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Subject: RA Status as Authorized Employees--24 CFR Part 4

November 1, 1991

MEMORANDUM FOR: Principal Staff
Regional Administrators
Regional Counsel

FROM: Frank Keating, General Counsel

SUBJECT: Regional Administrators' Status as Authorized
Employees under 24 CFR Part 4

This memorandum responds to questions raised during the September, 1991 Regional Administrators' meeting concerning whether Regional Administrators are considered "authorized employees" pursuant to 24 CFR Part 4, implementing Section 103 of the HUD Reform Act. The Rule prohibits communication of covered selection information to persons either inside or outside of the agency who are not authorized to receive the information during the period that applications for assistance are under review by the Department.

Section 4.5 of the Rule defines an "authorized employee" as "an employee whose responsibilities in connection with the selection process require that the employee have covered selection information to perform his or her official duties." There are no blanket designations of "authorized employees." Whether or not an employee is an authorized employee will depend upon the role the employee has in the selection process.

For example, the Secretary may exercise his discretion to designate a Regional Administrator as the agency official who will make the selection announcements for program funds in his or her Region. In these instances, the Regional Administrator becomes an authorized employee under the Rule due to his or her "need to know" the selection decision in advance of the announcement. Additionally, there is nothing in the regulation that would prohibit the Office of Legislation and Congressional Relations from notifying the Regional Administrator of a selection decision as part of the announcement coordination process, provided that the Secretary approved this procedure.

There may be other situations that arise during the selection process when, in order to carry out the official duties of the position, a Regional Administrator may need to know covered selection information and, consequently, would become an

authorized employee under 24 CFR Part 4. The Regional Administrator of course is aware of the program requirements and of information contained in the NOFA. The Regional Administrator also is entitled to other information listed in Section 4.105 of

the Rule. Usually, however, as with any top official of the agency, the Regional Administrator does not become involved in the actual receipt, review, and rating or ranking of applications, and would not be considered an authorized employee under the Rule during those stages of the selection process. This status helps to insulate the Regional Administrator from political pressure during the selection process.

In summary, whether a Regional Administrator is an "authorized employee" under 24 CFR Part 4 depends upon the functions of the Regional Administrator in the selection process. The Regional Administrator should always have access to information which is essential to the performance of his or her responsibilities in the selection process.