

(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

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based on requirements enumerated in the cooperative agreement and its attachments/appendices, performance standards set forth in 24 CFR 115.206, and provisions of the interim agreement or MOU.

(2) The amount of funding to agencies that are new to contributions funding will be based on the number of complaints acceptably processed by the agency during the specifically identified 12-month period preceding the signing of the cooperative agreement.

(c) *AC funds.* (1) Agencies that acceptably process 100 or more cases will receive no less than 10 percent of the agency's total FHAP payment amount for the preceding year, in addition to CP funds, contingent on fiscal year appropriations. Agencies that acceptably process fewer than 100 cases will receive a flat rate, contingent on fiscal year appropriations.

(2) Agencies will be required to provide HUD with a statement of how they intend to use the AC funds. HUD may require that some or all AC funding be directed to activities designed to create, modify, or improve local, regional, or national information systems concerning fair housing matters (including the purchase of state-of-the-art computer systems, obtaining and maintaining Internet access, etc.).

(d) *P funds.* The purpose of P funds is for an agency participating in the FHAP 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 fair housing law. P funds are fixed amounts and shall be allocated based on the FHAP appropriation. Agencies must consult with the CAO and GTR in identifying appropriate usage of P funds for the geographical area that the agency services. Some examples of proper P fund usage include, but are not limited to:

(1) Contracting with qualified organizations to conduct fair housing testing in appropriate cases;

(2) Hiring experienced, temporary staff to assist in the investigation of complex or aged cases;

(3) Partnering with grassroots, faith-based or other community-based organizations to conduct education and

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outreach to people of different backgrounds on how to live together peacefully in the same housing complex, neighborhood, or community;

(4) Contracting with individuals outside the agency who have special expertise needed for the investigation of fair housing cases (e.g., architects for design and construction cases or qualified individuals from colleges and universities for the development of data and statistical analyses).

§ 115.305 Special enforcement effort (SEE) funds.

(a) SEE funds are funds that HUD may provide to an agency to enhance enforcement activities of the agency's fair housing law. SEE funds will be a maximum of 20 percent of the agency's total FHAP cooperative agreement for the previous contract year, based on approval of eligible activity or activities, and contingent upon the appropriation of funds. All agencies receiving contributions funds are eligible to receive SEE funds if they meet three of the six criteria set out in paragraphs (a)(1) through (a)(6) of this section:

(1) The agency enforced a subpoena or made use of its prompt judicial action authority within the past year;

(2) The agency has held at least one administrative hearing or has had at least one case on a court's docket for civil proceedings during the past year;

(3) At least ten percent of the agency's fair housing caseload resulted in written conciliation agreements providing monetary relief for the complainant as well as remedial action, monitoring, reporting, and public interest relief provisions;

(4) The agency has had in the most recent three years, or is currently engaged in, at least one major fair housing systemic investigation requiring an exceptional amount of funds expenditure;

(5) The agency's administration of its fair housing law received meritorious mention for its fair housing complaint processing or other fair housing activities that were innovative. The meritorious mention criterion may be met by an agency's successful fair housing work being identified and/or published by a reputable source. Examples of