

## § 115.212

(ii) The Assistant Secretary will inform the agency in writing of the reasons for the withdrawal.

(c)(1) If, following notification from HUD that its fair housing law no longer meets the criteria identified in §115.204, an interim-certified or certified agency unequivocally expresses to HUD that its fair housing law will not be brought back into compliance, the Assistant Secretary may forgo suspension and proceed directly to withdrawal of the agency's interim certification or certification.

(2) During any period after which the Assistant Secretary proposes withdrawal, until such time as the agency establishes that administration of its law meets all of the substantial equivalency certification criteria set forth in 24 CFR part 115, the agency shall be ineligible for funding under the FHAP.

(d) *Consequences of repeal.* If a state or local fair housing law that HUD has previously deemed substantially equivalent to the Act is repealed, in whole or in part, or a related law that bears on any aspect of the effectiveness of the agency's fair housing law is repealed, in whole or in part, the Assistant Secretary may immediately withdraw the agency's interim certification or certification.

(e) *Changes not limiting effectiveness.* Nothing in this section is meant to limit the Assistant Secretary's authority to determine that a change to a fair housing law does not jeopardize the substantial equivalency interim certification or certification of an agency.

(1) Under such circumstances, the Assistant Secretary may proceed in maintaining the existing relationship with the agency, as set forth in the interim agreement or MOU.

(2) Alternatively, the Assistant Secretary may decide not to refer certain types of complaints to the agency. The Assistant Secretary may elect not to provide payment for these complaints and may require the agency to refer such complaints to the Department for investigation, conciliation, and enforcement activities.

(3) When the Assistant Secretary determines that a change to a fair housing law does not jeopardize an agency's substantial equivalency certification, the Assistant Secretary need not pro-

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ceed to suspension or withdrawal if the change is not reversed.

### § 115.212 Request after withdrawal.

(a) An agency that has had its interim certification or certification withdrawn, either voluntarily or by the Department, may request substantial equivalency interim certification or certification.

(b) The request shall be filed in accordance with §115.202.

(c) The Assistant Secretary shall determine whether the state or local law, on its face, provides substantive rights, procedures, remedies, and judicial review procedures for alleged discriminatory housing practices that are substantially equivalent to those provided in the federal Fair Housing Act. To meet this standard, the state or local law must meet the criteria enumerated in §115.204.

(d) Additionally, if the agency had documented performance deficiencies that contributed to the past withdrawal, then the Department shall consider the agency's performance and any steps the agency has taken to correct performance deficiencies and to prevent them from recurring in determining whether to grant interim certification or certification. The review of the agency's performance shall include HUD conducting a performance assessment in accordance with §115.206.

## Subpart C—Fair Housing Assistance Program

### § 115.300 Purpose.

The purpose of the Fair Housing Assistance Program (FHAP) is to provide assistance and reimbursement to state and local fair housing enforcement agencies. The intent of this funding program is to build a coordinated intergovernmental enforcement effort to further fair housing and to encourage the agencies to assume a greater share of the responsibility for the administration and enforcement of fair housing laws.

The financial assistance is designed to provide support for:

(a) The processing of dual-filed complaints;

(b) Training under the Fair Housing Act and the agencies' fair housing law;

(c) The provision of technical assistance;

(d) The creation and maintenance of data and information systems; and

(e) The development and enhancement of fair housing education and outreach projects, special fair housing enforcement efforts, fair housing partnership initiatives, and other fair housing projects.

**§ 115.301 Agency eligibility criteria; Funding availability.**

An agency with certification or interim certification under subpart B of this part, and which has entered into a MOU or interim agreement, is eligible to participate in the FHAP. All FHAP funding is subject to congressional appropriation.

**§ 115.302 Capacity building funds.**

(a) Capacity building (CB) funds are funds that HUD may provide to an agency with interim certification.

(b) CB funds will be provided in a fixed annual amount to be utilized for the eligible activities established pursuant to § 115.303. When the fixed annual amount will not adequately compensate an agency in its first year of participation in the FHAP due to the large number of fair housing complaints that the agency reasonably anticipates processing, HUD may provide the agency with additional funds.

(c) HUD may provide CB funds during an agency's first three years of participation in the FHAP. However, in the second and third year of the agency's participation in the FHAP, HUD has the option to permit the agency to receive contribution funds under § 115.304, instead of CB funds.

(d) In order to receive CB funding, agencies must submit a statement of work prior to the signing of the cooperative agreement. The statement of work must identify:

(1) The objectives and activities to be carried out with the CB funds received;

(2) A plan for training all of the agency's employees involved in the administration of the agency's fair housing law;

(3) A statement of the agency's intention to participate in HUD-sponsored training in accordance with the train-

ing requirements set out in the cooperative agreement;

(4) A description of the agency's complaint processing data and information system, or, alternatively, whether the agency plans to use CB funds to purchase and install a data system;

(5) A description of any other fair housing activities that the agency will undertake with its CB funds. All such activities must address matters affecting fair housing enforcement that are cognizable under the Fair Housing Act. Any activities that do not address the implementation of the agency's fair housing law, and that are therefore not cognizable under the Fair Housing Act, will be disapproved.

**§ 115.303 Eligible activities for capacity building funds.**

The primary purposes of capacity-building funding are to provide for complaint activities and to support activities that produce increased awareness of fair housing rights and remedies. All such activities must support the agency's administration and enforcement of its fair housing law and address matters affecting fair housing that are cognizable under the Fair Housing Act.

**§ 115.304 Agencies eligible for contributions funds.**

(a) An agency that has received CB funds for one to three consecutive years may be eligible for contributions funding. Contributions funding consists of five categories:

- (1) Complaint processing (CP) funds;
- (2) Special enforcement effort (SEE) funds (see § 115.305);
- (3) Training funds (see § 115.306);
- (4) Administrative cost (AC) funds; and
- (5) Partnership (P) funds.

(b) *CP funds.* (1) Agencies receiving CP funds will receive such support based solely on the number of complaints processed by the agency and accepted for payment by the FHEO regional director during a consecutive, specifically identified, 12-month period. The 12-month period will be identified in the cooperative agreement between HUD and the agency. The FHEO regional office shall determine whether or not cases are acceptably processed