



Development
Services Agency

Ohio Community Development Block Grant Programs

Civil Rights Technical Assistance Guide April 2013

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The Civil Rights Technical Assistance Guide does not create new requirements or change current requirements. It is intended to serve as a basic resource document for programs administered by the Office of Community Development. The legal requirements related to nondiscrimination and equal opportunities that apply to recipients of federal funding are contained in the statutes, executive orders, and regulations cited in the guide. Every effort has been made to ensure that the information contained herein is accurate and up to date.

INTRODUCTION

Civil Rights compliance is a broad subject area that encompasses several federal statutes and program regulations, including the Fair Housing Act, the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act, the Americans with Disabilities Act and Section 109. These statutes and program regulations have been developed over the course of many decades, and continue to be refined annually.

Most civil rights requirements apply to all federal programs.

This can often be confusing, since most other policies and procedures were developed exclusively for specific programs.

This guide provides an overview of the federal civil rights requirements applicable to grantees receiving Community Development Block Grant (CDBG) Program funds along with samples of documents provided by the Office of Community Development (OCD) that grantees may complete to comply with federal civil rights laws. It also contains additional program regulations, provisions and information.

Due to the complex and comprehensive nature of civil rights legislation, it is not possible to answer all questions concerning civil rights applications in this text. The purpose of this guide is to provide a framework for civil rights compliance as you execute your activities.

BASIC OVERVIEW

This guide summarizes the key regulations and requirements of fair housing and equal opportunity laws applicable to CDBG projects. To be in compliance, grantees must adhere to all the basic principles of fair housing and equal opportunity regulations. To demonstrate support for ensuring these principles, grantees must endorse in attitude and deed all regulations for fairness in the provision of CDBG-funded programs and projects.

Fair housing and equal opportunity laws are like an umbrella, intended to protect individuals from discrimination in housing, employment through business opportunities such as contracting or through other benefits created by CDBG projects.

Fair housing and equal opportunity compliance must be fully addressed by all CDBG grant recipients irrespective of community size or the amount of grant funds.

These specific requirements are incorporated in the **Statement of Assurances** attached to every State CDBG grant agreement and require an endorsement by the chief executive officer, who assumes responsibility for compliance by accepting the grant funds.

CIVIL RIGHTS: AN IMPORTANT RESPONSIBILITY

Officials in small cities and counties do not find it difficult to accept the intention of civil rights laws, but they, like many of their counterparts in larger cities, do not always understand how and when to comply. These civil rights laws, regulations and requirements can be overwhelming. Many of the laws overlap in their coverage. Some of them require mandatory actions; others prohibit certain types of actions but do not prohibit specific steps grant recipients must take to demonstrate compliance; and others are intended only as guidance.

The following are key points to understanding the civil rights compliance area:

- Although the history of civil rights laws was to protect female, elderly, families with children, minority and disabled people as groups experiencing discrimination, civil rights laws apply to most people who live in your community. There is literally no municipality in the county where “special” groups listed above, collectively, do not make up the majority of the population.
- Civil rights laws, generally, prohibit certain illegal actions rather than requiring new and costly procedures. The level of community effort required will vary, of course, from project to project. In many cases, however, small communities will not have to initiate substantial changes; they may have to develop ways of keeping records, which document compliance.
- The laws affect grantee actions and activities involving the provisions of CDBG benefits and services, housing, employment, business opportunities and contracting and relocation of households and businesses.
- The applicable laws provide for nondiscrimination, equal opportunity and affirmative action to redress past discrimination, through all phases of the CDBG project life cycle including planning and design, administration and record keeping, implementation and evaluation and close-out.

The most important point that officials should remember about discrimination is that an act does not have to be intentional to be a violation of the law.

For example:

- Building a park in a location, which is not accessible to the community’s minority population may, in *effect*, be discriminatory.
- Failure to widely publicize job-training opportunities for which women and men are equally qualified may, in *effect*, be discriminatory.

Community leaders familiar with the list of protected classes, may in all honesty say, “We would never deny services on the basis of these categories.” But action and inaction such as those mentioned have the same impact.

Often, discrimination is unintentional and unrecognized. It occurs not through the outright exclusion of one group or individual, but when a set of circumstances, unforeseen by local officials, creates a situation where a group of people is either denied benefits – such as community services or employment contracts – or is forced to meet different requirements to receive the benefits, such as travel distance or income level. For this reason, civil rights laws must be taken into account during the planning and design of a project, as well as during its implementation.

It is important to realize that federal civil rights laws “pass through” whenever federal funds change hands. Local governments will need to make certain to document that nonprofit agencies, housing authorities and other subcontractors which are funded wholly or in part by CDBG dollars are meeting the appropriate laws.

Who’s Responsible?

Many jurisdictions choose to contract administration of their CDBG projects to other entities, management consultants or engineering firms. This strategy is frequently effective because it may prevent duplication of effort, minimize expense or secure expertise that would not be readily available to the jurisdiction otherwise. A common mistake among grantees, however, is to assume that those contracted for services have special expertise in the area of civil rights. A word of caution – the **responsibility** for project administration and implementation compliance, and for monitoring and ensuring the compliance of contractors and consultants, **rests with the grantee.**

Grantees should ensure that consultants and engineers are familiar with civil rights laws and possess working knowledge of record keeping requirements. Check references and ask questions of previous employers about demonstrated performance in this area. Also, when preparing the scope of services for a

consultant or engineering contract, make sure that all parties know and understand what the civil rights responsibilities are, how they will be handled and who will be held accountable for getting the job done in a satisfactory manner. Compliance with civil rights requirements is as important as accomplishing the goals and objectives of the project on time and within budget. In some cases, failure to meet civil rights requirements can result in monitoring findings, corrective actions and/or funding sanctions.

PRINCIPLES FOR ADDRESSING OVERLAPPING FEDERAL, STATE AND LOCAL REQUIREMENTS

General

In addition to complying with the guidelines outlined in this handbook, grantees must comply with other applicable federal, state and local laws. If other federal, state or local laws conflict with the U.S. Department of Housing and Urban Development's (HUD's) requirements, grantees must contact the HUD Field Office for guidance. Also, when addressing complex overlapping requirements, it is always prudent for grantees to seek proper counsel.

Statutory Program Eligibility Requirements

Federal statutory program eligibility requirements cannot be overruled by state or local law.

Multiple Federal Laws

If more than one federal law applies to a situation, the laws should be read and applied together. Where one law imposes a more restrictive requirement or standard on the grantee than another, the more restrictive requirement or standard is controlling as to federal law.

Overlap Between Federal and State/Local Nondiscrimination Laws

If state or local laws impose different nondiscrimination requirements than federal law, the more rigorous standard, the one that promotes the higher level of protection for the tenant, is controlling regardless of whether the more rigorous standard is that of the state, local or federal law.

FAIR HOUSING LAWS AND PRESIDENTIAL EXECUTIVE ORDERS

The Fair Housing Laws:

Fair Housing Act

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18), and disability.

Title VI of the Civil Rights Act of 1964

Title VI prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance.

Restoration Act of 1987: This Act restores the broad scope of coverage and clarifies the application of the Civil Rights Act of 1964. It also specifies that an institution which receives federal financial assistance is prohibited from discriminating on the basis of race, color, national origin, religion, sex, disability or age in a program or activity which does not directly benefit from such assistance.

Section 504 of the Rehabilitation Act of 1973

Section 504 prohibits discrimination based on disability in any program or activity receiving federal financial assistance.

Section 109 of Title I 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 from HUD's Community Development and Block Grant Program.

Title II of the Americans with Disabilities Act of 1990

Title II prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities. HUD enforces Title II when it relates to state and local public housing, housing assistance and housing referrals.

Architectural Barriers Act of 1968

The Architectural Barriers Act requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds after September 1969 must be accessible to and useable by handicapped persons.

Age Discrimination Act of 1975

The Age Discrimination Act prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.

Title IX of the Education Amendments Act of 1972

Title IX prohibits discrimination on the basis of sex in education programs or activities that receive federal financial assistance.

Fair Housing-Related Presidential Executive Orders:**Executive Order 11063**

Executive Order 11063 prohibits discrimination in the sale, leasing, rental, or other disposition of properties and facilities owned or operated by the federal government or provided with federal funds.

Executive Order 11246

Executive Order 11246, as amended, bars discrimination in federal employment because of race, color, religion, sex, or national origin.

Executive Order 12892

Executive Order 12892, as amended, requires federal agencies to affirmatively further fair housing in their programs and activities, and provides that the Secretary of HUD will be responsible for coordinating the effort. The Order also establishes the President's Fair Housing Council, which will be chaired by the Secretary of HUD.

Executive Order 12898

Executive Order 12898 requires that each federal agency conduct its program, policies, and activities that substantially affect human health or the environment in a manner that does not exclude persons based on race, color, or national origin.

Executive Order 13166

Executive Order 13166 eliminates, to the extent possible, limited English proficiency as a barrier to full and meaningful participation by beneficiaries in all federally-assisted and federally conducted programs and activities.

Executive Order 13217

Executive Order 13217 requires federal agencies to evaluate their policies and programs to determine if any can be revised or modified to improve the availability of community-based living arrangements for persons with disabilities.

Section 3 of the Housing and Urban Development Act of 1968, as amended: Requires the provision of opportunities for training and employment that arise through HUD-financed projects to lower-income residents of the project area, to the greatest extent feasible and consistent with federal, state and local laws and regulations. Also required is that contracts be awarded to businesses that provide economic opportunities for low- and very low-income persons residing in the area. Amendments to Section 3 in 1992 included requirements for providing these opportunities in contracts for housing rehabilitation, including lead-based paint abatement and other construction contracts.

The Vietnam Era Veterans' Readjustment Act of 1974 (revised Jobs for Veterans Act of 2002): This Act was passed to ensure equal employment opportunity for qualified disabled veterans and veterans of the Vietnam War. Affirmative action is required in the hiring and promotion of veterans.

24 CFR § 5.105 (a) Nondiscrimination and Equal Opportunity

Other federal requirements.

The requirements set forth in this section apply to all HUD programs, except as may be otherwise noted in the respective program regulations in title 24 of the CFR or unless inconsistent with statutes authorizing certain HUD programs:

(a) Nondiscrimination and equal opportunity. (1) The Fair Housing Act ([42 U.S.C. 3601-19](#)) and implementing regulations at 24 CFR part [100](#) *et seq.*; Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1959-1963 Comp., p. 652 and 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing Programs) and implementing regulations at 24 CFR part [107](#); title VI of the Civil Rights Act of 1964 ([42 U.S.C. 2000d-200](#) 0d-4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations at 24 CFR part [1](#); the Age Discrimination Act of 1975 ([42 U.S.C. 6101-610](#) 7) and implementing regulations at 24 CFR part [146](#); section 504 of the Rehabilitation Act of 1973 ([29 U.S.C. 794](#)) and implementing regulations at part [8 of this title](#); title II of the Americans with Disabilities Act, [42 U.S.C. 12101](#) *et seq.*; 24 CFR part [8](#); Section 3 of the Housing and Urban Development Act of 1968 ([12 U.S.C. 1701u](#)) and implementing regulations at 24 CFR part [135](#); Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086 and 12107 (3 CFR, 1964-1965 Comp., p. 339; 3 CFR, 1966-1970 Comp., p. 684; 3 CFR, 1966-1970 Comp., p. 803; 3 CFR, 1978 Comp., p. 230; and 3 CFR, 1978 Comp., p. 264, respectively) (Equal Employment Opportunity Programs) and implementing regulations at 41 CFR chapter 60; Executive Order 11625, as amended by Executive Order 12007 (3 CFR, 1971-1975 Comp., p. 616 and 3 CFR, 1977 Comp., p. 139) (Minority Business Enterprises); Executive Order 12432 (3 CFR, 1983 Comp., p. 198) (Minority Business Enterprise Development); and Executive Order 12138, as amended by Executive Order 12608 (3 CFR, 1977 Comp., p. 393 and 3 CFR, 1987 Comp., p. 245) (Women's Business Enterprise).

(2) Equal access to HUD-assisted or insured housing.

(i) Eligibility for HUD-assisted or insured housing. A determination of eligibility for housing that is assisted by HUD or subject to a mortgage insured by the Federal Housing Administration (FHA) shall be made in accordance with the eligibility requirements provided for such program by HUD, and such housing shall be made available without regard to actual or perceived sexual orientation, gender identity, or marital status.

(ii) Prohibition of inquiries on sexual orientation or gender identity. No owner or administrator of HUD-assisted or HUD-insured housing, approved lender in an FHA mortgage insurance program, nor any (or any other) recipient or subrecipient of HUD funds may inquire about the sexual orientation or gender identity of an applicant for or occupant of HUD-assisted housing or housing whose financing is insured by HUD, whether renter- or owner-occupied, for the purpose of determining eligibility for the housing or otherwise making such housing available. This prohibition on inquiries regarding sexual orientation or gender identity does not prohibit any individual from voluntarily self-identifying sexual orientation or gender identity. This prohibition on inquiries does not prohibit lawful inquiries of an applicant or occupant's sex where the housing provided or to be provided to the individual is temporary, emergency shelter that involves the sharing of sleeping areas or bathrooms, or inquiries made for the purpose of determining the number of bedrooms to which a household may be entitled.

More information on **HUD'S Equal Access to Housing in HUD Programs regardless of Sexual Orientation or Gender Identity (also known as the HUD LGBT Rule)** is available online at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/LGBT_Housing_Discrimination

HUD LGBT Rule Webinar (updated) – March 5, 2012

The webinar offers training on HUD's final rule, Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity (also known as the HUD LGBT Rule). The webinar includes an overview of the final rule provisions, examples and analysis of possible rule violations, and information on where someone would go for assistance if the rule is being violated. To view webinar, go to http://www.youtube.com/watch?v=3_NHy1C53LA

COMPLIANCE AREAS

In order to understand how the civil rights statutes impact the CDBG program, it is important to understand **where** compliance actually needs to take place. The specific steps that you, as a grantee, need to take to comply with civil rights laws depend on your program's activities.

There are some distinct areas of compliance relevant to CDBG grantees. Each of the areas is addressed in the sections of this guide:

- General Civil Rights Compliance Measures
- Housing Civil Rights Compliance Measures
- Contract Civil Rights Compliance Measures
- Job Creation Civil Rights Compliance Measures
- Additional Regulations, Provisions, and Information

Each section contains basic explanations and sample documents where feasible.

GENERAL CIVIL RIGHTS COMPLIANCE MEASURES

"General Civil Rights Compliance Measures are those that help develop a fair and equitable program within which grant funds are distributed."

General civil rights compliance is a basic administrative function your community performs when implementing any CDBG program. Basic employment and administrative functions must be conducted in compliance with federal civil rights statutes. For example, a grantee that hires an individual or consultant to oversee their grant program must conduct hiring practices in a non-discriminatory manner.

In order to be in overall compliance with civil rights requirements, grantees must implement several specific policies as part of the basic administration of their program. The documents listed below show that the community is complying with these general civil rights laws, and these policies guide the community's basic administrative functions.

Required Documents:

All GRANTEES, regardless of the nature of their CDBG activities, must complete the following documents and keep them on file:

Equal Employment Opportunity Policy Statement

The Equal Employment Opportunity Policy Statement allows municipalities to state that their employment practices are nondiscriminatory. A sample is provided in Appendix A.

Every employer covered by the nondiscrimination and EEO laws is required to post on its premises the poster, "**Equal Employment Opportunity is the Law.**" The notice must be posted prominently, where it can be readily seen by employees and applicants for employment. The notice provides information concerning the laws and procedures for filing complaints of violations of the laws with the Office of Federal Contract Compliance Programs (OFCCP). The poster is available at <http://www.dol.gov/ofccp/regs/compliance/posters/ofccpost.htm>.

Employment Profile

An Employment Profile describes the characteristics of those persons administering the grant who are funded in whole, or in part, with CDBG funds. It provides insight as to possible discriminatory patterns of employment. A sample Employment Profile is provided in Appendix B. A copy of the local government's EEO-4 survey or the employer's EEO-1 form can be included in the program files as an alternative to the Employment Profile form.

Section 504/ADA Certification, Self-Evaluation and Transition Plan

Compliance with Section 504 of the Rehabilitation Act of 1973 the Americans with Disabilities Act (ADA) is required as part of the standard conditions of applying for and accepting various federal

funds. Under both statutes, municipalities are prohibited from discriminating on the basis of disability. Under Section 504 and the ADA, communities must evaluate whether or not their facilities and programs are accessible to people with disabilities. If not, they must develop a Transition Plan that includes a schedule outlining when they will implement corrective actions. A sample Section 504/ADA Certification, Self-Evaluation and Transition Plan is provided in Appendix C.

FAIR HOUSING

This section reviews the requirements grantees must follow to be in compliance with the Fair Housing Act when using CDBG funds.

In accordance with the Fair Housing Act, HUD and the Office of Community Development (OCD) requires that grantees administer all programs and activities related to housing and community development in a manner to affirmatively further the policies of the Fair Housing Act. As stated in each grant agreement, grantees are required to complete an analysis of impediments to fair housing choice and to take actions to overcome the effects of any impediments identified through that analysis including, but not limited to, the implementation of the local Standard Fair Housing Program.

ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE

All State CDBG Program grantees are required to complete, submit and annually update an analysis of impediments to fair housing choice for the local jurisdiction. Each jurisdiction certifies that it completed the analysis, is taking appropriate actions to overcome the effects of any impediment identified through the analysis, and maintains records reflecting the analysis and related actions.

Regulatory/Statutory Citations: Section 109, 570.487 and 570.495(b)

Reference Materials on this Topic:

- OCD's Civil Rights Web page - http://development.ohio.gov/cs/cs_civilrights.htm
- Fair Housing and Equal Opportunity Website: <http://www.hud.gov/offices/fheo/index.cfm>
- Uniform Federal Accessibility Standards website: <http://www.access-board.gov/ufas/ufas-html/ufas.htm>
- *The Fair Housing Act Design Manual: A Manual to Assist Designers and Builders in Meeting the Accessibility Requirements of The Fair Housing Act*
- CDBG – Toolkit on Crosscutting Issues
http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/toolkit
- CPD Notice 05-09
- CPD Notice 00-09

Prohibited Discrimination

- Grantees should be aware that fair housing provisions apply to the locality as a whole and not just those activities that are CDBG funded; and that implementing fair housing activities is an essential part of the CDBG responsibilities. No person shall be subjected to discrimination because of race, color, religion, sex, disability, age, familial status or national origin.
- Fair housing actions should increase housing opportunities and affirmatively promote fair housing throughout the entire housing market at all income levels. These activities may include independent actions by the grantee or cooperative ventures with housing-related industries, such

as mortgage lenders, home builders and local nonprofits working in housing. The grantee is expected to take progressive actions to further fair housing with each CDBG project.

- The grantee must assure that all CDBG-funded activities undertaken as part of the project are conducted in a manner which will not cause discrimination on the basis of race, color, religion, sex, disability, familial status or national origin. Segregated facilities, services or benefits and different treatment are prohibited.

The grantee should take care to ensure the following:

- Access to any advantage arising out of the project is not:
 - Denied solely on the basis of race, color, religion, sex, disability, familial status or national origin; or
 - Offered for the enjoyment of a segment of the population in such a way as to intentionally exclude any member of these protected groups.
- Selection of sites and locations for facilities and improvements do not have an exclusionary or discriminatory effect.
- Evaluation criteria and administrative practices do not have a discriminatory effect.
- Affirmative action is used to overcome the effects of past discrimination.
- A fair housing poster is displayed in a prominent place at the office of the grantee where applications for assistance are being taken.

State CDBG Program Fair Housing Program

The state's minimum standard Fair Housing Program requirements are:

(a) Conduct or update an analysis of impediments to fair housing choice. In cases where a unit of local government directly applies for program funding and is not specifically covered by the Formula analysis, an analysis must be conducted within three months of approval of its application for CDBG or HOME funds.

(b) Appoint a local fair housing coordinator, who is an employee of the unit of local government and generally accessible Monday through Friday during business hours. A consultant or local agency may be substituted if reasonable access to the provider can be assured and upon written approval of OCD. The name, agency, address and phone number must be reported to OCD and approved.

(c) Establish and implement a process to receive fair housing complaints and forward the complaint to the Ohio Civil Rights Commission, which is charged with investigation and enforcement. Records must describe the type of referral, copies of Housing Discrimination Complaint records (HUD-903 or equivalent), date of the referral and any follow-up action.

(d) Conduct training to provide education material and activities to:

- (i) Residents of areas in which CDBG or HOME activities are being undertaken; or to special populations affected by the activities;
- (ii) Three civic groups or schools; and
- (iii) If undertaking homebuyer activity, training must contain a fair housing component.

Program files must include an agenda, minutes, a description of the audience, and any follow-up to occur for each session.

(e) Develop and distribute fair housing information and materials (fair housing posters, brochures, or materials) to 10 area agencies, organizations, or public events (county fair, post office,

employment services office, etc.). The telephone number (including a telephone number for use by the hearing impaired) of the local fair housing coordinator must be revealed in this information or materials. A list of the places of distribution, dates of distribution and estimated quantities of material distributed must be maintained. If a unit of local government is undertaking residential rehabilitation or new construction, tenant-based rental assistance or down payment assistance, fair housing information must be provided to each applicant and/or recipient of assistance.

(f) If a unit of local government has a fair housing resolution or ordinance, the resolution or ordinance must include coverage for all protected groups by federal, state and local laws.

State review and approval of fair housing programs are required.

Other fair housing actions may be required if:

(a) The analysis of the impediments to fair housing reveals that other actions would be necessary to assure nondiscrimination in public and private housing transactions.

(b) The unit of local government is participating in a rental rehabilitation program. An affirmative marketing plan may be required. Local units of government participating in rehabilitation of HOME- or CDBG-assisted housing containing five or more housing units are required to adopt affirmative marketing procedures and requirements and provide owners with affirmative marketing and tenant landlord information or training.

Other activities units of local governments may undertake to affirmatively further fair housing are:

(a) Adopt a local fair housing ordinance or resolution;

(b) Provide housing discrimination/investigation service (testing);

(c) Review publishers of advertisements (newspaper ad, radio ad) for discriminatory advertisements;

(d) Sponsor community awareness events, such as poster, speech and writing contests;

(e) Develop lists of both public and private housing accessible to persons with disabilities; and

(f) Review local zoning laws and procedures to determine whether they impede fair housing choice.

- Grantees undertaking housing projects and activities must ensure fair housing rules are followed in the provision of housing services and assistance. Opportunities for purchase or rental, terms and conditions, advertising and marketing information and availability of real estate services should not discriminate.
- Criteria for selecting recipients of housing services or assistance should be evaluated for any discriminatory effect. Policies guiding the provisions of relocation housing and services for persons displaced by housing activities should be evaluated for discriminatory effect.

Affirmative Marketing

- General Requirements and procedures include:
 - Methods for informing the public, owners and potential tenants about fair housing laws and the grantee's policies (for example, use of the fair housing logo or equal opportunity language);
 - A description of what owners and/or the grantee will do to affirmatively market housing assisted with CDBG and/or HOME funds;

- A description of what owners and/or the grantee will do to inform persons not likely to apply for housing without special outreach;
- Maintenance of records to document actions taken to affirmatively market CDBG and HOME-assisted units and to assess marketing effectiveness; and
- A description of how efforts will be assessed and what corrective actions will be taken where requirements are not met.

OCD Affirmative Marketing Requirements for State Recipients and Sub-recipients include:

- Recipients must adopt affirmative marketing procedures and requirements for all CDBG or HOME-assisted housing with five or more units.
- State recipients and sub-recipients receiving HOME funds shall adopt policies and procedures that inform the public, potential tenants, and property owners of its Affirmative Marketing Policy. At a minimum, the Affirmative Marketing Policy of a state recipient must commit to including the Equal Housing Opportunity logo type in press releases and solicitations for participation in the HOME Program.
- The state recipient will also have a policy for referrals of questions and complaints to an agency or organization that can provide advice on federal housing laws.
- At least once annually, state recipients will conduct a public outreach effort that will make information available to the public on rental units that have received HOME assistance. Minimally, this information will include the address of the units, the type of units and the address and phone number of the owner.

At a minimum, the Affirmative Marketing Policy will require that owners of projects containing five or more units receiving HOME assistance will comply with the following requirements:

1. Subsequent to receiving HOME assistance and throughout the period of affordability, the owner shall annually provide information on HOME-assisted units to an agency that serves low- and moderate-income (LMI) persons.
2. If any units are publicly advertised during the period of affordability, the Equal Opportunity Housing logo must accompany the advertisement.
3. The owner must display the Equal Housing Opportunity logo and fair housing poster in an area accessible to the public (e.g., the rental office, etc.).
4. The owner will maintain information on the race, sex, and ethnicity of tenants to demonstrate the results of the owner's affirmative marketing efforts.
5. The owner will, for the period of affordability, maintain information demonstrating compliance with sections 1, 2 and 4 above, and will make such information available to the state recipient, sub-recipient or the state of Ohio upon request.

Each recipient or sub-recipient shall maintain records indicating compliance with the above policies, including:

1. Records documenting the recipient's or sub-recipient's annual outreach efforts to Affirmatively Market HOME-assisted units. The state (or state recipients in the case of decentralized programs) will conduct an annual evaluation of the effectiveness of these efforts. Minimally, this evaluation shall include a discussion with the organizations or agencies identified in section 1 above as to the number of referrals made on the basis of the information provided by the owners of HOME-assisted units.

2. The evaluation may also include a review of the information maintained pursuant to section 4 above to review the characteristics of the tenant population for specific projects.
3. Monitoring records (to be maintained by the recipient or sub-recipient) of owners of HOME-assisted units that indicate the extent to which the owner has complied with the requirements of sections 1, 2, 3, 4 and 5 above, and remedies to resolve instances of non-compliance.

OCD Affirmative Marketing Guide is located at <http://development.ohio.gov/files/cs/AFHM%20GUIDE.pdf>

CDBG Funding for Fair Housing Activities

CDBG recipients are required by the Housing and Community Development Act of 1974 and the National Affordable Housing Act of 1990 to certify that they will affirmatively further fair housing (AFFH). The AFFH certification requires grantees to engage in fair housing planning by conducting an analysis of 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 any actions taken. The CDBG regulations makes eligible, as a planning activity, developing an analysis of impediments to fair housing choice. The use of CDBG to provide fair housing services may be eligible as a program administration cost or as a public service activity. Eligible fair housing costs designed to AFFH 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.

State CDBG Recipients use of Funds for Fair Housing Activities

Beginning the FY 2013 program period, OCD will allow a maximum of 20 percent of the total CDBG grant to be used for general administration, implementation, and fair housing costs. However, CDBG funds may still be eligible for fair housing planning and public service activities.

If a community chooses not to fund a fair housing activity with CDBG funds, the application must identify alternative sources of funds that will be used. These funds must be committed at time of application submission.

Any fair housing activity must include a specific program design with quantifiable, measurable services, and identified beneficiaries. The Standard Fair Housing Program activity does not count toward the number of allowable community development projects an applicant may undertake.

HUD guidance on using CDBG funding for fair housing activities is located at:

<http://www.hud.gov/offices/fheo/promotingfh/fairhousing-cdbg.pdf> and
http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_12068.pdf

HOUSING CIVIL RIGHTS COMPLIANCE MEASURES

A. REQUIRED DOCUMENTS:

The following documents are **required** for a municipality that has a housing rehabilitation program. By instituting these systems within your housing rehabilitation program, your community will be able to show it is complying with the many Civil Rights laws that pertain to housing.

1. **Benefit Data System** enables a grantee to track the characteristics of each individual grant applicant. This document provides a brief overview of a grantee's direct benefit activities, such as housing rehabilitation and sewer hook-ups. All applicants to your housing program must be listed on some type of Benefit Data form even if their application is rejected.

2. Project Occupancy List is used to record all program applicants who are tenants. Section 104(d) of the Housing and Community Development Act of 1974, as amended, requires grantees to track tenants and rental rates for units that will be or have been rehabilitated. This is to monitor whether or not CDBG funded activities have caused displacement. The Project Occupancy List can also double as a Benefit Data System, since it contains demographic information about the individual.

3. Contractor's List allows grantees to keep an up-to-date list of all qualified contractors that participate in the rehabilitation program. **(Not required for grantees that publicly advertise bids for each unit)**

4. Fair Housing Addendum (not required for grantees that do not have rental rehabilitation programs.) should be part of **ALL** loan agreements with rental unit owners, outlines the rental unit owner's obligations under the Fair Housing Act. At a minimum, agreements must include a certification to comply with the Fair Housing Act.

FAIR HOUSING ADDENDUM FOR MULTI-UNIT HOUSING REHABILITATION CONTRACT

The borrower must comply with the following provisions enacted in law by the Fair Housing Amendments Act of 1988 as set forth by 24 CFR Part 14 et al, known as "Implementation of the Fair Housing Amendments Act of 1988; Final Rule".

Subpart B – Discriminatory Housing Practices

§ 100.50 Real Estate practices prohibited.

(a) This subpart provides the Ohio Development Services Agency's (ODSA) interpretation of conduct that is unlawful housing discrimination under section 804 and section 806 of the Fair Housing Act. In general the prohibited actions are set forth under sections of this subpart, which are most applicable to the discriminatory conduct described. However, an action illustrated in one section can institute a violation under sections in the subpart. For example, the conduct described in 100.60(b)(3) and (4) would constitute a violation of 100.65(a) as well as 100.60(a).

(b) It shall be unlawful to:

- (1) Refuse to sell or rent a dwelling after a **bona fide** offer has been made, or to refuse to negotiate for the sale or rental of a dwelling because of handicap.
- (2) Discriminate in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with sales or rentals, because of race, color, religion, sex, handicap, familial status or national origin.
- (3) Engage in any conduct relating to the provision of housing which otherwise makes unavailable or denies dwellings to persons because of race, color, religion, sex, handicap, familial status or national origin.
- (4) Make, print, publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination because of race, color, religion, sex, handicap, familial status, national origin or an intention to make any such preference, limitation or discrimination.
- (5) Represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that a dwelling is not available for sale or rental when such dwelling is in fact available.
- (6) Engage in block busting practices in connection with the sale or rental of dwellings because of race, color, religion, sex, handicap, familial status or national origin.
- (7) Deny access to or membership or participation in, or to discriminate against any person in his or her access to or membership or participation in, any multiple-listing service, real estate brokers'

association, or other service organization or facility relating to the business of selling or renting a dwelling or in the terms or conditions or membership or participation, because of race, color, religion, sex, handicap, familial status or national origin.

(c) The application of the Fair Housing Act with respect to persons with handicaps is discussed in Subpart D of this part.

§ 100.60 Unlawful to refuse to sell or rent or to negotiate for the sale or rental.

(a) It shall be unlawful for a person to refuse to sell or rent a dwelling to a person who has made a **bona fide** offer, because of race, color, religion, sex, familial status or national origin or to refuse to negotiate with a person for the sale or rental of a dwelling because of race, color, religion, sex, familial status or national origin, or to discriminate against any person in the sale or rental of a dwelling because of handicap.

(b) Prohibited actions under this section include, but are not limited to:

(1) Failing to accept or consider a **bona fide** offer because of race, color, religion, sex, handicap, familial status or national origin.

(2) Refusing to sell or rent a dwelling to, or to negotiate for the sale or rental of a dwelling with, any person because of race, color, religion, sex, handicap, familial status or national origin.

(3) Imposing different sales prices or rental charges for the sale or rental of a dwelling upon any person because of race, color, religion, sex, handicap, familial status or national origin.

(4) Using different qualification criteria or applications, or sale or rental standards or procedures, such as income standards, application requirements, application fees, credit analysis or sale or rental approval procedures or other requirements, because of race, color, religion, sex, handicap, familial status or national origin.

(5) Evicting tenants because of their race, color, religion, sex, handicap, familial status, or national origin or because of the race, color, religion, sex, handicap, familial status or national origin of a tenant's guest.

§ 100.65 Discrimination in terms, conditions and privileges and in services and facilities.

(a) It shall be unlawful, because of race, color, religion, sex, handicap, familial status or national origin, to impose different terms, conditions or privileges relating to the sale or rental of a dwelling or to deny or limit services or facilities in connection with the sale or rental of a dwelling.

(b) Prohibited actions under this section include, but are not limited to:

(1) Using different provisions in leases or contracts of sale, such as those relating to rental charges, security deposits and the terms of a lease and those relating to down payment and closing requirements, because of race, color, religion, sex, handicap, familial status or national origin.

(2) Failing or delaying maintenance or repairs of sale or rental dwellings because of race, color, religion, sex, handicap, familial status or national origin.

(3) Failing to process an offer for the sale or rental of a dwelling or to communicate an offer accurately because of race, color, religion, sex, handicap, familial status or national origin.

(4) Limiting the use of privileges, services or facilities associated with a dwelling because of race, color, religion, sex, handicap, familial status, or national origin of an owner, tenant or a person associated with him or her.

(5) Denying or limiting services or facilities in connection with the sale or rental of a dwelling, because a person failed or refused to provide sexual favors.

§ 100.70 Other prohibited sale and rental conduct.

(a) It shall be unlawful, because of race, color, religion, sex, handicap, familial status or national origin, to restrict or attempt to restrict the choices of a person by word or conduct in connection with seeking, negotiating for, buying or renting a dwelling so as to perpetuate, or tend to perpetuate, segregated housing patterns or to discourage or obstruct choices in a community, neighborhood or development.

(b) It shall be unlawful, because of race, color, religion, sex, handicap, familial status, or national origin, to engage in any conduct relating to the provision of housing or of services and facilities in connection therewith that otherwise makes unavailable or denies dwellings to persons.

(c) Prohibited actions under paragraph (a) of this section, which are generally referred to as unlawful steering practices, include, but are not limited to:

(1) Discouraging any person from inspecting, purchasing or renting a dwelling because of race, color, religion, sex, handicap, familial status or national origin, or because of the race, color, religion, sex, handicap, familial status or national origin of persons in a community, neighborhood or development.

(2) Discouraging the purchase or rental of a dwelling because of race, color, religion, sex, handicap, familial status or national origin, by exaggerating drawbacks or failing to inform any person of desirable features of a dwelling or of a community, neighborhood or development.

(3) Communicating to any prospective purchaser that he or she would not be comfortable or compatible with existing residents of a community, neighborhood or development because of race, color, religion, sex, handicap, familial status or national origin.

(4) Assigning any person to a particular section of a community, neighborhood or development, or to a particular floor of a building, because of race, color, religion, sex, handicap, familial status or national origin.

(d) Prohibited activities relating to dwellings under paragraph (b) of this section include, but are not limited to:

(1) Discharging or taking other adverse action against an employee, broker or agent because he or she refused to participate in a discriminatory housing practice.

(2) Employing codes or other devices to segregate or reject applicants, purchasers or renters, refusing to take or to show listings of dwellings in certain areas because of race, color, religion, sex, handicap, familial status or national origin, or refusing to deal with certain brokers or agents because they or one or more of their clients are of a particular race, color, religion, sex, handicap, familial status or national origin.

(3) Denying or delaying the processing of an application made by a purchaser or renter refusing to approve such a person for occupancy in a cooperative or condominium dwelling because of race, color, religion, sex, handicap, familial status or national origin.

(4) Refusing to provide municipal services or property or hazard insurance for dwellings or providing such services or insurance differently because of race, color, religion, sex, handicap, familial status or national origin.

§ 100.75 Discriminatory advertisements, statements and notices.

(a) It shall be unlawful to make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling which indicates any preference, limitation or discrimination because of race, color, religion, sex, handicap, familial status or national origin, or an intention to make any such preference, limitation or discrimination.

(b) The prohibitions in this section shall apply to all written or oral notices or statements by a person engaged in the sale or rental of a dwelling. Written notices and statements include any applications, flyers, brochures, deeds, signs, banners, posters, billboards or any documents used with respect to the sale or rental of a dwelling.

(c) Discriminatory notices, statements and advertisements include, but are not limited to:

(1) Using words, phrases, photographs, illustrations, symbols or forms which convey that dwellings are available or not available to a particular group of persons because of race, color, religion, sex, handicap, familial status or national origin.

(2) Expressing to agents, brokers, employees, prospective sellers or renters or any other persons a preference for or limitation on any purchaser or renter because of race, color, religion, sex, handicap, familial status or national origin of such persons.

(3) Selecting media or locations for advertising the sale or rental of dwellings, which deny particular segments of the housing market information about housing opportunities because of race, color, religion, sex, handicap, familial status or national origin.

(4) Refusing to publish advertising for the sale or rental of dwellings or requiring different charges or terms for such advertising because of race, color, religion, sex, handicap, familial status or national origin.

(d) 24 CFR Part 109 provides information to assist persons to advertise dwellings in a nondiscriminatory manner and describes the matters ODSA will review in evaluating compliance with the Fair Housing Act and in investigating complaints alleging discriminatory housing practices involving advertising.

§ 100.80 Discriminatory representations on the availability of dwellings.

(a) It shall be unlawful because of race, color, religion, sex, handicap, familial status or national origin, to provide inaccurate or untrue information about the availability of dwellings for sale or rental.

(b) Prohibited actions under this section include, but are not limited to:

(1) Indicating through words or conduct that a dwelling, which is available for inspection, sale or rental, has been sold or rented, because of race, color, religion, sex, handicap, familial status or national origin.

(2) Representing that covenants or other deed, trust or lease provisions which purport to restrict the sale or rental of dwellings because of race, color, religion, sex, handicap, familial status or national origin preclude the sale or rental of a dwelling to a person.

(3) Enforcing covenants or other deed, trust, or lease provisions, which preclude the sale or rental of a dwelling to any person because of race, color, religion, sex, handicap, familial status or national origin.

(4) Limiting information, by word or conduct, regarding suitably priced dwellings available for inspection, sale or rental, because of race, color, religion, sex, handicap, familial status or national origin.

(5) Providing false or inaccurate information regarding the availability of a dwelling for sale or rental to any person, including testers, regardless of whether such person is actually seeking housing, because of race, color, religion, sex, handicap, familial status or national origin.

§ 100.85 Blockbusting

(a) It shall be unlawful, for profit, to induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, familial status or national origin or with a handicap.

(b) In establishing a discriminatory housing practice under this section it is not necessary that there was in fact profit as long as profit was a factor for engaging in the blockbusting activity.

(c) Prohibited actions under this section include, but are not limited to:

(1) Engaging, for profit, in conduct (including uninvited solicitations for listings) which conveys to a person that a neighborhood is undergoing or is about to undergo a change in the race, color, religion, sex, handicap, familial status or national origin of persons residing in it, in order to encourage the person to offer a dwelling for sale or rental.

(2) Encouraging, for profit, any person to sell or rent a dwelling through assertions that the entry or prospective entry of persons of a particular race, color, religion, sex, familial status or national origin, or with handicaps, can or will result in undesirable consequences for the project, neighborhood or community, such as a lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other services or facilities.

Subpart D - Prohibition against Discrimination Because of Handicap.

§ 100.200 Purpose

The purpose of this subpart is to effectuate sections 6 (a) and (b) and 15 of the Fair Housing Amendments Act of 1988.

§ 100.202 General prohibitions against discrimination because of handicap.

(a) It shall be unlawful to discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of:

(1) That buyer or renter;

(2) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(3) Any person associated with that person.

(b) It shall be unlawful to discriminate against any person in the terms, conditions, or privileges of the sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of:

(1) That buyer or renter;

(2) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(3) Any person associated with that person.

(c) It shall be unlawful to make an inquiry to determine whether an applicant for a dwelling, a person intending to reside in that dwelling after it is sold, rented or made available or any person associated with that person, has a handicap or to make inquiry as the nature or severity of a handicap of such a person. However, this paragraph does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they have handicaps:

(1) Inquiry into an applicant's ability to meet the requirements of ownership or tenancy;

(2) Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with handicaps or to persons with a particular type of handicap;

(3) Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with handicaps or to persons with a particular type of handicap;

(4) Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance.

(5) Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance.

(d) Nothing in this subpart requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

§ 100.203 Reasonable modifications of existing premises.

(a) It shall be unlawful for any person to refuse to permit, at the expense of a handicapped person, reasonable modifications of existing premises, occupied or to be occupied by a handicapped person, if the proposed modifications may be necessary to afford the handicapped person full enjoyment of the premises of a dwelling. In the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted. The landlord may not increase for handicapped persons any customarily required security deposit. However, where it is necessary in order to ensure with reasonable certainty that funds will be available to pay for the restorations at the end of the tenancy, the landlord may negotiate as part of such restoration agreement a provision requiring that the tenant pay into an interest bearing escrow account, over a reasonable period, a reasonable amount of money not to exceed the cost of the restorations. The interest in any such account shall accrue to the benefit of the tenant.

(b) A landlord may condition permission for a modification on the renter providing a reasonable description of the proposed modifications as well as reasonable assurances that the work will be done in a workmanlike manner and that required building permits will be obtained.

(c) The application of paragraph (a) of this section may be illustrated by the following examples:

Example (1): A tenant with a handicap asks his or her landlord for permission to install grab bars in the bathroom at his or her own expense. It is necessary to reinforce the walls with blocking between studs in order to affix the grab bars. It is unlawful for the landlord to refuse to permit the tenant, at the tenant's own expense, from making the modifications necessary to add the grab bars. However, the landlord may condition permission for the modification on the tenant agreeing to restore the bathroom to the condition that existed before the modifications, reasonable wear and tear excepted. It would be reasonable for the landlord to require the tenant to remove the grab bars at the end of tenancy. The landlord may also reasonably require that the wall to which the grab bars are to be attached be repaired and restored to its original condition, reasonable wear and tear excepted. However, it would be unreasonable for the landlord to require the tenant to remove the blocking, since the reinforced walls will not interfere in any way with the landlord's or the next tenant's use and enjoyment of the premises and may be needed by some future tenant.

Example (2): An applicant for rental housing has a child who uses a wheelchair. The bathroom door in the dwelling unit is too narrow to permit the wheelchair to pass. The applicant asks the landlord for permission to widen the doorway at the applicant's own expense. It is unlawful for the landlord to refuse to permit the applicant to make the modification. Further, the landlord may **not**, in usual circumstances, condition permission for the modification on the applicant paying for the modification or the applicant paying for the doorway to be narrowed at the end of the lease because a wider doorway will not interfere with the landlord's or the next tenant's use and enjoyment of the premises.

§ 100.204 Reasonable accommodations.

(a) It shall be unlawful for any person to refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling unit, including public and common use areas.

(b) The application of this section may be illustrated by the following examples:

Example (1): A blind applicant for rental housing wants to live in a dwelling unit with a seeing eye dog. The building has a "no pets" policy. It is a violation of §100.204 for the owner or manager of the apartment complex to refuse to permit the applicant to live in the apartment with a seeing eye dog because, without the seeing eye dog, the blind person will not have an equal opportunity to use and enjoy a dwelling.

Example (2): Progress Gardens is a 300 unit apartment complex with 450 parking spaces which are available to tenants and guests of Progress Gardens on a "first come first served" basis. John applies for housing in Progress Gardens. John is mobility impaired and is unable to walk more than a short distance and therefore requests that a parking space near his unit be reserved for him so he will not have to walk very far to get to his apartment. It is a violation of § 100.204 for the owner or manager of Progress Gardens to refuse to make accommodations. Without a reserved space, John might be unable to live in Progress Gardens at all or, when he has to park in a space far from his unit, might have great difficulty getting from his car to his apartment unit. The accommodation therefore is necessary to afford John equal opportunity to use and enjoy a dwelling. The accommodation is reasonable because it is feasible and practical under the circumstances.

ACCESSIBILITY AND SECTION 504

The following is a summary of the topics in this section, applicable statutory and regulatory cites and other reference materials available from HUD.

Key topics in this section:

- Programs
- Housing
- Facilities
- Other Accessibility Rules
- Self-Evaluation and Transition Plan

Regulatory/statutory citations: Section 109 – 570.487 (e)

Reference materials on this topic:

- Fair Housing and Equal Opportunity Website: <http://www.hud.gov/offices/fheo/index.cfm>
- CDBG – Toolkit on Crosscutting Issues
<http://www.hud.gov/offices/cpd/communitydevelopment/toolkit/index.cfm>
- CPD Notice 05-10
- CPD Notice 00-10

Program Accessibility

- Communication is an important component of program accessibility. Disabilities involving impairments to hearing, vision, speech or mobility may affect communication. Members of the community who have disabilities must be able to access and enjoy the benefits of a program or activity receiving CDBG funds; therefore, varied approaches may be required to assure effective communication and information dissemination.

- Specifically, the grantee must be receptive to the requests and needs of the disabled person(s) within the community when determining which auxiliary aids or services are necessary. For the purposes of Section 504 compliance, the target population includes: the hearing impaired, visually impaired, mobility impaired, developmentally disabled and those services, as necessary, which may include:
 - For persons with hearing impairments:
 - Qualified sign language interpreters;
 - Note takers;
 - Telecommunication devices for deaf persons (TDDs);
 - Telephone handset amplifiers;
 - Assertive listening devices (devices that increase the sound in large group settings);
 - Flashing lights (where aural communication is used, such as warning bells);
 - Video text displays (devices that display text that is simultaneously being spoken can be used where a public address system provides information);
 - Transcription services; and
 - Closed and open captioning.
 - For persons with vision impairments:
 - Qualified readers;
 - Written materials translated into alternative formats (e.g., Braille, audio tape, large print);
 - Aural communication (e.g., Bells or other sounds used where visual cues are necessary);
 - Audio description services (i.e., through a headset, a narrator describes what the visually impaired person cannot see).
- The grantee must ensure effective communication with persons with all types of disabilities in all activities. Where the grantee communicates with applicants and beneficiaries by phone, a TDD is required or an equivalent system must be available. Please note that grantees are not required to take any action that would result in a fundamental alteration in the nature of a program or activity or undue financial and administrative burdens.

Community-Based Alternatives for Individuals with Disabilities

In *Olmstead v. L.C.*, 527 U.S. 581 (1999) (the "Olmstead decision"), the Supreme Court construed Title II of the ADA to require placement of qualified individuals with mental disabilities in community settings, rather than in institutions, whenever treatment professionals determine that such placement is appropriate, the affected persons do not oppose such placement, taking into account the resources available and the needs of others with disabilities. OCD will support localities' efforts to help people who are institutionalized to have the opportunity to live close to their families and friends, to live more independently, to engage in productive employment and to participate in community life.

OCD will support strategies and policies that foster independence and participation in the community for all individuals with disabilities that are served by programs and activities assisted with funding distributed through the Ohio Consolidated Plan.

OCD will not support disability-based discrimination in services, programs or activities. However, the state will allow the grantee to assist with housing, provide programs and services that benefits specific disability subgroups when it is documented that there is an unmet need for the housing, services and programs.

Preferences for Persons with Disabilities

The state permits grantees to develop client selection criteria that serve the entire community but gives a preference to persons with a special need(s). Special needs preferences may target a specific category of individuals with disabilities (e.g. persons with HIV/AIDS or chronic mental illness) if the specific category is identified in the Consolidated and Local Plans as having unmet housing needs and the preference is required to narrow the gap in benefits and services received by such persons. However, if a grantee has

a preference for persons within a class or category of disability (such as persons with HIV/AIDS or chronic mental illness), the grantee cannot discriminate against persons who fall within that class based on the presence of other disabilities. The local written selection criteria must explain what the preferences are and how the preferences will be implemented.

All programs and activities are subject to the applicable fair housing requirements, and preferences must be administered in a nondiscriminatory manner. This means that if a special needs preference is established, affirmative marketing of the availability of activity across all protected classes within the preference must be carried out.

When a grantee chooses to serve a particular group of persons with specialized housing activity or program, the grantee cannot then restrict access to its other activities for the identified group. For example, a grantee may not determine that since it will provide a preference to persons with special needs under its TBRA program, it will therefore limit participation by those special needs persons in its homeownership or other affordable housing programs or forms of assistance.

Overall, grantees must comply with all applicable program and nondiscrimination rules and regulations.

Housing

- Section 504 also includes accessibility requirements for new construction and substantial rehabilitation of multi-family rental housing. Section 504 provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation in (including employment), denied program benefits or subjected to discrimination under any program or activity receiving Federal funding assistance. Section 504 also contains design and construction accessibility provisions for certain new multi-family dwellings developed for first occupancy on or after March 13, 1991.
- For the purposes of compliance with Section 504, “accessible” means ensuring that program and activities, when viewed in their entirety, are accessible to and usable by individuals with disabilities. For housing purposes, accessible means a dwelling is on an accessible route and adaptable inside.
- The following requirements apply to both federally assisted newly constructed multifamily rental housing containing five or more units and substantial rehabilitation of multi-family rental housing with 15 or more units. A rehabilitation project is considered substantial when the rehab costs will be 75 percent or more of the replacement cost of the complete facility;
 - A minimum of 5 percent of total dwelling units (but not less than one unit) accessible for individuals with mobility impairments;
 - An additional 2 percent of dwelling units (but not less than one) accessible for persons with hearing or vision impairments; and
 - All units made adaptable that are on the ground level or can be reached by an elevator.

Facilities

- “Facility” is defined under Section 504 as any portion of a building, equipment, roads, walkways, parking lot or other real property. “Accessible” for non-housing purposes means that a facility or portion of a facility can be approached, entered and used by individuals with physical handicaps.
- Non-housing programs, as well as existing facilities in which they are situated, must be readily accessible to and usable by persons with disabilities. Accessibility programs will be determined once again under self-evaluation. The focus of program access is providing programs in the most integrated setting possible. Providing separate or different programs is illegal unless necessary to achieve equal opportunity.

- Methods of improving program access in existing facilities can include the following:
 - Relocating programs to accessible facilities or accessible portions of facilities;
 - Acquiring or building new facilities;
 - Selectively altering facilities;
 - Changing operating policies and procedures;
 - Assigning aides to assist beneficiaries;
 - Adding or redesigning equipment or furnishings; and
 - Conducting home visits.

Special Requirements for Grantees with 15 or More Employees

There are two additional requirements for Section 504 compliance for grantees (called “recipients” under 504 to include public agencies, instrumentalities and public and private entities including nonprofits) with 15 or more full or part-time employees:

- Designation of responsible employee and adoption of grievance procedures: (See Appendix C)
 - At least one person must be designated to coordinate 504 and related compliance efforts. The agency coordinator should be designated in writing and identified in any written notices.
 - A grievance procedure must also be adopted incorporating due process standards and allowing for prompt local resolution of any complaints of discrimination based on disability. Existing grievance procedures can often be adapted to satisfy this requirement.
 - Any individual or authorized representative who believes that they have been denied opportunities or treated differently due to their race, color, national origin, sex, age, disability, religion and familial status may file a complaint. The complaint may be filed with the grantee or HUD.
- Notification to participants, beneficiaries, applicants and employees of their nondiscriminatory provisions. In summary, the grantee must provide notice regarding the following:
 - Grantees must publish in a newspaper of general circulation the notice “Policy of Non-Discrimination on the Basis of Disability Status.”
 - Grantees must include the same language found in their policy of nondiscrimination (mentioned in the first bullet) in all material used for recruitment or general information.
 - Grantees must ensure that all members of the population with visual or hearing impairments are provided with the information necessary to understand and participate in the programs offered.
 - Methods for ensuring participation may include qualified sign language and oral interpreters, readers, or the use of taped and Braille materials.

Other Accessibility Rules

Americans with Disabilities Act of 1990 (ADA)

The Americans with Disabilities Act of 1990 (ADA) guarantees equal opportunities for persons with disabilities in employment, public accommodations, transportation, state and local government services,

and telecommunications. Unlike Section 504 which applies only to programs and activities receiving Federal financial assistance, the ADA applies even if no Federal financial assistance is given. Title II of ADA prohibits discrimination based on disability by State and local governments.

Revised ADA Regulations Implementing Title II and Title III

In July 2010, the final regulations revising ODSA's ADA regulations, including its ADA Standards for Accessible Design were signed. The revised regulations amend Title II regulation, 28 CFR Part 35, and the Title III regulation, 28 CFR Part 36. Appendix A to each regulation includes a section-by-section analysis of the rule and responses to public comments on the proposed rule. Appendix B to the title III regulation discusses major changes in the ADA Standards for Accessible Design and responds to public comments received on the proposed rules. These final rules went into effect on March 15, 2011 and were published in the 2011 edition of the Code of Federal Regulations (CFR). ADA regulations and technical assistance materials can be found at <http://www.ada.gov/publicat.htm> .

Architectural Barriers Act of 1968

- The Architectural Barriers Act of 1968 (ABA) requires that certain buildings financed with federal funds must be designed, constructed, or altered in accordance with standards that facility financed in whole or in part with federal funds, except privately-owned residential structures. Covered buildings and facilities designed, constructed, or altered with CDBG funds are subject to the ABA and must comply with the Uniform Federal Accessibility Standards (UFAS). In practice, buildings built to meet the requirements of Section 504 and the ADA will conform to the requirements of the ABA. For more information, go to <http://www.access-board.gov/about/laws/aba.htm>

Self-Evaluation Plan and Transition Plan (See Appendix C)

- Self-evaluation is required by both Section 504 and the Americans with Disabilities Act. Self-evaluation promotes inclusion of the programmatic and project-specific alternations that are necessary to ensure long term compliance with the requirements.
- If a grantee has not already performed a Section 504 self-evaluation of programs, services, and activities to determine if they are programmatically and physically accessible to person with disabilities, they must conduct such evaluation and document all needs. Note: If an evaluation has already performed a self-evaluation, a new one is not required.
- Grantees should also involve persons with disabilities in these evaluations. While performing the self-evaluation, a careful inspection of the following should be performed to determine if they are free from discriminatory effects and practices:
 - Evaluate current policies and practices and analyze them to determine if they adversely affect the full participation of individuals with disabilities in its programs, activities, and services. Be mindful of the fact that a policy or practice may appear neutral on its face, but may have a discriminatory effect on individuals with disabilities. Modify any policies and practices that are not or may not be in compliance with Section 504 or Title II and Title III of the ADA regulations. (See 24 CFR Part 8 and 28 CFR Parts 35, 36.)
 - Take appropriate corrective steps to remedy those policies and practices that either are discriminatory or have a discriminatory effect. Develop policies and procedures by which persons with disabilities may request a modification of a physical barrier or a rule or practice that has the effect of limiting or excluding a person with a disability from the benefits of the program.
 - Document the self-evaluation process and activities. HUD recommends that all recipients keep the self-evaluation on file for at least three years, including records of the individuals and organizations consulted, areas examined and problems identified and document modifications and remedial steps.

- An approach many grantees have used to examine service and program accessibility is to do a walk-through of the process required for participation. Analyze not only the physical path traveled, but also the administrative requirements, service delivery, eligibility criteria and application procedures.
- Any policies and practices that are found to be discriminatory or contrary to Section 504 requirements must be modified and steps taken to remedy the discrimination.

EMPLOYMENT AND CONTRACTING

Community Development Block Grant (CDBG) funded contracts must conform to federal Civil Rights requirements. This compliance requires those specific forms and/or provisions are included within the contract. The dollar amount of the contract generally determines which civil rights documents and/or special language must be included.

The state of Ohio CDBG Small Cities Handbook, Chapter 12: Procurement of Services, Supplies and Equipment and Construction Contract Management contains implementation requirements for various types of projects and activities financed in whole or in part with funds from the CDBG Program. These requirements are based on federal and Ohio laws, regulations, directives and the Ohio Small Cities CDBG Administrative Plan. The Chapter 12 handbook also contains copies of required documents including nondiscrimination certifications and posters.

A. Required Documents/Language

In order for contracts to comply with Civil Rights requirements, contracts and bid documents must contain several specific documents. Due to the fact that bid packages precede the signed contract and often become part of the contract, it is the bid package that usually contains these "working documents." Examples of these documents are included in the appendixes.

1. All Contracts

All contracts are subject to the requirements of Title VI of the Civil Rights Act of 1964 as well as the Rehabilitation Act of 1973. All contracts under \$10,000 must contain the following language:

"The contractor agrees to comply with Title VI of the Civil Rights Act of 1964, and the Rehabilitation Act of 1973. During the performance of the contract, the contractor shall not discriminate against any employee or applicant for employment on the basis of race, creed, color, sex, familial status or national origin. Such action shall include, but not be limited to the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of Compensation; and selection for training, including apprenticeship.

The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, sex, familial status or national origin.

The Contractor shall incorporate the requirements in all subcontracts.

2. Construction Contracts more than \$10,000

Construction contracts exceeding \$10,000 must contain the following language and documents:

a. Certification of Non-Segregated Facilities

Prior to the award of any construction contract more than \$10,000 the Contractor must submit signed "Certifications of Non-segregated Facilities" forms for him/herself and all

subcontractors. Copies of certifications are available in Chapter 12. Example is also available in Appendix D.

b. **Certification of Equal Employment Opportunity**

Prior to the contract award, the contractor and all subcontractors must submit signed "Certification of Bidder Regarding Equal Employment Opportunity". Copies of the Contractor and Subcontractor certifications are available in Chapter 12. Example is also available in Appendix E.

c. **Section 202 of Executive Order 11246**

Construction contracts more than \$10,000 are subject to Section 202 of Executive Order 11246 that mandates nondiscrimination in federally funded contracts. All contracts more than \$10,000 must contain the entire text of Section 202. A copy of this text is included in Chapter 12.

Copies of the necessary documentation must be included in the bid packages, based on contract amount.

Minority and Women's Business Enterprises

The Ohio Development Services Agency (ODSA) provides several assistance programs for minority- and woman-owned businesses. The Minority Business Development Division is the state administrator of the Minority Business Assistance Centers (MBAC). The 10 MBACs serve clients in areas of the state with the highest concentration of minority populations including Akron, Cincinnati, Cleveland, Columbus, Dayton, Lima, Lorain, Toledo, Warren and Youngstown. Services provided to minority-owned businesses include management, technical, financial and contract procurement, loan and bond packaging services at no cost. More information about MBACs is located at http://development.ohio.gov/bs/bs_mbac.htm. ODSA also houses the Minority Development Financing Advisory Board, which offers financing for fixed assets to state certified minority-owned businesses.

In addition, the state will require that recipients and sub-recipients adopt their own Minority and Women's Business Enterprise (MBE and WBE) policies. At a minimum, the recipient or sub-recipient must publicly state their MBE and WBE policy in the local print media with the widest circulation at least once annually. The local MBE/WBE policy must provide that, at least once annually, the local recipient or sub-recipient will solicit the participation of MBE/WBE firms that wish to receive bids for projects funded through the HOME and CDBG Programs. See <http://www.hud.gov/local/shared/working/localpo/xmbeguideweb.pdf>.

Ohio Department of Administrative Services (DAS) – The DAS Equal Opportunity Division advocates on behalf of Ohio minority and socially disadvantaged businesses and works to align those businesses with state government contract and procurement opportunities. More information is located at <http://das.ohio.gov/Divisions/EqualOpportunity/tabid/80/Default.aspx>

The Department of Labor's (DOL) Office of Federal Contract Compliance Programs (OFCCP) is responsible for enforcing many of the equal employment opportunity and affirmative action Executive Orders and statutes, which protect minorities, women, individuals with disabilities and certain veterans.

Technical Assistance Guide for Federal Construction Contractors <http://www.dol.gov/ofccp/TAGuides/consttag.htm>

- **Goals for Women:** The current goal for the utilization of women is 6.9 percent of work hours and applies to all of a contractor's construction sites regardless of where the federal or federally assisted contract is being performed.
- **Minority Group Goals:** Goals for minority utilization were first published in the Federal Register of October 3, 1980, 45 FR 65979, 65984, as Appendix B-80. Current goals for the use of minorities are listed in Appendix E of the guide.

U.S. Department of Labor New Contractors' Guide is located online at http://www.dol.gov/ofccp/TAGuides/new_contractors_guide.htm

HUD guidance on MBE/WBE outreach is in Appendix I.

JOB CREATION AND PUBLIC SERVICES

Job Creation/Retention Policies

The following policies are **required** to be followed by the municipality that has a job creation/retention program. By instituting these policies your community will be complying with those Civil Rights requirements that pertain to job creation and demonstrating that the project meets national benefit requirements relating to job creation for low and moderate-income (LMI) persons.

Only certain jobs may be counted toward meeting job creation and/or retention requirements:

1. Only **permanent** jobs count; temporary jobs cannot be included;
2. Part-time jobs **must** be converted to full-time equivalents;
3. **Seasonal** jobs may be counted only if the season is long enough for the job to be considered as the employee's principal occupation;
4. All permanent jobs created by the activity must be counted even if the activity has multiple sources of funding;
5. Jobs indirectly created by an assisted activity (trickle down jobs) may not be counted.

Required Job Creation/Retention Documentation

The following documents must be maintained by the municipality for each business assisted.

For Job Creation:

1. A **written agreement with the business** stating that at least 51 percent of the jobs created, (on a full-time equivalent basis) will be held by LMI persons;
2. A listing from the business, by job title, of the permanent jobs prior to receipt of CDBG assistance (i.e. the baseline employment level);
3. A listing from the business, by job title, of the permanent jobs filled as a result of the CDBG assistance, which of these were taken by LMI persons, and the demographic characteristics of each employee.
4. Documentation of the size, annual income and makeup of the person's immediate family prior to the person being hired for the job (for each person claimed as part of the LMI program benefit). Your Project Development Specialist will provide you with a **Benefit Data Sheet** to collect his information. The Benefit Data Sheet contains the LMI income thresholds for your county.

For Job Retention:

Additional requirements apply where job retention is to be used. In order for jobs to be counted as retained, the following is necessary:

1. Written documentation providing **clear and objective** evidence that the permanent jobs to be retained will be lost without CDBG assistance;
"Clear and Objective" evidence that jobs will be lost may include such evidence as a notice issued by the business to affected employees, a public announcement by the business, or relevant financial records;
2. Documentation that the retained jobs involve the employment of LMI persons (51 percent of these jobs are known to be held by LMI persons when CDBG assistance is provided and/or can reasonably be expected to "turnover" to LMI persons within two years);

A listing, by job title, of the permanent jobs retained, indicating which of those are part-time, which are held by LMI persons at the time the CDBG assistance was received, and the demographic characteristics of the employees; A **Job Creation Benefit Data System** which outlines all of the required information must be completed for each business assisted.

Documentation on the size, annual income and makeup of the person's immediate family for each retained job claimed to be held by a LMI person.

Additional Job Creation/Retention Documentation

Micro-loan Summary Sheet

Because Micro-Loan projects involve job creation/retention for several different businesses, a summary sheet is necessary to compile all of the job creation goals of all of the businesses assisted.

Employment Goals Summary Sheet

Where the business assisted has not yet begun to create the jobs it expects to create with CDBG assistance, an Employment Goals outline is necessary to summarize in writing the expectations of the business and municipality for the project. As the business begins to actually create jobs the Job Creation Benefit Data system will be completed for the business and will be updated as appropriate.

“Made Available” Documentation

In rare circumstances, a business may meet job creation requirements through “making jobs available” to LMI persons. This activity requires extensive coordination with, and documentation of, recruiting and referrals from agencies, as well as labor market studies. Approval for this activity is determined by OCD on a case-by-case basis.

Additional Civil Rights Regulations, Provisions and Information

Area of Nondiscrimination

Recipients must assure that all CDBG funded activities are conducted in a manner that will not cause discrimination on the basis of race, color, national origin, religion and creed, sex, disability or age.

Applicable civil rights laws establish a broad civil rights mandate for all CDBG-funded programs. Specific requirements of CDBG recipients are summarized below:

CDBG-funded public services, facilities, and improvements

- a. Recipients may not, directly or through contractual or other arrangements, discriminate against anyone on the grounds of race, national origin or sex. Discriminatory actions could include:
 - i. Denying facilities, services or benefits,
 - ii. Providing different facilities, services or benefits,
 - iii. Providing segregated or different treatment, and
 - iv. Restricting access to any advantage or privilege enjoyed by others.
- b. Recipients may not select sites or locations of facilities, which have an exclusionary or discriminatory effect.
- c. Recipients may not use criteria or methods of program administration, which have a discriminatory effect.

References: Title VI 24 CFR, Part I, and Section 109, Housing and Community Development Act of 1974.

Employment

- a. Recipients may not deny - on the basis of race, color, age, disability, national origin or sex - the opportunity for employment in any CDBG program or activity.
- b. Contractors may not deny - on the basis of race, color, religion, national origin or sex - the opportunity for employment on CDBG-funded contracts.

References: Section 109, Housing and Community Development Act of 1974, and Executive Order 11246.

Contracting:

- a. Recipients must ensure nondiscrimination in the solicitation and awarding of contracts generating from Title I funds, including:
 - i. Nondiscriminatory advertising and distribution of solicitations,
 - ii. Nondiscriminatory bid specifications or evaluation criteria, and
 - iii. Nondiscriminatory awards of contracts.

References: Section 109, Housing and Community Development Act of 1974.

CDBG-funded Housing Programs and Activities

- a. Recipients are required to ensure nondiscrimination in administering their CDBG housing programs. This includes the provision of relocation housing and services for persons displaced by CDBG activities.

Under the Fair Housing Law, the following actions - if based on race, color, religion, sex, disability or familial status, or national origin - are considered discriminatory:

- i. Refusing to sell, or rent to, deal, or negotiate with any person (Section 804(b)),
 - ii. Discriminating in terms or conditions for buying or renting housing (Section 804(b)),
 - iii. Discriminating by advertising that housing is available only to persons of a certain race, color, religion, sex, or national origin (Section 804(c)),
 - iv. Denying that housing is available for inspection, sale, or rent when it actually is available (Section 804 (d)),
 - v. Persuading owners to sell or rent housing by informing them that minority groups are moving into the neighborhood (Section 804(e)),
 - vi. Denying or making different terms or conditions for home loans by commercial lenders, such as banks, savings and loan associations and insurance companies (Section 805), and
 - vii. Denying to anyone the use of or participation in any real estate services, multiple-listing services or other facilities related to the selling and renting of housing (Section 806).
- b. Recipients may not, directly or through contractual or other arrangements, discriminate against anyone on the grounds of race, color, national origin, sex, age, disability or familial status.
 - c. Recipients may not select sites or locations of housing and housing-related facilities that have an exclusionary or discriminatory effect.
 - d. Recipients may not discriminate against a person on the basis of race, color, religion, sex, disability, or familial status, or national origin in housing and related facilities provided with Federal assistance or in housing for which loans are insured or guaranteed by the Federal Government.

References: Title VIII Civil Rights Act of 1968 (Fair Housing Law), Sections 804-806, Title VI 24 CFR, Part I, Section 109, Housing and Community Development Act of 1974, Executive Order 11063, and Fair Housing Amendments Act of 1988.

Other Requirements

The following are extensions of nondiscrimination provisions, which the state and recipients must take into account.

- a. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
- b. No otherwise qualified handicapped individual in the United States shall, solely by reason of his/her disability, be excluded from the participation in, be denied the benefits of, or be discriminated against under any program or activity receiving Federal financial assistance.

References: Age Discrimination Act of 1975, and Rehabilitation Act of 1973, Section 504.

Affirmative Action

1. Regarding past discrimination:

- a. The state and recipients must take affirmative action to overcome the effects of past discrimination actions which have been found as a result of a compliance review.
- c. Recipients may voluntarily take affirmative action to overcome the effects of conditions that tend to limit or exclude participation by persons of a particular race, color, national origin or sex.

References: Title VI 24 CFR, Part I.

Local Employment

- a. Recipients must, to the maximum extent feasible, ensure that lower-income residents in their communities receive any training or employment generated by CDBG projects.
- b. Recipients must take affirmative action to ensure that applicants are employed and the employees are treated during employment without regard to their race, color, religion, sex or national origin.

References: Section 3, Housing and Urban Development Act of 1968, as amended.

Contracting

- a. Recipients must take affirmative action to utilize businesses located in the project area or owned in substantial part by persons residing in the project area.
- b. Recipients may voluntarily take affirmative action to encourage contracting with minority business enterprises.
- c. Suggested activities include:
 - i. Developing lists of minority-owned and local businesses in construction trades, business services, and professional services,
 - ii. Contacting minority business and contractor associations to obtain information on skill and resource capabilities,
 - iii. Establishing an action plan and goals for the use of minority-owned and local businesses including opportunities for subcontracting in procurement and construction contracting-related activities,

- iv. Establishing goals and taking steps to provide opportunities for minority equity investment in funded projects,
- v. Notifying minority firms of contract opportunities and indicating to them when Request for Proposal or bid packages will be available, or when Statements of Interest and Qualifications are due, and
- vi. Making Equal Employment Opportunity and Affirmative Action an integral part of the municipal personnel system.

References: Section 3, Housing and Urban Development Act of 1968, as amended.

RECORDKEEPING

Civil rights compliance record keeping is an important ongoing administrative task throughout the life cycle of local CDBG projects. Attention to good records facilitates on-site monitoring reviews, enhances local capacity to respond to compliance issues, and makes the close-out process more straightforward.

Each grantee should establish a “civil rights file” as part of their CD filing system, and should maintain the documents described below in that file.

General Civil Rights Compliance Files

As a condition of receiving federal monies, grantees must have:

- An Equal Employment Policy Statement that guarantees non-discrimination and equal opportunity in employment and outlines how the grantee will take affirmative action to hire and promote workers who traditionally have been discriminated against in the job market. The “Equal Employment is the Law” poster must be prominently posted on the premises;
- Employment records that demonstrate affirmative action and non-discrimination in all personnel transactions that involve project staff supported by CDBG funding;
- A copy of the local EEO-1 report;
- Section 504/ADA Certification, Self-Evaluation and Transition Plan;
- Records of any local government discrimination complaints (housing and employment-related) received and the action taken to resolve them; and
- Citizen complaints concerning CDBG projects or the way in which CDBG-assisted benefits or services are provided must be maintained. Grantees must keep records of how these complaints were addressed and resolved.

Beneficiaries of Activities

Grantees must keep records that show who benefits from project activities and services. These characteristics include the number of households; income and household size; and the number and location of minority households. For projects that have direct benefits to income-qualified households, grantees must keep records that document the income eligibility of recipients, and the race, sex, ethnicity and disability status. This information is reported on the Performance Reports.

Fair Housing Compliance Files

- Analysis of Impediments to Fair Housing Choice and record reflecting actions taken to remedy identified impediments
- Standard Fair Housing Program for State CDBG Grantees
 - Local Contact Information
 - Log of fair housing-related inquiries and action taken to remedy
 - Documentation of the implementation of fair housing training and outreach
 - Annual update of Analysis of Impediments with documentation of actions taken

Minority and Women’s Business Enterprises and Section 3 Participation

- A copy of the local MBE/WBE policy must be maintained in the civil rights file.
 - At a minimum, the recipient or sub-recipient must publicly state their MBE and WBE policy in the local print media with the widest circulation at least once annually. A copy of the print media must be included in the file.
 - The local MBE/WBE policy must provide that, at least once annually, the local recipient or sub-recipient will solicit the participation of MBE/WBE firms that wish to receive bids for projects funded through the HOME and CDBG Programs. The file must include documentation of the solicitation.
 - Information regarding contracts with MBE/WBEs is reported on the Notice of Contract Award Report and submitted with Performance Reports
 - Records of special steps taken to identify, train, involve, and/or hire minority and lower-income project area residents.

- **SECTION 3 Contractors** – Section 3 contractors are also reported on the Notice of Contract Award Report. All other Section 3 related activities must be documented in a Section 3 file.

Notice of Contract Award Reports (NOCA)

A NOCA report must be completed for contracts more than \$1000. This includes contracts for materials, supplies and services. Do not alter the grantee name, grant number or reporting period information on the NOCA report. The report should be completed and submitted ONCE for contracts and change orders signed during the reporting period indicated on the top of the form.

The MBE/WBE and Section 3 information is reported on the Notice of Contract Award reports and submitted with the Performance Reports.

Civil Rights/ EEO/ Fair Housing Checklist

Standard Fair Housing Program

- Analysis and updates
- Documentation of the implementation of the Fair Housing Program Activities (copies of brochures, advertisements, agendas, sign-in sheets, distribution of materials lists, etc.)

Equal Employment Opportunity

- Community's EEO Policy (written)
- Community's Affirmative Action Policy (may be included in EEO policy)
- Equal Opportunity Reports (EEO-1 or EEO-4)
- EEO complaints, comments and resolution/responses
- Designation of Section 504/ADA coordinator
- Community's Section 504/ADA assessment and transition plan

Other Civil Rights

- MBE/WBE policy
- MBE/WBE strategy and documentation of solicitation efforts
- Disadvantaged Groups (Section 3) Solicitation documentation
- Documentation of program beneficiaries by race, sex, disability status, etc.
- Drug-Free Workplace policy

RESOURCES

CDBG – Toolkit on Crosscutting Issues-Module 5: Fair Housing and Non-discrimination (current as of August 2009)

http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/toolkit

Basically CDBG for States – Training Manual (April 2012) HUD, Office of Block Grant Assistance

This manual was developed to guide and assist State CDBG grantees in the implementation of local Community Development Block Grant programs. From national objectives and eligible activities to the details of administration, financial management and other federal requirements, the manual is a valuable resource for every CDBG program practitioner.

<https://www.onecpd.info/resource/269/basically-cdbg-for-states/>

HUD Fair Housing Equal Opportunity (FHEO) web site

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp

U.S. Department of Housing and Urban Development (HUD) Community Planning and Development (CPD) Grantee Monitoring Handbook 6509.2 REV-6, Chapter 22 Fair Housing and Equal Opportunity (FHEO) (April 2010) – <http://www.hud.gov/offices/cpd/library/monitoring/handbook.cfm>

Poverty & Race Research Action Council (PRRAC) – is a civil rights policy organization convened by major civil rights, civil liberties, and anti-poverty groups in 1989-1990. PRRAC's primary mission is to help connect advocates with social scientists working on race and poverty issues and to promote a research-based advocacy strategy on structural inequality issues. <http://www.prrac.org/>

Office of Community Development's Civil Rights Section – All recipients of Office of Community Development (OCD) funds must comply with all applicable nondiscrimination and equal opportunity statutes, regulations and Executive Orders that apply to the distribution of these funds. All recipients and their sub-recipients must comply with a variety of civil rights laws and program-specific statutes with nondiscrimination requirements. All grantees must evaluate their program designs and assure that opportunities are made available to all eligible persons on an equal opportunity basis and eliminates racial and ethnic segregation, illegal physical and other barriers to persons with disabilities, and other discriminatory practices in housing and housing-related services. This material is available online at http://development.ohio.gov/cs/cs_civilrights.htm.

Ohio Consolidated Plan is the required annual action plan for how OCD administers federal funding received from the U.S. Department of Housing and Urban Development (HUD), available online at http://development.ohio.gov/cs/cs_ocp.htm.

Fair Housing for HOME Participants is a series of five publications: 1) Understanding the Basics; 2) Promoting Fair and Accessible Housing Opportunities in Home Projects; 3) Affirmatively Furthering Fair Housing; 4) Administering Tenant-Based Rental Assistance; and 5) Creating Economic Opportunity. The purpose of the series is to provide technical assistance to HOME Participating Jurisdictions (PJs) and their housing partners on the fair housing laws and regulations that apply to HOME Program activities. Specifically, this series reviews the applicable federal fair housing requirements, illustrates best practices in promoting fair housing, and highlights PJ responsibilities for ensuring compliance with fair housing requirements. (HUD-2005-10-CPD)

http://portal.hud.gov/hudportal/documents/huddoc?id=19755_200510.pdf

HOME and the Low-Income Housing Tax Credit Guidebook (January 2013)

This guidebook provides technical guidance to HOME Investment Partnership (HOME) Program Participating Jurisdictions (PJs) on projects that combine HOME Program funds with Low-Income Housing Tax Credits (LIHTCs). The guidebook provides guidance to PJs on assessing applications for HOME-LIHTCs projects from developers and reviews how to comply with the requirements of both programs for the successful development of these types of affordable multifamily rental projects.

<https://www.onecpd.info/resources/documents/HOMEandLowIncomeHousingTaxCreditGuidebook.pdf>

APPENDIX A

Equal Employment Opportunity Policy Statement

STATE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM RECIPIENT

The Community/County of _____ declares its intent to pursue a policy of nondiscrimination in personnel practices, including: recruiting, hiring, opportunities for transfer and promotion, conditions or privileges of employment, as well as compensation and benefits. Such practices or procedures shall not favor or penalize any person because of race, creed, color, sex, marital status, national origin, age, physical disability or military status where these are not found to be bona fide occupational qualifications.

The Community/County recognizes its responsibility to enhance the purposes set forth in the Ohio Nondiscrimination Law (O.R.C. 4112) as well as federal statutes, which may apply as a result of its federal grant activities.

Compliance with EEO requirements may be enhanced through adoption of appropriate personnel policies.

DATE ADOPTED: _____

AUTHORIZED SIGNATURES

Name	Date

Municipal Seal

APPENDIX B

EMPLOYMENT PROFILE

STATE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Date: _____

(Name of Community/County)

JOB CATEGORY

Employment Characteristics	Admin/ Officials	Professionals	Technicians	Para Professionals	Office/ Clerical	Other
Total Number						
MALE:						
W						
A						
AW						
NH						
AIW						
AIB						
AI						
B						
BW						
FEMALE:						
W						
A						
AW						
NH						
AIW						
AIB						
AI						
B						
BW						

Demographic Codes: Use for Recording Racial Categories

- A = Asian
- AI = American Indian/Alaskan Native
- AIB = American Indian/Alaskan Native & Black/African American
- AIW = American Indian/Alaskan Native & White
- AW = Asian & White
- B = Black/African American
- BW = Black/African American & White
- FH = Female Head of Household
- NH = Native Hawaiian/Other Pacific Islander
- W = White

Instructions for completing the form:

An Employment Profile describes the characteristics of those persons administering the grant who are funded in whole, or in part, with CDBG funds. It provides insight as to possible discriminatory patterns of employment.

Neatly print or type today's date and the name of your community in the spaces provided at the top of the page.

Carefully consider all persons who are working on your community's CDBG grant that are being paid with grant funds.

Example: The community clerk is spending time performing duties pertaining to the CDBG grant that are beyond her regular duties. The community is paying with CDBG administrative funds for the clerk's time. This individual is funded, in part, by CDBG dollars and must be recorded on the form.

Be sure to include those individuals whose salary or fees are paid totally with grant dollars as well as those persons whose salary or fee is only partially funded with grant monies. Each of these individuals must keep a timesheet tracking time-spent working on grant activities.

Each individual will be recorded on the profile form by gender, ethnicity and professional status. Use the **Demographic Codes** provided at the bottom of the Employment Profile form to ascertain the proper ethnic category.

Example: To record an Asian, female community development manager who is working on the grant, one would look at the lower half of the table, labeled "Female," and proceed to the top of the table for the column marked "**Admin/Officials.**" Then move down the column until you reach the row marked "**A.**" Place an X in this box. Repeat this process for each individual paid with CD funds.

NOTE: A copy of the community's U.S. Equal Employment Opportunity Commission EEO-4 form can be included in the program files as an alternative to the Employment Profile form.

What is an EEO-4 Survey?

<http://www.eeoc.gov/employers/eeo4survey/index.cfm>

As part of its mandate under Title VII of the Civil Rights Act of 1964, the Equal Employment Opportunity Commission requires periodic reports from public and private employers, and unions and labor organizations which indicate the composition for their work forces by sex and by race/ethnic category.

EEOC collects labor force data from state and local governments with 100 or more employees within 50 U.S. states and District of Columbia. The reporting agencies provide information on their employment totals, employees' job category and salary by sex and race/ethnic groups as of June 30 of the survey year. Since 1993 the EEO4 survey is conducted biennially in every odd-numbered year.

SECTION 504/ADA CERTIFICATION

STATE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

The Community/County of _____ hereby certifies that it has complied with the following requirements pursuant to Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act and

1. Conducted a Section 504/ADA Transition Plan and Self Evaluation of all municipal facilities;
2. Advises the public, employees and job applicants that it does not discriminate on the basis of handicapped/disability status in admission or access to or treatment or employment in its programs and activities; and
3. Has designated the following person as the contact to coordinate efforts to comply with these requirements.

Name: _____

Title: _____

(Signature of Authorized Municipal Official)

(Date)

Municipal Seal

SECTION 504/ADA SELF-EVALUATION AND TRANSITION PLAN
STATE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

COMMUNITY/CITY OF _____

The following individual is responsible for inquiries regarding this Section 504/ADA Self-Evaluation and Transition Plan:

 (Name)

 (Title)

 (Address)

 (Telephone) (Fax) (Email)

The Section 504/ADA Self-Evaluation and Transition Plan was adopted by the following authorized individuals on behalf of the municipality:

AUTHORIZED SIGNATURES

Name	Date

Municipal Seal

1. EMPLOYMENT

1. Are job announcements put into newspapers that have general circulation?

Yes No

If no, describe how individuals are made aware of employment opportunities:

2. Do job announcements state that the municipality is an "Equal Opportunity Employer"?

Yes No

If no, explain why the "Equal Opportunity Employer" statement is not contained within job announcements:

3. Has the municipality adopted an Equal Employment Opportunity Policy Statement?

Yes No

4. Do job applications make inquiries about whether an applicant is a person with a disability or the nature or severity of a disability?

Yes No

If yes, explain:

5. Describe the accommodations that can be made for the known physical and mental limitations of otherwise qualified persons with disabilities who are currently employed or applying for employment:

2. PROGRAM ACCESSIBILITY

1. Are any of the following services or benefits provided to residents directly by the municipality?

Yes No

(Please mark an "X" for all services provided by the municipality)

<input type="checkbox"/> Transportation Services	<input type="checkbox"/> Counseling Services
<input type="checkbox"/> Health Services	<input type="checkbox"/> Employment Services
<input type="checkbox"/> Public Housing	<input type="checkbox"/> Food Services
<input type="checkbox"/> General	<input type="checkbox"/> Social, Recreational or Athletic Services

(a) For those services that are provided, describe accommodations that can be taken to make them accessible and usable for persons with disabilities (i.e. provision of auxiliary aids, relocating programs to accessible facilities, use of alternative materials, home visits, etc.):

2. Are there any limitations on the number of qualified persons with disabilities who may participate in or be admitted to the program?

Yes No

If yes, list the steps to eliminate the limitations:

3. Do applications for these services, in any way discriminate against persons with disabilities?

Yes No

4. Describe the qualifications that are needed in order to be eligible for each respective program:

Program

Qualifications

1.

2.

3.

4.

5.

6.

7.

3. FACILITIES

Note: The definition of "facility" under Section 504 includes all or any portion of buildings, structures, equipment, roads, walks, parking lots or other real or personal property or interest in such property, owned, operated or leased by the municipality.

- List below all facilities and the programs or operations for which each facility houses.

<u>Facility</u>	<u>Programs or Operations Housed</u>
1.	
2.	
3.	
4.	
5.	

Using the Uniform Federal Accessibility Standards (UFAS), each facility must be reviewed for compliance:

COMPLIANCE COMPONENT

FACILITIES

	#1	#2	#3	#4	#5	#6	#7
Accessible Route							
Outside Paths and Walks							
Parking							
Curb Ramps							
Ramps							
Entrances/Interior Doors							
Elevators							
Lifts							
Toilet Rooms							
Drinking Fountains							
Warning Signals							
Assembly Areas							
Public Telephones							
Other Building Elements and Specialized Facilities							

Place a "1" in the respective box if item is in compliance with UFAS
 Place a "2" in the respective box if item is not in compliance with UFAS
 Place a "3" in the respective box if item is not available and is not required

Note: #1 through #7 above must correspond to the specific facility with that same number identified on the preceding page.

2. For those facilities where a "2" is indicated for the specific component, list below the inaccessible feature that limits accessibility to the programs provided in that facility:

APPENDIX D

**CERTIFICATION OF CONTRACTOR REGARDING
SEGREGATED FACILITIES**
(For Prime Contracts Exceeding \$10,000)

Name of Prime Contractor: _____

Project Name and Number: _____

The undersigned hereby certifies that:

- (a) No segregated facilities will be maintained as required by Title VI of the Civil Rights Act of 1964.

Name and Title of Authorized Representative (print or type)

Signature of Authorized Representative

Date

APPENDIX E

CERTIFICATION OF CONTRACTOR REGARDING EQUAL EMPLOYMENT OPPORTUNITY (For Prime Contracts Exceeding \$10,000)

INSTRUCTIONS

This certification is required pursuant to Executive Order 11246 (30 F.R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any other of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause, and if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the bidder has not filed a compliance report due under applicable instructions, such bidder shall be required to submit a compliance report within seven (7) calendar days after bid opening. No contract shall be awarded unless such report is submitted.

CERTIFICATION BY BIDDER

Name and address of bidder

- Bidder has participated in a previous contract or subcontract subject to the EEO Clause.**
 Yes No
- Compliance reports were required to be filed in connection with such contract or subcontract.**
 Yes No
- Bidder has filed all compliance reports due under applicable instructions, including SF-100.**
 Yes No
- Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?**
 Yes No

Name and Title of Authorized Representative (print or type)

Signature of Authorized Representative

Date

APPENDIX F

3. SECTION 202 OF EXECUTIVE ORDER 11246

A. Activities and contracts not subject to Section 202

Applicable to federally assisted construction contracts and related subcontracts less than \$10,000

During the performance of this contract, the contractor agrees as follows:

1. The contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
2. The contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this non-discrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
3. Contractors shall incorporate foregoing requirements in all subcontracts.

B. Activities and contracts subject to Section 202

Applicable to federally assisted construction contracts and related subcontracts more than \$10,000

During the performance of this contract, the contractor agrees as follows:

1. (a) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration without regard to race, color, religion, sex or national origin.
- (c) The contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representative of the contractor's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (d) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

- (e) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by ODSA and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- (f) In the event of the contractor's noncompliance with the non-discrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
- (g) The contractor will include the provisions of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as ODSA may direct as a means of enforcing such provision, including sanctions for non-compliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by ODSA the contractor may request the United States to enter into such litigation to protect the interest of the United States.

2. The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance or guarantee, or undertaken pursuant to any federal program involving such grant, contract, loan, insurance or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

- (a) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin, such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment notices to be provided setting forth the provisions of this nondiscrimination clause.
- (b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex or national origin.
- (c) The contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract of understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- (d) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and the rules, regulations and relevant orders of the Secretary of Labor.
- (e) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- (f) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (g) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work provided, that:

- The applicant participating is a state or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government, which does not participate in work on or under the contract.
- The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.
- The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply within these undertakings, the administering agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to U.S. Department of Justice for appropriate legal proceedings.

4. CERTIFICATION OF NONSEGREGATED FACILITIES AS REQUIRED BY THE MAY 19, 1967 ORDER (32 F.R. 74390 ON ELIMINATION OF SEGREGATED FACILITIES, BY THE SECRETARY OF LABOR.

Prior to the award of any construction contract or subcontract exceeding \$10,000, the Contractor shall submit signed Certification of Non-segregated Facilities Forms for him/herself and all subcontractors.

5. THE AGE DISCRIMINATION ACT OF 1975

No person in the United States shall, on the basis of age, be excluded from participation or be denied the benefits of, or be subjected to discrimination under, any program or activity undertaken with federal funds.

6. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under Title I of the Housing and Community Development Act of 1974.

7. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968

In connection with the planning and carrying out of any project assisted with CDBG funds, and to the greatest extent feasible, opportunities for training and employment should be given to lower-income persons residing within the unit of local government in which the project is located, and contracts for work in connection with the project should be awarded to eligible business concerns which are located in or owned in substantial part by persons residing in the same unit of local government in which the project is located. And that this contract, or any subcontracts, must adhere to and contain what is referred to as the Section 3 Clause, and which follows in its entirety:

Section 3 Contract Clause

- a. The work to be performed under this contract subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- b. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- c. The contract agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- d. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- e. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- f. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default and debarment or suspension from future HUD assisted contracts.
- g. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of sections 3 and 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with sec 7(b).

Section 3 Compliance – Construction Contracts more than \$100,000

As outlined in the General Civil Rights Compliance Measures section of this manual, Section 3 compliance may be triggered by certain contracts. Contractors and subcontractors must meet specific requirements if the Section 3 contract threshold has been triggered. The following outlines what the threshold is and the specific requirements that must be met if this threshold is triggered:

A. Contractor and Subcontractor Thresholds

Work on a Section 3-covered project (the project was funded by CDBG funds in excess of \$200,000) or the contract or subcontract exceeds \$100,000.

B. Section 3 requirements in regard to Contractors and Subcontractors

Section 3 requires that "employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing federal, state and local laws and regulations, be directed to low-and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low-and very low-income persons."

C. Section 3 pertains to "new hires" only.

If a contractor does not need to hire additional employees to complete the Section 3 covered project and does not need to subcontract out any work, Section 3 requirements would not have an impact on the contractor.

However, if the same contractor needs to fill job vacancies, hire additional personnel, or subcontract out work once the contract is executed, he/she would have to comply with the requirements of Section 3 (subcontracting falls under the category of "hiring" and, therefore, the process of subcontracting must comply with Section 3 requirements).

Contractors and subcontractors must document their compliance with Section 3. Numerical goals for meeting compliance have been set forth in 24 CFR Part 135 which implements Section 3 requirements. HUD has determined that those Contractors and Subcontractors that meet the numerical goals of this regulation will be found in compliance with Section 3. For those Contractors and Subcontractors that engage in "new hires" and do not meet the numerical goals outlined in 24 CFR part 135 (Section 3), the burden will be placed on them to prove how they were in compliance with Section 3.

Contract language required

As discussed above, contracts more than \$100,000 trigger "Section 3" of the Housing and Urban Development Act of 1968 which requires that opportunities be given, to the greatest extent possible, to low/moderate income persons. In order to document compliance with Section 3, several documents must be included in all construction bid packages and will become a part of any construction contract more than \$100,000. The following language/documents are required:

A. Section 3 Clause

Contracts and subcontracts subject to Section 3 must adhere to and contain the "Section 3 clause" which outlines contractor and subcontractor responsibilities. This clause must be inserted in all Section 3 covered contracts and subcontracts.

B. Section 3 Affirmative Action Plan

All contractors and subcontractors covered by Section 3 (with contracts or subcontracts exceeding \$100,000) are required to complete the **Section 3 Affirmative Action Plan** in which the Contractor agrees to implement hiring and other practices to increase the utilization of Section 3 residents and business concerns in the project. A **Section 3 Utilization Report** must be completed prior to close-out of the CDBG grant. A sample of the Section 3 Affirmative Action Plan and the Section 3 Utilization Report are included below.

SECTION 3 AFFIRMATIVE ACTION PLAN
(Prime Contractor)

_____, Contractor, agrees to implement the following specific affirmative action steps directed at increasing the utilization of Section 3 Residents' and Section 3 Business Concerns within the Community/City/County of _____.

- A.** To ascertain from the locality's CDBG Program official the exact boundaries of the Section 3 Covered Project Area and where advantageous, seek the assistance of local officials in preparing and implementing the affirmative action plan.
- B.** To attempt to recruit from within the Community/City/County the necessary individuals to fill employment opportunities generated by Section 3 covered assistance through local advertising media, signs placed at the proposed site for the project and community organizations and public or private institutions operating within or serving the project area and providing preference for these opportunities in the following order:
 - (i) Section 3 residents residing in the service area or neighborhood in which the Section 3 covered project is located;
 - (ii) Participants in Youthbuild Programs, and
 - (iii) Other Section 3 residents.
- C.** To maintain a list of all lower income area residents who have applied either on their own or on referral from any source, and to employ such persons, if otherwise eligible and a vacancy exists.
- D.** To insert this Section 3 Affirmative Action Plan in all bid documents for contracts more than \$100,000, and to require all bidders on subcontracts more than \$100,000 to submit a Section 3 Affirmative Action Plan, including utilization goals and the specific steps planned to accomplish these goals.
- E.** To insure that subcontracts more than \$10,000 which are typically let on a negotiated rather than bid basis in areas other than Section 3 covered project areas, are also let on a negotiated basis, whenever feasible, when let in a Section 3 covered project area.
- F.** To formally contact unions, subcontractors and trade associations to secure their cooperation for this program.
- G.** To notify Section 3 residents and Section 3 business concerns about economic opportunities generated by Section 3 covered assistance and to award Section 3 covered contracts, to the greatest extent feasible, to Section 3 business concerns in the following order of preference:
 - (i) Section 3 business concerns that provide economic opportunities for Section 3 residents in the service area or neighborhood in which the Section 3 covered project is located;
 - (ii) Applicants selected to carry out HUD Youthbuild projects; and
 - (iii) Other Section 3 business concerns.

- H. To notify potential contractors about Section 3 requirements of this part, and incorporating the Section 3 clause in all solicitations and contracts.
- I. To facilitate the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns undertaking activities to reach the numerical goal established by OCD and HUD.
- J. To cooperate in obtaining the compliance of contractors and subcontractors with the requirements of Section 3.
- K. To submit reports to OCD and HUD on the results of actions taken to provide training, jobs and contracts to Section 3 residents and Section 3 business concerns.
- L. To appoint an executive official of the company or agency as Equal Employment Opportunity Officer to coordinate the implementation of this Section 3 Affirmative Action Plan.
- M. To document utilization of Section 3 Employees on the covered project by having new employees, (including those of all subcontractors) from the Section 3 Area, complete the Section 3 Income Worksheet as provided by OCD or HUD.
- N. To complete a Section 3 Utilization Report and submit said report to OCD, HUD, or their designee prior to final payment for the covered project; this report will list all Section 3 employees documented on the Section 3 Income Worksheets and formatted as required by OCD.
- O. To maintain records, including copies of correspondence, income verification memoranda, etc., which document that all levels of the above affirmative action steps have been taken.

CONTRACTOR CERTIFICATION

As officers and representative of: _____
 (Name of Contractor)

On behalf of the Company, I have read and fully agree to the Section 3 Affirmative Action Plan, and become a party to the full implementation of this program.

 Name and Title of the Authorized Representative (print or type)

 Signature of Authorized Representative

 Date

SECTION 3 UTILIZATION REPORT

A. SECTION 3 EMPLOYEE INFORMATION

Name of CD Grantee: _____

Name of Project: _____

CDBG Project Number: _____ Wage Decision Number: _____

Number of Section 3 Employees Utilized on Project by Prime Contractor: _____

Number of Section 3 Employees Utilized on Project by Subcontractors: _____

Total Number of Section 3 Employees Utilized on Project: _____

B. CERTIFICATION OF PRIME CONTRACTOR

As officer and representative of: _____
Name of Prime Contractor

Address: _____

Telephone Number: _____

On behalf of the Company, I hereby certify that the above information is true and accurate and is reported fully as required by the Section 3 Affirmative Action Plan as part of the contract for this CDBG-assisted construction project. It is further understood that final payment from the state of Ohio CDBG Program for this project cannot be made until this report is submitted to the CDBG grantee or authorized designee.

Name and Title of Authorized Representative (print or type)

Signature of Authorized Representative

Date

DIRECTIONS FOR COMPLETION OF SECTION 3 UTILIZATION REPORT

1. **Determine if there has been Section 3 participation in the construction project.**
 - a. If you hire **new** employees who **reside in the county where the construction is taking place** to work on the CDBG project, have them complete the one page Section 3 Income Worksheet and return it to you. Compare the Worksheet to the Section 3 Income Schedule provided you at the pre-construction conference to determine if they are Section 3 eligible.
 - b. Distribute copies of the Section 3 Income Worksheet to **all** subcontractors engaged for the project. Instruct them to have any **new** employees they hire who **reside in the county where the construction is taking place** to complete the worksheet and have the subcontractors return the forms to you. Compare as in (a), above to determine Section 3 eligibility.
2. **Retain all Section 3 Income Worksheets with your project records.**
3. **Complete (A) Section 3 Employee Information area of the report.**
 - a. Enter name of the community where the project is located.
 - b. Enter project name.
 - c. Enter CDBG Project Number and Federal Wage Decision Number (located in contract documents).
 - d. Enter number of Section 3 Employees you utilized on project.
 - e. Enter number of Section 3 Employees utilized by subcontractors on project.
 - f. Enter total number (d + e) of Section 3 Employees utilized on project.
4. **Complete (B) Certification by Prime Contractor area of Report.**
 - a. List your name, address and telephone number of your company.
 - b. Print or type name and title of authorized company representative.
 - c. Have authorized representative sign and date Report.

IMPORTANT REMINDER!

Final payment of CDBG funds will not be made until Section 3 Utilization Report is submitted to CDBG grantee or designee.

Definitions

Section 3 Resident:

- A resident of public housing (regardless of income)
- An individual residing in the metropolitan area or non-metropolitan county in which the Section 3 covered assistance is expended and who is:
 - (i) A member of a family whose income does not exceed 80 percent of the median income for that county; or
 - (ii) A member of a family whose income does not exceed 50 percent of the median income for that county.

Section 3 Business: A business concern that:

- Is owned by Section 3 residents (at least 51 percent);
- Employs a substantial number of Section 3 residents (at least 30 percent of the permanent, full time employees are currently Section 3 residents or within three years of the date of first employment with the business concern were Section 3 residents; or
- Subcontracts with business concerns owned by or employing Section 3 residents (in excess of 25 percent of the dollar award of all subcontracts).

Section 3 Covered Project Area: The area in which the persons benefiting from the Section 3 covered project reside. The service area shall not extend beyond the unit of general local government in which the Section 3 covered assistance is expended.

HUD Youthbuild Programs: A program that receives assistance under subtitle D of Title IV of the National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992 (42 U.S.C. 12899) and provides disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction of rehabilitation of housing for homeless individuals and members of low and very low-income families.

STATE OF OHIO SECTION 3 REQUIREMENTS OVERVIEW

Section 3 requires that recipients of certain HUD financial assistance, to the greatest extent possible, provide job training, employment, and contract opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods.

Community Planning and Development Funding covered by Section 3

- Community Development Block Grants (CDBG)
- HOME Investment Partnership Assistance (HOME)
- Housing Opportunities for Persons with AIDS (HOPWA)
- Economic Development Initiative (EDI)
- Brownfield Economic Development Initiative (BEDI)
- Emergency Solutions Grants (ESG)
- Homeless Assistance Grant Program
- University Partnership Grants
- Certain grants awarded under HUD Notices of Funding Availability (NOFAs)

Recipients covered by Section 3

“Recipient” refers to any entity that receives Section 3 covered financial assistance directly from HUD or from another recipient and includes, but is not limited to, any of the following:

- States; units of local government; Native American tribes; or other public bodies
- Public or private nonprofit organizations
- Private agencies or institutions
- Mortgagors, developers, limited dividend sponsors, builders, property managers, or Community Housing Development Organizations (CHDOs)
- Successors, assignees or transferees of any such entity listed above

Note: Recipients do **not** include any ultimate beneficiary under the HUD program that Section 3 applies and does **not** refer to contractors.

The requirements of Section 3 only apply to the portion(s) of covered funding that was used for project/activities involving housing construction, rehabilitation, demolition, or other public construction. However, Section 3 applies to the entire covered project or activity regardless of whether the activity was fully or partially funded with covered assistance.

OCD programs covered by Section 3 are HUD-funded programs that provide housing and community development assistance for housing rehabilitation, demolition, housing construction and other public construction projects such as roads, sewers, community centers, etc.

The requirements apply to covered projects in which the amount of OCD funding is more than \$10,000. The requirements also apply to contracts and subcontracts.

Compliance with Section 3 is not an option, it is the law. It is the grant recipient’s responsibility to ensure compliance in its own operations and those of its contractors. Recipient responsibilities include:

- Notifying Section 3 residents and business concerns about economic opportunities
- Notifying covered contractors about responsibilities
- Incorporating the Section 3 clause verbatim into covered contracts
- Facilitating training and employment of residents
- Awarding contacts to Section 3 businesses
- Meeting annual numerical goals
 - 10 percent of the total dollar amount of covered construction contracts
 - 30 percent of new hires annually
 - 3 percent of covered non-construction contracts
- Assisting with achieving compliance among contractors
- Refraining from entering into contracts with contractors that fail to comply
- Documenting other actions taken to achieve compliance
- Submitting annual Section 3 report even if no covered actions were completed

Recipients of HUD financial assistance and their contractors and subcontractors are expected to develop a Section 3 Plan to assure that economic opportunities to the greatest extent feasible are provided to low- and very low-income persons and to qualified Section 3 businesses. One element of that Plan is the use of a Section 3 clause which indicates that all work performed under the contract is subject to the requirements of Section 3.

If an organization was hired with a contract containing the Section 3 clause, the organization has reporting obligations, hiring obligations and contracting obligations. These obligations are discussed below.

Reporting Obligations

HUD requires OCD to report on specific award recipients, contractors, and subcontractors. To do so it must collect information from the covered award recipient, who must collect information from contractors, who must (in turn) collect information from subcontractors.

OCD Notice of Contract Award Report

This form is to be used to report accomplishments regarding employment and other economic opportunities provided to low- and very low-income persons under Section 3 of the Housing and Urban Development Act of 1968. The Section 3 regulations apply to OCD recipients of **housing and community development assistance** awarded for: (1) housing rehabilitation (including reduction and abatement of lead-based paint hazards); (2) housing construction; or (3) other public construction projects; and to **contracts and subcontracts of \$10,000 or more**. **This report must include accomplishments of all recipients and their Section 3 covered contractors and subcontractors.**

OCD requires Section 3 contractor data on the Notice of Contract Award Report.

Hiring Obligations

Section 3 requires that certain award recipients, contractors, and subcontractors fulfill the following obligations when hiring new employees:

- Outreach to low-income people in the area whenever they intend to hire new employees
- Training for their new employees
- Provide preferences in their hiring process, as follows:
 - 1) If the project is assisted under the Stewart B. McKinney Homeless Assistance Act, homeless persons residing in the service area or neighborhood of the project get top

- priority, and these three populations get second priority. If the project is not receiving McKinney funds, these three populations get top priority.
- 2) Section 3 residents living in the service area or neighborhood of the project. (This means any geography up to the area of the local government.)
 - 3) Participants in HUD Youthbuild programs
 - 4) Other Section 3 residents. (This means those outside the service area or neighborhood of the project. A low-income individual can only be a Section 3 resident on a project if he or she resides in the MSA or nonmetropolitan county of the project. Low-income individuals outside the MSA or nonmetropolitan county are not Section 3 residents for this project, although they may be for projects nearer to where they live.)
- Meet HUD’s hiring requirement (the “minimum numerical target for training and employment”) that 10 percent of new hires be Section 3 individuals

Minimum numerical targets for training and employment (per HUD): At least 10 percent of the aggregate number of new hires each year must be Section 3 residents. “New hires” refers to full-time employees for permanent, temporary or seasonal employment opportunities. If the business is not able meet this requirement, it has the burden of demonstrating why it was not feasible to meet the numerical goal. Such justification may include impediments encountered despite action taken.

It is important to note that if applicants are not qualified for a position, the business is under no obligation to hire them.

Contracting Obligations

Section 3 requires that certain award recipients, contractors, and subcontractors fulfill the following obligations when they contract with other businesses to work on the project:

- “To greatest extent feasible” contract with Section 3 business concerns.
- Give contracting priority to these 3 categories:
- Section 3 businesses that provide “economic opportunities for Section 3 residents in the service area or neighborhood” of the project.
- Applicants carrying out HUD Youthbuild programs.
- Other Section 3 businesses.
- Meet HUD’s contracting requirement (the “minimum numerical target for contracting”) that Section 3 businesses receive least 10 percent of the building trades contracts for the project and at least 3 percent of the total amount for all non-building trade contracts.

Minimum numerical targets for contracting (per HUD): 10 percent of the dollar amount of contracts for *building trades* work must be with be Section 3 Business Concerns, and 3 percent of the dollar amount of contracts for *other* work (non-building trades work) must be with Section 3 Business Concerns. If an organization has contracting obligations under Section 3 and is not able meet these requirements, it has the burden of demonstrating why it was not feasible to meet the numerical goals. Such justification may include impediments encountered despite action taken.

These requirements concern (a) contracts for labor and (b) contracts for both labor and materials, but *not* (c) contracts just for materials. These contracting obligations are for contracts of any dollar value, not just those contracts for more than \$100,000.

It is important to note that recipients, contractors, and subcontractors do not have to contract with businesses that are not qualified for the contract, even if only by doing so will the businesses meet HUD’s minimum numerical targets.

The reporting requirement applies to any project receiving covered funds from OCD, to contractors working on that project with covered contracts, and to subcontractors hired by those contractors if the contract with which the subcontractor is hired is for more than \$10,000. Award recipient must submit an OCD Notice of Contract Award Report that contains both their own activities and the activities of the contractors and subcontractors with covered contracts. This report also includes the recipient's Minority Business Enterprise/Woman-owned Business Enterprise (MBE/WBE) contract information.

Recipients should email or fax in the completed forms to:

Ohio Development Services Agency
Office of Community Development
77 South High Street, P.O. Box 1001
Columbus, OH 43216-1001

IMPORTANT:

Section 3 requirements apply to the entire project or activity regardless if the project is fully or partially funded with covered financial assistance.

For more information on Section 3, refer to HUD's website located at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/section3/section3.

APPENDIX I

GUIDANCE ON MINORITY BUSINESS ENTERPRISE / WOMEN'S BUSINESS ENTERPRISE OUTREACH

Minimum Acceptable Outreach Standards

Section 281 of the National Affordable Housing Act requires each participating jurisdiction to prescribe procedures acceptable to the Housing Secretary to establish and oversee a minority outreach program. The program shall include minority- and woman-owned businesses in all contracting activities entered into by the participating jurisdiction to facilitate the provision of affordable housing authorized under this Act or any other federal housing law applicable to such jurisdiction. Therefore, minimum HUD standards require that each participating jurisdictions' outreach effort to minority- and woman-owned businesses be:

- A good faith, comprehensive and continuing endeavor;
- Supported by a statement of public policy and commitment published in the print media of widest local circulation;
- Supported by an office and/or a key, ranking staff person with oversight responsibilities and access to the chief elected official; and
- Designed to utilize all available and appropriate public and private sector local resources.

Guidelines for a Minority/Women Business Outreach Program

Under the minimum HUD standards cited above, the following guidelines are provided for use by participating jurisdictions in implementing outreach programs to ensure the inclusion, to the maximum extent possible, of entities owned by minorities and women. Each participating jurisdiction should:

- Develop a systematic method for identifying and maintaining an inventory of certified Minority and Women's Business Enterprises (MBEs and WBEs), their capabilities, services, supplies and/or products;
- Utilize the local media, electronic and print, to market and promote contract and business opportunities for MBEs and WBEs;
- Develop informational and documentary materials (fact sheets, program guides, procurement forecasts, etc.) on contract/subcontract opportunities for MBEs and WBEs;
- Develop procurement procedures that facilitate opportunities for MBEs and WBEs to participate as vendors and suppliers of goods and services;
- Sponsor business opportunity-related meetings, conferences, seminars, etc., with minority and women business organizations; and
- Maintain centralized records and statistical data on the utilization and participation of MBEs and WBEs as contractors/subcontractors in all HUD-assisted program contracting activities.

Each participating jurisdiction, utilizing the standards and guidelines listed above, shall prescribe procedures and actions it will undertake in implementing a minority and women's business enterprise outreach program. The above items represent basic outreach-related activities and are not all inclusive actions a participating jurisdiction may undertake.

Participation Goals for Minorities and Females

For federal and federally assisted construction contractors, goals for minorities and females are established as a percentage participation rate. The percentage goal established for minority participation must be at least equal to the percentage established for that "economic area" as outlined in the list below [6].

Contractors may establish higher goals if they desire. Although a contractor is required to make good faith efforts to meet their goals, the goals are not quotas and no sanctions are imposed solely for failure to meet them. The following factors explain the difference between permissible goals and unlawful preferences:

- Participation rate goals are not designed to be, nor may they properly or lawfully be interpreted as, permitting unlawful preferential treatment and quotas with respect to persons of any race, color, religion, sex or national origin.
- Goals are neither quotas, set-asides, nor a device to achieve proportional representation or equal results. Rather, the goal-setting process is used to target and measure the effectiveness of affirmative action efforts to eradicate and prevent barriers to equal employment opportunity.
- Goals under Executive Order 11246, as amended, do not require that any specific position be filled by a person of a particular gender, race or ethnicity. Instead, the requirement is that contractors engage in outreach and other efforts to broaden the pool of qualified candidates to include minorities and women.
- The use of goals is consistent with principles of merit, because goals do not require an employer to hire a person who does not have the qualifications needed to perform the job successfully, hire an unqualified person in preference to another applicant who is qualified or hire a less qualified person in preference to a more qualified person.
- Goals may not be treated as a ceiling or a floor for the employment of members of particular groups.
- A contractor's compliance is measured by whether it has made good faith efforts to meet its goals, and failure to meet goals, by itself, is not a violation of the Executive Order.

These goals are applicable to all of a contractor's construction work sites (whether or not these sites are also the result of a federal contract or are federally assisted). The goals are applicable to each nonexempt contractor's total onsite construction workforce, regardless of whether or not part of that workforce is performing work on a federal, federally assisted or non-federally related project contract or subcontract.

Contractors should apply to each work site the goal for the geographical area in which that particular work site is located.

The contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 will be assessed based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor must make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the contractor's goals is a violation of the contract, the Executive Order, and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

Until further notice, the following goals for female and minority utilization in each construction craft and trade must be included in all federal or federally assisted construction contracts and subcontracts in excess of \$10,000.

Construction contractors that are participating in an approved Hometown Plan (see 41 CFR 60-4.5) are required to comply with the goals of the Hometown Plan with regard to construction work they perform in the area covered by the Hometown Plan. With regard to all their other covered construction work, such contractors are required to comply with the applicable Standard Metropolitan Statistical Area (SMSA) or Economic Area (EA) goals contained in the list below.

GOALS FOR FEMALES

Nationwide Goal 6.9 percent

GOALS FOR MINORITIES

Economic Areas – Ohio

CITY/STATE/COUNTY	GOAL (percent)
064 Youngstown-Warren, OH: SMSA Counties: 9320 Youngstown-Warren, OH <i>OH Mahoning; OH Trumbull</i>	9.4
Non-SMSA Counties: <i>OH Columbiana; PA Lawrence; PA Mercer</i>	6.7
065 Cleveland, OH: SMSA Counties: 0080 Akron, OH <i>OH Portage; OH Summit</i>	7.8
1320 Canton, OH <i>OH Carroll; OH Stark</i>	6.1
1680 Cleveland, OH <i>OH Cuyahoga; OH Geauga; OH Lake; OH Medina</i>	16.1
4440 Lorain-Elyria, OH <i>OH Lorain</i>	9.3

GOALS FOR MINORITIES – continued

Economic Areas – Ohio

CITY/STATE/COUNTY	GOAL (percent)
4800 Mansfield, OH OH Richland	6.3
<i>Non-SMSA Counties: OH Ashland; OH Ashtabula; OH Coshocton; OH Crawford; OH Erie; OH Holmes; OH Huron; OH Tuscarawas; OH Wayne.</i>	
066 Columbus, OH	
SMSA Counties:	
1840 Columbus, OH	10.6
<i>OH Delaware; OH Fairfield; Franklin; OH Madison; OH Pickaway</i>	
Non-SMSA Counties	7.3
<i>OH Athens; OH Fayette; OH Guernsey; OH Hocking; OH Jackson; OH Knox; OH Licking; OH Marion; OH Meigs; OH Morgan; OH Morrow; OH Muskingum; OH Noble; OH Perry OH Pike; OH Ross; OH Scioto; OH Union; OH Vinton</i>	
067 Cincinnati, OH:	
SMSA Counties:	
1640 Cincinnati, OH-KY-IN	11.0
<i>IN Dearborn; KY Boone; KY Campbell; KY Kenton; OH Clermont; OH Hamilton; OH Warren</i>	
3200 Hamilton-Middletown, OH	5.0
<i>OH Butler</i>	
Non-SMSA Counties	9.2
<i>IN Franklin; IN Ohio; IN Ripley; IN Switzerland; KY Bracken; KY Carroll; KY Fleming; KY Gallatin; KY Grant; KY Lewis; KY Mason; KY Owen; KY Pendleton; KY Robertson; OH Adams; OH Brown; OH Clinton; OH Highland</i>	
068 Dayton, OH:	
SMSA Counties:	
2000 Dayton, OH	11.5
<i>OH Greene; ON Miami; OH Montgomery; OH Preble</i>	
7960 Springfield, OH	7.8
<i>OH Champaign; OH Clark</i>	
Non-SMSA Counties	9.9
<i>OH Darke; OH Logan; ON Shelby</i>	
069 Lima, OH:	
SMSA Counties:	
4320 Lima, OH	4.4
<i>OH Allen; OH Auglaize; OH Putnam; OH Van Wert</i>	
Non-SMSA Counties	3.5
<i>OH Hardin; OH Mercer</i>	

GOALS FOR MINORITIES – continued

Economic Areas – Ohio

CITY/STATE/COUNTY	GOAL (percent)
070 Toledo, OH:	
SMSA Counties:	
8400 Toledo, OH-MI	8.8
<i>MI Monroe; OH Fulton; OH Lucas; OH Ottawa; OH Wood</i>	
Non-SMSA Counties	7.3
<i>MI Lenawee; OH Hancock; OH Henry; OH Sandusky;</i>	
<i>OH Seneca; OH Wyandot</i>	

Standard Form 100 (EEO-1)

Standard Form 100 (EEO-1) must be filed by the following:

A. All **private employers** who are:

1. Subject to Title VII of the Civil Rights Act of 1964 (as amended by the Equal Employment Opportunity Act of 1972) with 100 or more employees EXCLUDING state and local governments, primary and secondary school systems, institutions of higher education, Indian tribes and tax-exempt private membership clubs other than labor organizations;

OR

2. Subject to Title VII with fewer than 100 employees if the company is owned or affiliated with another company, or there is centralized ownership, control or management (such as central control of personnel policies and labor relations) so that the group legally constitutes a single enterprise and the entire enterprise employs a total of 100 or more employees.

B. All **federal contractors (private employers)**, who:

1. Are not exempt as provided for by 41 CFR 60-1.5,
2. Have 50 or more employees, and
 - a. Are prime contractors or first-tier subcontractors, and have a contract, subcontract, or purchase order amounting to \$50,000 or more; or
 - b. Serve as a depository of Government funds in any amount, or
 - c. Is a financial institution which is an issuing and paying agent for U.S. Savings Bonds and Notes.

DATE PRINTED: 04/17/2013

OHIO COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
 FINAL PERFORMANCE REPORT
 PERIOD COVERED: 09/01/2011 TO 08/31/2013
 PAGE NO: 4 of 4

ALLEN CNTY **B-C-11-1AB-1**
 HOUSING REPRESENTATIVE: Bill Bope GRANT AMOUNT: \$ 186,000

III. BENEFICIARIES

(CIVIL RIGHTS DATA- ENTER THE NUMBER OF PERSONS BENEFITING)

ACTIVITY	TOTAL PERSONS BENEFITING		TOTAL NBR OF VERY LOW INCOME PERSONS 31-50% 0-30%		(CIVIL RIGHTS DATA- ENTER THE NUMBER OF PERSONS BENEFITING)											
	PROPOSED/ACTUAL	LOW/MOD INCOME PERSONS	LOW INCOME PERSONS	VERY LOW INCOME PERSONS	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)
01-Homelessness Prevention	11/	N/A	N/A	N/A												
03-Home/Building Repair	30/															
The Number of Total Beneficiaries should agree with the Completed Housing Report for HOME/CDBG Assisted Units																
05-Hsg Dev./Info/Counseling	33/	N/A	N/A	N/A												
06-Hsg Dev./Info/Counseling	35/	N/A	N/A	N/A												

** Data for columns (A)-(L) above must be entered as follows:

- A-White/Nbr Hispanics
- B-Black/African American/Nbr Hispanics
- C-American Indian, Alaska Native/Nbr Hispanics
- D-Asian/Nbr Hispanics
- E-Native Hawaiian Other Pacific Is./Nbr Hispanics
- F-American Indian, Alaska Native & White/Nbr Hispanics
- G-Black, African American & White/Nbr Hispanics
- H-American Indian, Alaska Nat. & Black, Afr. Amer./Nbr Hispanics
- I-Asian & White/Nbr Hispanics
- J-Other Multi-Racial/Nbr Hispanics
- K-Female Head of Households
- L-Handicapped Persons

APPENDIX L

NOTICE OF CONTRACT AWARD

Grantee: ALLEN CNTY	Grant Number: B-C-11-1AB-1
Administrative Contact: Vice President/Acting Housing Director. Ruthann	
Phone: 419-639-6101	Reporting Period: 11/01/2012 To 04/30/2013
Fax Number: 419-639-0470	Email Address: rahouse@wsos.org

Instructions: DO NOT ALTER GRANTEE, GRANT NBR. OR REPORTING FIELDS-Report all prime contracts, subcontracts or changes that exceeded \$1,000 and were awarded during this reporting period. (Do not report contracts or change orders that were previously submitted.) The information on this form must be reported regardless of whether the grantee contracts or loans the funds to a third party (i.e. a grant or loan to rehab their home). Copy this form as needed. **All Requested information must be submitted for each contract.**

Contractor's Tax Identification Number or Social Security Number	Type of Contract: <input type="checkbox"/> 1. Construction <input type="checkbox"/> 2. Education/Training <input type="checkbox"/> 3. Other (Specialty) _____	Contractor: <input type="checkbox"/> 1. Prime Contractor <input type="checkbox"/> 2. Subcontractor
Contractor's Company Name		Phone Number:
Address (Street, City, State, Zip Code)		

Contractor or Subcontractor Business: Racial/Ethnic Codes

1. White 2. Black 3. American Indian/ Alaskan Native 4. Hispanic
 5. Asian/Pacific Islander 6. Hasidic Jew

Women Owned Business: (1) Yes, (2) No.

Section 3 Contractor: (1) Yes, (2) No. (see <http://www.hud.gov/offices/fneo/section3/section3.cfm>)

Type of Activity: (Check Only All that Apply)

1. Rehab/Housing Construction 2. Public Facility 3. Public Service
 4. Acquisition 5. Demolition 6. Admin/ Impl/ Planning/ Fair Housing
 7. Economic Development 8. Homeless Activities 9. Other (Specify) _____

Total Contract or Subcontract Amount	Grant Funds from this Grant Number included in total Contract Amount	Date Contract or Change Order Signed

Name, email and Phone Number of Person Completing this Report:

Last Revised: Sept/2007, P://FISCAL/Cont_info.fx, P://COMP/Cont_info.fx