

CHAPTER 1. INTRODUCTION

- 1-1. OVERVIEW. This Handbook sets forth policies, establishes procedures and provides guidance to Headquarters and Field staff of the U.S. Department of Housing and Urban Development (HUD) involved in administering the Fair Housing Assistance Program (FHAP). Chapters 1 through 6 are based on 24 CFR Part 111, the FHAP regulation issued May 9, 1989, to redesign the program effective June 19, 1989. Chapter 7 which has limited applicability, is based on the earlier regulation issued March 3, 1982, as amended December 29, 1983, September 27, 1985 and August 27, 1986. Chapter 7 governs the administration of competitive funding issued before 1989 and expiring March, 1991.

FHAP is a program of financial and technical assistance for State and local civil rights agencies enforcing fair housing laws which HUD certifies as providing rights and remedies which are substantially equivalent to those provided under the Fair Housing Act, Title VIII, Civil Rights Act of 1968. The Handbook is primarily for the use of Fair Housing and Equal Opportunity (FHEO) staff, but it is also useful to State and local agencies participating in FHAP. The Handbook should be used in conjunction with the Title VIII Field Operations Handbook 8020.

- 1-2. ORGANIZATION OF HANDBOOK. This Handbook provides detailed guidance with respect to the Program, as follows:
- A. Chapter 1 sets forth the legal authorities and describes eligibility criteria, funding categories, and applicability of other government-wide requirements.
 - B. Chapter 2 defines terms and describes the roles of HUD Headquarters and Field staff in the administration of the FHAP.
 - C. Chapters 3 through 6 discuss current FHAP requirements. Chapter 3 describes the program requirements and HUD award procedures; Chapter 4 describes the post award process for modifying awards, monitoring performance and other processing procedures after fund award through project closeout; Chapter 5 is reserved until further notice. This chapter explains the criteria used by HUD in determining whether to accept and reimburse a FHAP agency for fair housing cases; and Chapter 6 provides guidance to FHEO staff regarding its responsibility to conduct training for FHAP agencies.
 - D. Chapter 7 describes the post-award procedures for the administration of Type II competitive component of FHAP,

including modifying awards, monitoring performance and project closeout. Awards governed by Chapter 7 expire in

March, 1991.

1-3. LEGAL AUTHORITIES FOR FHAP.

A. Statutory Authority.

Title VIII of the Civil Rights Act of 1968 (The Fair Housing Act), (42 U.S.C. 3601-19) (Appendix 1).

1. Section 808(e)(3) states that the Secretary shall cooperate with and render technical assistance to State and local public agencies carrying on programs to prevent or eliminate discriminatory housing practices.
2. Section 810(f) directs that where a State or local law is substantially equivalent to Title VIII and has been certified by HUD, the Secretary must refer complaints within the jurisdiction of the State or local agency to that agency. The Secretary is to take no further action unless certain criteria are met.
3. Section 816 states that nothing in Title VIII invalidates or limits any law of a State or locality that protects the same rights as are granted by the Act. However, any such law that requires or permits any action that would be a discriminatory housing practice under Title VIII, is to that extent, invalid.
4. Section 817 provides that the Secretary may cooperate with State and local agencies charged with the administration of State and local fair housing laws and, with the consent of such agencies, may utilize their services and their employees and may reimburse such agencies for services rendered to assist in carrying out Title VIII.
5. Section 819 authorizes the appropriation of such sums as are necessary to carry out the purposes of Title VIII.

B. Regulatory.

1. 24 CFR Part 111, Fair Housing Assistance Program, is the program regulation. This rule establishes eligibility and funding criteria for the State and local agencies participation in FHAP and sets forth guidelines for administering the program. Prior to June 19, 1989, the FHAP had two components - Type I Noncompetitive and Type

II Competitive funding. (Appendix 2) Effective June 19, 1989, the program was redesigned and the two components were consolidated into one Comprehensive Funding Approach. The final rule is reprinted at Appendix 3.

2. 24 CFR Part 115, Recognition of Jurisdictions with Substantially Equivalent Laws is the rule containing the procedures and standards used to make findings of substantial equivalency of State and local fair housing laws before the 1988 Amendments to Title VIII. The performance standards in this regulation are used in the FHAP to determine whether "grandfathered" agencies continue to meet the threshold eligibility criteria. This regulation is reprinted at Appendix 4. A "grandfathered" agency is a State or local fair housing agency which had been recognized as being substantially equivalent or had an agreement for interim referral of complaints at the time of the passage of the Fair Housing Amendments Act of 1988. "Grandfathered" agencies have until January 12, 1992 to become certified under the new Act.

24 CFR Part 115, January 1989, Certification of Substantially Equivalent Agencies, is the new rule containing the procedures and standards used to certify agencies as substantially equivalent under the amended Fair Housing Act. This rule became effective March 12, 1989. It is reprinted in Appendix 5 at p. 5-81 through 5-86.

1-4. OVERVIEW OF FHAP.

- A. Background. The Fair Housing Act indicates that Congress intended HUD to work closely and cooperatively with State and local fair housing agencies. Despite this mandate, the history of HUD's relationship with State and local agencies prior to the FHAP showed that an effective relationship depended, in large measure, on the ability of HUD to provide some level of financial and technical support to these agencies.
- B. Eligible Recipient Agencies.
 1. To be eligible to receive funds under FHAP, an agency must be certified as being substantially equivalent under the standards set forth in 24 CFR Part 115, and have executed a written Memorandum of Understanding in accordance with 24 CFR Part 111. The Memorandum of Understanding must describe the working relationship

between the agency and the appropriate HUD Regional Office of Fair Housing and Equal Opportunity.

2. There is one exception to the basic eligibility criteria: An agency is eligible to receive non-competitive capacity building funds for two years where the Assistant Secretary makes the legal determinations required by Part 115 and the agency has entered into an agreement

providing for interim referral of complaints or for other utilization of such agency's services. (Interim agencies, which were "grandfathered" in until 1992, will continue to be eligible for all noncompetitive funding while they remain in the "grandfathered" status.)

- C. Types of Funding. State and local agencies are eligible to receive financial assistance to support several types of activities related to their fair housing programs. All FHAP funding proposals must address housing discrimination cognizable under the Fair Housing Act, i.e. based on race, color, religion, sex, familial status, handicap or national origin. Funding provided under FHAP includes:
1. Capacity Building Funding supports the development or enhancement of fair housing enforcement programs of agencies during their first or second year of participation in the FHAP. Capacity building agencies receive a fixed amount of funding annually to support case processing, training, complaint-related data systems and other activities related to fair housing enforcement. Agencies must submit acceptable applications to receive these funds.
 2. Contributions Funding supports complaint processing and participation in HUD-sponsored training for agencies beyond their second year of participation in FHAP. It also provides support for a variety of specialized projects to agencies meeting additional incentive funding. The level of this incentive funding support is based on the population served by the jurisdiction. Agencies must submit an acceptable application to receive these funds.

(NOTE: HUD previously provided Type II funding (Competitive Component) which supported specialized projects developed to enhance State and local agencies fair housing programs. This component applies only to competitive awards made prior to June 16, 1989. Post award procedures are described in Chapter 7.)

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1-5. APPLICABILITY OF OTHER GOVERNMENT-WIDE REQUIREMENTS.

- A. OMB Circular A-102, "Grants and Cooperative Agreements with State and Local Governments," establishes consistency and uniformity among Federal agencies in the management of grants and cooperative agreements with State, local, and federally recognized Indian tribal governments. The OMB Circular was issued under the authority of the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Procedures Act of 1950, as amended; Reorganization Plan No. 2 of 1970; and Executive Order 11541. HUD's implementation of the Circular was issued as a grants management common rule at 24 CFR Part 85, Administrative Requirements for Grants and Cooperative

Agreements to State, Local and Federally Recognized Indian Tribal governments. (Appendix 6)

- B. OMB Circular A-128, "Audits of State and local Governments," establishes the general audit requirements for recipient FHAP agencies. The OMB Circular was issued under the Single Audit Act of 1984 (31 U.S.C. 7501-7505). HUD's implementation of the Act is published at 24 CFR Part 44, Non-Federal Government Audit Requirements. (Appendix 7)
- C. Executive Order 12372, "Intergovernmental Review of Federal Programs," applies to the Type II, Competitive component. The Executive Order authorizes States to establish their own process for review and comment on proposals for funding of projects in their State under Federal financial assistance programs. HUD's implementation of the Executive Order is published at 24 CFR Part 52 Intergovernmental Review of Department of Housing and Urban Development Programs and Activities (Appendix 8).
- D. 24 CFR Part 8 "Nondiscrimination Based on Handicap or Federally Assisted Programs and Activities" is the regulation that adopts procedures and policies to assure nondiscrimination based on handicap in programs and activities receiving Federal financial assistance from the Department of Housing and Urban Development. The rule implements Section 504 of the Rehabilitation Act of 1973, as amended. (Appendix 25)

1.6. RELATED HANDBOOKS.

- A. Handbook 2210.17, "Discretionary Grant and Cooperative Agreement Policies and procedures."

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- B. Handbook 8000.21, "Fair Housing and Equal Opportunity Complaint and Compliance Review System - User's Manual."
- C. Handbook 2210 2210.13 Rev. 3, Sept. 1988, GTR Handbook

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