CIVIL RIGHTS LAWS

Involving Federal Financial Assistance

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**

What is federal financial assistance?

- **Defined very broadly.**
- **Any agency, organization, or person receiving any type of Federal financial assistance is considered a recipient.**
- **Examples: grant, subsidized loan, free or subsidized use of federal property, or staff paid by a federal agency**

Who is a Recipient?

- **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.**
- **Organizations or entities that receive monies distributed through state or local agencies qualify as sub recipients.**

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.**

- **29 USC §794**

- **24 CFR Part 8 (federally assisted programs)**

- **24 CFR Part 9 (federally conducted**

Who is a Person with a Disability Under Section 504?

- **Individual with a Disability" – a person with a 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**

Section504

HUD regulations require that 5 percent of units in 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**

Title VI of the Civil Rights Act of 1964

- **Prohibits discrimination based on race, color, and national origin.**
- **Regulations – 24 CFR Part 1**
- **Legal Basis for Limited English Proficiency Obligation/Guidance**

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 HOME 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.**

- **Regulations – 24 CFR Part 6**

Other Laws

- **Age Discrimination Act of 1975**
  - **Prohibits discrimination based on age in programs receiving federal financial assistance.**
  - **Regulations 24 CFR Part 146**

- **Executive Order 11063 - (1962)**
  - **Prohibits discrimination based on race, color, creed, sex, and national origin in the sale, leasing, rental, or other disposition of properties and facilities owned or operated by the federal government or provided with federal funds.**
  - **Regulations 24 CFR Part 107**

Fair Housing Act

- **Prohibits discrimination because of race, color, religion, sex, disability, familial status, and national origin.**

Fair Housing Act (cont)

- **Covers all types of housing intended as a short or long-term residence, including shelters that house persons for more than a few days, transitional housing facilities, nursing homes, and manufactured housing.**

- **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)**

U.S. Department of Housing and Urban Development

Civil Rights Threshold – HUD Competitive Programs

General Section of SuperNOFA

WHAT DOES HUD MEAN?

If you, the applicant:

(a) Charged with an ongoing systemic violation of the Fair Housing Act; or

(b) A defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an ongoing pattern or practice of discrimination; or

(c) Have received a letter of findings identifying ongoing systemic noncompliance under Title VI, section 504, or section 109, and the charge, lawsuit, or letter of findings referenced in subparagraphs (a), (b), or (c) above has not been resolved to HUD's satisfaction,

then you are ineligible for financial assistance and HUD will not rate and rank your application."

U.S. Department of Housing and Urban Development

Affirmatively Furthering Fair Housing (AFFH)

Statute: 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 of AFFH

GOAL – Promote Fair Housing Choice and Equal Opportunity in Housing:

- **Build diverse & inclusive communities;**
- **Increase housing opportunities;**
- **Enhance job opportunities;**
- **Enhance education opportunities.**

Definition: AFFH

- To AFFH, 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

- **Examples include:**
- **Exclusionary zoning;**
- **Lack of accessible housing;**
- **Segregated communities;**
- **Racial profiling;**
- **Lack of services (water, sewage, transportation, etc.)**
- **No fair housing services or testing; and**
- **Policies that impact one segment of residents**

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

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

U.S. Department of Housing and Urban Development

Data Collection and Maintenance

Statute: 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..."

Data -- Regulations

- 24 CFR 1.6 (b) Compliance Information -- Title VI of the Civil Rights of 1964
- 24 CFR 121 Collection of Data – Fair Housing Act
- 24 CFR 6.6 Records to be Maintained – Section 109
- 24 CFR 8.55 (b) Compliance Information – Section 504

U.S. Department of Housing and Urban Development

Affirmative Fair Housing Marketing (AFHM)

Statute: 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;"

AFHM-Policy

"...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-Regulations

- **24 CFR Part 108: Compliance Procedures for Affirmative Fair Housing Marketing in HUD Programs**

- **Other HUD regulations addressing affirmative marketing include:**
  - **24 CFR section 92.351 (HOME program);**
  - **24 CFR section 200.600 (FHA programs);**
  - **24 CFR section 964.30 (Public Housing)**

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**

U.S. Department of Housing and Urban Development

Limited English Proficiency (LEP)

Statute: Title VI of the Civil Rights Act of 1964

"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

HUD LEP

- Issued January 2007 -- www.hud.gov/lep
- Steps for meaningful Access:
  - Four factor analysis;
  - Language Assistance Plan; and
  - Appropriate language assistance

Size of Language Group	Recommended Provision of Written Language Assistance
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
More than 5% of the eligible population or beneficiaries *and* 50 or less in number	Translated written notice of right to receive free oral interpretation of documents.
5% or less of the eligible population or beneficiaries and less than 1,000 in number	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**

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 ."**

Purpose of Section 3

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

Covered Programs

- Public and Indian Housing
  - Development
  - Operations
  - Modernization
- Housing and Community Development
  - Housing rehabilitation
  - Housing construction
  - Other public construction

§ 135.3

Thresholds

- Public and Indian Housing: None
- Housing & Community Development:
  - $200k – Recipient/Project
  - $100k – Contractor/Subcontractor

§ 135.3(a)(3)

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

§ 135.32

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

§ 135.30(c)

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

§ 135.90 and 135.92