



Lawsuits and Reviews

Civil Rights Issues





Office of Fair Housing and Equal Opportunity

Amy Frisk, Center Director

***Rosalind Yeater, Program Compliance
Branch Chief***

1670 Broadway Street, 23rd Floor

Denver, Co 80202

303-672-5026

1-800-877-7353

Fax: 303-672-5026





FHEO Enforces:

- **Fair Housing Act (Title VIII): Race, Color, Religion, Sex, National Origin, Familial Status, Disability**
- **Section 504 of the Rehabilitation Act of 1973: Disability**
- **Title VI of the Civil Rights Act of 1964: Race, Color, National Origin**





FHEO Enforces cont.:

- **Section 109 of the Housing and Community Development Act of 1974: Race, Color, National Origin, Sex, Religion**
- **Section 3 of the Housing and Urban Development Act of 1968**
- **Executive Order 11063: Race, Color, National Origin, Sex, Religion**





Focus:

- **Affirmatively Furthering Fair Housing**
- ***Westchester* Litigation**





Westchester:

- **CDBG Recipient**
- **Certification Annually**
- **Sued by Public Group**
- **Cert = False Claim**
- **Consortium Loses & Settles**





Westchester cont.:

- **No Appropriate AI**
- **No Monitoring Sub-grantees**
- **No Consideration of Outside Residents**





Compliance Reviews:

Preparing for a Compliance Review



Assessing Risk:

Notice 2002-01 defines risk as:

- **A chance that something will go wrong;
or**
- **A factor in a recipient's policies, program,
or activities that increases the probability
that something will go wrong in a manner
that can result in failure to comply with
civil rights related program requirements.**



Assessing Risk cont.:

- **Front-end and limited monitoring reviews (Checklists)**
- **Program documentation – including ConPlans, AAPs, CAPERs, AI, etc.**
- **Prior FHEO monitoring/compliance reviews**
- **Complaints, investigations, news reports**
- **Program data systems – IDIS**



Pre-Onsite:

- **Develop Investigative Plan:**
 - ✓ **Authorities (Title VI, Section 504, etc.)**
 - ✓ **Areas of Review (record keeping, citizen participation, accessibility, etc.)**
- **Schedule Dates of Review**
- **Logistics (location of pertinent files, etc.)**
- **Identify Staff to be Interviewed**



Pre Onsite cont.:

- **Notification Letter (identify authorities, date, areas of review, FHEO staff, etc.)**
- **Data Request**
 - ✓ **CDBG application, monitoring reports, race/ethnicity data of program beneficiaries, policies, etc.)**





Pre-Onsite cont.:

- **Review Internal Documents**
 - ✓ **ConPlan/AAPs/CAPERS, AI, IDIS reports, etc.**
- **Review data request submission**





Compliance Reviews:

Conducting a Compliance Review



Onsite:

- **Entrance Conference**
 - ✓ **Explain how the review will be conducted**
 - ✓ **Identify staff to assist during the review**
 - ✓ **Confirm what will be reviewed and how access will be granted**
 - ✓ **Confirm logistical issues**

Onsite cont.:

- **Interviews (clarify policies/procedures)**
 - ✓ **Key staff, sub-recipients**



Onsite cont.:

- **File Review (primary focus is data collection)**
 - ✓ **Sub-recipient files (monitoring reports) for direct/indirect benefits**



Onsite cont.:

- **Exit Conference**
 - ✓ **Overview of areas reviewed**
 - ✓ **Discuss concerns & provide technical assistance**
 - ✓ **Potential findings are not discussed**
 - ✓ **Identify additional documentation required and submission date(s)**
 - ✓ **Projected date of issuing Letter of Finding**

Data Analysis:

Section 109:

- **Does the recipient gather and maintain data with respect to the race/ethnicity, female head of household characteristics of applicants and participants in their federally funded programs and activities (Title VI (race/ethnicity) also)?**
- **Does the recipient ensure proper citizen participation? (Title VI, Section 504 also).**

Data Analysis cont.:

Title VI:

- **Limited English Proficiency (LEP) - has the recipient conducted a four-factor analysis and developed an LEP Plan?**

Data Analysis cont.:

Section 504 Program Requirements:

- **Accessibility of CDBG program (facilities, etc.)**
- **Effective Communications**
- **Section 504 Coordinator**
- **Adoption of Grievance Procedures**
- **Non-Discrimination Notice**



Findings/Concerns:

- **Finding:** A violation of statutes or regulations, which require corrective action.
- **Concerns/Observations:** Conditions that need to be improved, or could lead to a finding if not addressed.



Review Outcomes:

- **Letter of Findings**
- **Compliance**
- **Non-Compliance**
- **Voluntary Compliance Agreement**
- **Eligibility Future Funding**

