division, Regional Office of FHEO, including allegations involving civil rights laws and related issues raised in administrative complaints;

12/85

7-6

8005.2

-
- (7-4b.) (5) recommend grantees to the Compliance Division, Regional Office of FHEO for compliance action where monitoring identifies substantial problems that indicate a possible violation of civil rights or equal opportunity laws; and
 - (5) consider as part of the review of a grantee's civil rights certifications, the status and progress of grantees in implementing any voluntary compliance agreements (see Chapter 4).

7-5. HANDLING COMPLAINTS THAT ALLEGE VIOLATIONS OF CIVIL RIGHTS LAWS
IN THE STATE CDBG PROGRAM.

- a. Identifying civil rights related complaints. A complainant may not always refer to a violation of a specific civil rights law or laws. However, a civil rights complaint is any allegation indicating that:
 - (1) a person believes that he or she has been denied opportunity or treated differently; and
 - (2) the denial or the disparity is based on his or her race, ethnicity, religion, sex, age or status as a handicap person.
- b. Who may file. Any person who believes that he/she or any specific class of persons has been subjected to discrimination prohibited by civil rights laws may personally, or by a representative, file a complaint.
- c. How to file a complaint. All civil rights complaints must be submitted in writing. The complaint should set forth the alleged discriminatory conduct on which the complaint is based and indicate the programs or activities involved. If the complaint does not contain sufficient information for Regional FHEO to establish jurisdiction, the Director Regional FHEO will contact the complainant to obtain the required information.
 - (1) Complaints may be filed under the following laws:
 - (a) Title VI
 - (b) Title VIII
 - (c) Section 504
 - (d) Age Discrimination Act
 - (e) Section 109
 - (f) Section 3

(7-5c.)

- (2) Complaints under Title VI must be filed within 180 days unless the Assistant Secretary extends the time for filing.
- (3) Under Title VIII, the statute requires that a compliance be

filed within 180 days. Complaints received by HUD are processed pursuant to 24 CFR Part 105.

- (4) HUD has not issued regulations for Section 104 and the Age Discrimination Act. While no time limitations have been established, complaints should be filed within 180 days of the alleged discrimination where feasible.
 - (5) Complaints under Executive Order 11246 (nondiscrimination in employment by construction contractors) are referred to the Regional Office of Federal Contract Compliance Programs, Department of Labor.
 - (6) Complaints under the Age Discrimination Act are referred to the Federal Mediation and Conciliation Service.
- d. Notification. When a complaint is filed under Title VI, Section 109, Section 504 or the Age Discrimination Act, FHEO staff will:
- (1) contact the complainant to acknowledge receipt of the complaint.
 - (2) notify, in writing the respondent (e.g., grantee, recipient, program administrators and the State administering the program, if the State is not the respondent of the complaint specify the basis for the complaint (e.g., race, color, national origin, sex, handicap, age) and any specific or general allegations. Seek the State's assistance in obtaining data, information, and cooperation from the local government.
 - (3) send copies of the complaint and the response, with names of complainant deleted, to the Category A Office of FHEO and CPD Divisions to assure that the Category A Office is cognizant of the issues involved. Where the Field Office and Regional Office are co-located, send copies of the complaint to the Program Operations Division.
 - (4) Where the respondent is the State agency administering the program of a local government recipient, inform the State's chief Executive Officer that a complaint has been filed.

12/85

7-8

8005.2

(7-5c.)

- e. Role of the State and recipients. The State and recipients shall:
- (1) Immediately refer all complaints received, except those

filed under Executive Order 11246, to HUD Director, Regional Office of FHEO having jurisdiction over the State in which the agency/community identified in the complaint is located. Complaints filed under Executive Order 11246 are referred to the Department of Labor; and

- (2) Assist and cooperate with HUD staff in obtaining compliance where an investigation finds violations of civil rights laws.
- (3) Where the respondent is the State agency administering the program or a local government recipient, inform the State's chief Executive Officer that a complaint has been filed.
- (4) Following an investigation, determine the respondent's compliance status based on the findings of fact, available documentation and comparative analysis.
- (5) Give written notification of HUD's finding to: respondent, complainant and the State administering the program. Where there is a finding of preliminary noncompliance, FHEO will assist the respondent in developing a voluntary compliance plan that will correct the violation.
- (6) Failure to achieve voluntary compliance may require the initiation of action which may result in termination, reduction or limiting payment of Federal financial assistance.

7-6. HOW TO CONDUCT COMPLIANCE REVIEWS.

- a. Purpose. Civil rights compliance reviews of the State and its recipients are conducted to determine if the CDBG grants are administered and used in a non-discriminatory manner. Prior to the scheduling of a compliance review, the Regional Office of FHEO should contact the Category A Office FHEO Division or Regional Program Operations Division, to discuss monitoring conclusions and results of HUD action on findings of deficient performance, if any. Notify the State and/or recipient when a compliance review is scheduled.

-
- b. Selection criteria for compliance reviews.

- (1) In selecting States and local government recipients for compliance reviews, consider:
 - (a) any complaint of discrimination filed against the State or recipient;

- (b) the size and characteristics of the minority and female populations;
 - (c) the nature of HUD conclusions from monitoring of State;
 - (d) the size of the CDBG grant to the State or recipient;
 - (e) the types of funded activities and the intended beneficiaries;
 - (f) the status of the recipient's program or activity (on-going or completed); and
 - (g) the civil rights history of the State or recipient.
- (2) With respect to local government recipients, in selecting programs and activities for examination, consider:
- (a) the nature and purpose of the activity or program;
 - (b) the intended beneficiaries;
 - (c) the dollar amount expended on the activity (CDBG or other HUD funds); and
 - (d) the location of activity (census tracts/neighborhoods).

c. Review and analysis.

- (1) In conducting compliance reviews Regional FHEO staff may undertake but are not limited to, the following actions to determine the civil rights compliance status of a State CDBG grantee and its recipients:

12/85

7-10

8005.2

- (a) collect and analyze relevant information, documents and records;
- (b) review and analyze State performance reports;
- (c) conduct on-site inspections of project areas, activities and services; and
- (d) meet with and interview local citizens and program beneficiaries.

- (2) Other methods for reviewing civil rights compliance include but are not limited to:
 - (a) a comparison of the treatment accorded to each class (e.g., Asians - Whites, women - men) within economic groups; and
 - (b) an assessment of the recipient's records documenting the extent to which members of minority groups are beneficiaries of the State CDBG program.
- d. Noncompliance findings. In cases where compliance reviews appear to indicate civil rights violations, the following steps will be followed:
 - (1) After review by Regional Counsel notify the recipient of your finding or to show a valid nondiscriminatory reasons for the disparity.
 - (2) If the recipient's response does not successfully rebut the finding or if the recipient cannot show a valid nondiscriminatory reason for the disparity, issue a Letter of Determination (LOD) notifying the recipient of your determination.
 - (3) The LOD will contain an offer to meet with the recipient to attempt to negotiate a voluntary compliance agreement to remedy the areas of noncompliance.
 - (4) Attempt to negotiate voluntary compliance.
 - (5) In the event voluntary compliance cannot be achieved, refer the case to Headquarters with a recommendation to initiate administrative enforcement proceedings, including an explanation as to why negotiations were not successful.

-
- (6) Headquarters FHEO Office of Program Compliance will review the case and consult with the Office of General Counsel on legal sufficiency.
 - (7) If the case is legally sufficient Headquarters FHEO staff will notify the recipient the the case has been referred to Headquarters and will attempt to negotiate a voluntary compliance agreement with the recipient.
 - (8) In the event voluntary compliance cannot be achieved, the Assistant Secretary for FHEO will request the Secretary of Housing and Urban Development to approve

the initiation of an administrative hearing to resolve the areas of noncompliance or refer the case to the Department of Justice for the initiation of a civil action.

e. State and recipients' responsibilities.

- (1) HUD rules at 24 CFR Part 1 and Part 107 require certain records that will enable HUD to determine civil rights compliance under Title VI and Executive Order 11063 (Appendix 4). In addition, rules at Part 570, Subpart I require records with respect to civil rights certifications (see paragraph (2-6)).
- (2) These data will be used by HUD in conducting compliance reviews. States and their recipients shall permit access by FHEO staff to its books, records, accounts and other sources of information, and its facilities as may be pertinent to ascertain civil rights compliance status.