

Appendix M

HUD Notice – Fair
Housing Agencies
Eligible for CDBG
Funding

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410

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MEMORANDUM FOR: Community Planning and Development Field Directors
Fair Housing and Equal Opportunity Regional Directors
Community Development Block Grant and State Recipients
Fair Housing Initiatives Program Recipients
Fair Housing Assistance Program Recipients

FROM: *Kim Kendrick*
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SUBJECT: Fair Housing Agencies eligible for Community Development
Block Grant (CDBG) and other HUD Program funding.

PURPOSE:

The purpose of this guidance is to clarify the definitions of fair housing organizations. When awarding funds in support of the entitlement communities' certifications to "Affirmatively Further Fair Housing," CDBG recipients are encouraged to ensure that recipients receiving the funds meet one of the definitions of a fair housing organization.

BACKGROUND:

Title VIII of the Civil Rights Act of 1968, as amended (the Fair Housing Act), prohibits discrimination in all housing-related activities on the basis of race, color, religion, sex, national origin, familial status (number and age of children) and disability ("handicap"). Section 808(e)(5) of the Fair Housing Act also requires the Secretary of HUD to administer the Department's housing and community development programs in a manner to affirmatively further fair housing (AFFH). CDBG recipients are also required by Section 104(b)(2) of the Housing and Community Development Act of 1974, as amended, and Section 105(b)(3) of the National Affordable Housing Act (NAHA) of 1990 to certify that they will AFFH.

The Consolidated Plan regulations at 24 CFR 91.225 and 91.325 and the AFFH certification require the grantee to engage in fair housing planning by conducting an analysis to identify impediments to fair housing choice within its jurisdiction, take appropriate actions to overcome the effects of identified impediments, and maintain records to document the analysis and the actions taken. The regulation at 24 CFR 570.205(a)(vii) makes eligible, as a planning

activity, developing an analysis of impediments to fair housing choice, while the use of CDBG to provide fair housing services may be eligible as a program administration cost in accordance with 24 CFR 570.206 or as a public service in accordance with 24 CFR 570.201(e). Eligible fair housing costs designed to AFFH are detailed in 24 CFR 570.206(c) and include making all persons aware of the range of housing options available, enforcement, education, outreach, avoiding undue concentrations of assisted persons in areas with many low- and moderate-income persons, and other appropriate activities, including testing. States may use the entitlement regulations referenced above for interpretive guidance.

DEFINITIONS OF FAIR HOUSING ORGANIZATIONS:

On February 9, 2007, the Offices of Community Planning and Development (CPD) and Fair Housing and Equal Opportunity issued a joint memorandum that encouraged CDBG recipients to fund activities in support of their certifications to Affirmatively Further Fair Housing. The agencies could be HUD-approved Fair Housing Assistance Programs (FHAP) or Fair Housing Initiatives Programs (FHIP). This earlier memorandum failed to define the fair housing organizations that are eligible to receive funding under the FHIP program. This memorandum provides the regulatory definition.

Regulations at 24 CFR 125.103 define two kinds of fair housing organizations:

- Qualified Fair Housing Enforcement Organization (QFHO) -- an organization, engaged in fair housing enforcement activities, whether or not enforcement is its sole activity, that: (1) Is organized as a private, tax-exempt, nonprofit, charitable organization; (2) Has at least 2 years experience in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims; and (3) Is currently engaged in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims.
- Fair Housing Enforcement Organization (FHO) -- an organization, engaged in fair housing enforcement activities, whether or not enforcement is its sole activity, that: (1) Is organized as a private, tax-exempt, nonprofit, charitable organization; (2) Is currently engaged in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims; and (3) Upon the receipt of FHIP funds will continue to be engaged in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims.

To ensure the quality of fair housing activities and services provided to the jurisdictions and to support their certifications to AFFH, CDBG recipients are encouraged to consider QFHO's and FHO's when awarding funds. CDBG recipients are also encouraged to market the announcements of the availability of funds for fair housing planning and other activities to QFHOs and FHOs.

CONTACTS:

CDBG grantees having questions about this guidance should contact the CPD Division in their respective HUD Field Office (see attached list). HUD staff should contact Richard Kennedy, Director, Office of Block Grant Assistance or Pamela Walsh, Director, Office of Policy, Legislative Initiatives and Outreach. Mr. Kennedy's telephone number is 202-402-4542, and Ms. Walsh's telephone number is 202-402-7017.

