

Principal Federal Civil Rights Laws

- ❖ Title VI of the Civil Rights Act of 1964
- ❖ Section 504 of the Rehabilitation Act of 1973
- ❖ Section 109 of the Housing and Community Development Act of 1974
- ❖ Fair Housing Act
- ❖ Age Discrimination Act
- ❖ Various executive orders

Fair Housing and Civil Rights

- ❖ HUD has jurisdiction only on the funds it distributes.
- ❖ If you have funds from more than one federal source, you must comply with all requirements. If they are contradictory, you must comply with the requirements that are the most restrictive.

Fair Housing and Civil Rights

- ❖ Does it apply to your organization? **Yes!**
- ❖ Any agency, organization, or person receiving any type of Federal financial assistance is considered a recipient.
- ❖ Includes public and private, for profit and nonprofit organizations, religious and secular organizations, that receive assistance.

Fair Housing & Equal Opportunity

- ❖ Comply with non-discrimination and equal opportunity laws
 - Affirmatively further fair housing
 - Affirmative marketing plan when 5+ assisted units
 - State has sample to follow
- ❖ Comply with Section 504 regarding handicapped access
- ❖ Comply with Section 3 regarding employment and contracting for low income persons

Title VI of the Civil Rights Act of 1964

- ❖ Prohibits discrimination based on race, color, and national origin.
- ❖ Applies to money paid, property transferred, or other federal financial assistance.
- ❖ Legal Basis for Limited English Proficiency Obligation/Guidance
- ❖ Can use KHC letter (see separate Word doc on requirements)

HUD LEP (Limited English Proficiency)

- ❖ Issued January 2007 --
- ❖ www.hud.gov/lep
- ❖ Improve access to limited LEP (persons who cannot communicate in English) who are eligible participants for federally-funded programs.

HUD LEP (Limited English Proficiency)

- ❖ Extent of your obligations:
 - Number or portion of LEP persons eligible or likely to be served
 - Frequency with which they contact program
 - Nature/importance of program/documents
 - Resources available to recipient (and cost)

HUD LEP (Limited English Proficiency)

- ❖ Develop an LEP plan:
 - Identify LEP individuals requiring assistance (and languages)
 - Identify types of assistance to be provided
 - Train staff
 - Notify LEP persons of services available
 - Monitor/update LEP plan as needs change

LEP: Legal Document

- ❖ The English document – legal document
- ❖ Translated document – information only
- ❖ Disclaimer --“This document is a translation of a HUD-issued legal document. HUD provides this translation .”

HUD LEP (Limited English Proficiency)

Size of Language Group Language

Recommended Provision of Written Assistance

❖ LEP population exceeds 5% or 1,000 or more in the eligible population in the market area or among current beneficiaries

Translated vital documents

❖ More than 5% of the eligible population or beneficiaries *and* more than 50 in number

Translated vital documents

HUD LEP

(Limited English Proficiency)

Size of Language Group Language

- ❖ More than 5% of the eligible population or beneficiaries *and* 50 or less in number
- ❖ 5% or less of the eligible population or beneficiaries and less than 1,000 in number

Recommended Provision of Written Assistance

Translated written notice of right to receive free oral interpretation of documents.

No written translation is required.

LEP Vital Documents

- ❖ Examples of Vital Documents include:
 - Applications for admissions;
 - Leases;
 - House Rules;
 - Eviction Notices;
 - Personal declaration forms;
 - Continued Occupancy forms;
 - Fraud Notices

Section 504 of the Rehabilitation Act of 1973

- ❖ Prohibits discrimination based on disability in programs or activities that receive federal financial assistance or in programs conducted by any Executive Agency or the Postal Service.

Who is a Person with a Disability Under Section 504?

- ❖ “Individual with a Disability” –a person with a physical or mental impairment that:
- ❖ Substantially limits one or more major life activities;
- ❖ Has a record of such an impairment; or,
- ❖ Is regarded as having an impairment.

Section 504

- ❖ Programs must be usable by and accessible to persons with disabilities. 24 CFR 8.20.
- ❖ Reasonable accommodation 24 CFR 8.33

Section 504

- ❖ HUD regulations require that 5 percent of units in multifamily new construction and buildings undergoing substantial rehabilitation have accessible units meeting the requirements of UFAS. 24 CFR §§8.22, 8.23. (an additional 2% accessible to persons with sensory impairments)

Section 504

Housing must also:

- ❖ Meet the needs of the community
- ❖ Be provided in most integrated setting possible
- ❖ Be available in a range of sizes and amenities

Duration of Obligation Under Section 504 and Title VI

- ❖ Section 504 and Title VI apply for the duration of the period for which the housing is used for the purpose for which the funds are given. 24 CFR §8.50, 24 CFR §1.5
- ❖ Ex: Applies for full length of NSP affordability period –not just for the year that the funds are actually given.

Section 109 of the Housing and Community Development Act of 1974

- ❖ Section 109 prohibits discrimination on the basis of race, color, national origin, sex or religion in programs and activities receiving financial assistance through Title I of HUD's Community Development and Block Grant Program.

Section 3

- ❖ **Purpose:** to ensure that economic opportunities resulting from HUD financial assistance, to the greatest extent feasible, will be directed to low-and very low-income persons, *particularly those receiving government assistance for housing.* **24 CFR §135.1**

Section 3

❖ *Covered Programs*

- Development
- Operations
- Modernization
- Housing and Community Development
- Housing rehabilitation
- Housing construction

Section 3

- ❖ Section 3 of the Housing and Urban Development Act of 1968 recognizes that the ***normal expenditure*** of certain HUD funds typically results in new jobs, contracts, and other economic opportunities
- ❖ When these opportunities are created, low- and very low-income persons residing in the community in which the funds are spent (**regardless of race and gender**), and the businesses that substantially employ them, shall receive priority consideration.

Section 3

- ❖ Section 3 is one of HUD's tools for ensuring that the expenditure of federal funds in economically distressed communities has a multiplier effect by targeting local low- and very low-income persons and qualified businesses for jobs, training, and contracting opportunities.

Thresholds

- ❖ Housing & Community Development:
 - \$200k –Recipient/Project
 - \$100k –Contractor/Subcontractor §135.3(a)(3)
- ❖ NSP: Combined investment in excess of **\$200,000** of into projects arising in connection with housing construction, demolition, rehabilitation, or other public construction – **regardless of the actual amount that is spent on each individual unit/property.**

Recipient Responsibilities

- ❖ Notify Section 3 residents of employment and contracting opportunities
- ❖ Facilitate employment and training of residents
- ❖ Incorporate Section 3 clause
- ❖ Inform contractors of requirements
- ❖ Assist contractors with compliance
- ❖ Document compliance actions

Numerical Goals

❖ Employment:

- 30 percent of new hires annually. §135.30(b)

❖ Contracts:

- 10 percent of the total \$ amount of all Section 3 covered contracts for building trades work

and

- 3 percent of the total \$ amount of all other Section 3 covered contracts

Reporting & Recordkeeping

- ❖ Recipients are required to submit Summary Report, HUD Form 60002, an annual report showing recipient's Section 3 effectiveness
- ❖ HUD shall have access to all records, reports and other documents that are maintained to demonstrate compliance with Section 3

Fair Housing & Equal Opportunity (continued)

- ❖ See implementation training Word document for NSP-specific items
- ❖ Other applicable rules:
 - Assist beneficiaries with limited English proficiency
 - Take action to promote contracting with minority & women owned businesses
- ❖ Cannot provide assistance to persons not legally in the U.S.
 - Local governments must ask
 - Nonprofits not required to ask

Fair Housing Act

- ❖ Prohibits discrimination because of race, color, religion, sex, disability, familial status, and national origin.
- ❖ Covers all types of housing intended as a short or long-term residence, including shelters, transitional housing facilities, nursing homes, and manufactured housing.

Fair Housing Act

- ❖ Requires the following in covered multifamily dwellings:
 - accessible public and common use areas
 - accessible route into and through unit
 - doors that are wide enough for wheelchairs
 - usable kitchens and bathrooms that allow a person using a wheelchair to maneuver
 - other adaptable features (e.g. environmental controls , grab bars)

Fair Housing Act

- ❖ Section 808 (e)(5) “administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this subchapter;”
- ❖ GOAL –Promote Fair Housing Choice and Equal Opportunity in Housing:
 - Build diverse & inclusive communities;
 - Increase housing opportunities;
 - Enhance job opportunities;
 - Enhance education opportunities.

Affirmatively Furthering Fair Housing

- ❖ To affirmatively further fair housing, generally:
 - Conduct an analysis of impediments to fair housing choice;
 - Take appropriate actions to overcome impediments; and
 - Maintain records of the actions taken.

Impediments to Fair Housing Choice

Where do you identify impediments?

State plan (KHC and DLG):

- ❖ <http://www.kyhousing.org/uploadedFiles/Resources/Analysis.pdf?n=7476>
- ❖ Bowling Green, Covington, some other communities have own analysis of impediments

Impediments to Fair Housing Choice

Examples include:

- ❖ Exclusionary zoning;
- ❖ Lack of accessible housing;
- ❖ Segregated communities;
- ❖ Racial profiling.

Impediments to Fair Housing Choice

- ❖ Lack of services (water, sewage, transportation, etc.)
- ❖ No fair housing services or testing; and
- ❖ Policies that impact one segment of residents

Overcoming Impediments

Examples include:

- ❖ Build affordable housing in non-minority neighborhoods;
- ❖ Conduct town halls to discuss violent and hate crimes;
- ❖ Engage the business community and civic groups in discussion of civil rights and fair housing issues;

Overcoming Impediments

- ❖ Establish a local fair housing group;
- ❖ Work to repeal or modify ordinances/policies that impact minorities;
- ❖ Establish inclusionary zoning.

Maintaining Records

Records to be maintained include:

- ❖ Racial and ethnic data
- ❖ Number of affordable housing units built in non-minority neighborhoods; effects
- ❖ Number of town hall/meetings conducted ; effects
- ❖ Number of meetings with business and civic organizations; effects

Maintaining Records

- ❖ Name, date, responsibilities, and staffing of the local fair housing group; effects
- ❖ How many local ordinances/policies were modified or eliminated; effects

Fair Housing Act

- ❖ Section 808 (e)(6) “annually report to the Congress, and make available to the public, data on the race, color, religion, sex, national origin, age, handicap, and family characteristics of persons and households...”

Fair Housing Act

- ❖ Section 808 (e)(5) “administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this subchapter to achieve a condition in which individuals of similar income levels in the same housing market area have a like range of housing choices available to them regardless of their race, color, religion, sex, handicap, familial status, or national origin.”

AFHM-Plan

- ❖ Affirmative Fair Housing Marketing Plan Forms
- ❖ HUD Form 935.2A –Multi-family Housing
- ❖ HUD Form 935.2B –Single Family Housing
- ❖ HUD Form 935.2C –
Condominiums/Cooperatives

Are these Fair Housing Violations?

- ❖ A homeowner selling his/her home in a predominantly white neighborhood displays a preference for white buyers.
- ❖ A landlord charges Hispanic tenants a higher deposit because he/she believes they cause more damage than non-Hispanics.

Are these Fair Housing Violations?

- ❖ An African-American family in the market for a new home hires a real estate agent. The agent shows them only homes in predominantly minority neighborhoods, even though there are many other homes in the same price range in other neighborhoods.

Are these Fair Housing Violations?

❖ An elderly, disabled tenant who is a participant in HUD's Housing Choice Voucher program (Section 8) lives with her sister, who acts as her caregiver. The housing authority's rental policy does not allow family members to be live-in caregivers. The tenant requests an exception as a reasonable accommodation; the housing authority refuses.

Are these Fair Housing Violations?

❖ The case was settled by HUD; the housing authority must pay \$20,000 to each sister, \$20,000 to the law school that brought the complaint on their behalf, and forgive up to \$10,000 in disputed past due rent.

Are these Fair Housing Violations?

❖ A private landlord tells a HUD investigator, “I do not have any blacks on my property and I am aware that we have a biracial president, but no federal law will make me rent to anyone I do not want to.”

The landlord had rented a trailer to a white family, then later disconnected water service and forced them to leave because he objected to a family member’s interracial dating.

Are these Fair Housing Violations?

- ❖ Stonecleave Village rental property managers received complaints about loud behavior and playing of organized sports in the facility's common area. The condo board designed a field in the rear of the complex for children to play.

Are these Fair Housing Violations?

Families were then informed that they were being fined \$10 per day for two days for children playing in the common area, \$10 per day for two days for allegedly causing damage; \$25 to reimburse for the damage; and \$437.50 for attorney fees.

Prior to this, the families had not received any fines or warning, and when an adult resident was having a party on the common grounds, no fine was issued.

Are these Fair Housing Violations?

❖ HUD has charged the property management company and board with discriminating against families with children.

Monitoring

- ❖ DLG required to monitor projects to ensure:
 - Approved activities carried out in a timely manner
 - Activities conducted in compliance with NSP objectives & requirements
 - On-going affordability requirements met

Monitoring

- ❖ Monitoring can be carried out by reviewing reports (desk review) as well as on-site inspections & reviews
 - Set up, interim & other forms intended to allow for a lot of desk monitoring as projects implemented
 - Site visits will focus on record keeping, financial management, cross-cutting other Federal regulations

Acknowledgments

Some of the slides on this website were borrowed from HUD.
<http://www.hud.gov/webcasts/archives/ARRATraining.pdf>

Other information was provided by KHC.

For more information, please visit

<http://www.kyhousing.org/uploadedFiles/Resources/Analysis.pdf?n=7476>
