

§ 107.20

(4) A formal finding of a violation of title VIII of the Civil Rights Act of 1968 or a state or local fair housing law with respect to activities also covered by E.O. 11063.

[45 FR 59514, Sept. 9, 1980, as amended at 50 FR 31360, Aug. 2, 1985; 61 FR 5205, Feb. 9, 1996]

§ 107.20 Prohibition against discriminatory practices.

(a) No person receiving assistance from or participating in any program or activity of the Department involving housing and related facilities shall engage in a discriminatory practice.

(b) Where such person has been found by the Department or any other Federal Department, agency, or court to have previously discriminated against persons on the ground of race, color, religion (creed), sex or national origin, he or she must take affirmative action to overcome the effects of prior discrimination.

(c) Nothing in this part precludes such person from taking affirmative action to prevent discrimination in housing or related facilities where the purpose of such action is to overcome prior discriminatory practice or usage or to overcome the effects of conditions which resulted in limiting participation by persons of a particular race, color, religion (creed), sex or national origin.

[45 FR 59514, Sept. 9, 1980, as amended at 50 FR 31360, Aug. 2, 1985]

§ 107.21 Prevention of discriminatory practices.

All persons receiving assistance from, or participating in any program or activity of the Department involving housing and related facilities shall take all action necessary and proper to prevent discrimination on the basis of race, color, religion (creed), sex or national origin.

[45 FR 59514, Sept. 9, 1980, as amended at 50 FR 31360, Aug. 2, 1985]

§ 107.25 Provisions in legal instruments.

(a) The following documents shall contain provisions or statements requiring compliance with E.O. 11063 and this part:

24 CFR Subtitle B, Ch. I (4-1-04 Edition)

(1) Contracts, grants and agreements providing Departmental assistance for the provision of housing and related facilities,

(2) Contracts, grants and agreements regarding the sale, rental or management of properties owned by the Secretary,

(3) Corporate charters and regulatory agreements relating to multifamily and land development projects assisted by the Department,

(4) Approvals of financial institutions and other lenders as approved FHA mortgagees,

(5) Requests for subdivision reports under home mortgage procedures and for preapplication analysis of multifamily and land development projects, and

(6) Contracts and agreements providing for Departmental insurance or guarantee of loans with respect to housing and related facilities.

(b) The provision or statement required pursuant to this section shall indicate that the failure or refusal to comply with the requirements of E.O. 11063 or this part shall be a proper basis for the imposition of sanctions provided in § 107.60.

§ 107.30 Recordkeeping requirements.

(a) All persons receiving assistance through any program or activity of the Department involving the provision of housing and related activities subject to Executive Order 11063 shall maintain racial, religious, national origin and sex data required by the Department in connection with its programs and activities.

(b) All lenders participating in Departmental mortgage insurance programs, home improvement loan programs, GNMA mortgage purchase programs, or special mortgage assistance programs, shall maintain data regarding the race, religion, national origin and sex of each applicant and joint applicant for assistance with regard to residential property and related facilities. Racial data shall be noted in the following categories: American Indian/Alaskan Native, Asian/Pacific Islander, Black, White, Hispanic. If an applicant or joint applicant refuses to voluntarily provide the information or any part of it, that fact shall be noted and

the information shall be obtained, to the extent possible, through observation. Applications shall be retained for a period of at least twenty-five (25) months following the date the record was made.

(c) If an investigation or compliance review under this part reveals a failure to comply with any of the requirements of paragraph (a) or (b) of this section, the respondent shall have the burden of establishing its compliance with this part and with the equal housing opportunity requirements of the Executive order.

[45 FR 59514, Sept. 9, 1980, as amended at 50 FR 52442, Dec. 24, 1985]

§ 107.35 Complaints.

(a) The Assistant Secretary for FH&EO, or designee, shall conduct such compliance reviews, investigations, inquiries, and informal meetings as may be necessary to effect compliance with this part.

(b) Complaints under this part may be filed by any person and must be filed within one year of date of the alleged act of discrimination unless the time for filing is extended by the Assistant Secretary for FH&EO. Complaints must be signed by the complainant and may be filed with the Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, DC 20410, or any Regional or Area Office of the Department. All complaints shall be forwarded to the Director, Office of Regional Fair Housing and Equal Opportunity in the appropriate Regional Office which has jurisdiction in the area in which the property is located.

(c) Upon receipt of a timely complaint, the Director of the Office of Regional FH&EO shall determine whether the complaint indicates a possible violation of the Executive Order or this part. The Director of the Office of Regional FH&EO or a designee within a reasonable period of time shall conduct an investigation into the facts. The complainant shall be notified of the determination.

§ 107.40 Compliance meeting.

(a) Where preliminary analysis of a complaint, a compliance review initiated by the Assistant Secretary for

FH&EO, or other information indicates a possible violation of E.O. 11063, or this part, the person allegedly in violation (*respondent*) shall be sent a Notice of Compliance Meeting and requested to attend a compliance meeting. The Notice shall advise the respondent of the matters to be addressed in the Compliance Meeting and the allegations contained in a complaint received pursuant to § 107.35. The purpose of the compliance meeting is to provide the respondent with the opportunity to address matters raised and to remedy such possible violations speedily and informally, to identify possible remedies; and to effect a resolution as provided in § 107.45.

(b) The Notice of Compliance Meeting shall be sent to the last known address of the person allegedly in violation, by certified mail, or through personal service. The Notice will advise such person of the right to respond within seven (7) days to the matters and to submit information and relevant data evidencing compliance with E.O. 11063, the Affirmative Fair Housing Marketing Regulations, 24 CFR 200.600, the Fair Housing Poster Regulations, 24 CFR part 110, the Advertising Guidelines for Fair Housing, 37 FR 6700, April 1, 1972, other affirmative marketing requirements applicable to the program or activity and any revisions thereto. Further, the person will be offered an opportunity to be present at the meeting in order to submit any other evidence showing such compliance. The date, place, and time of the scheduled meeting will be included in the Notice.

(c) Whenever a compliance meeting is scheduled as a result of a complaint, the complainant shall be sent a copy of the Notice of Compliance Meeting and shall be provided an opportunity to attend the meeting.

(d) The Area Office having jurisdiction over the program will prepare a report concerning the status of the respondent's participation in Department programs to be presented to the respondent at the meeting. The Area Manager shall be notified of the meeting and may attend the meeting.

(e) At the Compliance Meeting the respondent and the complainant may be represented by counsel and shall