

Propelling Forward Your Title VI Program

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HUD'S TITLE VI -RELATED ACTIVITIES

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HUD FRONT END REVIEWS



Front End Reviews

- HUD historically performs front end reviews on new or replacement housing applications and other activities
- Not much money for new housing through HUD until RAD (Rental Assistance Demonstration)
- Congress just broadened RAD from 60,000 applications to 185,000 applications



RAD Front End Reviews

- HUD will conduct front end reviews for virtually all RAD applications
- “Site and neighborhood standards” embodied in program regulations



Site and Neighborhood Review

- Civil rights approval
- The site and neighborhood shall be suitable to facilitating and furthering full compliance with the applicable provisions of title VI of the Civil Rights Act of 1964...
- The site for new construction shall not be located in an area of minority concentration unless:
 - There are sufficient, comparable opportunities outside areas of minority concentration or



Site and Neighborhood Review

- The project is necessary to meet overriding housing needs that cannot feasibly be met otherwise in that housing market area.
- The site for new construction shall not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to nonminority residents in the area.



Site and Neighborhood Review

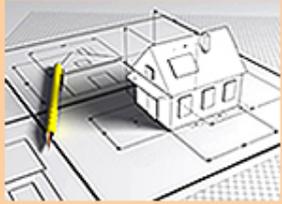
- The site shall promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.
- The site shall be free from adverse environmental conditions
- The site shall be accessible to social, recreational, educational, commercial, and health facilities; health services; and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of similar unassisted standard housing.
- The availability of public transportation must be considered.
- The site shall be accessible to a range of jobs for low-income workers and for other needs.



HUD Reviews Compliance with ...

- The obligation to affirmatively further fair housing, established by the Fair Housing Act, 42 USC 3608
- Grantees currently write “Analyses of Impediments to Fair Housing Choice” reviewed by HUD
- Analysis includes housing segregation, need to have access to transportation, jobs, community assets, segregation, other barriers to fair housing choice
- Issues similar to Title VI/Section 504
- Final rule to be issued on clarifying requirements and required analysis due out this year





HUD's Civil Rights Threshold List



In plain language...

- *The Civil Rights Threshold List is an internal tool for the Civil Rights Office and HUD Program Offices to evaluate a Recipient or Respondent's eligibility to apply for HUD discretionary funding.*



Other Uses

- The Civil Rights Threshold List is also helpful when planning compliance reviews, conducting monitoring or assessing a community's certification to affirmatively further fair housing.



Discretionary Funding

- HUD's Notices of Funding Availability have for many years included civil rights threshold requirements for eligibility for HUD discretionary funding.
- Outstanding civil rights violations must be resolved to HUD's satisfaction prior to the application deadline.



Triggering Events

- Issuance of a charge for a systemic violation of the Fair Housing Act or a state or local fair housing law.
- Status as a defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging a pattern or practice of discrimination or denial of rights to a group of persons raising an issue of general public importance.
- Status as a defendant in any other lawsuit filed or joined by the Department of Justice under **Title VI**, Section 504 or other civil rights laws
- Receipt of a letter of findings identifying systemic noncompliance with **Title VI**, Section 504, ADA Title II or other civil rights law.



Triggering Events

- Issuance of a cause determination from a state or local fair housing law for a systemic violation of provisions based on sexual orientation, gender identity, or lawful source of income.
- Receipt of a letter of findings identifying systemic noncompliance with **Title VI**, Section 504, ADA Title II or other civil rights law
- Issuance of a cause determination from a state or local fair housing law for a systemic violation of provisions based on sexual orientation, gender identity, or lawful source of income.



Creation of a Civil Rights Threshold List

Any recipient with one of these statuses, plus any recipient with a judicial finding of a civil rights violation, goes on a Sharepoint list called the Civil Rights Threshold List. HUD funding offices have read-only access. The contents of the list are monitored by headquarters civil rights staff.

What's the purpose?

Ultimately, so beneficiaries are not subject to civil rights violations in our programs.

To ensure Recipients resolve outstanding civil rights violations before HUD grants discretionary funding

A tool to incentivize Recipients to come into compliance.



Challenges to Certifications

- HUD routinely challenges certifications made to receive funding on the basis of civil rights non-compliance on significant cases
 - For example, HUD notifies a city that a Title VI determination or a DOJ lawsuit may result in a challenge to a certification and termination or suspension of funding
 - If the grantee is a sub recipient, HUD also notifies recipients and requires them to assure subrecipient compliance





RECENT TITLE VI ACTIVITY



Recent Title VI Matters

- State of New Jersey
 - Proposed Title VI finding on LEP issues resulted in \$270 million settlement including affordable housing approvals and siting and a comprehensive LEP compliance agreement



Recent Title VI Matters

- Dubuque, Iowa
 - Title VI finding based on operation of Section 8 program residency preferences



Recent Title VI Matters

- State of Nebraska
 - Title VI findings on LEP and treatment of recent immigrants



Recent Title VI Matters

- Letter of Findings against Housing Authority for site segregation and skip overs on waiting list perpetuating segregation



National LEP Training

- Title VI investigators
- Includes sample data requests, data sources, sample letters of findings and VCAs



Performance Elements

- Completion of designated number of compliance reviews on specific subjects including site segregation and LEP
- Time frames for completion of complaint investigations and compliance reviews
- HUD conducts between 40 to 50 compliance reviews annually
 - Some complaint generated, some self-initiated



Stakeholders

- HUD works with advocates extensively on Title VI matters
- About 220 external stakeholder organizations funded to do civil rights work
- Email list of about 20,000 stakeholders who get announcements of compliance and enforcement activity





Thank You

Sara Pratt



FTA Title VI Oversight and Compliance Responsibility

- 10 Civil Rights Officers (RCROs)
- 1 Title VI SME
- 1 Title VI Team Lead
- 800+ grantees
 - All grantees must have a Title VI program, due to FTA every 3 years

Title VI Program

- Guidelines are in Circular 4702.1A
 - Effective October 1, 2012
 - www.fta.dot.gov
- General Requirements:
 - Public Notice
 - Complaint Form & Procedure
 - LEP Plan
 - Public Participation Plan
 - Board Approval

Tip #1: Accountability

- Board of directors or appropriate governing entity must approve the document
 - Officials are responsible for making agency policy
 - Approval at a public meeting
 - Public document
 - Submit board resolution, meeting minutes or similar to verify

GOAL = Transparency

Tip #2: Communicate

- Internal and external
 - 6 months of training for Circular change
- Public Participation
 - Non-traditional approaches
 - Assess feedback
 - LEP

GOAL = Meaningful Access

Tip # 3: Use Data Wisely

- Limited English Proficiency Plans
 - Safe Harbor Threshold
- Demographic Data
- Transit Amenities
- Service Standards & Policies
- Service and Fare Equity Thresholds, Policies & Analysis

GOAL = Informed Decisions

Case Study Discussion

Coral Gables

- Siting of trolley maintenance facility
- Murky jurisdiction – came to FTA
- \$1 taints the pot

FTA Civil Rights Training Page!

<http://www.fta.dot.gov/civilrights/12885.html>

EXECUTIVE ORDER No. 12250

COORDINATION RESPONSIBILITY



- Charges the Department of Justice with ensuring the **consistent and effective implementation** of Title VI and other civil rights laws.
- The Attorney General delegated 12250 authority to the DOJ Civil Rights Division, which is a function of the **Federal Coordination and Compliance Section (FCS)**.
- The **Title VI Coordination Regulations** impart record-keeping and interagency coordination obligations on agencies, facilitated and guided by FCS.

EXECUTIVE ORDER 12250



- 1. Department of Justice Clearance Authority**
- 2. Legal and Policy Guidance**
- 3. Legal Counsel and Technical Assistance**
- 4. Coordination and Clearinghouse**
- 5. Agency Responsibilities**

RECENT AGENCY EFFORTS TO IMPROVE COMPLIANCE



- Increasing Compliance Reviews
- Strengthening civil rights language in pre-award documents
- Issuing new or updated guidance to recipients
- Conducting greater outreach to stakeholders
- Improving coordination/communication with other federal agencies

PROMISING PRACTICES OF RECIPIENTS



- Proactive compliance efforts by recipients (e.g. develop language access plan, conducting disparity analysis, implement complaint procedures)
- Ensuring meaningful public participation by those affected by the recipient's activity (e.g. public meetings; collaboration with key stakeholders)
- Maintaining data to demonstrate compliance



RESOURCES

Title VI Resources

- Title VI of The Civil Rights Act of 1964, <http://www.justice.gov/crt/about/cor/coord/titlevi.php>
- Executive Order 12250, <http://www.justice.gov/crt/about/cor/12250.php>
- Executive Order 13166, <http://www.justice.gov/crt/about/cor/13166.php>
- Title VI Coordination Regulations, <http://www.justice.gov/crt/about/cor/byagency/28cfr424.pdf>
- Title VI Enforcement Guidelines, <http://www.justice.gov/crt/about/cor/byagency/28cfr503.pdf>
- Title VI Legal Manual, <http://www.justice.gov/crt/about/cor/coord/vimanual.pdf>
- Commonly Asked Questions and Answers Regarding the Protection of Limited English Proficient (LEP) Individuals under Title VI of the Civil Rights Act of 1964 and Title VI Regulations, http://www.lep.gov/faqs/042511_Q&A_Title_VI_and_Regulations.pdf
- Protecting Against Race, Color, and National Origin Discrimination by Recipients of Federal Funds, 4-year report, July 2013, http://www.justice.gov/crt/about/cor/4yr_report.pdf
- Department of Justice Agreements, Resolutions, and Enforcement of Title VI, <http://www.justice.gov/crt/about/cor/agreements.php>
- Title VI Appellate Briefs and Opinions, http://www.justice.gov/crt/about/app/briefs_vi.php
- Title VI and LEP Videos, <http://go.usa.gov/EFi>
- Title VI Civil Rights Newsletters, <http://www.justice.gov/crt/about/cor/pubs.php>
- Language Access Assessment and Planning Tool, <http://go.usa.gov/jpl>
- Federal Interagency Working Group on Limited English Proficiency, www.lep.gov



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