

§ 107.35

(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

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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 have a fair opportunity to present any matters relevant to the complaint.

(f) During and pursuant to the Compliance Meeting, the Director of the Office of Regional FH&EO shall consider all evidence relating to the alleged violation, including any action taken by the person allegedly in violation to comply with E.O. 11063.

(g) If the evidence shows no violation of the Executive order or this part, the Director of the Office of Regional FH&EO shall so notify the person(s) involved within ten (10) days of the meeting. A copy of this notification shall be sent to the complainant, if any, and shall be submitted to the Assistant Secretary for FH&EO.

(h) If the evidence indicates an apparent failure to comply with the Executive order or this part, and the matter cannot be resolved informally pursuant to §107.45, the Director of the Office of Regional FH&EO shall so notify the respondent and the complainant, if any, no later than ten (10) days after the date on which the compliance meeting is held, in writing by certified mail, return receipt requested, and shall advise the complainant, if any, and the respondent whether the Department will conduct a compliance review pursuant to §107.50 or, where appropriate, refer the matter to the Assistant Secretary for FH&EO for possible imposition of sanctions. A copy of this notification shall be submitted to the Assistant Secretary for FH&EO. The compliance review shall be conducted to determine whether the respondent has complied

with the provisions of E.O. 11063, title VIII of the Civil Rights Act of 1968, Department regulations and the Department's Affirmative Fair Housing Marketing requirements.

(i) If the respondent fails to attend a compliance meeting scheduled pursuant to this section, the Director of the Office of Regional FH&EO shall notify the respondent no later than ten (10) days after the date of the scheduled meeting, in writing by certified mail, return receipt requested, as to whether the Department will conduct a compliance review or, where appropriate, refer the matter to the Assistant Secretary for FH&EO for possible imposition of sanctions. A copy of this notification shall be submitted to the Assistant Secretary for FH&EO and sent to the complainant, if any.

§ 107.45 Resolution of matters.

(a) Attempts to resolve and remedy matters found in a complaint investigation or a compliance review shall be made through the methods of conference, conciliation, and persuasion.

(b) Resolution of matters pursuant to this section and §107.40 need not be attempted where similar efforts by another Federal agency have been unsuccessful in ending and remedying the violation found with respect to the same respondent.

(c) Efforts to remedy matters shall be directed toward achieving a just resolution of the probable violation and obtaining assurance(s) that the respondent will satisfactorily remedy any violation of E.O. 11063 and will take actions to eliminate the discriminatory practices and prevent reoccurrences. Compensation to individuals from the respondent may also be considered.

(d) The terms of settlements shall be reduced to a written agreement, signed by the respondent and the Assistant Secretary for FH&EO or a designee. Such settlements shall seek to protect the interests of the complainant, if any, other persons similarly affected, and the public interest. A written notice of the disposition of matters pursuant to this section and of the terms of settlements shall be given to the Area Manager by the Assistant Secretary for FH&EO or a designee and to