

### § 115.308

implementation of data elements for complaint tracking, etc.;

(4) Spend at least twenty (20) percent of its total annual budget on fair housing activities; and

(5) Not unilaterally reduce the level of financial resources currently committed to fair housing complaint processing (budget and staff reductions or other actions outside the control of the agency will not, alone, result in a negative determination for the agency's participation in the FHAP).

(b) The agency's refusal to provide information, assist in implementation, or carry out the requirements of paragraph (a) of this section may result in the denial or interruption of its receipt of FHAP funds.

### § 115.308 Standards for FHAP program review.

HUD will conduct reviews of the agency's cooperative agreement implementation. This review will also identify:

(a) How the agency used the FHAP funds received;

(b) Whether its draw-down of funds was timely;

(c) Whether the agency has been audited and received copies of the audit reports in accordance with applicable rules and regulations for State and local governmental entities; and

(d) If the agency complied with all certifications and assurances required by HUD in the cooperative agreement.

### § 115.309 Reporting and recordkeeping requirements.

(a) The agency shall establish and maintain records demonstrating:

(1) Its financial administration of the FHAP funds; and

(2) Its performance under the FHAP.

(b) In accordance with the cooperative agreement in effect between the agency and HUD, the agency will provide to HUD the agency reports maintained pursuant to paragraph (a) of this section. The agency will provide reports to HUD in accordance with the cooperative agreement in effect between the agency and HUD for frequency and content, regarding complaint processing, training, data and information systems, enforcement and

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other activities explaining how FHAP funds were expended and used.

(c) The agency will permit reasonable public access to its records, consistent with the jurisdiction's requirements for release of information. Documents relevant to the agency's participation in FHAP must be made available at the agency's office during normal working hours (except that documents with respect to ongoing fair housing complaint investigations are exempt from public review consistent with Federal and/or State law).

(d) The Secretary, the Inspector General of HUD, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to all pertinent books, accounts, reports, files, and other payments for surveys, audits, examinations, excerpts, and transcripts as they relate to the agency's participation in FHAP.

(e) All files will be kept in such fashion as to permit audits under applicable procurement regulations and guidelines and the Single Audit requirements for State and local agencies.

(f) The FHAP financial records and files will be kept at least three years on-site after any cooperative agreement has terminated.

### § 115.310 Subcontracting under the FHAP.

If an agency subcontracts to a public or private agency any activity for which the subcontractor will receive FHAP funds, the agency must ensure and certify in writing that the subcontractor is:

(a) Using services and facilities that are accessible in accordance with the Americans with Disability Act (ADA) (42 U.S.C. 12101) and Section 504 of the 1973 Rehabilitation Act (29 U.S.C. 701);

(b) Complying with the standards of Section 3 of the Housing and Urban Development Act of 1968 (42 U.S.C. 1441); and

(c) Furthering fair housing.

### § 115.311 Corrective and remedial action.

(a) If HUD makes a preliminary determination that an agency has not complied with § 115.309, the agency will

be given written notice of this determination and an opportunity to show, through demonstrable facts and data, that it has done so within a time prescribed by HUD.

(b) If an agency fails to demonstrate to HUD's satisfaction that it has met program review standards, HUD will request the agency to submit and comply with proposals for action to correct, mitigate, or prevent performance deficiencies, including, but not limited to:

(1) Preparing and/or following a schedule of actions for carrying out the affected fair housing activities;

(2) Establishing and/or following a management plan that assigns responsibilities for carrying out the actions required;

(3) Canceling or revising activities likely to be affected by a performance deficiency before expending FHAP funds for the activities; and

(4) Redistributing or suspending disbursement of FHAP funds that have not yet been disbursed.

(c) HUD may condition the use of FHAP award amounts with respect to an agency's succeeding fiscal year's allocation on the satisfactory completion by the agency of appropriate corrective actions. When the use of funds is so conditioned, HUD will specify the deficiency(ies), the required corrective action(s), and the time allowed for taking these actions. Failure of the agency to complete the actions as specified will result in a reduction or withdrawal of the FHAP allocation in an amount not to exceed the amount conditionally granted.

## PART 121—COLLECTION OF DATA

Sec.

121.1 Purpose.

121.2 Furnishing of data by program participation.

**AUTHORITY:** Title VIII, Civil Rights Act of 1968 (42 U.S.C. 3600-3620); E.O. 11063, 27 FR 11527; sec. 602, Civil Rights Act of 1964 (42 U.S.C. 2000d-1); sec. 562, Housing and Community Development Act of 1987 (42 U.S.C. 3608a); sec. 2, National Housing Act, 12 U.S.C. 1703; sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

**SOURCE:** 54 FR 3317, Jan. 23, 1989, unless otherwise noted.

### § 121.1 Purpose.

The purpose of this part is to enable the Secretary of Housing and Urban Development to carry out his or her responsibilities under the Fair Housing Act, Executive Order 11063, dated November 20, 1962, title VI of the Civil Rights Act of 1964, and section 562 of the Housing and Community Development Act of 1987. These authorities prohibit discrimination in housing and in programs receiving financial assistance from the Department of Housing and Urban Development, and they direct the Secretary to administer the Department's housing and urban development programs and activities in a manner affirmatively to further these policies and to collect certain data to assess the extent of compliance with these policies.

### § 121.2 Furnishing of data by program participants.

Participants in the programs administered by the Department shall furnish to the Department such data concerning the race, color, religion, sex, national origin, age, handicap, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of, those programs as the Secretary may determine to be necessary or appropriate to enable him or her to carry out his or her responsibilities under the authorities referred to in § 121.1.

## PART 125—FAIR HOUSING INITIATIVES PROGRAM

Sec.

125.103 Definitions.

125.104 Program administration.

125.105 Application requirements.

125.106 Waivers.

125.107 Testers.

125.201 Administrative Enforcement Initiative.

125.301 Education and Outreach Initiative.

125.401 Private Enforcement Initiative.

125.501 Fair Housing Organizations Initiative.

**AUTHORITY:** 42 U.S.C. 3535(d), 3616 note.

**SOURCE:** 60 FR 58452, Nov. 27, 1995, unless otherwise noted.