

U. S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity



Jackson Field Office

FAIR HOUSING LAWS AND PRESIDENTIAL ORDERS



Fair Housing Laws

- The Fair Housing Act
- Title VI of the Civil Rights Act of 1964
- Section 504 of the Rehabilitation Act of 1973
- Title II of the Americans with Disabilities Act of 1990
- Architectural Barriers Act of 1968
- Section 109 of Title I of the Housing and Community Development Act of 1974
- Section 3
- Age Discrimination Act of 1975
- Title IX of the Education Amendments Act of 1972

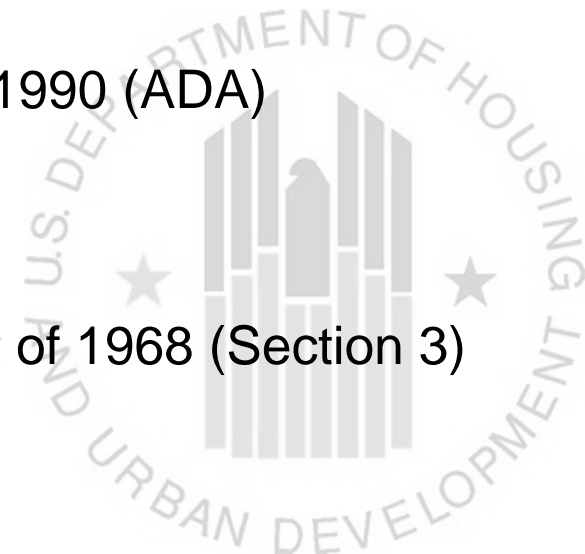
Executive Orders

#'s 11063, 11246, 12898, 13166 and 13217



KEY LAWS

- Title VIII of the Civil Rights Act of 1968 as amended in 1988 (The Fair Housing Act)
- Title VI of the Civil Rights Act of 1964 (Title VI)
- Section 109 of Title I of the Housing and Community Development Act of 1974 (Section 109)
- Section 504 of the Rehabilitation Act of 1973 (Section 504)
- Title II of the Americans with Disabilities Act of 1990 (ADA)
- Architectural Barriers Act (ABA)
- Section 3 Housing and Urban Development Act of 1968 (Section 3)



THE FAIR HOUSING ACT

Prohibits discrimination in sale, rental, and financing of dwellings and other housing related transactions based on:

- Race – Black and White
- Color
- National Origin
- Religion
- Sex
- Familial Status
- Handicap or Disability



WHO MUST COMPLY?

- Participants of sale, rental or financing of dwelling and other housing related transactions.
- ALL Community Planning and Development (CPD) program participants and their **sub recipients** involved in housing related activities, including affirmatively furthering Fair Housing).



KEY PROVISIONS

- Section 804 (a) – Refusal to sale or rent, negotiate for sale or rent or make housing unavailable.
- Section 804 (b) – Terms, conditions or privileges, sale or rental and provision of services.



FAIR HOUSING ACT CONTINUED

- **Section 804 (c) – Advertisement**

Who: All advertising by those engaged in real estate sale, rental or financing. This includes HUD grantees and its sub-recipients pursuant to Title VI of the Civil Rights Act of 1964.

What: Placement of slogan or logo to reach targeted geographical areas.

Where: <http://www.hud.gov/library/bookshelf11/hudgraphicsfheologo.cfm>

Why: Compliance



FAIR HOUSING ACT - DISABILITY

- Section 804 (f) – Handicap or Disability
Definition
 - Physical or mental disability that substantially limits one or more life major activities.
 - Have a record of such a disability, or
 - Are regarded as having such a disability.



FAIR HOUSING ACT DISABILITY CONTINUED



Requirements -

- Difference in treatment analysis applied. Additionally,
- Housing providers have two obligations:
 - Reasonable Accommodations (Policies and procedures).
 - Reasonable Modifications (Structural changes)



FAIR HOUSING ACT DISABILITY CONTINUED

- No Federal Assistance – housing providers must consider/grant permission for the modification requested. The tenant pays for the modification. Assurances modifications are made in workman like manner.
- **Federal Assistance** – housing providers are responsible for the modifications.



FAIR HOUSING ACT DISABILITY CONTINUED



Requirements for New Buildings – first occupancy after March 13, 1991 with an elevator and four or more units:

- All units must have:



FAIR HOUSING ACT

Seven Design and Construction Requirements

1. An accessible route into and through the unit.
2. Accessible light switches, electrical outlets, thermostats and environmental controls.
3. Reinforced bathroom walls to allow later installation of grab bars, and
4. Kitchens and bathrooms that can be used by people in wheelchairs.

Common Areas:

5. Accessible and usable public and common use areas.
6. Usable doors.
7. Accessible routes into and through covered units.



Title VI

Prohibits discrimination in programs and activities receiving Federal financial assistance on the basis of:

- Race
- Color
- National Origin



WHO MUST COMPLY?

ALL CPD programs receiving Federal financial assistance and their sub recipients:

- State
- Political subdivision of State
- Public or private agency
- Institution
- Organization
- Entity that received Federal financial assistance.



FEDERAL FINANCIAL ASSISTANCE

- Grants, loans, advances of Federal funds;
- Grant or donation of Federal property and interest in the property;
- Detail of Federal personnel;
- Sale and lease of or permission to use Federal property; and
- Federal agreement, arrangement or contract of provisions of assistance.



PROHIBITIONS

- **Deny** housing, facilities, services, financial aid, or other benefits.
- Provide any housing, accommodations, facilities, services, financial aid, or other benefits to a person **different** than services provided to others.
- **Segregate** – housing, accommodations or facilities.
- Restrict access to, enjoyment of housing, accommodations, facilities, services, financial aid, or other benefits of programs.



TITLE VI PROHIBITIONS CONTINUED

- Treat person **differently** in occupancy, admission, enrollment, eligibility, membership, or other requirement/conditions in housing, accommodations and facilities.
- **Deny** person opportunity to participate in program, activity or afford opportunity to do so different from that afforded to others.
- **Deny** person opportunity to participate as a member of a planning or advisory body which is integral part of program.



TITLE VI OBLIGATIONS

- **Affirmatively Furthering Fair Housing (AFFH)**
- **Steps to AFFH**
- **Recordkeeping**
- **Certification**



OBLIGATIONS DEFINED

- Affirmatively Furthering

To achieve a condition which persons of similar income in the same housing market area have like housing choice.



OBLIGATIONS CONTINUED

- Steps to AFFH

Requires grantees to develop and implement an affirmative marketing program to attract persons of all minority and minority groups within the housing market.



OBLIGATIONS/AFFH STEPS CONTINUED

1. Outreach in areas where those least likely to apply are located. The goal is to improve housing choice.
 - Use various media, radio stations, posters, newspapers within marketing areas;
 - Outreach to advocacy groups
 - Use Equal Opportunity logo and equal opportunity statement.
 - Post in a conspicuous position on all FHA project sites a sign displaying prominently either the HUD approved Equal Opportunity logo, slogan or statement.



EQUAL HOUSING OPPORTUNITY INSIGNIA: EQUAL OPPORTUNITY LOGO

website:

<http://www.hud.gov/library/bookshelf11/hudgraphics/fheolog.cfm>



**EQUAL HOUSING
OPPORTUNITY**



EQUAL HOUSING OPPORTUNITY STATEMENT:

“We are pledged to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the Nation. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, sex, or national origin.”

- - Equal Housing Opportunity slogan:
“Equal Housing Opportunity.”



FAIR HOUSING POSTER

U. S. Department of Housing and Urban Development



EQUAL HOUSING
OPPORTUNITY

We Do Business in Accordance With the Federal Fair
Housing Law

(The Fair Housing Amendments Act of 1988)

**It is illegal to Discriminate Against Any Person
Because of Race, Color, Religion, Sex,
Handicap, Familial Status, or National Origin**

- In the sale or rental of housing or residential lots
- In the provision of real estate brokerage services
- In advertising the sale or rental of housing
- In the appraisal of housing
- In the financing of housing
- Blockbusting is also illegal

Anyone who feels he or she has been discriminated against may file a complaint of housing discrimination:

1-800-669-9777 (Toll Free)
1-800-927-9275 (TTY)

U.S. Department of Housing and
Urban Development
Assistant Secretary for Fair Housing and
Equal Opportunity
Washington, D.C. 20410

Previous editions are obsolete

form HUD-928.1 (2/2003)

- <http://www.hud.gov/offices/fheo/promotingfh/928-1.pdf>

- **1-800-767-7468**



OBLIGATIONS CONTINUED RECORDKEEPING

- **Each recipient shall keep and have available** (24 CFR 91.105, 91.115, 570.490 and 570.506) :
- Racial and ethnic data showing the extent to which members of minority groups are beneficiaries of federally assisted programs. Examples of data includes:
 - Marketing plans
 - Who applied
 - Who selected
 - Why applicant(s) not selected



OBLIGATIONS CONTINUED RECORDKEEPING

Grantees should:

- Educate persons within their organization about fair housing and their obligations to follow non-discrimination laws; and
- Conduct outreach to advocacy groups on the availability of housing.



OBLIGATION CERTIFICATION

- State and Entitlement recipients are required to sign a certification to AFFH that:
 - Grant will be carried out and administered according to the Fair Housing Act; and
 - Grantee will work to affirmatively further fair housing.



SANCTIONS

- **Suspension**
- **Termination**
- **Referral to Department of Justice**



SECTION 109

Requires no person in the United States shall be excluded from participation in, denied benefits of, or subjected to discrimination in any program or activity funded with community development funds because of:

- Race
- Color
- National Origin
- Sex
- Religion



WHO MUST COMPLY?

ALL CPD programs receiving Federal financial assistance and their sub recipients:

- State
- Political subdivision of State
- Public or private agency
- Institution
- Organization
- Entity that received Federal financial assistance.



FEDERAL FINANCIAL ASSISTANCE

- Grants, loans, advances of Federal funds;
- Grant or donation of Federal property and interest in the property;
- Detail of Federal personnel;
- Sale and lease of or permission to use Federal property; and
- Federal agreement, arrangement or contract of provisions of assistance.



PROHIBITIONS

- **Deny** housing, facilities, services, financial aid, or other benefits.
- Provide any housing, accommodations, facilities, services, financial aid, or other benefits to a person **different** than services provided to others.
- **Segregate** – housing, accommodations or facilities.
- Restrict access to, enjoyment of housing, accommodations, facilities, services, financial aid, or other benefits of programs.



SECTION 504

Requires no otherwise qualified person with a disability in shall solely because of his/her disability be excluded from participation in, denied benefits of, or subjected to discrimination in any program or activity receiving Federal financial assistance.



WHO MUST COMPLY?

- ALL CPD programs participants and sub recipients receiving federal financial assistance.



COVERAGE

- Outreach and public contact, program applicants and participants
- Eligibility criteria
- Application process
- Admission to program
- Tenancy, including eviction
- Service delivery
- Employment policies and practices



RESPONSIBILITIES

- Effective communications.
- Ensure employment activities, recruitments, hiring, promotions, etc. do not discriminate.
- Non-housing programs are operated in non-discriminatory manner.
- Reasonable accommodations and modifications provisions are complied with.
- Distribute accessible units throughout developments



SECTION 504 RESPONSIBILITIES CONTINUED



- Distribute accessible units throughout developments.
- Ensure disabled customers are aware of the availability of accessible units.
- Conduct self evaluations of programs, services and activities.
- Maintain records and reports of efforts to meet requirements.



PROHIBITIONS

- Denying qualified person with disability the opportunity to participate in, benefit of housing, aid or service.
- Not affording a qualified person with disabilities the opportunity for equal participation and benefit.
- Not affording a qualified person with disabilities program or service with same opportunity as others.
- Segregation of housing.
- Not providing significant assistance.
- Denying qualified person with disability opportunity to participate on planning or advisory boards.



PROHIBITIONS CONTINUED

- Denying a qualified person with disability the opportunity to rent or buy housing.
- Limiting the enjoyment of any right, privilege, advantage or opportunity afforded to others.
- Providing programs or services to qualified persons with disabilities.





Housing Construction Requirements

- Minimum of 5% of units must be fully accessible to persons with mobility impairments.
- 2% of units must be accessible to persons with sensory impairments.



RECORDKEEPING REQUIREMENTS

- **Recipients shall keep records and data showing the extent to which persons with disabilities are beneficiaries of federally assisted programs.**



SANCTIONS

- **Suspension**
- **Termination**
- **Referral to Department of Justice**
- **Debarment**



AMERICAN WITH DISABILITIES ACT

TITLE II (ADA)



- Applies to – activities operated by State or local governments, their partners, agencies or other instrumentalities, even if no Federal funding.



ADA CONTINUED

Prohibits – discrimination in any CPD programs, services and activities based on disability, includes housing assistance and housing referrals.



ARCHITECTURAL BARRIERS ACT

- **Applies to** - any housing funded with a loan or grant from the United States.
- **Requires** – buildings and facilities designed, constructed, altered, or leased with federal funds must be accessible to and useable by disabled persons.



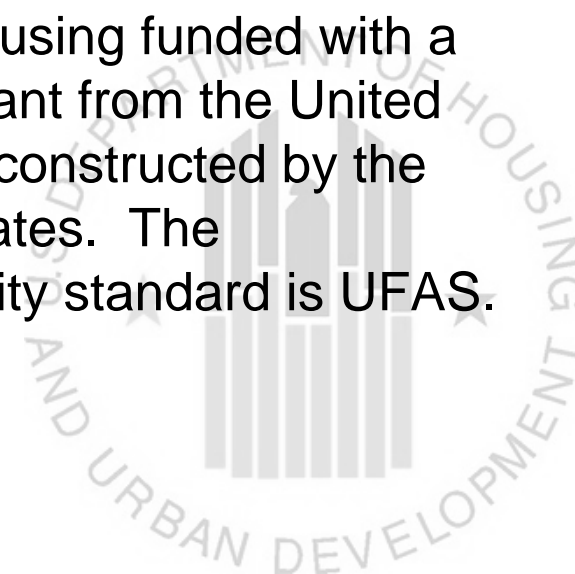
WHICH ACCESSIBILITY LAW APPLIES?

Compliance with State or local Law may not be sufficient to ensure compliance under the federal standards.



EXAMPLES

- **Section 504** – housing built by recipients of federal financial assistance. The accessibility standard is Uniform Federal Accessibility Standards (UFAS).
- **ADA-Title II** – housing operated by state or local governments. The accessibility standard is UFAS or American Disabilities Act Accessibility Guidelines.
- **Fair Housing Act** – private and publicly funded housing. The accessibility standards are one of seven safe harbors.
- **ABA** – housing funded with a loan or grant from the United States or constructed by the United States. The accessibility standard is UFAS.





SECTION 3

ENFORCEMENT



SECTION 3

Purpose

To ensure economic opportunities resulting from HUD financial assistance will be directed to low and very low-income persons – particularly those receiving government Assistance.



PUT ANOTHER WAY

- HUD funds are one of the largest sources of federal investments in distressed communities.
- These funds typically result in new employment, training and contracting opportunities.
- Section 3 is designed to direct those opportunities to local residents.



APPLICABILITY

Public and Indian Housing

- **Development assistance**
- **Operating assistance**
- **Modernization assistance**



Housing and Community Development

- Housing rehabilitation (including lead Based paint abatement)
- Housing construction
- Other public construction



APPLICABILITY TO ECONOMIC STIMULUS FUNDS

- PIH Public Housing Capital Funds
- Neighborhood Stabilization Program
- Community Development Block Grants
- Native American Housing Block Grants
- Assisted Housing Energy & Green Retrofits.
- Lead Hazard Control (LHC Grants Only)



TRESHOLDS

Public and Indian Housing

None

Housing and Community Development

- Recipient/Project - \$200K
- Contractor/Subcontractor - \$100K



APPLICABILITY

Section 3 requirements apply to the entire project or activity, regardless of whether It is fully or partially funded.



DEFINITIONS

Employment opportunities generated by Section 3 covered assistance.

- **PIH assistance:** All employment opportunities.
- **Housing and Community Development:** Employment associated with building trades, including management and administrative support, architectural, engineering and professional services.



DEFINITIONS CONTINUED

Section 3 Resident:

Public and Indian Housing Resident, or Resident of metro area or non metro county in which the Section 3 covered assistance is expended, and who qualifies as a low-income low income person.



DEFINITIONS CONTINUED

- Low-income – 80% median area income.
- Very low-income 50% median area income.



DEFINITION CONTINUED

Section 3 Business Concern

- 51% or more owned by Section 3 Residents, or
- 30% of employees are Section 3 Residents; or
- 25% of subcontracts committed to Section 3 Businesses.



REQUIREMENTS HUD NOFAs

- All notices of funding availability issued by HUD covered by Section 3 include a provision Stating its applicability.
- Applicants must certify compliance with Section 3 regulations.



PROCUREMENT STANDARDS

- Section 3 regulations do not supersede the general requirement that (material only) procurement transactions be conducted in a competitive manner.
- Consistent with 24 CFR S 85.36 (c) (2), Section 3 encourages geographic preference in the evaluation of bids.



MINORITY BUSINESS ENTERPRISE

- A minority business enterprise shall be required to present Section 3 certification to receive preference.
- Section 3 of the HUD Act is race-neutral.
- The preference provided by this federal Act is based on income and location.



COLLECTIVE BARGAINING UNION

Contracts awarded on Section 3 governed projects are made without regard to affiliation to any Collective Bargaining Union.



EXECUTIVE ORDER 11246

- The recipient shall ensure full compliance with E.O. 11246 – equal treatment without regards to race, religion, color or ethnic background.
- The recipient shall ensure that all contractors and subcontractors participating on Section 3 governed projects comply with E.O. 11246.



NUMERICAL GOALS

- Goals apply to the entire amount of Section 3 covered assistance awarded to a recipient in any Federal fiscal year.
- Goals represent minimum numerical targets.



NUMERICAL GOALS

- **Employment**

- 30 percent of new hires annually (counted for up to 3 years).

- **Applies to:**

- PIH Programs

- Firms managing 500+ units w/housing assistance.

- **-Community Development Assistance**



NUMERICAL GOALS CONTINUED

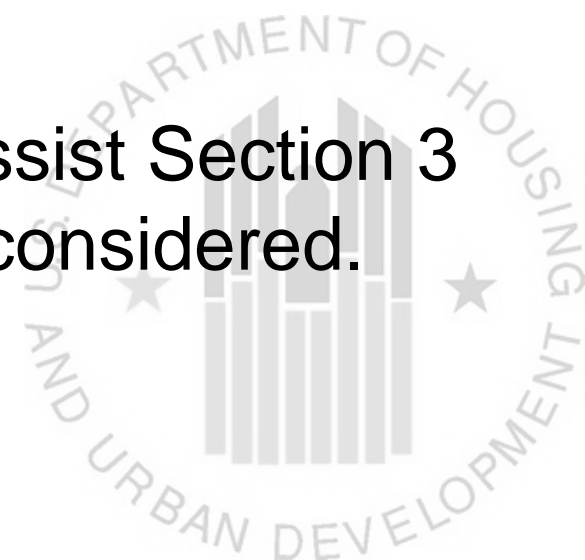
Contracts

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



SAFE HARBOR AND COMPLIANCE

- A recipient that meets numerical goals will be considered in compliance.
- A recipient that has not met the numerical goals has the burden of demonstrating why.
- All documented efforts taken to assist Section 3 residents and businesses will be considered.



RECIPIENT RESPONSIBILITIES

- Notifying residents.
- Notifying contractors and incorporating Section 3 Clause.
- Facilitating training and employment of residents
- Awarding contracts – Section 3 Businesses.
- Assisting with compliance among contractors.
- Documenting actions to comply.
- Attempt to reach numerical goals.



PREFERENCE FOR TRAINING AND EMPLOYMENT

Order of priority for Housing and Development Programs

- Category 1 – Residents in the service area or neighborhood.
- Category 2 – Participants in HUD's Youthbuild program.
- Category 3 – Homeless persons in the service area.
- Category 4 – Other Section 3 Residents



PREFERENCE FOR TRAINING AND EMPLOYMENT

Order of priority for Programs funded by the McKinney Act

- Category 1 – Homeless persons in the service area.
- Category 2 – Residents in the service area or neighborhood.
- Category 3 – Participants in HUD's Youth-build program.
- Category 4 – Other Section 3 Residents.



PREFERENCE FOR SECTION 3 BUSINESS CONCERNS CONTINUED

- Order of priority for Housing and Community Development programs
- Category 1 – Section 3 businesses that provide jobs and training for local residents.
- Category 2- Applicants selected to administer HUD Youthbuild programs.
- Category 3 – Other Section 3 business concerns.



ELIGIBILITY FOR EMPLOYMENT AND CONTRACTING

- A Section 3 resident must meet the qualifications of the position to be filled.
- A Section 3 business concern must have the ability and capacity to perform successfully under the terms and conditions of the proposed contract.



SECTION 3 CLAUSE

- All Section 3 covered contracts shall include the Section 3 clause found at 24 CFR S 135.38 in its entirety, verbatim – parts A through G.



COMPLIANCE REVIEWS

- Conducted for selected recipients and contractors to determine compliance.
- Consists of a comprehensive analysis and evaluation of compliance.
- Recipient will be advised of deficiencies for remediation.
- Continued noncompliance may result in debarment, suspension and limited denial of participation.



WHO MAY FILE?

- Section 3 Resident.
- Section 3 Business Concern.
- A Representative for either of the above.



COMPLAINT – WHERE FILED

Assistant Secretary for FHEO

U.S. Department of Housing and Urban Development

451 7th Street, Room 5100

Washington, DC 20410



COMPLAINT – WHEN FILED

- Not later than 180 days from the occurrence.
- Unless extension approved by the Assistant Secretary of FHEO.



ISSUES OF NON-COMPLIANCE

Failure to:

- Meet numerical goals;
- Ensure that contractors and subs comply with Section 3;
- Notify Section 3 Business Concerns about contracting opportunities;
- Notify potential contractors about Section 3
- Requirements;



ISSUES OF NON-COMPLIANCE CONTINUED

- Incorporate the Section 3 clause in
- Solicitations or contracts,
- Train and/or employ Section 3 Residents;
- Award contracts to Section 3 Business Concerns and
- Provide preference for Section 3 Residents and Section 3 Residents and Section 3 Businesses.



RESOLUTION OF COMPLAINT

- Sanctions that may be imposed include debarment, suspension and limited denial of participation.
- HUD may investigate a complaint directly.
- Retaliatory acts against the Complainant are prohibited.
- Complainant may exercise the right to seek redress through judicial procedures.



REPORTING & RECORDKEEPING

- Recipients are required to submit an annual report for the purpose of determining the effectiveness of Section 3 – HUD Form 60002.
- HUD shall have access to all records, reports and other documents that are maintained to demonstrate compliance with Section 3.



CONTACT

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