
CHAPTER 5. REQUESTS FOR RECONSIDERATION OF HUD PROGRAM DECISIONS OR
EXCEPTIONS TO DEPARTMENTAL POLICIES, STANDARDS, OR REGULATIONS

- 5-1. GENERAL. This chapter sets forth policy and procedures for the internal processing of requests for review or reconsideration of HUD program decisions and requests for exceptions to Departmental policies, standards, or regulations. The intent is to standardize and regularize procedures for handling such requests and to ensure uniform and expeditious handling of these matters.

SECTION 1. RECONSIDERATION OF HUD PROGRAM DECISIONS

- 5-2. DEFINITION. A request for review of program decisions is any oral or written request received by a HUD employee for higher level reconsideration of an action which is within the boundaries of discretion of the officials taking the initial action or the reconsideration action. 1 If an action requires an exception to a policy or regulation for which authority resides only with an Assistant Secretary or the Secretary, the action would not fall within the authority of a Field official and would be processed as a request for an exception rather than request for a reconsideration of a program decision. Procedures for processing requests for exceptions are contained in Section 2 of this Chapter.
- 5-3. AUTHORITY TO ACT ON REQUESTS FOR A RECONSIDERATION OR REVIEW OF PROGRAM DECISIONS. The authority to reconsider and overrule a program decision follows the lines of delegated authority. An official higher in the chain of delegated authority has the authority to reconsider program decisions and to overrule an action of an official lower in the delegation chain except actions which involve legally binding commitments made by officials with delegated authority to bind the Department. However, as indicated in the procedures below, it is not necessary for all of the officials in the chain to consider a request for review.

1 Requests for review of HUD program decisions are sometimes referred to as "appeals". However, such requests may not necessarily meet the legal definition of an appeal. It should be noted that this Handbook does not confer on any program participant any rights which are not granted by program regulations.

5-4. ROUTING REQUESTS AND APPROPRIATE LEVELS. Officials in the chain of delegation who have the authority to reconsider program decisions need not necessarily participate in the review of a particular case because an official higher in the chain of delegations chooses not to refer the case back to a lower level official.

a. The following procedure will apply in all cases:

- (1) All requests for review or reconsideration of Field decisions shall be submitted to the Regional Administrator for reconsideration and decision before request for review is made to Headquarters. However, a Regional Administrator may, in a particular case, decide not to act on the request for review and to refer the case to Headquarters without Regional Administrator action. It is intended, however, that reviews of HUD program decisions be made at the lowest administrative level whenever possible.
- (2) Requests for reconsideration of Regional Administrator decisions will be referred to the appropriate Assistant Secretary or other primary organization head, or their designees.
- (3) The Secretary is the final level of review in the Department. It is anticipated few requests for reconsideration would be considered by the Secretary except those which the Secretary requests to review.
- (4) Any official receiving a request for review or reconsideration of a program decision may refer the request without action to the next higher official in the delegation chain; or the official may refer the request for decision or recommendation to an official lower in the delegation chain who has not acted on the case.
- (5) Any official in the delegation chain may request an official lower in the chain to submit a request for review for higher level reconsideration or decision. For example, an Area Manager may decide to review and act on all requests for reconsideration or to act only on certain categories of requests handled in the Area Office.

b. Decisions to refer requests to lower or higher levels for reconsideration and decision should take into account the Department's objective of rapid processing, and the intent that reconsideration of HUD program decisions should occur at the lowest level possible.

5-5. PROCEDURES FOR PROCESSING REQUESTS FOR RECONSIDERATION OF HUD PROGRAM DECISIONS.

- a. Notification. All requests for review or reconsideration of HUD administrative decisions shall be acknowledged within 10 working days. Decisions on such requests for review or reconsideration shall be in writing and shall be signed by an official having authority to make the decision (see paragraph 5-3). Copies of decisions shall be forwarded to the office having the official project or administrative file and to any other offices or officials who had made earlier decisions on the case.
- b. Processing Procedures and Requirements.
 - (1) Use of Prior Submissions and Reviews. To reduce processing time, submissions and reviews previously made should be used to the maximum extent possible in reaching decisions on requests for reconsideration. However, where additional material or review is required, the official to whom a request has been made may request additional information or material in support of the request for reconsideration; may perform additional reviews; and may request additional reviews or information of officials who performed prior HUD reviews. Regional Administrators may also request technical reviews or advice from staff in the Region or at Headquarters.
 - (2) HUD Referrals. Officials referring a case to another HUD official shall do so directly. Referrals within HUD ordinarily should be written, but they may be oral with subsequent written confirmation. For example, when a request for review is submitted directly to Headquarters, the Headquarters official may expedite handling by telephoning the Regional Administrator to (1) ask that the file be forwarded to Headquarters for review, or (2) request that the Regional Administrator obtain the file and either act on the request or decide not to act on the request and advise Headquarters of that decision so that Headquarters may act.

5-6. TIME LIMITS. The time limits below are maximums. The HUD objective is to process requests for review as rapidly as possible, consistent with requirements for the exercise of good judgment and fair handling. Notification shall be made for each necessary extension of time to the submitter through the

receiving official. The reason for the extension must be given.

- a. Incoming requests for review should be date-stamped upon receipt in the office to which the request has been made or referred. Oral referrals should be summarized by a dated memo to the files.
- b. Within 10 working days, the receiving official shall decide (a) whether he ¹ has the authority to act on the request for review or reconsideration, and (b) whether he wishes to exercise that authority or refer the request elsewhere. By the end of the 10-day period, the receiving official shall acknowledge receipt of the request and state whether he will review and reach a conclusion or state that he is referring the request for review to another named official for action.
- c. Within 45 working days from the receipt of the request for review in HUD, notification shall be made of action taken and the basis for the action; or notification that action on the request for review or reconsideration has not yet been made, with the reasons for delay and an indication of the date by which a decision will be reached. It is expected that HUD will reach a conclusion by the end of the 45-day period unless information requested has not been submitted and is delaying processing of the request for review.

SECTION 2. REQUESTS FOR EXCEPTIONS OR DEVIATIONS FROM DEPARTMENTAL POLICIES, STANDARDS OR REGULATIONS

- 5-7. DEFINITION. An exception or deviation is an administrative action taken by an authorized HUD official to relieve an individual from one or more requirements of regulations, policies, or other administrative directives. An exception or waiver must be consistent with and not in violation of any requirement of law. ²

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- 1 The use of "he/him/his" and other gender related pronouns should be read as "he/she" or "his/her" etc.
 - 2 Exceptions and deviations are sometimes referred to as "waivers" However, they may not necessarily meet the legal definition of a waiver. Exceptions or deviations from the requirements imposed by HUD regulations or Handbook provisions required by regulation may be granted only as specifically authorized by and in accordance with the regulation involved.
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HUD-Wash., D. C.

1105.1 REV-2

- 5-8. APPROVAL AUTHORITY. Authority to permit an exception or deviation from HUD requirement, policy or directive rests with the Headquarters official having the authority to give final approval to the regulation, requirement, directive or policy. Such officials may, however, authorize subordinate officials to decide on certain classes of requests.
- 5-9. ROUTE FOR PROCESSING REQUESTS FOR EXCEPTIONS OR DEVIATIONS. Requests for exceptions or deviations from any HUD issuance or policy directive should be submitted as promptly as possible to the Headquarters office responsible for promulgating the requirement or policy. Although supervisory officials may decide to review requests for exceptions, they should take into account requirements for rapid processing. Requests for exceptions need not be submitted to Regional Administrators before submission to Headquarters. However, a copy of each request must be sent to Regional Administrators for their information, and where desired comment to Headquarters.
- 5-10. PROCEDURES FOR PROCESSING; TIME LIMITS. The procedures for processing exceptions and the time limits for processing them shall be the same as those for processing appeals. (See Paragraphs 5-5 and 5-6 above.)

HUD-Wash., D. C.