

Small Cities Community Development Block Grant Program

Fair Housing and Civil Rights Compliance

Fair Housing Laws

As set forth in all relevant laws, individuals may not be excluded from participation in project-related activities on the basis of:

- ❑ Race
- ❑ Creed
- ❑ Color
- ❑ National origin
- ❑ Ancestry
- ❑ Sex
- ❑ Gender identity or expression
- ❑ Marital status
- ❑ Age
- ❑ Lawful source of income
- ❑ Familial status
- ❑ Learning disability or physical or mental disability
- ❑ Sexual orientation

Although the laws prohibit discrimination based on any of these factors, the specific population groups protected are:

- ❑ Minorities (defined as Blacks, Hispanics, Asians and Pacific Islanders, American Indians, and Alaskan Natives)
- ❑ Women/Female Head of Household
- ❑ Groups distinguished by age
- ❑ Persons with disabilities

The civil rights requirements that will apply for any project that involves Small Cities Program funding are set forth in:

- ❑ Title VI: Civil Rights Act of 1964
- ❑ Title VII: Civil Rights Act of 1964, as amended
- ❑ Title VIII: Civil Rights Act of 1968, as amended
- ❑ Section 3: Housing and Community Development Act of 1968, as amended
- ❑ Americans with Disabilities Act
- ❑ Architectural Barriers Act
- ❑ Fair Housing Amendments Act of 1988, as amended
- ❑ Section 504: Rehabilitation Act of 1973, as amended
- ❑ Section 109: Housing and Community Development Act of 1974, as amended
- ❑ Age Discrimination Act of 1975
- ❑ Executive Order 11063
- ❑ Executive Order 11246

Overview

Each grantee of Small Cities Community Development Block Grant funds must comply with the fair housing and civil rights laws and requirements contained in the contract for financial assistance and local assurances. By agreeing to these provisions, the grantee has certified that its projects will be designed and administered in a non-discriminatory manner. In addition, all state and federal projects funded by DOH are subject to the requirements of Section 8-37cc (b) of the Connecticut General Statutes which states, *"Each housing agency shall affirmatively promote fair housing choice and racial and economic integration in all programs administered or supervised by such housing agency."*

Fair housing and civil rights laws impact many aspects of Small Cities projects. Nondiscrimination must be shown with relation to any benefits created with a grantee's public facilities projects. In addition, the grantee will be expected to show that the community in general is committed to nondiscrimination, equal opportunity and affirmative action.

Grantee's Responsibility

- ❑ Affirmatively further fair housing by analyzing the impediments to fair housing
- ❑ Implement fair housing action steps including activities for Fair Housing Month
- ❑ Implement the project in a non-discriminatory manner
- ❑ Maintain records that document project beneficiaries
- ❑ Demonstrate compliance with fair housing and civil rights objectives

State's Responsibility

- ❑ Rate and rank fair housing and civil rights components of the Small Cities application
- ❑ Perform compliance review of the project during the life of the contract for financial assistance

Implement Project in a Nondiscriminatory Manner

The majority of activities demonstrating fair housing and civil rights compliance will involve efforts made after your grant has been awarded. All grantees, regardless of the type of project undertaking, will be monitored with respect to who ultimately benefits from the grant. The grantee is required to make every effort to support nondiscrimination and to provide new opportunities to members of protected classes. Protected classes are listed in General Statutes 46a-64c as amended. All grantees must document good faith efforts to demonstrate compliance with fair housing and civil rights objectives.

The fair housing and civil rights laws addressing discrimination establish mandates that apply to all Small Cities funded activities. In general, no grantee may administer a project where the criteria or methods of implementation have a discriminatory impact. The intent of the fair housing and equal opportunity efforts will not be considered to be as important as the ultimate impact of these activities. Grantees should therefore focus attention toward furthering nondiscrimination rather than simply showing that efforts have been made.

In the areas of public facilities, services, or improvements, grantees must monitor use to ensure there are no exclusionary practices and that no discriminatory actions underlie the administration of a facility or service. Similarly, improvements to the infrastructure must be afforded to all residents of the community (or residents of the targeted neighborhood, if applicable). Repairs may not be made in a non-minority neighborhood at the expense of an area populated predominantly by minorities.

Employment in any Small Cities activity must likewise be available to all persons regardless of race, creed, color, national origin, ancestry, sex, gender identity or expression, marital status, age, lawful source of income, familial status, learning disability or physical or mental disability, age, or sexual orientation. This principle will apply to both economic development projects that create or retain jobs, and to contracts awarded for Small Cities funded activities. Employers in industries rehabilitated or otherwise assisted by a Small Cities grant must give assurances that they will not take part in discriminatory hiring practices. Also, contractors involved in Small Cities work may not deny employment opportunities to any persons based on the above characteristics. In addition, the grantee will be expected to ensure non-discrimination in the solicitation and award of project contracts by advertising and distributing solicitations equitably, avoiding discriminatory bid specifications or evaluation criteria, and by not excluding protected classes from contract awards.

Grantees are required to practice non-discrimination when administering Small Cities housing projects. Activities included are not limited to housing development and residential rehabilitation; acquisition and relocation activities must also be implemented in a non-discriminatory manner. Under Fair Housing Law, the following actions are considered discriminatory if they are based on race, creed, color, national origin, ancestry, sex, gender identity or expression, marital status, age, lawful source of income, familial status, learning disability or physical or mental disability, age, or sexual orientation:

- ❑ Refusing to sell or rent to, deal or negotiate with any person
- ❑ Discriminating in terms of conditions for buying or renting housing
- ❑ Discriminating by advertising that housing is available only to certain persons
- ❑ Denying that housing is available for inspection, sale or/rent when it is readily available
- ❑ "Blockbusting" – persuading owners to sell to sell or rent housing by telling them that minority groups are moving into the neighborhood
- ❑ Denying or making different terms or conditions for home loans by commercial lenders
- ❑ Denying to anyone the use of or participation any real estate services
- ❑ "Steering" to encourage/discourage protected individuals or families in or away from particular areas or neighborhoods because the housing provider or agent believes the consumer would feel either comfortable or uncomfortable in that locale, or because the housing provider is trying to exclude categories of people from certain areas.

Monitoring Procedures

DOH will monitor for fair housing and civil rights compliance at least once during the life of the

Small Cities grant by visiting the municipality and utilizing the *Civil Rights Compliance Review Form*.

Please note that all grantees are required to establish and maintain files for each of the compliance areas indicated on the *Civil Rights Compliance Review Form*.

If the monitoring review results in findings of non-compliance, a letter will be issued describing the areas of non-compliance. If there are no findings, a clearance letter will be issued. For projects with findings, grantees will be given 30 days to respond in writing. Documentation to support all responses to the findings must be submitted with the response. If the grantee does not respond to the initial letter, a second letter will be issued. Failure to respond to the second letter will result in further action, including but not limited to, contract default.

Please note that if there is reasonable cause to believe that discrimination has occurred, the grantee must take any necessary steps to overcome the effects of the prior discrimination.

Advertising Project

The grantee must run a notice in the Public Notices section of a newspaper with statewide circulation and a local newspaper. A publisher's affidavit should be kept on file. The ad must end with the following statement:

"An Affirmative Action/Equal Opportunity Employer, Minority/Women's Business Enterprises are encouraged to apply."

In addition to the local newspaper, trade media may also be used for placing project notices. These media are not intended as substitutes for the newspaper notices.

1. F.W. Dodge Reports (1-800-393-6343) or www.dodge.construction.com
2. New England Construction News/CDC News (888-281-5593) or www.cdcnews.com
3. The Blue Book www.thebluebook.com
4. Department of Administrative Services (DAS)
www.biznet.ct.gov/AccountMaint/NewLogin.aspx

Affirmative Action Requirements for Construction Contractors

If grantees will be using Small Cities funds for construction, the following requirements apply to their selected contractor(s):

- ❑ An Affirmative Action Policy Statement must be submitted to the municipality from each Contractor receiving funds in the amount of \$500,000 or less under the grant.
- ❑ For each contractor receiving grant funds in excess of \$500,000, the contractor must submit an Affirmative Action Plan to the Connecticut Commission on Human Rights and

Opportunities (CHRO) with a copy to the municipality. The Affirmative Action Plan must be approved by CHRO before the municipality can enter into a construction contract with contractor. The CHRO has 90 days in which to approve the Plan so when implementing a project time schedule, be sure to include this important item. If CHRO fails to respond to the contractor within 90 days, the plan is considered approved by default. Grantees should to obtain a copy of CHRO's approval for their records.

Pre-Construction Meeting/Minutes

It is the policy of DOH under the Small Cities Program that the grantee holds a pre-construction meeting when the construction contract is subject to Federal Labor Standards. In addition to the Davis Bacon-related acts, the following fair housing and civil rights related items must be discussed and recorded in the pre-construction meeting minutes:

Title VI of the Fair Housing and Civil Rights Act of 1964

- ❑ No person shall be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination on the grounds of race, handicap, color, sex, sexual orientation, national origin, or familial status.

Equal Employment Opportunity

- ❑ All contractors and subcontractors must comply with Executive Order 11246, entitled "Equal Employment Opportunity", as contained in the construction contract.
- ❑ Posting of the EEO Poster at the job site (Copy distributed to Contractor).
- ❑ Certification of Bidder Regarding Equal Employment Opportunity as required by the Construction Contract and all subcontracts.

Equal Housing Opportunity – (housing-related activities only)

- ❑ All contractors and subcontractors must comply with Executive Order 11063, entitled "Equal Opportunity in Housing", as contained in the Construction Contract.

Section 3 of the Housing and Urban Development Act of 1964

- ❑ Contractor must submit a completed Section 3 Plan and Affirmative Action Plan as required in the Construction Contract.

A sample pre-construction minutes format can be found in the Labor Standards section of this manual.

Americans with Disabilities Act (ADA)

The Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 requires all grantees of Federal financial assistance to make public accommodations accessible

to persons with disabilities including but not limited to making changes in rules and public practices to allow persons with disabilities to participate. To comply with the ADA and Section 504, grantees should have completed an ADA/Section 504 Self-Evaluation and have a procedure in place for project participants to request reasonable accommodations and to file a grievance. In addition, once a Self-Evaluation has been completed, the grantee should create and implement an ADA/Section 504 Transition Plan. See the Application Handbook for the forms necessary to complete a Self-Evaluation and Transition Plan.

Affirmatively Furthering Fair Housing: The Fair Housing Action Plan

Every community receiving Small Cities funding is required to affirmatively further fair housing even if their grant only provides assistance to non-housing related activities.

The Fair Housing Action Plan (FHAP) has several components and must be implemented by the grantee in a way that ensures that the municipality is affirmatively furthering fair housing. A FHAP has three components:

1. An Analysis of Impediments to Fair Housing Choice. Grantees participating in the Small Cities Program are not required to perform their own Analysis of Impediments but may use the Analysis performed by the State or by an adjacent entitlement community.
2. Identification of fair housing action steps to overcome the impediments to fair housing. The *Connecticut Opportunity Map* (link available on the DOH website) will assist you in identifying the fair housing action steps appropriate for your community.
3. Completion of fair housing action steps.

Municipal officials should become thoroughly familiar with the FHAP's provisions and actively participate in its implementation since they are ultimately responsible for ensuring that the town/city complies with the FHAP. Failure to do so can result in the grantee being ineligible to apply for a grant in the future. Grantees may enlist public participation in carrying out the plan and post it so that it is made available to the general public.

As part of the FHAP, the grantee pledges to carry out local fair housing actions steps to overcome the identified impediments to fair housing choice. Too often cities and towns have made statements that they will fight housing discrimination but in actuality have done nothing to overcome housing discrimination or segregation in their communities, as HUD stated below in its *Fair Housing Planning Guide*:

"It should be a source of embarrassment that fair housing poster contests or other equally benign activity were ever deemed sufficient evidence of a community's efforts to affirmatively further fair housing. The Department believes that the principles embodied in the concept of "fair housing" are fundamental to healthy communities, and that communities must be encouraged and supported to include real, effective, fair housing strategies in their overall planning and development process, not only because it is the law, but because it is the right thing to do."- Fair Housing Planning Guide at p.i

For more information, please see the *Fair Housing Planning Guide*, which can be found at <http://www.hud.gov/offices/fheo/images/fhpg.pdf>.

Examples of action steps designed to truly overcome the impediments to fair housing include:

- ❑ Hiring a fair housing specialist to train town/city staff and housing authority staff, not simply notifying staff that they should attend a fair housing training with little effort to ensure that this happens
- ❑ Conducting fair housing seminars once a year for community residents, landlords, real estate professionals and lenders
- ❑ Reviewing local building and zoning codes to remove overly restrictive occupancy standards, family definitions, and density requirements which prevent large families with children or people who are disabled from occupying housing in any neighborhood
- ❑ Developing a written inspection procedure to inspect and monitor new construction and substantial rehabilitation specifically for compliance with the accessibility requirements of the fair housing laws, the Americans with Disabilities Act and related laws
- ❑ Creating or expanding Section 8 and other mobility counseling programs to encourage people of color, people with disabilities, families with children as well as low and moderate income people to move into the town/city

In short, fair housing actions steps should ensure that the people underrepresented in the community are able and encouraged to move to the town/city in questions and/or can avail themselves of the services that it provides.

A file should be established and maintained documenting each action step and the activities the grantee has undertaken to accomplish these steps. Compiled correctly, this information can be a great benefit because as part of the application process, grantees are rated on their achievements in this area.

Section 3

When applicable to a grantee, Section 3 of the Housing and Urban Development Act clearly indicates that grantees are required to make good faith efforts to comply with the components of Section 3.

For contracts subject to the requirements of Section 3 and Executive Orders 11246 and 11063, the grantee has a responsibility to monitor the contractor's compliance efforts. The grantee must develop a monitoring strategy or procedure for each contract. The grantee should maintain a separate file documenting the monitoring activity undertaken. The documentation should include a narrative summary of the specific monitoring activity conducted and copies of any reports, data or other information, which the contractor submitted as evidence of its compliance efforts.

In addition, all contracts subject to Section 3 of the Housing and Urban Development Act must include the Section 3 Clause.

There are many ways in which a grantee can achieve compliance with Section 3 of the Housing and Urban Development Act.

Small and Minority Businesses, Women Business Enterprise

Grantees must make good faith efforts to see that Small and Minority Businesses, Women Business Enterprise are provided opportunities as a result of Small Cities funding. A separate file should be established and maintained with efforts clearly documented. In addition, DOH recommends using the State Department of Administrative Services (DAS) directory. The DAS directory of businesses can be found at <http://www.biznet.ct.gov/SDSearch/SDSearch.aspx>.

Project Beneficiaries Record Maintenance

Statistics on the beneficiaries of the site-specific activities must be compiled, kept with the grantee's records, and reported in the grantee's *Quarterly Grantee Progress Report*.

The information needed for the *Quarterly Grantee Progress Report* requires that grantees collect data on the gender, age, disability and minority status of applicants and beneficiaries. Statistics of this kind are required for site-specific projects, and must be collected and submitted in numerical form. The information must be gathered and reported for any residential rehabilitation activity, and should include not only data on owners, but on impacted tenants as well. Furthermore, statistics of this type will be required for any other projects that benefit specific individuals. Infrastructure improvements in residential neighborhoods, for example, would be considered site-specific since it benefits identifiable households.

Information must also be collected for projects where jobs are created. Grantees must report the number of new and existing employees and the gender and minority status in the *Quarterly Grantee Progress Report*.

Economic development projects that create or retain jobs must be reviewed to determine who has benefited from the work. Data on existing employees is as important to collect as that on the additional employees hired. This information may support the claim there has been no discrimination in hiring.

Fair Housing Logo

All housing-related notices, advertising, and brochures must include the fair housing logo. DOH also recommends that the logo be displayed on all municipal stationary.

Don't Forget to Post

Grantees must post the following documentation at the town/city Hall in a prominent place for viewing by the general public:

- ❑ Title VI Certification
- ❑ Fair Housing Policy Statement which includes Discrimination Complaint Procedure
- ❑ ADA Notice
- ❑ ADA Grievance Procedure
- ❑ Affirmative Action Policy Statement
- ❑ Fair Housing Posters in both English and Spanish. Copies can also be found on the DOH website.
- ❑ Equal Employment Opportunity Posters in both English and Spanish . Copies can be found on the DOH website.

Civil Rights File System

Civil Rights files should include but are not limited to the following:

1. All required civil rights laws, regulations and executive orders
2. Current written employment and personnel procedures
3. EEO characteristics of its employees including race and disability status
4. Evidence that the town/city affirmatively furthered fair housing including:
 - ❑ Fair Housing Action Plan
 - ❑ Fair housing action steps carried out
 - ❑ Activities carried out for Fair Housing Month
 - ❑ Complaint procedure and number of complaints and resolutions, if applicable
5. Title VI Certification including evidence of compliance
6. Section 3 Plan including evidence of good faith efforts
7. Contract Compliance files including evidence of:
 - ❑ Procurement including evidence of standard equal opportunities clauses and certifications
 - ❑ Solicitation Packages and evidence of standard equal opportunities clauses and certifications
 - ❑ Bid advertisements
 - ❑ Contract(s) including clauses in contracts to comply with Section 3 requirements and Section 504 compliance
 - ❑ Pre-construction minutes including evidence that the following rules and regulations were explained: Section 3, Executive Orders 11246 and 11063, the town's roles and responsibilities
 - ❑ Evidence that town/city monitored for compliance with the contractor's obligations as explained at the pre-construction meeting
 - ❑ Minority and women-owned businesses including evidence of good faith efforts and a reference file for it

- File for Contractor's Affirmative Action Policy Statement or Affirmative Action Plan and evidence that the AA Plan was approved by the Commission on Human Rights and Opportunities (CHRO)
8. Project beneficiaries by race and ethnicity, as requested in the *Quarterly Grantee Progress Report*, based on activity
9. Section 504/ADA Compliance including:
- Section 504/ADA Notice and Grievance Procedure
 - Section 504/ADA Transition Plan
 - Section 504/ADA Self-Evaluation
 - Requests for reasonable accommodations and responses from town/city
 - Section 504/ADA Grievances and responses from town/city