

HUD Reform Act of 1989
§ 103. Prohibition of Advance Disclosure of
Funding of Decisions - A Summary

1. **PROHIBITION:** During any selection process, no HUD employee shall knowingly disclose any covered selection information regarding such selection, directly or indirectly to any person not authorized by the Secretary to receive such information. (This regulation is at 24 C.F.R. Part 4, Subpart B.)

2. **DEFINITIONS:**

Covered Selection Information: Any information that is contained in any application or request for assistance or any information regarding the decision of the Secretary to make available assistance or any information that is not generally available to the public or which is required by statute or regulation to be confidential. This does not include information regarding program requirements and timing of the decision to make assistance available.

Selection Process: The period that begins with the development, preparation and issuance of a NOFA or a solicitation or request for applications and concludes with the selection of recipients of assistance. It includes, therefore, the period during which applications are evaluated.

Knowingly: Having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions against advance disclosure of funding decisions.

3. **EXAMPLES OF IMPERMISSIBLE DISCLOSURES:**

- Information regarding any applicant's relative standing;
- The amount of assistance requested by an applicant;
- Any information contained in an application.

The following are examples of the types of information that **may not be disclosed prior to the deadline** for submission of applications:

- The identity of any applicant, and
- The number of applicants.

4. EXAMPLES OF PERMISSIBLE DISCLOSURES

- The dates for decisions,
- Any information which has been published in the Federal Register;
- The requirements of a HUD program(s), including unpublished policy statements and the provision of *technical assistance*, provided that such requirements or statements are disclosed on a uniform basis to any applicant or potential applicant.

Technical Assistance includes such activities as explaining and responding to questions about program regulations, defining terms in an application package, and providing other forms of technical guidance that may be described in a NOFA. It does not include advising the applicant how to make substantive improvements to an application.

5. EXAMPLES OF PERMISSIBLE CONTACTS:

- Communicating the fact of the applicant's failure to qualify after a preliminary review for eligibility and completeness, and the reasons for the failure to qualify;
- Communicating the fact that an application was not determined to be "technically acceptable" after a full review;
- Seeking clarification of the terms of the applicant's application, however, may not add information that would substantially improve an applicant's application;
- After the applicant has received notification of his/her disqualification, an employee may confirm this fact in response to inquiries from members of the public.

6. PENALTIES:

The Secretary may impose a civil money penalty, not to exceed \$10,000 per violation, on any employee who knowingly violates these provisions. Willful violations of this section may result in the criminal penalty, including not more than five years imprisonment.