



U.S. Department of Housing and Urban Development
Pennsylvania State Office
The Wanamaker Building
100 Penn Square East
Philadelphia, Pennsylvania 19107-3380

SEP 20 2013

Dear Gustavo Velasquez, Executive Director:

**SUBJECT: Fair Housing Assistance Program (FHAP), Cooperative Agreement
Fiscal Year 2013 Funding**

This letter transmits your FY 2013 funding following the guidance and instructions issued in the FHAP 2013 guidance. Enclosed is the conformed copy of the executed form HUD-1044, Assistance Award/Amendment for your FY 2013 Cooperative Agreement for agencies receiving Contributions Funds. The May 2013 instructions and guidance were sent electronically via email, including the FY 2013 supplemental guidance for FHAP agencies.

The total amount of your FY 2013 funding is based on the following categories of funding: Complaint Processing, Administrative Costs (AC), and Training funds.

Complaint Processing Funds

FY2013: Cases processed between July 1, 2012 and June 30, 2013.

See the attached Assistance Award form HUD-1044 which shows you how many cases were paid by HUD under the FY 2013 funding period. We request that you contact your GTR for a list of the closed cases counted towards this funding for Contributions.

Administrative Costs (AC)

Consistent with 24 C.F.R Section 115.304(c), AC funds are tied to the quantity of the agency's caseload. AC funds may be used for data and information systems, salaries, and other administrative expenses associated with the administration and enforcement of a substantially equivalent fair housing law. Agencies that acceptably process 100 cases or more shall receive 20% of the Recipient's FHAP obligation amount for the preceding year. *For agencies that process fewer than 100 cases, see FY2013 Funding Guidance for FHAP "Contributions Agencies" for the funding framework.*

Example: FY2012 Total Instrument Amount \$250,000
20% of that amount = \$50,000 *
The amount of AC funds for the Agency is \$50,000.**

Training Funds

As the FY 2013 Policy Conference was postponed, in FY 2014, the training funds assigned under this agreement can be used for the National Fair Housing Training Academy (NFHTA) and other HUD funded or approved training¹.

¹ To obtain approval for non-NFHTA training, the FHAP agency must send a request to GTR/GTM at least 60 days in advance of training that includes description and cost (including travel) of training, and staff proposed to attend.

Quarterly Reports

FHAP agencies are required to send quarterly reports to the designated GTR and/or GTM on all activities performed under the Cooperative Agreement during FY 2013 time period, (October 1, 2012 through September 30, 2013). The GTR/GTM will be monitoring your current aged case workload. The following goals have been established for FY 2014: 1) *FHAP agencies will close or charge 50% of fair housing complaints filed during the fiscal year within 100 days.* 2) *FHAP agencies will close or charge 95% of aged fair housing complaints carried over from the prior fiscal year.*

The quarterly reports must report on the following activities:

1. Case Processing – Aged Cases – Status;
2. Training – (Who, What, When, Where – HUD approved by GTR if not HUD);
3. Education and Outreach – What activities, the number of people reached and the cost expended on the activity.

Changes were made to the 2000 Census to reflect the growing racial and ethnic diversity of the U.S. population due to increased immigration from an expanding number of countries and the number of interracial unions. As a result, Office of Management and Budget (OMB) revised its standards related to federal data on racial and ethnic categories. The OMB standards are applicable to HUD's partners that collect and maintain racial and ethnic data. FHAP agencies should use Form HUD-27061, Racial and Ethnic Data Reporting Form (found at www.HUDclips.org) or a comparable form to collect and maintain the data.

If you have any questions, please initially contact your GTR/GTM at the number listed on form HUD-1044, Assistance Award. If you require any further assistance, you may contact Raeesa Waheed, Program Analyst at (215) 861-7636. The telephone number for the hearing impaired is (215) 656-3450.

Sincerely,



Melody Taylor-Blancher
Region III Director
Office of Fair Housing and Equal
Opportunity

Enclosures

Assistance Award/Amendment

U.S. Department of Housing and
Urban Development
Office of Administration

1. Assistance Instrument <input checked="" type="checkbox"/> Cooperative Agreement <input type="checkbox"/> Grant		2. Type of Action <input type="checkbox"/> Award <input checked="" type="checkbox"/> Amendment	
3. Instrument Number FF203K133013	4. Amendment Number 1	5. Effective Date of this Action September 6, 2013	6. Control Number EIN 53-6001131
7. Name and Address of Recipient District of Columbia Office of Human Rights 441 4 th Street NW Suite 570N Washington, DC 20001		8. HUD Administering Office Region III FHEO 100 Penn Square East, 10 th Floor Philadelphia, PA 19107	
10. Recipient Project Manager: Gustavo Velasquez, Executive Director		8a. Name of Administrator Melody Taylor-Blancher	8b. Telephone Number (215) 861-7643
11. Assistance Arrangement <input type="checkbox"/> Cost Reimbursement <input type="checkbox"/> Cost Sharing <input checked="" type="checkbox"/> Fixed Price		9. HUD Government Technical Representative: Steven M. Paikin, (202) 275-6305	
12. Payment Method <input type="checkbox"/> Treasury Check Reimbursement <input type="checkbox"/> Advance Check <input checked="" type="checkbox"/> Automated Clearinghouse		13. HUD Payment Office LOCCS/VRS ARTICLE 7	
14. Assistance Amount		15. HUD Accounting and Appropriation Data	
Previous HUD Amount	\$0.00	15a. Appropriation Number 8613/140144 (TIN) (G, 13)	15b. Reservation number FHEO-03-13-01
HUD Amount this action	\$ 92,700.00	Amount Previously Obligated	\$0.00
Total HUD Amount	\$ 92,700.00	Obligation by this action	\$ 92,700.00
Recipient Amount	\$	Total Obligation	\$ 92,700.00
Total Instrument Amount	\$ 92,700.00		

16. Description

COOPERATIVE AGREEMENT FOR FAIR HOUSING ASSISTANCE PROGRAM (CONTRIBUTIONS) FY 2013

This Agreement consists of the following, which is incorporated herein and made a part hereof:

- Form HUD 1044 (8/90), Assistance Award
- Schedule of Articles with Appendix and Attachments
- Appendix A Statement of Work (See CA)
- Attachments: Attachment A – Criteria for Processing (FY 2013)
Attachment B – Standards for Timeliness
Attachment C – Special Conditions (if applicable)

CONFORMED COPY

COOPERATIVE AGREEMENT BREAKDOWN OF FISCAL YEAR 2013 FUNDS:

Complaint Processing

Number of Closed Cases for Payment = 29: 24 @ \$2,600, 5 @ \$2,340

Cause cases= 1 @ \$3,600

Total case processing = \$77,700

Administrative Costs Funds = \$6,000

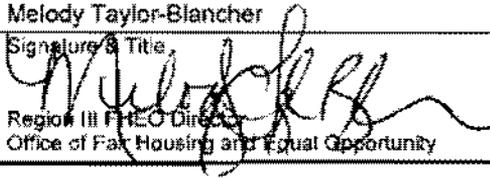
Training Funds = \$9,000

Total Cooperative Agreement Amount = \$92,700

Performance Period: Complaint Processing: July 1, 2012 – June 30, 2013

Administrative Costs, Training: October 1, 2012 – September 30, 2013

The Government Technical Monitor is Ernest Dawson, Equal Opportunity Specialist, District of Columbia Field Office, Washington, DC. In addition to existing FHAP performance standards and requirements enumerated at 24 C.F.R. Part 115, FHEO may utilize the following two measures: 1) FHAP agencies will close or charge 50% of fair housing complaints filed during the fiscal year within 100 days. 2) FHAP agencies will close or charge 95% of aged fair housing complaints carried over from the prior fiscal year.

17. <input checked="" type="checkbox"/> Recipient is required to sign and return three (3) copies of this document to the HUD Administering Office.		18. <input type="checkbox"/> Recipient is not required to sign this document.	
19. Recipient (By Name) Gustavo Velasquez		20. HUD (By Name) Melody Taylor-Blancher	
Signature & Title  Executive Director	Date (mm/dd/yyyy) 09/10/2013	Signature & Title  Region III FHEO Director Office of Fair Housing and Equal Opportunity	Date (mm/dd/yyyy) 9/12/13



OFFICE OF FAIR HOUSING
AND EQUAL OPPORTUNITY

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-2000

FY2013 Funding Guidance for Fair Housing Assistance Program (FHAP) “Contributions Agencies”

This document provides guidance to FHAP contributions agencies related to FY2013 FHAP funding and is meant to supplement the 2013 Capacity Building Agreement, Criteria for Processing, and the Standards for Timeliness. FHAP contributions agencies are beyond the first year of FHAP participation and receive complaint processing funds, administrative costs funds, training funds, and partnership funds to assist in the enforcement of a substantially equivalent fair housing law.

FHAP Performance Periods

Generally, FHAP contributions agencies receive funding based on activities conducted within a preceding twelve-month period (the performance period). The performance periods provide HUD staff sufficient time to execute or amend the cooperative agreements, review complaints, and calculate payments. The FY2013 performance periods are as follows:

- Complaint processing: July 1, 2012 – June 30, 2013
- Training, Administrative Costs, and Partnership: October 1, 2012 – September 30, 2013

Changes for FY2013

As you may recall, we implemented the following changes to FHAP in *FY2012*:

- Specification that FHAP training funds may be used for costs associated with obtaining certification at the National Fair Housing Training Academy.
- Provision in the Criteria for Processing and corresponding case closure review form that HUD has discretion to reduce reimbursement up to 100% if a FHAP agency inappropriately encourages or facilitates informal resolution in lieu of proceeding with formal conciliation.
- Addition of marital status cause cases to the reporting requirement of purely state and local complaints, in order to assist in enforcement of HUD’s LGBT Equal Access Rule.
- Emphasis on quality complaint processing, including requirement that FHAP agencies must make reasonable efforts to independently verify information received from a respondent prior to making determinations on the merits, and that FHEO GTRs and GTMs must monitor FHAP investigations for such independent corroboration.

These pieces remain in effect. In addition, in FY2013, HUD has revised the case closure review forms. These forms have a more concise, user-friendly format as compared to previously promulgated forms. FHAP agencies should also be aware that, in addition to existing FHAP performance standards and requirements enumerated at 24 C.F.R. Part 115, FHEO may utilize the following two measures:

- 1) *FHAP agencies will close or charge 50% of fair housing complaints filed during the fiscal year within 100 days.*
- 2) *FHAP agencies will close or charge 95% of aged fair housing complaints carried over from the prior fiscal year.*

These measures are in former HUD operating plans and remain useful in FHEO efforts to ensure that FHAP agencies engage in timely and efficient complaint processing and the FHAP agencies significantly reduce aged complaints carried over from prior fiscal years.

Complaint Processing Funds

In FY2013, complaints processed by FHAP agencies that are cognizable under the Fair Housing Act may be reimbursed up to **\$2,600 per complaint, with the possibility of an additional \$1,000 for “charged” cases.**

The Criteria for Processing is the document that FHEO utilizes to determine whether a complaint, cognizable under the federal Fair Housing Act and processed by a substantially equivalent state or local agency, warrants reimbursement with FHAP funds. Once a complaint is determined to warrant reimbursement under the Criteria for Processing, the Standards for Timeliness are used to identify the amounts to be reimbursed based upon timeliness and complexity of the investigation.

Additionally, FHAP case closure review forms were developed for use in FY2010, and will again be utilized in FY2013. The forms combine the Criteria for Processing and the Standards for Timeliness into user-friendly checklist formats for FHEO region offices, and provide recommended deduction amounts for deficiencies related to quality, failure to put information in TEAPOTS, and failure to provide certain documents to HUD. There are 11 different forms, based largely on the type of closure: 1) Cause; 2) Post-Cause; 3) No Cause; 4) Conciliation; 5) Withdrawal with Resolution; 6) Withdrawal without Resolution; 7) Inability to Locate Complainant; 8) Inability to Locate Respondent; 9) Failure to Cooperate; 10) Lack of Jurisdiction; and 11) Trial Commenced. The forms have been further revised for FY2013 to a more concise, user-friendly format. FHEO region offices have been instructed to share those forms with FHAP agencies as an additional technical assistance tool.

Administrative Costs (AC) Funds

Consistent with 24 C.F.R. Section 115.304(c), AC funds are tied to the quantity of the agency’s caseload. AC funds may be used for data and information systems, salaries, and other administrative expenses associated with the administration and enforcement of a substantially

equivalent fair housing law. If a FHAP agency has not done so already, it must use AC funds to purchase Adobe Professional or Nuance software. This will allow FHAP agencies to convert PDF documents into Word, thereby making documents up-loadable to TEAPOTS.

In FY2013, FHAP agencies that acceptably process *100 or more complaints* during the performance period will receive 20% of the agency's total FHAP obligation for the preceding year. For agencies that process *fewer than 100 complaints*, the framework set forth in the following table will be utilized, which identifies the number of complaints that a FHAP agency acceptably processed during the FY2012 performance period, and the corresponding amount of AC funds to be provided to the agency.

Number of complaints acceptably processed	Amount of AC funds
0-1	\$0
2-10	\$2,000
11-30	\$6,000
31-45	\$10,000
46-60	\$20,000
61-80	\$30,000
81-99	\$40,000

Agencies must submit a written plan detailing how they intend to use AC funds to the GTR/GTM for approval. The plan should include use of the AC funds for updating and maintenance of their hardware and software, as appropriate.

Training Funds

In FY2013, training funds will be used for FHAP agency attendance at the Patricia Roberts Harris National Fair Housing Training Academy (NFHTA), and other appropriate training, as approved by the FHEO GTR.¹

FHAP agencies **must** send staff to NFHTA. Priority should be given to staff directly involved in fair housing investigations that have not completed the core curriculum. The amount allotted to each FHAP agency for NFHTA attendance is based on the population of the jurisdiction that the FHAP agency serves, in accordance with the methodology set forth in the following table.

Population Designation	Population of FHAP Jurisdiction	Funds to each FHAP Agency for NFHTA Attendance
1	10,095,643 and more	\$20,000
2	10,095,642 - 5,842,713	\$16,000
3	5,842,712 - 1,000,000	\$11,500
4	999,999 - 554,496	\$9,000
5	554,495 - 120,001	\$6,500
6	120,000 - 55,001	\$4,000
7	up to 55,000	\$3,000

¹ To obtain approval for non-NFHTA training, the FHAP agency must send a request to GTR/GTM at least 60 days in advance of training that includes description and cost (including travel) of training, and staff proposed to attend.

If a FHAP agency identifies a legitimate need for a reasonable amount of training funds for NFHTA attendance, the region office may obligate funds prior to the FHAP agency's NFHTA attendance in lieu of reimbursement after the FHAP staff attended NFHTA.

HUD anticipates FHAP agencies spending approximately \$2,000 on travel and per diem expenses for a staff person to attend one week of NFHTA training. However, we recognize that the travel and per diem costs associated with attendance at NFHTA will vary depending on the FHAP agency's vicinity to NFHTA. Therefore, HUD may obligate amounts different than \$2,000 for a week of NFHTA training. Also, if a FHAP agency identifies a legitimate need for a reasonable amount of training funds for NFHTA attendance, HUD may obligate funds prior to the FHAP agency's NFHTA attendance in lieu of a reimbursement after NFHTA attendance. Please note that FHEO will monitor to ensure that FHAP agencies are sending appropriate staff to NFHTA, and are, in fact, utilizing training funds for NFHTA attendance. In addition, per the approval of the GTR, training funds may be used for fees and travel associated with the NFHTA certification program. Fees for certification will range from \$1,150 to \$1,500, depending if the student takes the certification refresher course.

Other Requirements Related to NFHTA Attendance

- Each FHAP agency must have a designated NFHTA coordinator. These coordinators are responsible for maintaining communications with GTRs/GTMs, other HUD staff, and the NFHTA administrator, as necessary, to ensure attendance at NFHTA and compliance with applicable requirements. It is imperative that the coordinator regularly communicate updates on registration, cancellations, or date changes to the GTR/GTM and the NFHTA administrator.
- FHAP agencies shall use training funds for hotel accommodations, transportation, and per diem for attendance at NFHTA. FHAP agencies shall secure their own hotel accommodations and travel to attend NFHTA. FHAP agencies should contact NFHTA for information about hotels, including those that provide government rates.
- Whenever possible, the FHAP agency should report cancellations of student attendance at least three weeks prior to the scheduled start date of the course. The NFHTA administrator may report cancellations to the appropriate GTR/GTM.
- Classes at NFHTA are subject to cancellation if too few students are registered to attend. The NFHTA administrator will provide email notification two weeks in advance of the scheduled start date if a course is canceled. Individuals who were registered to attend classes should re-register for an alternate week and re-schedule their transportation and hotel reservations.

Partnership Funds

The purpose of partnership funds is for a FHAP agency to utilize the services of individuals and/or public, private, for-profit, or not-for-profit organizations that have expertise needed to effectively carry out the provisions of the agency's substantially equivalent fair housing law.

Partnership funds in FY2013 will be prioritized to assist FHAP jurisdictions in post-cause enforcement of meritorious fair housing complaints and fair housing enforcement and education projects of regional and national impact. In the coming weeks, HUD will be soliciting FHAP agencies for partnership project proposals.

OMB Standards for Federal Data on Race and Ethnicity

Changes were made to the 2000 Census to reflect the growing racial and ethnic diversity of the U.S. population due to increased immigration from an expanding number of countries and the number of interracial unions. As a result, Office of Management and Budget (OMB) revised its standards related to federal data on racial and ethnic categories. The OMB standards are applicable to HUD's partners that collect and maintain racial and ethnic data. Therefore, since FHAP agencies collect racial and ethnic data, they are required to maintain that data the same as HUD, i.e., using the five racial categories and two ethnic categories as outlined below.

Five Racial Categories

1. American Indian or Alaska Native. A person having origins in any of the original peoples of North and South American (including Central America), and who maintains tribal affiliation or community attachment.
2. Asian. A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Island, Thailand, and Vietnam.
3. Black or African American. A person having origins in any of the black racial groups of Africa. Terms such as "Haitian" or "Negro" can be used in addition to "Black or African American."
4. Native Hawaiian or other Pacific Islander. A person having origins in any of the original peoples of Hawaii, Guam, Samoa or other Pacific Islands.
5. White. A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

Two Ethnic Categories

1. Hispanic or Latino. A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term, "Spanish origin," can be used in addition to "Hispanic or Latino."
2. Not Hispanic or Latino. A person not of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.

FHAP agencies should use Form HUD-27061, Racial and Ethnic Data Reporting Form (found at www.HUDclips.org) or a comparable form to collect and maintain the data.

Questions about this Guidance

If you have any questions, comments, or concerns about this guidance, please contact your agency's GTR/GTM or the FHEO region director.

ATTACHMENT A: Criteria for Processing

The Criteria for Processing (Criteria) are the standards by which HUD determines whether a complaint, cognizable under the federal Fair Housing Act and processed by a substantially equivalent state or local agency, warrants reimbursement with Fair Housing Assistance Program (FHAP) funds. The Criteria establish, for each type of complaint closure, the minimum requirements for quality complaint processing and identify the documents that must be submitted to HUD. The Criteria are designed to assure the uniform, timely, and quality processing of housing discrimination complaints processed under substantially equivalent fair housing laws. If the Criteria are not met for a particular complaint, HUD may deny reimbursement, in whole or in part, for that complaint.

The Criteria are enumerated under major subheadings, most of which describe the type of closure, (e.g., cause, no cause, conciliation, etc.). Subheadings I through III set out criteria that apply to most complaints. Subheadings IV through VII set forth additional criteria specific to particular types of complaint closure. For example, to meet the criteria for an administrative closure, criteria under subheadings I (Complaint Filing), II (Notification), III (Cause and No Cause Determinations), VII (Administrative Closures) may need to be met.

Once HUD determines a complaint warrants reimbursement under the Criteria, the Standards for Timeliness (Attachment B) are used to identify the amount that HUD will reimburse the FHAP agency, based upon timeliness and complexity of the investigation.

Please note that all complaint-related documentation identified in the Criteria must be provided to HUD no later than 30 days after completion of complaint processing. Whenever possible, the complaint-related documentation must be submitted to HUD via the Title Eight Automated Paperless Office Tracking System (TEAPOTS). An agency's failure to utilize TEAPOTS and input all relevant data and information in TEAPOTS in a timely manner may jeopardize complaint processing reimbursement. (See complaint closure review forms that identify required TEAPOTS entries and appropriate payment deductions based on type of closure). HUD may also address the failure to utilize TEAPOTS through performance deficiency procedures including, but not necessarily limited to, technical assistance, performance improvement plan, and suspension. *See* 24 C.F.R. § 115.307(a)(3) and 24 C.F.R. § 115.210.

Finally, as an additional technical assistance tool, complaint closure review forms are attached. The forms combine the Criteria for Processing and the Standards for Timeliness into user-friendly checklists based on type of complaint closure.

I. Complaint Filing

A. Quality Requirements:

1. All complaints must be timely filed in accordance with the substantially equivalent state or local fair housing law.
2. All complaints must be in writing, signed by the complainant, and contain the following information:
 - a. The name and address of complainant;
 - b. The name and address of respondent(s);
 - c. If a specific property is involved, the property's address and physical description, such as apartment, condominium, house or vacant lot; and
 - d. A concise statement of the facts, including pertinent dates, constituting the alleged discriminatory housing practice.
3. Where the agency determines that there is insufficient information in the complaint to commence an investigation, the agency must notify the complainant in writing by no later than the 5th day after receipt of the complaint and inform the complainant what information he or she must provide in order to commence an investigation, and identify a reasonable timeframe for submitting such information. The agency must notify the complainant that unless he or she provides the required information within the specified timeframe, the agency may dismiss the complaint.
4. The FHAP agency must permit complaints to be filed with the assistance of an authorized representative or organization of the complainant.
5. The FHAP agency must permit complaints to be reasonably and fairly amended at any time. Such amendments may include, but are not limited to: a) amendments to cure technical defects or omissions; b) clarification, amplifications, or amendments of allegations in a complaint; or c) joinder of additional or substitute respondents. The FHAP agency should consider amended complaints as having been made filed on the date the original complaint was filed.
6. HUD will not reimburse a FHAP agency for complaints deemed non-jurisdictional because of failure to meet more burdensome filing requirements than those imposed by the Act. For example, if a FHAP

agency requires complaints to be notarized, HUD will not reimburse the agency for a complaint not filed because the complainant did not get the complaint notarized. To preserve the rights of aggrieved persons, a FHAP agency must refer such complaints to HUD for investigation under the federal Fair Housing Act as soon as practicable and, where necessary, consent to their reactivation.

7. Pursuant to 24 CFR Section 115.210, and the March 7, 2001 memorandum entitled *Limitations on Accepting as Dual-Filings FHAP Cases That Implicate First Amendment*, HUD will not reimburse FHAP agencies for complaints that implicate the First Amendment of the U.S. Constitution. The FHAP agency must alert HUD to complaints that it receives that may implicate the First Amendment so that HUD may analyze the complaint and determine if reimbursement is appropriate.
8. Pursuant to a Memorandum of Understanding between HUD and the Internal Revenue Service, the FHAP agency must identify in TEAPOTS whether the property named in a complaint receives Low Income Housing Tax Credits. This is required for every complaint.
9. Pursuant to any special provisions in the Interim Agreement and/or Memorandum of Understanding between HUD and a FHAP agency, the FHAP agency must refer complaints to HUD regarding allegations that the agency receives involving a practice that is not prohibited by the substantially equivalent State or local law, but is prohibited by the federal Fair Housing Act.
10. If a housing discrimination complaint is filed against a recipient of federal financial assistance and therefore implicates civil rights laws that FHEO enforces other than the federal Fair Housing Act (multi-jurisdictional), the FHAP agency shall notify FHEO so that FHEO may process that portion of the complaint. Other civil rights laws enforced by FHEO include:
 - a. Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (prohibiting discrimination on the basis of race, color or national origin in programs or activities receiving federal financial assistance);
 - b. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (prohibiting discrimination based on disability in programs or activities receiving federal financial assistance);
 - c. Section 109 of the Housing and Community Development Act of 1974, 42 U.S.C. § 5309 (prohibiting discrimination on the basis of

race, color, national origin, religion or sex in any program or activity funded in whole or in part by the community development block grant programs);

- d. Title II of the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. (prohibiting discrimination based on disability in programs, services and activities made available by public entities);
- e. Architectural Barriers Act, 42 U.S.C. § 4151 et seq. (providing that buildings, including publicly owned residences, designed constructed, leased or altered with certain federal funds must be accessible to persons with disabilities); and
- f. Age Discrimination Act of 1975, 42 U.S.C. § 6101 (prohibiting discrimination based on age in programs or activities receiving federal financial assistance).

- B. Required Documents: A signed, dated copy of the complaint, any requests for amendment(s) to the complaint, and evidence of compliance with the timeframes and requirements identified above.

II. Notification

- A. Quality Requirements: The FHAP agency must notify HUD within 5 days of receiving complaints that are cognizable under the federal Fair Housing Act. In addition, the FHAP agency must serve notice of the complaint to each complainant and respondent in accordance with the timeframes identified in the substantially equivalent law and the following requirements.
 - 1. The notification letter to the complainant must consist of an acknowledgement of receipt of the complaint for filing, the designation of a complaint number, information related to the agency's processing procedures including the name and telephone number of a FHAP agency contact, and the complainant's rights and obligations under the substantially equivalent law, including time limits and choice of forums.
 - 2. The notification letter to the respondent must consist of a description of the alleged housing discrimination practice upon which the complaint is based, include a copy of the complaint, and identify the name and telephone number of a FHAP agency contact. The notice to a respondent must also advise respondent of his or her procedural rights and obligations, including respondent's right to file an answer within the timeframe identified in the substantially equivalent law.

3. A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of the investigation, may be joined as an additional or substitute respondent by service of a written notice. The notice must explain the basis for the agency's belief that the joined person is properly joined as a respondent and include information identified in paragraph 2 above.

- B. Required Documents: For complaints that are filed directly with the FHAP agency, the agency must enter information in TEAPOTS regarding the complaint within five days of receiving the complaint, sufficiently notifying HUD of the complaint. In addition, the agency must provide HUD with a copy of the notification letters sent to the parties and must update TEAPOTS to indicate when the agency sent the notification letters.

III. **Criteria for Cause and No Cause Determination**

Every cause or no cause determination must be based on an investigation that includes sufficient consideration of the complainant's and respondent's evidence, and a sufficient evaluation of any and all conflicting evidence. A cause or no cause determination must be based on a review of all relevant evidence the agency obtained during the investigation. The agency shall not act as an advocate for either the complainant or respondent and shall weigh the evidence objectively in light of the relevant substantially equivalent law. The basis for the cause or no cause determination must be well-documented.

- A. Quality Requirements:

In addition to the criteria set forth in subheadings I and II above:

1. **Before the end of the 30th day after the complaint is filed, the FHAP agency must initiate a comprehensive investigation of issues raised in the complaint. Respondent's defenses, relevant policies and practices, as well as all other relevant data, must be identified and analyzed and the complainant, respondent, and all relevant witnesses must be interviewed. Contradictions between complainant's allegations and respondent's response must be investigated and when applicable, comparative data must be obtained. When necessary, information must be independently corroborated. Simply obtaining respondents' statements rebutting complainant's allegations will normally not resolve disputed issues of fact.**
2. HUD recommends that FHAP agencies develop investigative plans for every complaint processed that is cognizable under the Fair Housing Act. For guidance on development of an investigative plan, FHAP agencies

may refer to Chapter 7 of HUD Handbook 8024.01 REV-2 (Title VIII Complaint Intake, Investigation, and Conciliation Handbook).

3. In planning the investigation, the investigator and his/her supervisor must determine, on a complaint-by-complaint basis, whether on-site inspections and/or interviews are required. For most complaints, on-site inspections and/or interviews are the most thorough way to conduct an investigation unless:
 - The complaint does not involve factual disputes;
 - Evidence clearly demonstrates there is no cause; or
 - Evidence clearly indicates there is cause.
4. During the period beginning with the filing of a complaint and ending with the FHAP agency's determination or charge of discrimination, the agency, to the extent feasible, must attempt to conciliate the complaint (see more detail on criteria for conciliation attempts and conciliation agreements in Section IV of this document).
5. If the agency does not complete the investigative activities with respect to a complaint within 100 days from the date of receipt, it must notify the parties in writing of the reason(s) for the delay. Such notification letters must be sent within 110 days of the filing of the complaint.
6. At the end of each investigation, the agency shall prepare a Final Investigative Report (FIR). An FIR shall be dated and signed by at least one supervisor. The FIR shall contain:
 - a. The names and dates of contacts with the parties and witnesses, except that the report will not disclose the names of witnesses who request anonymity;
 - b. A summary of correspondence and other contacts with the complainant and the respondent;
 - c. A summary description identifying other pertinent records examined;
 - d. A summary of statements by witnesses, if applicable; and/or
 - e. Interrogatories and answers provided, if applicable.
7. Each Determination shall be signed and dated by an authorized FHAP representative.

8. The FHAP agency shall send the closure package to HUD within 30 days of closure. (See B below).
 9. The FHAP agency will cooperate with HUD by providing information at regular intervals or upon request related to individual complaint investigations. Upon request, HUD shall receive status reports for each complaint that is over 100 days old.
- B. Required Documents: All evidence indicating that a comprehensive investigation was commenced and completed in accordance with the above requirements including, but not limited to: a copy of a signed, dated complaint; a copy of a FHAP agency determination, dated and signed by an authorized FHAP representative; proof that a FHAP agency sent its determination letter to all parties; an FIR that meets the above listed requirements; an investigative plan (when such plan exists); a copy of the 100-day letters and evidence that they were sent; and all other information pertinent to the investigation, including but not limited to interview notes, documentation of conciliation attempts and, when necessary, independent evidence corroborating respondent's defense(s).
- C. Additional funds for "Charged" Complaints: An agency may receive additional funds for complaints for which it issues a charge of discrimination or equivalent action. To obtain such additional funds, the charge (or equivalent action) must meet the following three factors:¹
1. Be issued in a written document;
 2. Be signed by the appropriate agency official; and
 3. Offer the opportunity to adjudicate the charge in a judicial proceeding.
- D. Post-Cause Review – See Section V.

IV. Criteria for Conciliation

During the period beginning with the filing of a complaint and ending with the agency's no cause determination or charge of discrimination, the agency, to the extent feasible, must attempt to conciliate the complaint. In conciliating a complaint, agencies must attempt to achieve a just resolution of the complaint and obtain assurances that the respondent will satisfactorily remedy any violations of the rights of the complainant and take actions to ensure the elimination of alleged discriminatory housing practices and the prevention of their occurrences in the future. These standards for conciliation remain in effect even if conciliation/settlement takes place after the agency's cause determination.

¹ If an agency does not utilize a charge process, it may still receive "charged complaint" additional funds if its cause determination meets these three factors.

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

A. Quality Requirements/Required Documents:

The FHAP agency must provide HUD with a signed and dated complaint, a chronology of actions taken up to the conciliation, copies of closure letters sent to the parties indicating that the complaint was closed due to a successful conciliation, together with a copy of the executed conciliation agreement. The conciliation agreement must be in writing, dated and signed by complainant, respondent, and the authorized FHAP agency representative, and include:

1. HUD and FHAP complaint numbers
2. names of the parties;
3. address and description of the subject property;
4. an effective date and the term in which the agreement remains in effect;
5. relief that remedies the discrimination alleged in the complaint;
6. as appropriate, relief that adequately vindicates the public interest, and prohibits future discriminatory housing practices by respondent;
7. a statement that the agreement constitutes closure of the complaint at HUD and the FHAP agency;
8. a statement that the agreement shall be made public unless the complainant and respondent otherwise agree, and an authorized representative of the agency determines that disclosure is not required to further the purposes of the substantially equivalent law. Circumstances that may result in partial or complete nondisclosure of a conciliation agreement may include, but are not limited to:
 - Sexual harassment allegations that may be humiliating and embarrassing to the complainant;
 - A complainant's physical or mental disability that complainant may not want disclosed; or
 - The fact that a complainant is a resident in a home for battered women which complainant believes may, if disclosed, endanger

her safety.

9. provisions that allow the FHAP agency to effectively monitor compliance with the agreement.
10. a statement that violations of other civil rights laws have been alleged (if applicable).

NOTE: The conciliation agreement does not prohibit HUD from taking further action against respondent under other applicable civil rights laws. When a complaint is subject to concurrent processing by HUD under other civil rights laws, the FHAP agency may not execute an agreement that resolves matters in regard to these other laws without HUD's consent.

V. Criteria for Post-Cause Complaints Heard in an Administrative Hearing, Civil Action, or Through Judicial Review

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

- A. Quality Requirements: After a cause determination and a charge of discrimination, or its equivalent, has been issued, and assuming the conciliation was attempted and failed, the complaint must be referred to appropriate counsel to prosecute the charge on behalf of the complainant, at government expense, before an administrative hearing body or civil court. Representation must also be provided in any appeals that follow.
- B. Documents Required: HUD will accept such a complaint for reimbursement if the agency provides documentation of such a referral in, for example, correspondence, logs or pleadings. Additionally, the FHAP agency shall provide any final administrative hearing decision, consent decree, or settlement agreement entered to HUD within 30 days of such action. If the agency does not provide this information, HUD may request, and the agency will be required to return, up to 50% of the reimbursement previously paid to the agency for the complaint.

NOTE: While the agency may obtain reimbursement on these complaints prior to final disposition by an administrative hearing body or a civil court, the agency must subsequently report to HUD the final status of such complaints. *See* 24 C.F.R. § 115.206(e)(8). FHAP agencies must input final status information directly in TEAPOTS within 30 days of the administrative or judicial determination. If the agency does not provide this information, HUD may request, and the agency will be required to return, up to 50% of the reimbursement previously paid to the agency for the complaint.

VI. Criteria for Closures by Settlement without FHAP Agency Involvement (a.k.a., withdrawals with resolution)

If complainant and respondent resolve the complaint without the FHAP agency's involvement, the complainant may withdraw the complaint by submitting a withdrawal request to the FHAP agency.

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

- A. Quality Requirements. The withdrawal request must be written; it must be signed and dated by complainant or complainant's authorized representative; identify the respondent(s) to whom the withdrawal applies; contain the HUD and FHAP agency complaint numbers; state the reason(s) complainant seeks to withdraw the complaint; contain a statement that the withdrawal was not obtained by coercion or threat of retaliation from any person, including but not limited to the respondent; and identify the terms of the resolution.
- B. Required Documents: The FHAP agency must provide FHEO with: a signed and dated complaint; a chronology of the FHAP agency actions prior to the withdrawal request; a copy of the signed and dated withdrawal request; documentation showing that the agency notified the complainant and respondent that the investigation would be terminated as a result of the withdrawal, and that the complainant could re-file the complaint if the terms of the resolution are not satisfied and the re-filing is received within the time limit for filing a complaint under the substantially equivalent law; and a copy of the closure letter.

NOTE: The FHAP agency must not encourage or facilitate resolution without its involvement in lieu of proceeding with conciliation. If HUD discovers that such occurred, reimbursement for the complaint may be deducted in whole or in part.

VII. Criteria for Administrative Closures

Performance Standard 2 in the FHAP regulations, at 24 C.F.R. § 115.206(e)(2), requires that administrative closures only be utilized in limited and appropriate circumstances. It is critical that FHAP agencies not close complaints administratively except under the specific circumstances set forth below.

- A. Withdrawals without Resolution. If complainant decides to withdraw a complaint, even though the complaint has not been resolved, complainant must submit a withdrawal request.

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

1. Quality Requirements: The withdrawal request must: be written; signed and dated by complainant or complainant's authorized representative; identify the respondent(s) to whom the withdrawal applies; contain the HUD and FHAP agency complaint numbers; state the reason(s) complainant seeks to withdraw the complaint; contain a statement that complainant is aware that the withdrawal terminates the FHAP agency's investigation; contain a statement that the withdrawal was not obtained by coercion or threat of retaliation from any person, including but not limited to the respondent.
2. Required Documents: The FHAP agency must provide FHEO: a signed and dated complaint; a chronology of FHAP agency actions prior to receipt of the withdrawal request; a copy of the signed and dated withdrawal request that meets the Quality Requirements set out above; and a copy of the closure letter provided to all parties indicating closure due to withdrawal by complainant without resolution.

NOTE: If the withdrawal request indicates that there was coercion or threat of retaliation, FHAP payment may be denied.

- B. Inability to Locate Complainant. The FHAP agency may administratively close a complaint when additional information is needed from complainant and he or she cannot be located.

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

1. Quality Requirements: If correspondence sent by the agency is returned with an indication that the complainant moved and left no forwarding address, the agency must take the following progressive steps to locate the complainant before administratively closing the complaint:
 - a. Place at least four telephone calls to complainant's residence, cell phone number, and place of employment, two during normal business hours to work number and two during non-business hours to a residential/cell number. If an email address is available, the agency must attempt to email the complainant at least two times.
 - b. Attempt to contact persons identified by complainant at intake to inquire as to complainant's whereabouts.
 - c. Check other sources in an effort to obtain complainant's current contact information (e.g., telephone directory, Internet searches,

postal service, 411 information, utility company, witnesses previously identified by complainant, or individuals at complainant's place of employment).

- d. Send a letter to the complainant's last known address by certified mail, advising complainant of the agency's intent to close the case unless complainant contacts the agency within ten days. If the tenth day elapses without a response, the case may be closed administratively by means of a written notice sent to all parties, including complainant at complainant's last known address.

NOTE: If the FIR shows that the complaint was closed due to the inability to contact complainant without following the steps outlined above, the FHAP agency will not be reimbursed for processing the complaint.

2. Required Documents: The FHAP agency must provide the following documentation to FHEO: a signed and dated complaint; evidence that the above progressive steps were taken to locate complainant; evidence that the certified letter was returned unclaimed, and a copy of the closure letter sent to the parties indicating closure due to inability to locate complainant.

C. Inability to Locate Respondent

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

1. Quality Requirements: A FHAP agency must make every effort to identify the correct name and address of each respondent in a complaint. However, there may be circumstances where a respondent cannot be identified or located. If the complaint identifies multiple respondents and only one cannot be adequately identified, the agency must not close the complaint administratively. Rather, the investigation must proceed and further efforts must be made during the investigation to identify the respondent whose correct name or address remains unknown. The complaint may be amended to remove those respondents who could not be located.

If a sole respondent or all respondents cannot be identified or located, the complaint may be closed administratively if the agency first takes the following steps:

- a. The FHAP agency must attempt to obtain additional information from available sources that could result in identifying or locating the respondent, including Internet searches, cell phone numbers, cross reference directories, or property tax records that may

identify the owner or prior residents of the property in question and provide enough information to identify or locate the respondent, serve the complainant, and begin the formal investigation.

- b. If a source appears to know the identity or location of a respondent that the FHAP agency seeks, but that source refuses to provide the information voluntarily, the FHAP agency must subpoena the information.
- c. As appropriate, the FHAP agency should attempt an on-site visit, which may help locate and identify the respondent.
- d. If the above efforts to locate or identify the respondent are unsuccessful, a letter must be sent to the complainant giving him or her 10 days to provide information needed to locate or identify respondents.

NOTE: In the absence of sufficient information, the case may be closed administratively, and written notice by regular and certified mail should be sent to the parties.

Required Documents: The FHAP agency must provide the following documentation to FHEO: a signed and dated complaint; evidence that the above progressive steps were taken to locate the respondent, including the signed letters identified in 1(d) above giving notice to complainant or complainant's representative, evidence that certified letters were returned unclaimed, and closure letters to complainant or complainant's representative indicating inability to locate respondent(s).

- D. Failure of Complainant to Cooperate with the Investigation. A complaint may be administratively closed when complainant fails to respond to reasonable requests for information that is needed in order for the FHAP agency to make a determination.

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

1. Quality Requirements:
 - a. The FHAP agency must inform the complainants and their representatives of their duty to cooperate with the investigation and the risk of the agency administratively closing the complaint if they fail to cooperate.
 - b. The FHAP agency must make repeated attempts to contact

complainants and their representatives by telephone and mail requesting the needed information. If these efforts are fruitless, the FHAP agency must send a letter to the complainant by certified mail return receipt giving complainant at least ten days from receipt of letter to provide the needed information to the agency.

- c. If the complainant's cooperation cannot be obtained using the above procedures, and the letter is not returned by the post office (i.e., marked addressee unknown, moved, left no forwarding address, etc.), the complaint should then be closed for failure to cooperate.

If the complaint is closed for failure of complainant to cooperate with the investigation, a closure letter must be sent to the complainant.

2. Required Documents: The following documents must be provided to FHEO: a signed and dated complaint; evidence that the above progressive steps were taken to obtain complainant's cooperation, including the signed letter identified in 1(b) above giving notice to the complainant or the complainant's representative; and a copy of closure letter to the parties indicating closure because of failure of complainant to cooperate with the investigation.

E. Lack of Jurisdiction

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

1. Quality Requirements: For a FHAP agency to obtain reimbursement for a complaint administratively closed for lack of jurisdiction, there must be a lack of jurisdiction for both HUD and the agency. If HUD, but not the agency, has jurisdiction over the complaint, the complaint must be referred to HUD for processing. In order to qualify for reimbursement, the lack of jurisdiction must not have been apparent on the face of the complaint at the time of filing, and must have become known only after further investigation. The following are examples of facts uncovered during an investigation that may justify reimbursement for an administrative closure for lack of jurisdiction: a) the complainant has not suffered the alleged harm needed to establish standing; b) the subject property qualifies for an exemption to coverage of both the Fair Housing Act and the substantially equivalent law.
2. Required Documentation: The FHAP agency must provide the following documentation to FHEO: reason(s) for closing the complaint for lack of jurisdiction that demonstrates why HUD does not have jurisdiction, and that the lack of jurisdiction could not have been determined at intake;

copies of closure letter sent to the parties that indicate reason for lack of jurisdiction closure, identify FHAP and HUD complaint numbers, and are signed by authorized FHAP agency official.

- F. Trial has Commenced. A complaint should not be closed because an aggrieved person has filed a lawsuit, or a court has set a trial date with respect to the same discriminatory housing practice alleged in the complaint. However, under the substantially equivalent law, as under the Fair Housing Act, FHAP agencies are usually barred from issuing a charge of discrimination or continuing administrative proceedings if a judicial trial has begun.

In addition to the appropriate criteria set forth in subheadings I, II, and III above:

1. Quality Requirements: No additional criteria.
2. Required Documents: To receive reimbursement for an administrative closure due to the commencement of a judicial trial, the FHAP agency must produce: a document from the clerk of the court in the jurisdiction that hears the complaint demonstrating that a trial has begun; or letters from the complainant, the complainant's representative, or the respondent or that respondent's representative, that a judicial trial has begun; or certification that the FHAP agency verified the accuracy of the information with the clerk of the court; or an order by the court resolving the complaint; or a copy of closure letters sent to the parties indicating closure due to judicial trial commencement.

ATTACHMENT B: Standards for Timeliness

If no quality deductions are made in accordance with the Criteria for Processing, the GTM should recommend payment amounts in accordance with the following standards:

- ❖ Complaints, not systemic (pattern or practice), novel, or complex, that are settled or conciliated within (this category includes withdrawals with resolution):

<u>No. of Days</u>	<u>Percent of Case Processing Amount</u>
1. 100 or less	100% = \$2600
2. 101 to 150	90% = \$2340
3. 151 to 200	80% = \$2080
4. 201 to 250	70% = \$1820
5. Over 250	0% to 69% as approved by the GTR = \$0 - \$1794

- ❖ Complaints, not systemic (pattern or practice), novel, or complex, where a cause or no cause decision has been made within:

<u>No. of Days</u>	<u>Percent of Case Processing Amount</u>
1. 100 or less	100% = \$2600
2. 101 to 150	90% = \$2340
3. 151 to 200	80% = \$2080
4. 201 to 250	70% = \$1820
5. Over 250	0% to 69% as approved by the GTR = \$0 - \$1794

Cause cases that meet the requirements for a “charge” 100% plus \$1000 = \$3600.

- ❖ Complaints that are systemic (pattern or practice), novel, or complex, that are settled or conciliated within (this category includes withdrawals with resolution):

<u>No. of Days</u>	<u>Percent of Case Processing Amount</u>
1. 300 or less	100% = \$2600
2. 301 to 350	90% = \$2340
3. 351 to 400	80% = \$2080
4. Over 400	0% to 79% as approved by the GTR = \$0 - \$2054

- ❖ Complaints that are systemic (pattern or practice), novel, or complex, where a cause or no cause decision has been made within:

<u>No. of Days</u>	<u>Percent of Case Processing Amount</u>
1. 350 or less	100% = \$2600
2. Over 350	up to 100% = \$0 - \$2600 [The GTR may approve a percentage (up to 100%) based on the complexity of the case, investigative challenges (e.g., need to issue a subpoena), quality of investigation, and the degree of diligence in investigating the case.]

Cause cases that meet the requirements for a “charge” 100% plus \$1000 = \$3600.

❖ Complaints closed administratively as follows:

	<u>No. of Days</u>	<u>Percent of Case Processing Amount</u>	
Unable to locate	100 or less	80%	= \$2080
	101 to 125	60%	= \$1560
	126 to 150	40%	= \$1040
	151 to 175	20%	= \$520
	Over 175	0% to 19% as approved by the GTR = \$0 - \$494	
Lack of jurisdiction	30 or less	80%	= \$2080
	31 to 45	60%	= \$1560
	46 to 60	40%	= \$1040
	Over 60	0% unless justified by GTR = \$0	
Failure to cooperate	60 or less	80%	= \$2080
	61 to 75	60%	= \$1560
	76 to 100	40%	= \$1040
	Over 100	0% to 39% as approved by the GTR = \$0 - \$1014	
Withdrawal without Settlement	75 or less	80%	= \$2080
	76 to 100	60%	= \$1560
	101 to 125	40%	= \$1040
	126 to 150	20%	= \$520
	Over 150	0% to 19% as approved by the GTR = \$0 - \$494	
Closed because trial has begun		0 – 100%, as approved by GTR = \$0 - \$2600	

❖ Complaints that are reactivated

0 – 100%, as approved by GTR = **\$0 - \$2600**

Notwithstanding the frameworks above, the GTM may recommend and the GTR may approve 100% reimbursement on a complaint, regardless of the number of days, if the agency diligently and comprehensively investigated the complaint and/or if the complaint resulted in a FHAP agency conciliation agreement that included relief that is both significant and appropriate in light of the issues raised by the complainant.

Please note that complex cases may include those filed with any of the following issue codes: 350 group (discriminatory financing), 360 (discriminatory brokerage services), 400 (refusal to provide insurance), 410 (steering), 420 group (redlining), 470 group (design and construction), and 500 (failure to permit reasonable modification), but may also include other cases requiring extraordinary, and complicated investigations.

2013 CONTRIBUTIONS AGREEMENT

SCHEDULE OF ARTICLES

1. SCOPE OF WORK (FIXED PRICE)
2. PERIODS OF PERFORMANCE
3. INSPECTION AND ACCEPTANCE
4. CONDUCT OF WORK
5. INSTRUMENT AMOUNT AND REQUESTS FOR PAYMENT
6. NARRATIVE REPORT
7. CRITERIA FOR PROCESSING
8. PART 85
9. USE OF COOPERATIVE AGREEMENT FUNDS
10. MAINTENANCE OF EFFORT
11. HUD'S SUBSTANTIAL INVOLVEMENT
12. ASSURANCES
13. USE OF CONSULTANTS
14. PUBLICATIONS AND NEWS RELEASES
15. REPRODUCTION OF REPORTS
16. FLOW DOWN PROVISIONS
17. DISPUTES
18. MAINTENANCE OF RECORDS
19. CUSTOMER SERVICE STANDARDS
20. REPORTING REQUIREMENTS
21. TRAINING
22. INITIAL CONTACT DATE
23. CHANGES LIMITING EFFECTIVENESS OF RECIPIENT'S LAW
24. FHAP AND FIRST AMENDMENT
25. TESTING

26. RELEASE OF INFORMATION WHILE COMPLAINT IS OPEN
27. SEXUAL ORIENTATION, GENDER IDENTITY, MARITAL STATUS, AND SOURCE OF INCOME CAUSE DETERMINATIONS

Appendix A: Statement of Work

Attachment A: Criteria for Processing

Attachment B: Standards for Timeliness

1. SCOPE OF WORK (FIXED PRICE)

The Recipient (or Agency) shall furnish all the necessary personnel, materials, services, equipment, facilities (except at otherwise specified herein) and otherwise do all things necessary for or incidental to the performance of the work set forth in the Statement of Work (SOW) and all attachments for the firm fixed price set forth herein.

2. PERIODS OF PERFORMANCE

The Recipient shall provide all services hereunder during the periods of performance.

For the **FY2013** Cooperative Agreement, the periods of performance are as follows:

Complaint Processing: July 1, 2012 – June 30, 2013

Administrative Costs, Training: October 1, 2012 – September 30, 2013

Note: While as a general rule, the cut-off day for incurring administrative costs is September 30, 2013, the GTR may change the cut-off date to several days before the end of the fiscal year if that is necessary to complete closeout documentation.

3. INSPECTION AND ACCEPTANCE

The Government Technical Monitor (GTM), if so delegated, may accomplish inspection and acceptance of all but the final products. The Government Technical Representative (GTR) shall accomplish acceptance of all final products. The GTR is identified in Block 9 of the HUD-1044.

4. CONDUCT OF WORK

During the effective period of this instrument, the GTR or GTM shall be responsible for monitoring the technical effort of the Recipient, unless the Recipient is notified in writing by the Cooperative Agreement Officer (CAO) of a replacement. The CAO is identified in Block 8a of the HUD-1044.

Only the CAO has the power to authorize deviations from this instrument, including deviations from the Statement of Work. In the event the Recipient does deviate without written approval of the CAO, such deviation shall be at the risk of the Recipient, and any costs related thereto shall be borne by the Recipient.

5. INSTRUMENT AMOUNT AND REQUESTS FOR PAYMENT

Agencies that have received Capacity Building funds for one year may be eligible for Contributions funds. Contributions funds consist of three categories: Complaint Processing; Administrative Costs; and Training.

- **Complaint Processing** - GTRs shall determine payment amounts based upon the FY2013 Standards for Timeliness, which enumerate a range for complaint processing funds up to \$2,600 per case, with the possibility of an additional \$1,000 for “charged” complaints. If the GTR decides not to reduce payment for extremely aged cases, they must justify the reason for not reducing payment (e.g., a charged case, or complex investigation).
- **Administrative Costs** - Agencies that acceptably process 100 cases or more shall receive 20% of the Recipient’s FHAP obligation amount for the preceding year. *For agencies that process fewer than 100 cases, see FY2013 Funding Guidance for FHAP “Contributions Agencies” for the funding framework.*
- **Training** - All Contributions agencies are eligible to receive training funds for attendance at the National Fair Housing Training Academy (NFHTA), and other HUD-approved or HUD-sponsored training. *See Instruction and Guidance for FHAP “Contributions Agencies” for specific requirements related to training funds.*

The maximum amount for performance under the Articles of this Cooperative Agreement, Appendix, and Attachments, is the total amounts of all categories of Contributions funds (i.e., Complaint Processing, Administrative Costs, Training, and Partnership). Draw-downs are permitted at the discretion of the GTR. Complete draw-downs of the total amount obligated for Complaint Processing funds shall be permitted at any point after June 30, 2013, and before September 30, 2013.

The Recipient shall follow the instructions in the Program Funds Control Plan (Attachment C) in requesting payments under the FHAP. Payment is subject to withholding if the CAO determines that the Recipient is not complying with all terms of the Cooperative Agreement, the Appendix, and all Attachments hereto.

6. NARRATIVE REPORT

A Narrative Report describing activities undertaken during the periods of performance pursuant to which payment is being requested is required. The Narrative Report shall include a listing of complaints acceptably processed, including the name of complainant, respondent, and date closed, type of closure, date referred to legal for enforcement action, information on investigative and conciliation techniques, and descriptions of all activities undertaken to justify all administrative closures. This list must demonstrate that the agency receives and processes a reasonable number of complaints cognizable under the Fair Housing Act, as required in 24 CFR § 115.206(e)(7). The Narrative Report shall also include a description of outreach activities undertaken in support of fair housing case processing to educate the public on fair housing rights and responsibilities. The GTR/GTM should verify that the Recipient is undertaking the education and outreach activities identified. If the Recipient meets the requirements outlined in the *FY2013 Funding Guidance for FHAP “Contributions Agencies”*, remaining funds may be used to undertake the fair housing education and outreach activities.

Where information is provided electronically through the Title Eight Automated Paperless Office Tracking System (TEAPOTS) or some other software application, the Report need not be provided in hard copy unless required by the GTR.

7. CRITERIA FOR PROCESSING

The Criteria for Processing are the standards by which HUD determines whether a complaint, cognizable under the Fair Housing Act and processed by the Recipient, warrants reimbursement with FHAP funds. The Criteria for Processing are hereby incorporated as Attachment A.

8. PART 85

The Administrative Requirements for Grants and Cooperative Agreements (24 CFR Part 85) are hereby incorporated by reference. The Agency must be familiar with these requirements and verify to the GTR/GTM that the Recipient has a copy on file. A copy of Part 85 may be obtained from your agency's GTR/GTM. You may also access a copy by entering "24CFR85" in the quick search box on the Government Printing Office website at:

<http://www.gpoaccess.gov/cfr/index.html>

9. USE OF COOPERATIVE AGREEMENT FUNDS AND NO CO-MINGLING

The Recipient is entitled to receive the fixed amount identified in Block 14 of the HUD-1044 for satisfactory completion of the work to be performed, regardless of costs incurred. FHAP funds must be used for the purpose that HUD provided the funds including the processing of complaints cognizable under the Fair Housing Act, training under the Fair Housing Act and the state or local fair housing law, administrative costs associated with fair housing complaint processing, creation and maintenance of data and information systems, and the development and maintenance of fair housing education and outreach projects. The Recipient must segregate FHAP funds from the Recipient's and the state or local government's other funds.

10. MAINTENANCE OF EFFORT

The Recipient must spend at least 20 percent of its total annual budget on fair housing activities if it enforces antidiscrimination law(s) other than a fair housing law. The term "total annual budget" means the entire budget assigned by the jurisdiction to the agency for enforcing and administering antidiscrimination laws, but does not include FHAP funds.

Maintenance of effort also means that the Recipient shall not unilaterally reduce the level of financial resources currently committed to fair housing. Budget and staff reductions occasioned by legislative action outside the control of the Recipient will not, alone, result in a determination of ineligibility. However, HUD will take such actions into consideration in assessing the ongoing viability of a Recipient's fair housing program.

11. HUD'S SUBSTANTIAL INVOLVEMENT

- A. HUD intends to have substantial involvement in the review and approval of all aspects of the work to be carried out as a result of an award under this Agreement.
- B. Anticipated substantial involvement may include, but is not necessarily limited to, the following:
 - 1. Review and guidance during and upon completion of cases cognizable under the Fair Housing Act;
 - 2. Requests for additional information on cases to provide clarification or for completeness of a case investigation or file;
 - 3. Development and presentation of national and regional office fair housing investigation and conciliation training;
 - 4. Participation in the development and presentation of in-house investigation and conciliation training;
 - 5. Participation and approval of education and outreach programs or materials;
 - 6. Provision of appropriate directives and guidance for case processing;
 - 7. Assistance in the investigation, conciliation, and/or enforcement of fair housing cases cognizable under the Fair Housing Act;
 - 8. Requests for updates on the final status of cause determinations; and
 - 9. Review and analysis of agency's fair housing law for determinations of continued substantial equivalence to the Fair Housing Act.

12. ASSURANCES

As a condition for the receipt of FHAP funds, the Recipient assures HUD that it will:

- A. Provide a drug-free workplace;
- B. Comply with the provision of the Hatch Act (5 U.S.C. Sections 1501-1508 and 7324-7328) which limits the political activities of employees whose principle employment activities are funded in whole or part with Federal funds;
- C. Establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain;
- D. Comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. Sections 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the

nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F);

- E. Comply with all federal nondiscrimination laws including, but not necessarily limited to: (a) Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin by recipients of federal financial assistance (b) Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex by recipients of federal financial assistance ; (c) Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability by recipients of federal financial assistance, and (d) the Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age by recipients of federal financial assistance;
- F. Comply with all applicable requirements of federal laws, executive orders, regulations, and policies governing this program; and
- G. Comply with the requirements of the Resource Conservation and Recovery Act which mandates that state agencies using federal funds for procurement programs give preference to products containing recycled materials when purchasing specific products identified in guidelines developed by the Environmental Protection Agency (40 CFR 247-253).

13. USE OF CONSULTANTS

Salary payments to consultants under this instrument shall not exceed the equivalent of the maximum daily rate paid to level IV of the Executive Schedule, as evidenced by current pay vouchers.

14. PUBLICATIONS AND NEWS RELEASES

A. Definition. For the purpose of this clause, "publication" includes:

- (1) Any document containing information for public consumption;
- (2) The act of, or any act that may result in, disclosing information to the public; or
- (3) Any products resulting from the education and outreach efforts of the Recipient that are planned to be made available to the public through dedication, assignment by the Government, or other such means as HUD shall determine.

B. Government Ownership of Official Products of Work

All interim and final reports and information, data analyses, special methodology, findings, and their related documents and work products, including reports, work sheets, survey instruments, computer tapes, and any other physical materials and products produced directly under the SOW of this instrument are considered Official Products of Work, owned by the U.S. Government and held for the benefit of the public.

C. Publication of Official Products of Work

Official Products of Work, quotations there from, paraphrasing, or disclosures of interim findings may not be published without the approval of the GTR for a period of sixty (60) days after acceptance of the product by the GTR. Thereafter, the Recipient shall be free to publish without HUD approval.

D. Acknowledgement and Disclaimer

All Official Products of Work, or any part thereof, and any Independent Products and Special Products arising out of this instrument, when published by Recipient or other participants in the work, shall contain the following acknowledgment and disclaimer:

“The work that provided the basis for this publication was supported by funding under a Cooperative Agreement with the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. The author and publisher are solely responsible for the accuracy of the statements and interpretations contained in this publication. Such interpretations do not necessarily reflect the views of the Government.”

E. Notice of News Release and Public Announcements

Copies of all press releases, formal announcements, and other planned, written issuances containing news or information concerning this instrument that may be made by the Recipient or its staff, or any subcontractor or other person or organization participating in the work of this instrument shall be provided to the GTR at the earliest possible time. News releases and other public announcements may not disclose any interim finding or quote or paraphrase any part of any Official Product of Work without complying with paragraph D above, entitled Acknowledgement and Disclaimer.

The Recipient agrees that no news releases or public announcements involving FHAP funded activities will be released to the public without prior HUD approval. The Recipient further agrees that it will submit any and all press releases/news announcements, studies and/or other products developed with FHAP funds to the GTR for review and approval of at least two weeks prior to its release, unless HUD agrees to waive the two-week submission requirements. Publication flyers, and other routine documents previously approved by the GTR and/or the Department, may be published without further HUD approval.

15. REPRODUCTION OF REPORTS

In accordance with Government Printing and Binding Regulations, reproduction of reports, data or other written materials, if required herein, is authorized, provided that the materials produced do not exceed 5,000 production units of any page and the items consisting of multiple pages do not exceed 25,000 production units in aggregate.

16. FLOW DOWN PROVISIONS

The Recipient shall include provisions of this instrument in all contracts of employment with persons who perform any part of the work under this instrument, and with all subcontractors and other persons or organizations participating in any part of the work under this instrument. There shall be provisions for a further flow down of such requirements to each sub-tier of employees and subcontractors to the extent feasible. If the Recipient subcontracts to a public or private organization any activity for which it receives FHAP funds, it must ensure in writing that the organization is complying with all relevant civil rights laws including: (a) Title VI of the Civil Rights Act of 1964; (b) Title IX of the Education Amendments of 1972, as amended; (c) Section 504 of the Rehabilitation Act of 1973; and (d) the Age Discrimination Act of 1975.

17. DISPUTES

During performance of the instrument, disagreements may arise between the Recipient and the GTR on various issues, such as the acceptability of complaints forwarded for reimbursement. If a dispute arises, the CAO shall be the final authority on the matter and shall prepare a final decision, taking into account all facts and documentation presented. The CAO's decision shall be mailed, emailed, faxed, or telephonically provided to the Recipient.

18. MAINTENANCE OF RECORDS

The GTR and CAO are to maintain all appropriate records relating to the implementation of this cooperative agreement for a period of 5 years for the GTR files and a period of 7 years for the CAO files. The files for the CAO are to be kept in a secure place and should be accessible to others only with the CAO's permission. After 7 and 5 years respectively, the records may be archived at the records center.

The Recipient agrees to maintain records demonstrating its financial administration of FHAP funds. The Recipient also agrees to maintain records of its performance under FHAP, including all past performance assessment reports, performance improvement plans, and other documents relative to the Recipient's performance.

The Recipient agrees to permit reasonable public access to its records as required at 24 CFR § 115.308(c) (i.e., records are made available at the agency's office during normal working hours for public review). The Recipient agrees to permit the Secretary of HUD, Inspector General of HUD, Comptroller General of the United States, and any of their authorized representatives, access to all the pertinent books, accounts, reports, files, and other payments for surveys, audits, examinations, excerpts and transcripts as they relate to the agency's participation in the FHAP. The Recipient agrees to keep files in such a fashion as to permit the audits under applicable Office of Management and Budget circulars, procurement regulations and guidelines, and the Single Audit requirements for state and local agencies.

19. CUSTOMER SERVICE STANDARDS

The Recipient agrees to ensure that any and all individuals associated with fair housing complaints, including aggrieved persons, complainants, respondents, and representatives, are treated with dignity and respect. The Recipient agrees to maintain regular contact with parties to a complaint, including not allowing more than 30 business days to pass without some form of contact with parties. The Recipient agrees that its staff will not communicate disinterest or distrust in the complaint process to any of the parties to the complaint. Complaints to HUD from individuals associated with FHAP fair housing complaints will be reviewed by the GTR. The GTR will work with the Recipient and the individual to resolve the matter. In addition, customer satisfaction issues identified that may impact the timely and effective processing of fair housing complaints will be considered when HUD conducts performance assessments of the Recipient in accordance with 24 CFR § 115.206.

20. REPORTING REQUIREMENTS

The Recipient agrees to provide the GTR timely information on all fair housing complaints cognizable under the Fair Housing Act, from receipt to closure, regardless of whether payment has been received by the Recipient.

The Recipient agrees to fully utilize the Title VIII Automated Paperless Office Tracking Systems (TEAPOTS), and input information in TEAPOTS in a timely manner. Failure to meet this requirement shall result in HUD identifying such failure as a deficiency in the FHAP agency's performance assessment, thereby authorizing HUD to proceed with performance deficiency procedures enumerated in the FHAP regulation at 24 CFR § 115.210.

21. TRAINING

The Recipient agrees to send staff to mandatory training sponsored by HUD, including, but not necessarily limited to, the National Fair Housing Training Academy and the National Fair Housing Policy Conference. The Recipient shall participate in such trainings in accordance with the requirements enumerated in the document entitled *FY2013 Funding Guidance for FHAP "Contributions Agencies"*.

22. INITIAL CONTACT DATE

The Recipient must use the Initial Contact Date field in TEAPOTS to record the actual date on which a complainant first contacts the Recipient or FHEO to inquire about filing a housing discrimination complaint, or to report an alleged discriminatory housing practice. The Recipient will be required to comply with the following procedures with respect to documenting a complainant's initial contact.

For cases initially filed with the Recipient, the Recipient must:

- A) Maintain records of each complainant's initial contact with the Recipient, including records of all telephone, e-mail, letters, and in-person contacts;

- B) Place the original record of a complainant's initial contact, or a copy of that record, in the case file under the complainant's evidence section of the file, consistent with the requirements of Chapter 10 of the Title VIII Manual; and
- C) Ensure that the Initial Contact Date field in TEAPOTS reflects the earliest date of contact referenced in the case file.

For cases initially filed with FHEO, the Recipient:

- A) Must ensure that the Initial Contact Date filed in TEAPOTS reflects the earliest date of contact referenced in the case file referred to the Recipient by FHEO;
- B) Must not change the date that FHEO entered in the Initial Contact Date field in TEAPOTS even if records contained in the case file received from FHEO reflect a later date of contact by the complainant. If FHEO has entered an initial date of contact in TEAPOTS that is earlier than any contact date referenced in the case file, the Recipient must contact the FHEO regional office to obtain any records of contact that may have been omitted from the case file.

23. CHANGES LIMITING EFFECTIVENESS OF RECIPIENT'S LAW

If a state or local fair housing law that a Recipient enforces is amended, or rules or procedures concerning the fair housing law are adopted, or judicial or other authoritative interpretations of the fair housing law are issued, the Recipient must notify HUD's Fair Housing Assistance Program Division at the following address:

Fair Housing Assistance Program Division
Office of Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban Development
451 Seventh Street, SW, Room 5206
Washington, DC 20410

24. FHAP AND THE FIRST AMENDMENT

None of the funding made available under the FHAP may be used to investigate or prosecute any activity engaged in by one or more persons that may be protected by the First Amendment of the United States Constitution.

25. TESTING

The following requirements apply to testing activities funded under the FHAP:

- A. Testing must be done in accordance with a HUD-approved testing methodology;

- B. Testers must not have prior felony convictions or convictions of any crimes involving fraud or perjury;
- C. Testers must receive training or be experienced in testing procedures and techniques;
- D. Testers and the organizations conducting tests, and the employees and agents of these organizations, may not: 1) have an economic interest in the outcome of the test, without prejudice to the right of any person or entity to recover damages for any cognizable injury; 2) be a relative or acquaintance of any party in a case; 3) have had any employment or other affiliation, within five years, with the person or organization; or 4) be a competitor of the person or organization to be tested in the listing, rental, sale or financing of real estate.

26. RELEASE OF INFORMATION WHILE COMPLAINT IS OPEN

As a general rule, the Recipient will not release information collected during the course of the investigation while the complaint is open. There are three exceptions. First, the Recipient will provide information to HUD, consistent with Section 11 of this document. Second, a party to a complaint being investigated by the Recipient is entitled to receive a copy of any document it submitted during the investigation of the complaint. Third, during conciliation, a conciliator may opt to use the strategy of revealing portions of the evidentiary section of the investigative file to the parties. This type of disclosure may also occur during an investigation when a Recipient investigator questions a party or a witness about a document or a statement in a document.

27. SEXUAL ORIENTATION, GENDER IDENTITY, MARITAL STATUS, AND SOURCE OF INCOME CAUSE DETERMINATIONS

Recipient must submit to the Fair Housing Assistance Program (FHAP) Division copies of sexual orientation, gender identity, marital status, and source of income cause determinations. The General Section of HUD's Notice of Funding Availability (NOFA) deems ineligible applicants that have not satisfactorily resolved a cause determination from a FHAP agency for a systemic violation of a state or local prohibition of sexual orientation, gender identity, and source of income housing discrimination. Additionally, on February 3, 2012, HUD issued a final rule entitled Equal Access to Housing in HUD Programs Regardless of Sexual Orientation and Gender Identity, which mandates recipients of HUD funds, FHA-insured lenders, and FHA-mortgagors to provide access to HUD programs without regard to sexual orientation, gender identity, and marital status. Receipt of cause determinations from FHAP agencies on these issues will assist HUD in determining whether an applicant is ineligible for funding under the NOFA and/or has violated the Equal Access Rule. FHAP agencies should submit such determinations electronically to LGBTfairhousing@hud.gov, or send hardcopies to:

Director, Fair Housing Assistance Program Division
Office of Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban Development
451 Seventh Street, SW, Room 5206
Washington, DC 20410

**APPENDIX A - CONTRIBUTIONS AGREEMENT STATEMENT OF WORK
FY 2013**

1. The Recipient agrees to process housing discrimination complaints cognizable under the Fair Housing Act in accordance with the Agreement for the Interim Referral of Complaints and Other Utilization of Services (Interim Agreement) or Memorandum of Understanding (MOU) between the Recipient and HUD, the Schedule of Articles, the Criteria for Processing, and 24 C.F.R. Part 115.
2. The Recipient agrees to cooperate with HUD in the processing of housing discrimination complaints cognizable under the Fair Housing Act in accordance with the Interim Agreement, MOU, the Schedule of Articles, the Criteria for Processing, and 24 C.F.R. Part 115.
3. The Recipient agrees to augment its fair housing enforcement efforts by engaging in outreach and education, and engaging and participating in training and technical assistance pursuant to the Interim Agreement and MOU.
4. The Recipient agrees to follow HUD's guidance in processing complaints cognizable under the Fair Housing Act unless and until the Department rescinds such requirement in writing to the Recipient.
5. The Recipient agrees to identify to HUD all staff assigned to carry out fair housing activities by name, position, salary, relevant experience, and percentage of time spent carrying out fair housing responsibilities.
6. The Recipient may be required to participate in customer satisfaction evaluation activities under this agreement. The Recipient agrees to furnish to HUD all information collected from its customers in the form specified by HUD.
7. If the Recipient has aged cases, upon request from HUD, the Recipient must provide updates to HUD on its handling of aged cases and submit a plan to the GTR/GTM for closing such cases.