

SECTION F – EQUAL OPPORTUNITY/CIVIL RIGHTS

Equal Opportunity Regulations

The CDBG program requires equal access to the program and all funded projects and their benefits to all persons regardless of race, national origin, religion, color, sex, age or physical or mental disability. Additionally, the Federal Government requires that all grantees comply with Equal Employment Opportunity laws and regulations.

Your responsibility is two fold. First your organization and the sponsoring jurisdiction must make every effort to avoid discrimination and provide equal opportunities to all groups. Second, you must advise your contractor and sub-contractor to do the same.

1. Overview

The civil rights requirements have the basic purpose of protecting specific groups and/or individuals from discrimination. The Civil Rights laws are applicable not only to the beneficiaries of a federally assisted project, but also to the employees of a CDBG grantee or sub-grantee.

Employment discrimination is prohibited based on: race, color, religion, sex, national origin, age (over 40), and disability.

Housing (rental, sale, financing) discrimination is prohibited based on race, color, national origin, religion, sex, familial status, and disability.

A list of the applicable laws can be found on page 3 of this section. As they apply to the CDBG Program, these laws protect individuals from discrimination in:

- Housing
- Benefits and services resulting from activities funded in full or in part by CDBG dollars
- Employment
- Business opportunities
- Relocation (resulting from CDBG-funded activities)

2. **Civil Rights Checklist – see Section J - Monitoring - page 10**

In order to help grantees comply with HUD's Fair Housing and Equal Opportunity (FHEO) requirements, the CDBG staff has provided samples of checklists and templates of plans, policies and procedures that jurisdictions can adapt to their needs. Please see the "Civil Rights Exhibits" section of this handbook. These documents can also be provided electronically upon request.

3. Grantee Responsibilities

CDBG Grantees are required to take certain actions directed toward the following two categories:

- a. Non-discrimination and equal opportunity: This requirement may be documented by showing EEOE posting in all public advertisements.
- b. Affirmative action to remedy and overcome the effects of past discrimination.

These requirements apply across-the-board to administration of grant activities and any of the three major program areas -- public facilities, housing, and economic development -- allowed under the Utah program.

Under the non-discrimination requirements, a grantee must take actions to ensure that no person or group is denied benefits such as employment, training, housing and contracts generated by a local CDBG activity. As a project progresses, a grantee must monitor the extent to which protected groups within the community are participating in and receiving benefits from a CDBG activity.

For some projects this is quite simple. For instance, CDBG funding of a local rehabilitation program is awarded based on information provided in the grant application. It is easy to identify the extent to which protected groups will be impacted by the housing rehabilitation program. It is equally easy to report how many households headed by minorities, women, the elderly, or disabled individuals were actually rehabilitated.

For other types of projects, identifying beneficiaries may not be as simple. A main street revitalization program may be intended to benefit protected groups; however, the extent to which these groups are actually impacted is harder to determine by the administering agency. At minimum, a locality should take actions to ensure that members of protected groups have equal access to all information related to training and job opportunities associated with CDBG-funded projects.

Finally, local grant recipients must demonstrate non-discrimination in the decision-making process by which elements of a particular CDBG project were determined. For example, if a locality is acquiring land for a senior citizens center, the chosen location must be as equally accessible to neighborhoods with large concentrations of minority residents as it is to those with high concentrations of non-minority households.

If local government employment is not representative of the general population of the jurisdiction, the CDBG administrator or administering agency should consider designing an affirmative action program to provide greater employment, training, and promotion opportunities for members of protected groups.

4. Affirmatively Furthering Fair Housing

a. Overview

Title VIII of the Civil Rights Act of 1968, known as the Fair Housing Act, prohibits discrimination in the sale or rental of housing on the basis of race, color, religion, sex, and national origin. It was amended in 1988 to provide stiffer penalties, establish an administrative enforcement mechanism and expand its coverage to prohibit discrimination on the basis of familial status and disability. By amending this law, Congress demonstrated a renewed commitment to achieving fair housing.

In addition to prohibiting a wide range of discriminatory practices, the Fair Housing Act requires the Secretary of HUD to ensure that all HUD programs affirmatively further fair housing. State CDBG grantees are required by Sections 104(b)(2) and 106(d)(5)(B) of the HUD Act of 1974, as amended, to certify that they will affirmatively further fair housing as a condition of receiving CDBG funds. Additionally, Section 105*(b)(13) of the National Affordable Housing Act (NAHA) of 1990, as amended, requires submission of such a certification from a state as part of its Consolidated Plan.

b. State Responsibilities

The state CDBG final regulations, at 24 CFR 570, Subpart I, contain three suggested actions for states to take in fulfilling their certification to affirmatively further fair housing. These suggestions

include conducting training and actively providing educational material and activities to the participating local grantees on federal and state fair housing laws and procedures; analyzing relevant state-level data on impediments to fair housing choice, as well as the results of any local analyses; and working actively with existing state entities (public or non-profit) whose goal is to further fair housing.

c. Grantee Responsibilities

Section 570.487(b)(2) instructs local government recipients to develop proposed actions to affirmatively further fair housing at the local level, for state review and approval. The state will consider the locality to have met its certification to affirmatively further fair housing if the locality has carried out the state-approved actions.

At this time the state requirement is that grantees prepare an assessment of local ordinances that can be used to identify housing discrimination in the above areas. This will be explained and discussed during the grantee workshop with an assessment and review of the supporting documentation during the monitoring visit at the end of the project.

5. Applicable Laws

Civil rights compliance and monitoring responsibilities are contained in the following listing of federal laws, executive orders, and regulations. The listing for each applicable law contains the citation, general objective, and any features (e.g., thresholds) that may be relevant to the administration of CDBG-funded activities.

a. Title VI of the Civil Rights Act of 1964 and 24 CFR Part I

Title VI prohibits discrimination on the bases of race, color, or national origin in all federally assisted programs.

b. Title VIII of the Fair Housing Act of 1968, as amended (the Fair Housing Act), and 24 CFR 91.225, Local Jurisdictions; 91.323, States; and 91.425, Consortia

The federal Fair Housing Act prohibits discrimination in housing on the bases of race, color, national origin, religion, sex, familial status and disability. Section 808(e)(5) of the Fair Housing Act requires the Secretary of HUD to ensure that all HUD programs affirmatively Further Fair Housing.

c. Section 3 of the Housing and Urban Development Act of 1968 and 24 CFR Part 135.32 (Responsibility of the State)

Section 3 requires grantees to provide job training, employment, and contract opportunities to low or very low income residents in connection with projects and activities in their neighborhoods to the greatest extent feasible.

d. Section 109 of Title I of the Housing and Community Development Act of 1974 (Section 109) and 24 CFR Part 6

Section 109 prohibits discrimination on the bases of race, color, national origin, religion, and sex in any program or activity funded in whole or in part with federal financial assistance.

- e. **Age Discrimination Act of 1975, as Amended (42 USC 6101)**
Prohibits age discrimination in programs or activities receiving federal financial assistance.
- f. **Section 504 of the Rehabilitation Act of 1973 (Section 504) and 24 CFR Part 8/Title II of the Americans with Disabilities Act of 1990 (ADA) and 28 CFR Part 35**
Section 504 prohibits discrimination based on disability under any federally assisted program or activity.
- g. **Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identify (Equal Access Rule) 24 CFR Part 5**
HUD's Equal Access Rule, effective March 5, 2012, is a HUD program requirement that ensures equal access to housing in HUD programs, regardless of sexual orientation, gender identity or marital status. The Equal Access Rule prohibits inquiries of an applicant's or occupant's sexual orientation or gender identity for the purpose of determining eligibility or otherwise making housing available.
- h. **Equal Employment Opportunity (Executive Order 11246, September 24, 1965), as Amended.**
To ensure that no employer performing construction work for a recipient of federal assistance discriminates against any employee or applicant for employment on the basis of race, color, religion, sex, or national origin.
- i. **Equal Opportunity in Housing (Executive Order 11063)**
Prohibits discrimination based on race, color, religion, sex, or national origin in housing and related facilities that are owned or operated by the federal government or housing and related facilities provided by federal financial assistance including mortgage insurance and guaranty programs.