

(i) Amending the fair housing law or ordinance;

(ii) Adopting rules or procedures concerning the fair housing law or ordinance; or

(iii) Issuing judicial or other authoritative interpretations of the fair housing law or ordinance.

(2) If the Assistant Secretary suspends certification under paragraph (a)(1) of this section, such suspension will remain in effect until the Assistant Secretary conducts a review of the changes in language and/or interpretation and determines whether the law or ordinance remains substantially equivalent on its face and in its operation to the Act. Such suspension shall not exceed 180 days.

(3) If the Assistant Secretary determines that the law or ordinance remains substantially equivalent on its face and in operation to the Act, the Assistant Secretary will rescind the suspension and reinstate the agency's interim certification and/or recommend the agency for certification. HUD will provide full or partial reimbursement for cases processed during the period of the suspension.

(4) If the Assistant Secretary determines that the actions taken by the State or locality do limit the agency's effectiveness, certification will be withdrawn pursuant to §115.212.

(b) *Suspension based on agency performance.* (1) The Assistant Secretary may suspend the certification of an agency charged with the administration of a fair housing law or ordinance, if the Assistant Secretary has reason to believe that the agency's performance does not comply with the criteria set forth by this part. Such suspension shall not exceed 180 days.

(2) If the agency is suspended pursuant to paragraph (b) of this section, the FHEO Field Office may elect not to provide payment for complaints processed within that period of time unless and until the Assistant Secretary determines that the agency is fully in compliance with §115.203. The FHEO Field Office will provide technical assistance to the agency during this period of time.

(3) During the period of a suspension the Assistant Secretary shall not refer complaints to the agency.

(4) Suspension under this paragraph also renders the agency ineligible to receive Fair Housing Assistance Program Funds under subpart C of this part, pending correction of the deficiencies by the agency.

(5) Before the end of the suspension, a final performance assessment will be provided to the Assistant Secretary upon which a determination will be made as to the adequacy of the agency's performance.

(c) HUD will provide an agency with notice of the specific reasons for the suspension of its certification and an opportunity to respond, in accordance with the procedures set forth in HUD issued guidance.

§ 115.212 Withdrawal of certification.

(a) If the Assistant Secretary finds, as a result of a review undertaken in accordance with this part, that the agency's fair housing law or ordinance no longer meets the requirements of this part, the Assistant Secretary shall propose to withdraw the certification previously granted.

(b) The Assistant Secretary will propose withdrawal of certification under paragraph (a) of this section unless further review and information or documentation establishes that the current law and/or the agency's administration of the law meets the criteria set out in this part.

(c) If the Assistant Secretary determines, after application of the criteria set forth in this part, that the state or local law or ordinance, in operation, does not provide substantive rights, procedures, remedies, and availability of judicial review for alleged discriminatory housing practices which are substantially equivalent to those provided in the Fair Housing Act, the Assistant Secretary shall inform the State or local official in writing of the reasons for that determination.

Subpart C—Fair Housing Assistance Program (FHAP)

§ 115.300 Purpose.

The purpose of the Fair Housing Assistance Program (FHAP) is to provide assistance to State and local fair housing enforcement agencies. The intent of this funding program is to build a

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coordinated intergovernmental enforcement effort to further fair housing and to encourage the agencies to assume a greater share of the responsibility for the administration and enforcement of their fair housing laws and ordinances. This financial assistance is designed to provide support for:

- (a) The processing of dual-filed complaints;
- (b) Training under the Fair Housing Act and the agencies' fair housing law;
- (c) The provision of technical assistance;
- (d) The creation and maintenance of data and information systems; and
- (e) The development and enhancement of other fair housing enforcement projects.

§ 115.301 Agency eligibility criteria.

Any agency with certification or interim certification under subpart A of this part, and which has entered into a MOU or interim agreement, is eligible to participate in the FHAP.

§ 115.302 Capacity building funds.

(a) Capacity building (CB) funds are funds that HUD may provide to an agency with interim certification during the agency's first three years of participation in the FHAP. Agencies receiving CB funds are not eligible to receive contributions funds under § 115.304.

(b) CB funds will be provided in a fixed annual amount to be utilized for the eligible activities established pursuant to § 115.303. However, in the second and third year of the agency's participation in the FHAP, HUD has the option to permit the agency to receive CB funding on a per case basis, rather than in a single annual amount.

(c) In order to receive CB funding, agencies will be required to submit a statement of work which identifies:

- (1) The objectives and activities to be carried out with the CB funds received;
- (2) A plan for training all of the agency's employees involved in the administration of the agency's fair housing law or ordinance;
- (3) A statement of the agency's intention to participate in HUD-sponsored training in accordance with the training requirements set out in the cooperative agreement;

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(4) A description of the agency's complaint processing data and information system or, alternatively, whether the agency plans to use CB funds to purchase and install a data system; and

(5) A description of any other fair housing activities that the agency will undertake with its CB funds. All such activities must address matters affecting fair housing enforcement which are cognizable under the Fair Housing Act. Any activities which do not address the implementation of the agency's fair housing law or ordinance, and which are therefore not cognizable under the Fair Housing Act, will be disapproved.

§ 115.303 Eligible activities for capacity building funds.

The primary purposes of capacity building funding is to provide for complaint activities and to support activities that produce increased awareness of fair housing rights and remedies. All such activities must support the agency's administration of its fair housing law or ordinance and address matters affecting fair housing which are cognizable under the Fair Housing Act. HUD will periodically publish a list of eligible activities in the FEDERAL REGISTER.

§ 115.304 Agencies eligible for contributions funds.

(a) An agency that has received CB funds for three consecutive years is eligible for contributions funding. Contributions funding consists of three categories:

- (1) Complaint Processing (CP) funds;
- (2) Administrative Costs (AC) funds; and
- (3) Special Enforcement Efforts (SEE) funds (§ 115.305 sets forth the requirements for SEE funding).

(b) *CP funds.* (1) Agencies receiving CP funds will receive such support based solely on the number of complaints processed by the agency and accepted for payment by the Director of FHEO during a consecutive, specifically identified, 12-month period. Normally this period will be the previous year's funding cycle.

(2) Funding for agencies in their fourth year of participation in the FHAP will be based on the number of complaints acceptably processed by the