



# *Audit Report*

## **District Inspector General for Audit Pacific/Hawaii District**

*Report: 98-SF-174-0002*

*Issued: September 15, 1998*

**TO:** Eva M. Plaza, Assistant Secretary for Fair Housing and Equal Opportunity, E

**FROM:** Glenn S. Warner, District Inspector General for Audit, 9AGA

**SUBJECT:** Internal Audit - Office of Fair Housing and Equal Opportunity

We completed an internal audit of the Office of Fair Housing and Equal Opportunity's (FHEO) management operations.

This report includes four findings with recommendations for corrective action. Issues presented in the first two findings have previously been brought to FHEO's attention; however, serious problems still exist. In September 1994, the United States Commission on Civil Rights (USCCR) assessed the fair housing activities of HUD and reported that it had not made cause determinations within the 100-day benchmark set by Congress. Also in 1996, USCCR assessed Title VI enforcement efforts and reported that HUD had not ensured that recipients and sub-recipients complied with Title VI requirements. As shown in Findings 1 and 2 of this report, the same conditions existed at the time of this review.

We note that FHEO requested a funding increase from \$30 million to \$52 million for FHAP agencies and FHIP grantees for FY 1999. We question the underlying basis or appropriateness for the funding increase especially since this audit points out serious management deficiencies in FHEO's ability to adequately manage its programs. We believe that FHEO should assure itself that, in light of current staffing reductions, it can sufficiently absorb any workload increase resulting from this funding increase. Another concern is the ability of FHAP agencies to properly manage their programs. As noted in Finding 1, FHAP agencies were not managing their workload effectively and funding methods for these agencies were not economical and potentially wasteful. We have also noted in Finding 3 that FHEO has not satisfactorily accomplished its responsibilities for administering the FHIP.

Within 60 days please give us, for each recommendation in this report, a status report on: (1) the corrective action taken; (2) the proposed corrective action and the date to be completed; or (3) why action is considered unnecessary. Also, please furnish us copies of any correspondence or directives issued related to the audit.

Should you have any questions, please contact Ruben Velasco, Assistant District Inspector General for Audit at (213) 894-8016.

# *Executive Summary*

We completed an internal audit of the Office of Fair Housing and Equal Opportunity's management operations. The objective of our audit was to determine whether FHEO administered its responsibilities for the implementation and enforcement of the Fair Housing Act and other fair housing related laws and regulations efficiently, effectively, and economically. Specifically, we assessed whether FHEO: (1) achieved its mission to investigate and resolve discrimination complaints promptly; (2) ensured that HUD program participants complied with civil rights related program requirements; (3) administered its Fair Housing Initiatives Program (FHIP) properly; and (4) submitted its annual reports to Congress timely.

## **FHEO Made Efforts To Further Fair Housing Goals**

To further the goals of fair housing, FHEO coordinated with state and local government agencies and public and private non-profit organizations to prevent or eliminate discriminatory housing practices and initiated a program to disseminate fair housing information to the public. Other efforts culminated in the formulation of an agreement with the Department of Agriculture that would allow FHEO investigators to use their investigative powers under the Fair Housing Act to resolve discrimination complaints of rural Americans more quickly and effectively.

## **Enforcement Of Fair Housing Laws Not Fully Achieved**

Despite these efforts, our audit disclosed that FHEO did not fully achieve its mission for the implementation and enforcement of the Fair Housing Act and other fair housing laws and regulations. Specifically, FHEO: (1) needs to significantly improve its management of complaint investigations; (2) did not always ensure that program participants complied with civil rights and assistance to handicap regulations; (3) needs to improve its administration of the Fair Housing Initiatives Program (FHIP); and (4) did not submit annual reports to the U. S. Congress timely.

## **FHEO Did Not Investigate And Resolve Complaints Promptly**

FHEO has not fully achieved its mission under the Fair Housing Act (Act) to investigate and resolve complaints of discrimination promptly. Our review disclosed that FHEO needs to significantly improve its management in: (1) investigating complaints, (2) accepting and screening incoming claims, and (3) administering the Fair Housing Assistance Program (FHAP). These deficiencies occurred because FHEO did not provide sufficient supervisory oversight and adequate management controls for complaint

investigations which remained open and unresolved for protracted periods. As a consequence, complainants may have to cope with troublesome conditions, respondents may be subjected to prolonged stress and financial costs, and the public may lose faith in the system.

**FHEO Allowed Known Violations To Continue**

Contrary to the Code of Federal Regulations (CFR), FHEO did not always ensure that HUD recipients complied with applicable requirements of Title VI of the Civil Rights Act and Section 504 of the Rehabilitation Act of 1973. We reviewed 33 compliance reviews performed by FHEO and found that it allowed known violations of civil rights and assistance to handicap program regulations to remain unresolved. These deficiencies occurred because FHEO did not have a management system to track its caseload and did not provide adequate supervisory staff oversight. As a result, discriminatory practices identified in FHEO's compliance reviews remain unreported and uncorrected, thereby, unnecessarily permitting continued violations of civil rights and assistance to handicap program regulations.

**Administration Of FHIP Needs Improvement**

FHEO did not satisfactorily administer its Fair Housing Initiatives Program (FHIP). Essentially, FHEO: (1) did not perform and document the FHIP grant award process timely and adequately; and (2) approved and disbursed grant drawdowns totaling \$6.2 million (73%) of the \$8.5 million reviewed which were not fully warranted. We attribute these deficiencies to: (1) the lack of adequate supervision over the staff performing the functions; (2) design flaws in the grants management system program and the grant agreement payment schedule; and (3) inappropriate method used by the staff to document their receipt and review of grant deliverables. Until these areas are improved, FHEO lacks the required assurance and integrity needed to fully achieve the intent of the FHIP program established by the U.S. Congress.

**Annual Reports To Congress Were Not Submitted Timely**

For FYs 1994 through 1996, FHEO has either failed to submit or has submitted delinquent annual reports to the U.S. Congress. As a result, the Congress may not be aware of FHEO's progress in eliminating discriminatory housing practices. The delinquencies occurred because FHEO did not execute the necessary task orders timely, and failed to coordinate the compilation of required information.

**AUDITEE COMMENTS**

We discussed the findings with FHEO officials during the audit and briefed FHEO's Assistant Secretary on the audit results on March 18, 1998. We also provided FHEO with a copy of the draft audit report for comments on April 3, 1998. We received a written response on June 10, 1998, and discussed the findings with FHEO officials at a July 24, 1998 exit conference. The responses and evaluations are discussed in the findings and the full text of the response is included as **Appendix 1**. FHEO disagreed with portions of Findings 1 and 3, but generally agreed with Findings 2 and 4. We considered FHEO's comments and revised the findings and recommendations where appropriate.

## **RECOMMENDATIONS**

We are recommending that FHEO develop and implement management controls to properly manage Title VIII investigation and compliance review caseloads. In addition, it should require that sufficient supervisory oversight be provided to ensure that each management level adhere to established policies and procedures timely and accurately. Specific recommendations were included at the end of each finding to correct the noted deficiencies.

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**Abbreviations:**

CDFEH	California Department of Fair Employment and Housing
CFR	Code of Federal Regulations
DOJ	Department of Justice
FHAP	Fair Housing Assistance Program
FHEC	Fair Housing Enforcement Center
FHEO	Office of Fair Housing and Equal Opportunity
FHIP	Fair Housing Initiatives Program
FY	Fiscal Year
GMS	Grants Management System
GTR	Government Technical Representative
HUD	Department of Housing and Urban Development
IP	Investigative Plan
NOFA	Notice of Funds Availability
OMB	Office of Management and Budget
PIP	Performance Improvement Plan
POCC	Program Operations and Compliance Center
SOW	Statement of Work
TEAPOTS	Title VIII Automated Paperless Office Tracking System
TEP	Technical Evaluation Panel
USCCR	United States Commission on Civil Rights
VCA	Voluntary Compliance Agreement

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# *Introduction*

## **BACKGROUND**

### **Governing Authorities**

The U.S. Congress enacted laws to implement the policy to provide, within constitutional limitations, fair housing throughout the United States. The governing authorities dictating the power and responsibility to implement this policy are:

✓ **Fair Housing Act or Title VIII of the Civil Rights Act of 1968, as amended.**

Prohibits discrimination in housing because of: (1) race, (2) color, (3) national origin, (4) religion, (5) sex, (6) familial status, and (7) handicap.

✓ **Title VI of the Civil Rights Act of 1964.**

Prohibits discrimination based on race, color, or national origin in any program or activity receiving Federal financial assistance.

✓ **Section 109 of Housing and Community Development Act of 1974.**

Prohibits discrimination on the basis of race, color, national origin, sex or religion in any program or activity receiving community development funds.

✓ **Section 504 of the Rehabilitation Act of 1973.**

Prohibits discrimination on the basis of disability in any program or activity receiving Federal financial assistance.

✓ **Age Discrimination Act of 1975.**

Prohibits discrimination on the basis of age in any program or activity receiving Federal financial assistance.

✓ **Section 3 of the Housing and Urban Development Act of 1968.**

Requires provisions for employment and training opportunities to lower-income residents and contract opportunities to local businesses.

**Administration Of Fair Housing Law**

The authority and responsibility for administering fair housing laws is with the Secretary of the Department of Housing and Urban Development (HUD). The Secretary is, by law and executive order, the principal agency responsible for the administration and enforcement of fair housing laws, including the development and policies, procedures, regulations, standards, guidelines, and resources for the implementation of fair housing laws. Within HUD, the Assistant Secretary for Fair Housing and Equal Opportunity is designated to advise HUD's Secretary on policies and issues affecting fair housing, equal opportunity in housing and community development, economic development opportunities, and other matters relating to civil rights in relation to the disabled, minorities, family groups, and civil rights organizations.

Prior to the 1997 HUD's 2020 Management Reform Plan, FHEO was headed by the Assistant Secretary for Fair Housing And Equal Opportunity and three Office of Deputy Assistant Secretaries for: (1) Enforcement and Investigations, (2) Program Operations and Management, and (3) Program Operations and Compliance. The Office of Policy and Regulatory Initiatives and the Beaumont Fair Housing Office are two other offices that reported directly to the Assistant Secretary. In the field, there were 10 Fair Housing Enforcement Centers (FHEC), 10 large and 28 small Program Operations and Compliance Centers (POCC).

**FHEC Title VIII Complaint Procedures**

FHEO investigates complaints received from any person who claims to have been injured by a discriminatory housing practice or believes that an injury is about to occur. Title VIII complaints that fall within the jurisdiction of about 72 substantially equivalent state or local agencies are referred to those agencies for processing. During the investigatory period, FHEO is required to engage in conciliation efforts. At the conclusion of the investigation, it issues a determination indicating whether reasonable cause exists to believe that discrimination has occurred. If reasonable cause is found, any of the parties may elect to have the matter resolved in Federal court through a HUD referral to the Civil Rights Division of the Department of Justice. If no party opts for a judicial determination, then the charge is resolved through HUD's administrative process which could result in awarding actual damages, equitable relief, civil penalty, costs, and attorney fees.

**POCC Compliance Review Procedures**

The Program Operations and Compliance Centers (POCCs) are responsible for ensuring that HUD recipients adhere to civil rights and economic opportunity related program requirements in housing and community development programs.

POCCs conduct investigations and compliance reviews to enforce the provisions of Title VI, Section 504, Age Discrimination Act of 1975, Section 109 of Title I of the Housing and Community Development Act of 1974, Section 3 of the Housing and Urban Development Act of 1968, and Americans with Disabilities Act. If a violation is found, HUD may refuse to approve an application for financial assistance, or if the proceedings involve a current recipient, HUD may terminate, refuse to continue funding, or take other appropriate measures such as Voluntary Compliance Agreements.

**Other Fair Housing Programs**

FHEO's fair housing duties also include the administration of the Fair Housing Assistance Program (FHAP) and the Fair Housing Initiatives Program (FHIP). FHAP provides financial assistance to supplement the enforcement activities of State and local enforcement agencies that have been certified as providing rights, remedies, procedures, and the availability of judicial review that are substantially equivalent to that provided in the Fair Housing Act.

FHIP provides for the execution of grants, contracts, or cooperative agreements with State and local government agencies, public or private nonprofit organizations, institutions, or other entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices. Initiative funding is provided in four distinct areas of: (1) administrative enforcement, (2) education and outreach, (3) private enforcement, and (4) fair housing organization. The Housing and Community Development Act of 1992 expanded the provisions of FHIP, adding initiatives to: establish fair housing organizations; establish a national media campaign for dissemination of fair housing information; and create an annual National Fair Housing Month program component.

**FHEO Reorganization**

Presently, as part of HUD's 2020 Management Reform Plan, FHEO reorganized its operations by merging the FHEC and POCCs and are now designated as Hubs, to allow more flexibility and to better accomplish its responsibilities. The reorganization also established a General Deputy Assistant Secretary and reduced the number of Deputy Assistant Secretary positions from three to two. The Hub Directors report directly to the General Deputy Assistant Secretary.

**Program Budget And Funding**

FHEO's appropriation for the Federal Fiscal Years 1996 and 1997 was \$75.7 and \$76.3 million respectively. For FYs 1998 and 1999, only its FHAP

and FHIP funding were separately identified because its Salaries and Expenses line item was included with HUD's total Salaries and Expenses line item budget. The FY 1998 budget funded \$15 million for FHAP and \$15 million for FHIP. For FY 1999, HUD requested a \$22 million funding increase consisting of \$8 million for FHAP and \$14 million for FHIP.

## **AUDIT OBJECTIVE, SCOPE, AND METHODOLOGY**

Our audit objective was to determine whether FHEO administered its responsibilities for the implementation and enforcement of the Fair Housing Act and other fair housing related laws and regulations efficiently, effectively, and economically.

To accomplish this objective, we performed the following:

- Reviewed pertinent laws, regulations, HUD handbooks, and other directives relating to fair housing.
- Interviewed FHEO's Deputy Assistant Secretaries, Program Directors, and other officials to obtain their procedures and practices for carrying out their responsibilities.
- Interviewed FHEC, FHAP, and FHIP officials at offices selected for on-site review.

At the FHECs in San Francisco, Fort Worth, and Chicago and three state FHAP agencies in California, Texas, and Indiana, we reviewed a total of 117 (87 open and 30 closed) complaint cases to evaluate the extent and reasons for any inactivity or delays.

At the three selected POCC offices, we analyzed the results and status of 33 of 52 program compliance reviews that FHEO staff conducted with program participants. We reviewed compliance review files to determine whether adequate procedures were in place to assure that program participants were complying with agreed upon recommendations to correct instances of noncompliance with civil rights related program requirements.

At FHEO Headquarters, we reviewed FYs 1996 and 1997 FHIP applications for Federal assistance to determine whether FHEO documented the receipt of, processed, and scored the applications accurately and consistently.

We analyzed 24 of 226 grant agreements funded between 1994 and 1996 and compared the amount that FHIP grantees already received with deliverables that they said have been accomplished to identify whether drawdowns may have been paid for agreed upon tasks that were yet to be completed. We also visited seven

FHIP grantees in Arizona, Illinois, and New Mexico to review documentation evidencing draw downs requested and received in relation to tasks that have been completed.

We performed the audit field work from April 1997 through March 1998. We conducted the audit in accordance with generally accepted government auditing standards.

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# *Findings*

## **Finding 1**

### **FHEO Needs To Significantly Improve Its Management Of Complaint Investigations**

FHEO has not achieved its mission under the Fair Housing Act (Act) to investigate and resolve complaints of discrimination promptly. Our review disclosed that FHEO needs to significantly improve its management in the following three critical areas where identified deficiencies were most evident:

- Investigating complaints,
- Accepting and screening incoming claims, and
- Administering the Fair Housing Assistance Program (FHAP).

Our review of 117 sampled cases in seven offices disclosed 107 cases (92%) which were not processed or investigated effectively, efficiently, and/or timely. For example, 84 cases had protracted periods of inactivity while in 46 cases, FHEO and FHAP staff did not prepare required investigative plans. Insufficient ongoing supervision was noted in 71 cases (61 percent).

These deficiencies occurred because FHEO did not provide sufficient supervisory oversight and adequate management controls for complaint investigations which remained open and unresolved for protracted periods. As a consequence, complainants may have to cope with troublesome conditions, respondents may be subjected to prolonged stress and financial costs, and the public may lose faith in the system.

We are recommending that the Assistant Secretary for Fair Housing and Equal Opportunity require each management level to follow established policies and procedures, reduce current case backlogs, re-evaluate and improve the case management systems, and ensure that funds provided to FHAP agencies are equitably determined.

**Fair Housing Act Requirements**

The Act directs HUD to enforce the

laws that protect the public from housing related discrimination. HUD regulations state that complaints of alleged housing discrimination should be promptly and completely investigated within 100 days of acceptance, and complaint conciliation be attempted where feasible. Based on the resulting investigation report, the complaint is either dismissed or a charge is issued against the respondent. Either party may elect to take civil action or seek an administrative determination from HUD.

#### **HUD Handbook Policies And Procedures**

HUD Handbook 8024.01, Title VIII Complaint Intake, Investigation, and Conciliation Handbook, provides policies and procedures for FHEO staff and FHAP agencies to follow for handling fair housing complaints. For example:

- Referrals to FHAP agencies should be made in three working days (no more than five calendar days) and should use certified mail.
- Preparation of the Investigative Plan (IP) is the most important step in preparing to investigate a complaint.
- 100-day letters should be sent by certified mail and copies retained in the file at all times.
- A detailed conciliation record must be maintained.

#### **OMB Requirements**

OMB Circular A-123, Management Accountability and Control, requires Federal agencies and managers to: (1) institute cost-effective management controls which are results oriented, (2) assess the adequacy of management controls in programs and operations, (3) identify needed improvements, (4) take corrective action, and (5) report annually on management controls.

The results of our review where identified deficiencies were most evident are discussed below in sub-topics:

#### **a. Investigating Complaints**

HUD is responsible for enforcing the laws that protect the public from discrimination related to housing. To be fair and responsive to the needs of both those filing complaints and those accused of discrimination, complaint investigation and resolution by HUD must be prompt. However, HUD did not resolve Title VIII complaints of discrimination promptly.

Our audit at the three field offices and the three FHAP agencies disclosed that: (1) most complaint investigations were not resolved within the statutory time frame,

(2) FHEO did not conduct adequate performance assessments of FHAP agencies, and (3) two of the three FHAP agencies did not effectively manage their workload.

**Majority Of Sampled Cases Were Not Resolved Within 100 Days**

We reviewed a sample of 117 complaint investigation cases at three HUD field offices and three selected state agencies to determine why cases took so long to close. Our sample consisted of both open (87) and closed (30) cases. December 31, 1997 was the cut off date for the open cases while the actual completion date was used for the closed cases. We found that a majority of these cases were not completed within the 100 day statutory time frame. The 87 open cases had been left open for an average of 366 days and the 30 closed cases had averaged 332 days before closure.

The results of our case reviews reflect the national statistics showing lengthy investigations. FHEO's database at September 1997 showed that most complaint investigations were not resolved within the 100 day statutory time frame. Also at that date, FHEO had open FHEC and FHAP complaints totaling 2,248 and 3,996, respectively. Of these cases, 3,135 had been filed before 1997. In fact, some of the open complaints had been filed over nine years ago when the Fair Housing Act was amended in 1988. Relevant data included in the September 1997 database revealed the following information:

- 78 percent of open FHEC investigations exceeded 100 days, with an average age of 384 days.
- 70 percent of open FHAP investigations exceeded 100 days, with an average age of 321 days.
- 78 percent of cases closed in the past two fiscal years exceeded 100 days.

Our case reviews showed that the protracted periods used to investigate the complaints were largely due to poor case management. We found patterns of investigations with large gaps of inactivity, investigation plans not prepared, insufficient documentation, delays, little evidence of ongoing supervision, and insufficient conciliation attempts in the cases reviewed. A schedule of the number of sampled cases where we found these adverse conditions is as follows:

<u>Adverse Conditions Found</u>	<u>Number of Cases</u>	<u>Percentage Of Sampled Cases</u> <sup>1</sup>
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<sup>1</sup> Percentage was calculated by dividing the number of cases for each condition by 117, the total number of sampled cases.

Large gaps of inactivity	84	71%
Investigation plan not prepared	46	39%
Insufficient documentation:		
- 100 day notification	42	36%
- Conciliation attempts	22	19%
Delays:		
- Complaint assignments/referrals	39	33%
- Notifications/responses	56	48%
Little evidence of ongoing supervision	71	61%

Based on our sample results and FHEO's database of open complaints, we concluded that FHEO's failure to complete investigations timely was widespread.

**FHEO Did Not Conduct Adequate Performance Assessments Of FHAP Agencies**

Our review of three state FHAP agencies disclosed that FHEO's annual assessments for two of these agencies did not adequately address obvious case management problems at each FHAP including; (1) significant case backlogs and/or (2) insufficient investigator staffing. Instead, FHEO staff issued an assessment report which did not focus on the corrective action needed or chose not to issue an assessment report at all. These actions were not prudent or consistent with the corrective actions that FHEO could have taken against the FHAPs as provided by HUD regulations.

For instance, we found that the California and Indiana FHAP agencies had routinely put aside and accumulated investigations for long periods. FHEO staff seemingly avoided dealing with the corrective action needed by issuing the California FHAP an overall satisfactory rating with a finding that its inventory of aging cases remained above the HUD goal of 10 percent. For the Indiana FHAP, FHEO staff decided not to issue a negative assessment report because it would discourage the FHAP's new staff.

We believe that FHEO could have taken more prudent and effective actions by using performance improvement plan (PIP) regulations at 24 CFR Section 115.210 (a)(2) and (3). Under these regulations, the Assistant Secretary may offer a PIP to an agency if it is not administering its law or ordinance in a manner that is substantially equivalent to the Federal law. The PIP will outline the agency's deficiencies, identify necessary corrective actions, and include a timetable for completion. HUD could suspend funding during the PIP and could reactivate complaints or discontinue referring complaints to the non-performing agency in order to protect the rights of complainants, respondents, and the public.

As part of its performance assessment work, FHEO staff also did not consider the results of state audits that had been conducted prior to making their own assessment of the FHAP agency's operations. FHEO staff who performed the

annual assessments of the California, Texas, and the Indiana FHAP agencies did not request or obtain the state audits. The State of California's January 1997 audit report found that the California Department of Fair Employment and Housing (CDFEH) had not managed its workload effectively and that its case management needed to be improved. As stated above, we believe that FHEO's actions were inadequate and/or insufficient. To augment the quality, scope, and effectiveness of FHEO's assessment, we believe that state audit reports could serve as a useful source of information.

**Two FHAP Agencies Did Not Manage Their Workload Effectively**

We found that both the CDFEH, the California FHAP, and the Indiana Civil Rights Commission, the Indiana FHAP, did not manage their complaint workloads effectively. Neither agency assigned enough staff resources to ensure that complaints were investigated in a timely manner.

At the end of FY 1997, the California FHAP had 761 open complaints, about 12 percent of the national total. With only 15 investigators, the average case load was about 51 cases per investigator. During FY 1997, the Indiana FHAP let its staff dwindle to two investigators resulting in many investigation cases sitting idle. The staffing shortfall led to the misplacement or accumulation of older case files dating back as far as May 1995 which were found in April 1997. In at least one case, the Indiana FHAP was unable to locate the complainant.

At the California FHAP, the investigators generally focused on completing investigations just before the one-year statute of limitations deadline established by the State. After sending out routine 100-day notices to complainants and respondents, the investigators usually stopped working on their cases until just weeks before the deadline. As a result, the investigators were under pressure and had to hurriedly make determinations and complete their investigations. According to state monitoring reports, the FHAP issued accusations against respondents to meet the deadline even though the investigations were incomplete, which were later withdrawn because further investigation or pre-trial findings reveals that the evidence would not support litigation.

**b. Accepting And Screening Incoming Claims**

FHEO exceeded its own policy for accepting incoming "claims" as filed complaints. In May 1997 FHEO established a new timeframe of 25 days for assessing complaints and this new policy overrode the 20-day timeframe that FHEO had published in its September 1995 handbook for investigators. In 36 of 117 cases we reviewed, however, the delay between receipt of the claim and

mailing of a perfected complaint to the complainant for signature was more than 25 days. In 20 cases this initial delay was more than 50 days. Further, we found that as of September 30, 1997, FHEO's ten FHEC offices had 856 claims that had been open an average of 62 days. This inordinate delay does not count toward meeting the 100-day requirement under the Act. Forty percent (343 of 856) of these claims had been open more than 50 days. The Boston, Fort Worth, and San Francisco FHECs alone had 583 open claims with 392 (67%) over 50 days old. FHEO's new assessment function which includes the "scrubbing down process" of claims, and its TEAPOTS processing system have increased the front end processing times and causes too much time before even starting the official investigation, which may not even substantiate the allegations.

Based on the total number of FHEO cases that were actually settled or conciliated in relation to the total closed cases for FY 1997, only about 40 percent of the accepted complaints were substantiated. Accordingly, about 60 percent of the cases did not find discrimination or provide any relief to complainants. Therefore, we believe that the results of FHEO's scrubbing down process was not very effective.

FHEO's Case Processing Activity report for FYE September 30, 1997 showed that FHECs and FHAP agencies closed 6,063 complaints. Out of those closures, there were 868 (14%) administrative closures and 2,648 (44%) no cause determinations. Only 268 (4%) of the closures resulted in reasonable cause determinations. Another 2,279 (38%) closures were due to settlement and conciliation between the parties.

Investigators could have devoted more time to investigations that would stop illegal discrimination, if FHEO's claim screening were able to more effectively weed out more of the incoming complaints.

### **c. Administering The Fair Housing Assistance Program (FHAP)**

FHEO's method of determining the funding amount to pay FHAP agencies was not economical and is potentially wasteful. We believe that FHEO's methods do not assure an economical or equitable distribution of funding for capacity building and case contributions for FHAP agencies.

#### **Funding For Capacity Building Was Not Economical Or Equitable**

Before FY 1996, FHAP agencies could receive \$75,000 per year for up to two years to build their capacity for conducting complaint investigations. HUD increased this amount to \$100,000 per year for up to three years in FY 1996. The purpose of this assistance is to help the FHAP agencies develop their capacity and expertise to receive and investigate complaints. Therefore, FHAP agencies located under a FHEC that historically have received and investigated more than the national

average number of complaints each year could be expected to need more funding to develop their capacity. In contrast, agencies that anticipate receiving and investigating only very few complaints probably do not need the same level of funding. We, therefore, believe that FHEO's current method of funding capacity building without regard to anticipated staffing or workload is not equitable or economical.

For example, we reviewed the productivity of newly approved FHAP agencies during Fiscal Years 1996 and 1997. Twelve of these FHAP agencies had three or less open cases at the end of FY 1997 and some of those had been open for a considerable period. Those same twelve agencies only closed a total of 123 cases between October 1995 and September 1997; an average of only about five cases each per year. Therefore, we believe that there should be a correlation between the amount of capacity building assistance that HUD provides to FHAP agencies and the number of complaints those agencies anticipate processing.

**Case Contribution Funding Was Also Uneconomical And Wasteful**

FHEO's case contribution funding to FHAP agencies was also uneconomical and wasteful because the amount of funding was established without regard for how much work was

involved in completing investigations.

In FY 1996, FHEO increased its "case contribution" funding from \$1,300 to \$1,700 for each closed complaint. FHAP agencies received quarterly case contribution amounts based upon the number of cases closed and accepted for payment during the previous performance year. FHEO established an "average" amount per case by studying six agencies for their per case costs.

FHEO paid agencies the same for cases that were open just a few days and involved a telephone call or two, as for extensive and lengthy on-site investigations. FHEO had not established a management control to determine what agencies' costs were for different types of closures. For example, closures due to conciliation or settlement, reasonable cause investigation, and administrative reasons all received the same fee. FHEO also had no management control to determine how much time agencies were spending on a complaint; therefore, its estimate of costs per complaint had no factual basis. An Indiana FHAP agency official told its staff to process cases with the attitude that the more cases we process, the more funding we can receive from HUD.

**Insufficient Supervisory Oversight And Inadequate Management System**

Insufficient supervisory oversight of its investigators and inadequate and inconsistent use of its management systems were the primary reasons that FHEO

was unable to fully achieve its mission to promptly investigate and resolve discrimination complaints.

**Oversight**

Insufficient supervision was most apparent in two critical areas:

- No Headquarters' on-site monitoring of its field office operations because Headquarters officials believed that on-site monitoring was not a very productive use of staff.
- Little first line supervisor direction provided to FHEO or FHAP investigators because investigators were expected to work independently with minimal supervision.

We believe that by not requiring on-site monitoring of its field operations and not providing sufficient ongoing supervision of FHEO and FHAP investigators, FHEO management could not accurately assess the adequacy of its management controls or identifying needed corrective actions and improvements. As a result, FHEO's control and management over the timeliness and/or the sufficiency of its investigations was impaired. For instance, FHEO management lacks assurance that investigators followed prescribed procedures such as using TEAPOTS or preparing investigative plans as required. Also, FHEO has not taken sufficient action to assess failed controls that have allowed at least 70 percent of the FHEC and FHAP investigations closed in the past two years to exceed 100 days. In fact, the average age of 2,248 open FHEC and 3,996 open FHAP investigations as of September 30, 1997 was 384 days and 321 days, respectively, and these figures do not include the average of 62 days that it takes to accept a claim.

We believe that supervisors should at least ensure that they review the investigative plan and check the monthly status of each case that is more than 100 days old.

**Management Systems**

FHEO's case management tracking system did not provide the information needed by supervisors and investigators to:

- properly monitor or assess investigation assignment workload,
- ensure timely progress made on each investigation and conciliation, and/or

- reassign investigations in an effective and timely manner.

For example:

- The system did not identify the investigator currently assigned to an investigation and sometimes provided erroneous information. Also, when a completed case is transferred to another office for review, the system erroneously identifies the previously assigned investigator, not the investigator currently assigned to the case. Therefore, the first line supervisors could not effectively use the system to assess or reassign cases to other investigators.
- At the San Francisco FHEC, the system erroneously identified cases assigned to investigators who no longer worked for HUD. At the FHEC Orange County office, the front line supervisor maintained an off-line manual record of assigned cases in order to determine which investigators had, what cases, and how many.
- The system did not account for the number of days expended on each investigation. Instead, it tracked the number of elapsed days since a complaint was filed and how long its been at its current location.

In our opinion, without knowing the amount of time spent on each case, FHEO can not accurately determine what a reasonable workload is or how many investigators are needed for the workload. A similar problem was addressed in a January 1997 state audit report on the California FHAP. The state auditors noted that the FHAP agency should justify its requests for additional staff by establishing a time-reporting system that quantified the average amount of time staff needed on complaints to handle its workload.

FHEC offices and FHAP agencies do not use the same case management tracking systems. The FHAP agencies input their data into Equal Employment Opportunity Commission's system, while the FHEC offices input case data into HUD's Integrated Title VIII Tracking system (formerly known as Complaint and Compliance Review System). This created two different databases which required the FHAP agencies and the FHEC offices to reconcile the correct status of the assigned cases. Another inefficiency noted is that the FHEC or FHAP agencies did not consistently use certified mail to send case files back and forth between their offices. This could result in the loss of files. For example, at two FHEC offices visited we noted instances where the FHEC staff referred complaints to FHAP agencies which never received the case file.

**Protracted Investigations Can Cause Serious Consequences**

Protracted investigations can cause serious consequences for complainants, respondents, and HUD such as:

- Complainants may be compelled to continue living under troublesome conditions,
- Respondents may be subjected to unnecessarily prolonged stress and financial costs,
- Cases may be weakened,
- The public may lose faith in the system, and
- HUD could face lawsuits.

Our reviews at FHEC and FHAP agency offices disclosed instances of some of the consequences of prolonged investigations. Complainants have been homeless or had to continue living under discriminatory conditions, such as their children not being able to play outside, while FHEC and FHAP agencies routinely delayed investigating their complaints. Respondents have complained about undergoing prolonged stress and expenses that are damaging their health.

FHEO's contracted customer satisfaction study of complainants whose cases were closed by FHAP agencies noted that 52 percent of the complainants were dissatisfied with the services provided by FHAP agencies. Only 50 percent of the complainants who dropped their cases prior to settlement thought that the process was fair.

Under the Act, the prevailing party (other than HUD) may recover attorney's fees and costs in an administrative proceeding. Therefore, the longer FHEO takes to complete its investigation, the more it faces the potential of paying escalating attorney fees and costs if the respondent prevails in the case. One FHEO official told us that a judge had ordered HUD to pay about \$60,000 to a respondent as reimbursement of his legal costs.

Based on our review, we believe that it is incumbent upon FHEO to ensure that adequate supervisory oversight and management controls are in place in order to fully achieve its mission required by the Fair Housing Act.

### **AUDITEE COMMENTS AND OIG EVALUATION**

In its written response, FHEO stated that it has already remedied any actual deficiencies that were cited in the finding. FHEO also provided corrected data and information where it believed that the factual basis of the finding was inaccurate.

Although we acknowledge that FHEO has made some organizational and procedural changes that may lead to correcting the deficiencies noted in the draft audit finding, we believe that increased supervisory oversight and an adequate management control system are still necessary in order for FHEO to fully achieve its mission to promptly investigate discrimination complaints.

#### **Claims Processing And Resolution**

With respect to processing incoming claims, FHEO stated that in May 1997, it established a new 25-day timeframe for assessing incoming complaints. This new timeframe overrode the 20-day timeframe that FHEO had previously published in its handbook. The new timeframe requires that within 25 days of receipt of the claim, FHEO will mail to the complainant either: (1) a copy of the complaint to be signed, or (2) a letter notifying the complainant that FHEO found the complaint to be non-jurisdictional. For a large number of claims, FHEO attributed early stage delays to the time that its investigators were waiting for the complainant to return the signed complaint.

FHEO stated that delays in completing investigations occurred because cases were sometimes kept open in its database tracking system even though the investigations were already completed. FHEO, however, also stated that it has made remedial changes in order to comply with the 100-day requirement such as: (1) reallocating staff, (2) seeking approval to utilize 11 technical specialists and 80 “unplaced” HUD employees, (3) initiating a major training program for its investigators, and, (4) cross-training staff to enable HUD directors to make staff adjustments based on workload demands. FHEO stated that, during the period between May 1997 to May 1998, it has reduced the average age of cases from filing date to closure to only 55 days.

Based on new information provided by FHEO, we revised the draft audit finding to reflect its newly established 25-day timeframe in processing incoming claims. As we stated in the draft audit finding, however, the basis of our determination of initial intake delays was based on FHEO’s record of 856 open claims showing that these cases had been open for an average of 62 days. This average is overly excessive because it is significantly more than even the new 25-day timeframe. With respect to FHEO’s claim that a large number of cases were due to delays in receiving signed complaints from complainants, we found that in 36 of 117 sampled cases, the number of days elapsed between receipt and mailing of the claims back to the complainants for signature already took more than 25 days, and twenty of the 36 cases were more than 50 days.

Inaccurate data input sometimes occur which could distort the actual number of days used to complete investigations; however, our conclusions concerning delays were based on in-depth reviews of 117 sampled cases. We found gaps of inactivity in about 70 percent of these cases where no investigative work was being done and

not because these cases were already completed and only being kept open in the data base. The FHAP agency in California routinely set investigations aside and would not do any investigative work until just weeks prior to reaching the one year statute of limitation for issuing accusations against respondents. As noted in the draft audit finding, FHEO's open investigations already average almost four times the 100-days required by the Fair Housing Act, while FHAP open investigations average about three and one-half times.

**Supervision**

Concerning FHEO's oversight of its field offices, FHEO explained that Headquarters officials did not perform on-site monitoring in 1997 because of limited resources, plus, field supervision could be conducted by more efficient means. FHEO said the TEAPOTS, with all data collected in a paperless file, will permit Headquarters staff to perform first-line and remote-monitoring without incurring substantial travel costs. FHEO expected that TEAPOTS will be fully implemented for HUD and FHAP cases by Fall of 1998. FHEO also stated that the draft audit finding unfairly concluded that the absence of a supervisory record signals the failure of a supervisor to monitor the investigators' processing of the case, and to prepare formal memoranda to document all discussions is counterproductive.

FHEO stated that it had also established new time frames for investigating different types of complaints, taking into account the complexity and nature of the allegations. These time frames provide a new "tracks" system that requires total processing days up to: (1) 83 days for a case requiring prompt judicial action, (2) 83 days for an "expedited case", (3) 25 days for reaching an agreement-in-principle case, (4) 113 days for cases needing full investigation, and (5) 218 days for complex, systemic, and novel cases. In order to ensure performance, FHEO will require its staff to contact the parties to a case at least every 30 days, and compliance with "tracks" timeframes will be incorporated into FHEO's performance evaluation standards.

We agree that a properly designed and well-functioning TEAPOTS will provide FHEO Headquarters staff the capability to perform first-line oversight. However, this may only be effective to a limited extent since on-site monitoring reviews are designed to focus on evaluating program operations to determine if they are adequately meeting program goals and objectives. Therefore, we believe that it is still essential to perform risk-based monitoring designed to find ways in improving operations and using TEAPOTS to identify where monitoring reviews should be made. Concerning OIG's conclusion on insufficient supervisory oversight, the draft audit finding did not imply that the absence of supervisory record signaled the failure of a supervisor to monitor a case. Our conclusion as to the lack of supervisory oversight was based on interviews with both supervisors and investigators who informed us of insufficient supervisory involvement rather than the lack of documentary evidence.

**Oversight Of FHAP Agencies**

Concerning its oversight of the FHAP agencies, FHEO disagreed with the draft audit finding stating that its annual assessments of FHAP agencies in Indiana and California did not adequately address case management problems at these agencies. FHEO said that its annual assessments led these agencies to effect case management changes resulting in increased staff proficiency and improved investigative quality. FHEO also stated that the draft audit finding incorrectly stated that its staff did not consider the results of state audits when it conducted its performance assessments of the California and Indiana FHAP agencies.

We believe that FHEO can be more effective in performing its oversight responsibilities than it has already been. For example, even though it completed its assessment of Indiana's FHAP in October 1997, timely resolution of any case management problem identified was not taken because it has not even delivered its findings to the agency at the time that we made our review in December 1997. FHEO's response also did not indicate whether its assessment report containing the findings was eventually sent to the Indiana FHAP. At the California FHAP agency, even though FHEO claimed that staff levels of 18 reduced the average caseload per investigator, this number was still far short of their estimate of 38 investigators needed to meet the statutory mandate of closing all housing discrimination complaints within 100 days of filing.

**FHAP Funding**

FHEO also disagreed with OIG's conclusions that its funding method of FHAP for capacity building and case processing was inefficient and inequitable. FHEO stated that the list of agencies receiving capacity funding cited in the draft audit finding was inaccurate because some of these agencies did not receive capacity building funds. FHEO provided another chart showing that nine of the FHAP agencies that were listed in the draft audit finding were Contributions agencies and only received the \$1,700 per case processing fee instead of the flat annual rate. FHEO also said that the number of cases shown in the draft audit finding showing the number of cases processed by nine FHAP agencies was inaccurate. It provided the correct number of cases actually processed by the nine agencies.

FHEO commented that OIG did not understand the purpose of providing funding for capacity building which are fixed, annual amounts used to assist agencies in: (1) developing and enhancing complaint processing, (2) training, and (3) developing and executing non-investigatory activities needed to implement fair housing laws or ordinances. FHEO further explained that the purpose of the financial assistance is to help these agencies to develop their capacity to receive and investigate complaints and is not based on the number of complaints an agency investigates in a specific year.

FHEO agreed with four of the five recommendations except for recommendation 1D requiring FHEO to review its method of funding FHAP agencies to ensure that

these are determined in an economical and efficient manner. FHEO disagrees with this recommendation and believes that its current method of case processing contribution funding is the most efficient method of reimbursement available that is based on agencies' average costs.

Based on FHEO's response, we revised the draft audit finding pertaining to Capacity Building funding information as it relates to the number of cases closed by the 13 FHAP agencies. We agree that the chart listing 13 FHAP agencies that received Capacity Building funding from FY 1994 through FY 1997 may be misleading because the chart only showed cases that were open and/or closed for the last two years. We, therefore, deleted the chart.

We also recognize that Capacity Building funding is not based on a number of complaints that an agency investigates in a specific year. We believe, however, that the amount of Capacity Building funding for each agency can be made more equitable if based on a formula that is commensurate with anticipated or prior workload.

## **RECOMMENDATIONS**

We recommend you:

- 1A. Require each management level to adhere to established policies and procedures.
- 1B. Establish a task force to substantially reduce the current case backlogs.
- 1C. Ensure that TEAPOTS is modified and/or improved to better manage caseload and to ensure timely completion of investigations.
- 1D. Develop a procedure to determine whether FHEO's current methods of funding FHAP agencies are equitable and economical.
- 1E. Review procedures for monitoring FHAPs to insure that deficiencies identified in state audits are corrected, and that FHEO uses PIP regulations to ensure satisfactory work performance by the FHAPs.

## Finding 2

### **FHEO Did Not Always Ensure That Program Participants Complied With Civil Rights and Assistance to Handicap Regulations**

Contrary to the Code of Federal Regulations (CFR), FHEO did not always ensure that HUD recipients complied with applicable requirements of Title VI of the Civil Rights Act and Section 504 of the Rehabilitation Act of 1973. We reviewed 33 compliance reviews performed by FHEO and found that it allowed known violations of civil rights and assistance to handicap program regulations to remain unresolved. Specifically, we found that 17 (52%) of 33 compliance reviews; (a) remained incomplete for long periods of time even though FHEO's review work identified the violations, and (b) disclosed program participants' non-compliance but FHEO did not ensure that corrective actions were actually taken. These deficiencies occurred because FHEO did not have a management system to track its caseload and did not provide adequate supervisory staff oversight. As a result, discriminatory practices identified in FHEO's compliance reviews remain unreported and uncorrected, thereby, unnecessarily permitting continued violations of civil rights and assistance to handicap program regulations. Further, FHEO did not make the most efficient use of staff resources since it performed reviews that did not result in resolving known discriminatory practices by program participants.

<p><b>Periodic Compliance Reviews Required</b></p>
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Title 24 of the CFR, Parts 1 and 8, require HUD to conduct periodic compliance reviews of programs and activities receiving federal financial assistance to ensure compliance with Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, as amended.

Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance from HUD.

Section 504 of the Rehabilitation Act of 1973, as amended, provides that no otherwise qualified individual with handicaps in the United States shall, solely by

reasons of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance from HUD.

**Discrimination Violations  
Were Not Resolved**

We reviewed 33 of 52 compliance reviews performed by HUD's California, Illinois, and Texas State Offices and found deficient work performance in 17 (52%) of 33 cases. Specifically, we found that FHEO:

- Initiated reviews in 7 (21%) of 33 cases but had not yet completed the reviews, even though the results indicated that program participants violated civil rights and assistance to handicap program regulations; and
- Completed reviews in 10 (30%) of 33 cases but did not ensure that corrective actions were actually taken by program participants.

The table below summarizes the results of our review of each of the state offices:

State Office	Total Cases Reviewed	Deficient Work Performance		
		Incomplete Review	No Corrective Action	Total
California	20	3	7	10
Illinois	7	3	0	3
Texas	6	1	3	4
<b>Total</b>	33	7	10	17

Details of these deficiencies are discussed separately below.

**a. FHEO Did Not Complete Reviews Showing Indications Of  
Discrimination**

We found seven cases where FHEO had initiated compliance reviews and found indications that program participants violated civil rights and assistance to handicap program regulations; however, FHEO has yet to complete these reviews. The results of our audit at each of the state offices are as follows:

**California State Office**

We found three reviews showing that program participants were not in compliance with civil rights and assistance to handicap program regulations; however, FHEO had not brought its findings to the attention of program participants for response and resolution. For example, FHEO initiated a Title VI and Section 504 compliance

review of Imperial Valley Housing Authority in January 1995. The review disclosed numerous violations of Title VI, including a situation where the Authority maintained separate tenants' waiting lists for its scattered sites. In addition, in violation of Section 504, the Authority did not have a telecommunication device for deaf applicants to assist them during the application process. At the time of our audit, over three years had elapsed since FHEO initiated its review; however, the findings had not yet been issued to the Authority. Therefore, deficiencies identified by FHEO's compliance review remain unresolved and the Authority continued to violate civil rights and assistance to handicap program regulations.

**Illinois State Office**

We found three incomplete compliance reviews showing indications that program participants were not in compliance with applicable HUD program regulations. For example, FHEO initiated a compliance review of the Housing Authority of the County of Lake in February 1994. This review was initiated in response to concerns identified by HUD's November 1993 monitoring review concerning disparate treatment of minorities versus non-minorities in the Authority's unit assignment and maintenance of housing units. FHEO requested and obtained pre-site data from the Authority but did not immediately conduct an on-site review. Two years later in November 1996, FHEO requested updated data. FHEO's evaluation of the updated information confirmed that an on-site compliance review was still warranted because discriminatory rental practices still appeared to be occurring. At the time of our audit, over four years since the time that the problem was first identified, FHEO had not yet conducted its on-site compliance review.

**Texas State Office**

FHEO initiated a compliance review of Kaplan Housing Authority in December 1995. Both the initial and subsequent on-site review found evidence that the Authority was not complying with Title VI because of its practice of racial segregation, illegal steering of applicants, and disparate treatment in providing maintenance services at different scattered sites. Despite these serious conditions, the findings were still in draft form and have not yet been brought to the attention of the Authority for resolution. In a September 1997 memorandum to the General Deputy Assistant Secretary, the Texas State Office's Director, Program Operations and Compliance Center, stated that the findings met the criteria for a "Hot Case". However, it has been over two years since these serious conditions were first identified but the findings have not been brought to the attention of the Authority.

**b. FHEO Did Not Ensure That HUD Program Participants Took Necessary Corrective Actions**

We found ten cases where FHEO initiated and completed compliance reviews identifying violations of Title VI of the Civil Rights Act and Section 504 of the Rehabilitation Act of 1973; however, it did not ensure that corrective actions

were taken by program participants in order to bring their programs into compliance. The results of our audit are shown below.

**California State Office**

We determined that for seven completed compliance reviews, FHEO did not ensure that program participants took corrective actions to bring program participants into compliance with HUD requirements. For example, in a compliance review of San Bernardino County Housing Authority, FHEO originally initiated its review in October 1989. In March 1992, FHEO reported that the Authority was in noncompliance with Title VI because it was considering applicants' race and national origin in making its tenaning decisions, rather than the order in which the applications were received. FHEO's evaluation of the Authority's tenaning procedures disclosed that the Authority's intent was to maintain certain racial balances in each of its scattered sites. In response to these findings, FHEO and the Authority executed a Voluntary Compliance Agreement (VCA) in September 1992 and required the Authority to correct the violations over a three year period ending September 30, 1995. Our review, however, showed that although the term of the VCA had ended more than two years ago, the Authority continued to house applicants based on race and national origin, in violation of Title VI. In addition, the quarterly reports showed that the Authority provided housing to tenants that were not even listed on its waiting list.

**Texas State Office**

We found three compliance reviews that had been completed but FHEO did not ensure that program participants took corrective actions to bring their programs into compliance. For example, in a January 1986 compliance review of San Antonio Housing Authority, FHEO concluded that the Authority violated Title VI with respect to its application processing and tenaning procedures. This is because it did not sequentially select tenants on a community-wide basis, based on date and time of application, and other applicable preferences. Instead applicants were being offered units only in those projects which applicants indicated a preference, usually in a location where the applicant applied for housing. In response to these findings, the Authority and FHEO executed a VCA in October 1994 to resolve the discriminatory tenaning practices. Pursuant to the terms of the VCA, the Authority submitted quarterly reports through March 1996, but then stopped sending the reports. The March 1996 quarterly report showed that the Authority still had not implemented a centralized tenant waiting list system, as agreed. FHEO had not required the Authority to comply with the agreement.

**Causes**

In our opinion, the deficiencies occurred because FHEO did not have a management system to track its caseload and did not provide adequate supervisory staff oversight. FHEO officials explained that other priorities diverted staff resources from completing the compliance reviews. However, since FHEO did not have a system to track the time spent by staff on each assignment or activity, we could not fully evaluate the extent that these other priorities had a

negative impact in the timely completion of their reviews. For example, there was no requirement to estimate the number of staff days to complete each review, or to establish work time frames, such as starting and ending dates. Further, supervisors did not provide consistent oversight of their staff to ensure that the reviews were completed timely, such as regular briefings to determine work status. We believe that if FHEO develops a case management tracking system, as well as strengthens its supervisory oversight, it can be more effective in ensuring that identified deficiencies are appropriately resolved in a more timely manner.

In addition, FHEO did not have a system to track whether program participants took the necessary corrective actions to bring their programs into compliance with Title VI and Section 504 regulations. We believe that a case management tracking system would facilitate and ensure that program participants are complying with the terms of VCAs.

In our opinion, an understanding between FHEO and other program offices having monitoring responsibilities over the operations of program participants should be established to effectuate dual monitoring responsibilities. Such an arrangement would improve HUD's ability to enforce compliance. We believe that if other program offices are alerted to the existence, and made parties to the VCAs, these offices may be more effective in enforcing compliance by using existing remedies, such as the withholding of funds.

**Effect**

Unresolved FHEO compliance review findings unnecessarily permit continued violations of Title VI of the Civil Rights Act and Section 504 of the Rehabilitation Act of 1973. Additionally, FHEO did not make the most efficient use of staff resources by performing compliance reviews that did not result in resolving discriminatory housing practices.

**AUDITEE COMMENTS AND OIG EVALUATION**

**Compliance Review**

FHEO did not dispute the finding and agreed that it should conduct timely compliance reviews and take corrective action when violations are found. FHEO acknowledged that its operations lacked clear protocols and meaningful cooperation between FHEO and program funding offices which resulted in: (1) delays in the collection of relevant information from within HUD and from the recipient and (2) less effective remedies and monitoring actions. FHEO stated that each program funding office will develop within its Business Operating Plan the necessary protocols to ensure that an FHEO compliance review of a HUD recipient will be conducted with the knowledge, participation, and support of the funding office. Also, FHEO will develop the remedies to correct the identified violations with the support of the program offices.

FHEO generally attributed the delays to time consuming but necessary case processing obstacles such as: (1) extensive file reviews, (2) repeated on-site visits, and (3) the analysis of complex legal matters. Concerning the corrective actions taken by its program recipients, FHEO stated that Section 504 violations may take a long time to correct due to the additional compliance requirements associated with other Federal, state, and local laws, and in some cases, the need to allocate special funding. Further, FHEO stated that the recipients may offer assurances that they are making efforts to correct any violations.

Although we recognize that the lack of clear protocols and/or cooperation between FHEO and the program funding offices may have contributed to some of the delays, our case reviews disclosed that the primary causes were due to FHEO's: (1) lack of a management system to track the compliance review caseload, and (2) inadequate supervisory oversight of its staff. In regards to the time and effort spent on extensive file reviews and repeated site visits, we believe that some of this work could have been significantly reduced or eliminated had there been adequate supervisory oversight of the staff conducting the reviews. We noted four cases where additional site visits were required because of either deficient staff performance in conducting the reviews, or that too much time had elapsed since the initial data was collected. In these instances, an effective caseload management tracking system in conjunction with better supervisory oversight could have ensured that staff carried out the compliance reviews timely and sufficiently.

**Recommendations  
For Corrective Action**

FHEO agreed with the first three recommendations and stated that it is taking steps to develop a compliance review data collection and tracking system to systematize compliance reviews and allow adequate management of caseloads. FHEO, however, disagreed with the fourth recommendation because it believed that it was inappropriate or unnecessary to identify the program funding office as a party in the VCAs to assist in monitoring and enforcing compliance with the terms of the VCA. FHEO asserted that, under the HUD Management Reform Business Operating Plan, all HUD program disciplines are expected to take actions to ensure non-discrimination and to affirmatively further fair housing in HUD programs, including participating in FHEO compliance activities. At the exit conference, FHEO officials agreed to develop a mechanism to involve appropriate program offices, but disagreed that the offices should be party to the VCA.

We view the FHEO's disagreement with draft Recommendation 2D as inconsistent with its own rationale concerning the need for clear protocol and cooperation by the program funding offices. By establishing dual monitoring responsibilities, we believe that HUD will be more effective in accomplishing its responsibility of ensuring compliance with civil rights laws. Further, because the Business Operating Plans are still in the process of being developed, we can not determine whether they adequately address this issue.

Based on our discussions with FHEO officials at the exit conference, however, we have revised Recommendation 2D.

## **RECOMMENDATIONS**

We recommend you:

- 2A. Develop and implement a management tracking system to better manage caseloads and to ensure timely completion of compliance reviews.
- 2B. Provide consistent supervisory staff oversight to ensure that compliance reviews are being completed in accordance with established time frames.
- 2C. Follow up on all active compliance reviews to determine what action, if any, is needed to complete the reviews in order to bring program participants into compliance.
- 2D. Develop a procedure to ensure that appropriate program offices are involved in VCA negotiations so that these program offices can provide assistance in monitoring and enforcing the terms of the VCA.
- 2E. Establish procedures for referring cases of non-compliance to HUD's Enforcement Center for enforcement action if program participants show reluctance to comply with the terms of the VCA.

## Finding 3

### **FHEO Needs to Better Administer Its Fair Housing Initiatives Program**

**FHEO did not satisfactorily accomplish its Fair Housing Initiatives Program (FHIP) responsibilities. Our review showed that FHEO:**

- **Did not perform and document the FHIP grant award process timely or adequately; and**
- **Approved and disbursed grant drawdowns totaling \$6.2 million (73%) of the \$8.5 million reviewed which were not fully warranted.**

**Until these areas are improved, FHEO lacks the required assurance and integrity needed to fully achieve the intent of the FHIP program established by the U.S. Congress.**

**We attribute these deficiencies to: (1) the lack of adequate supervision over the staff performing the functions; (2) design flaws in the grants management system program and the grant agreement payment schedule; and (3) the inconsistent method used by the staff to document their receipt and review of grant deliverables.**

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The Fair Housing Act provided for the Fair Housing Initiatives Program (FHIP) to strengthen the enforcement of Title VIII. The implementing regulations, 24 CFR Part 125.104, charge the Assistant Secretary for Fair Housing and Equal Opportunity at HUD with the responsibility for administering FHIP.

<p><b>a. FHEO Did Not Perform And Document The FHIP Grant Award Process Timely Or Adequately</b></p>
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FHEO did not satisfactorily accomplish its program responsibilities relating to the FHIP grant award process because it did not: (1) document the receipt of applications accurately; (2) process the application scores accurately, completely, and timely; and (3) maintain supporting documentation for the 1996 and 1997 grant scoring determinations.

**Receipt Of Application Was Not Documented Accurately**

FHEO did not accurately document the receipt of application packages for the 1996 and 1997 FHIP grant awards, thereby causing a lack of assurance that the applications met the submission deadlines, and allowing the integrity of the award process to be questionable.

HUD Handbook 2210.17, REV-2, Discretionary Grant and Cooperative Agreement Policies and Procedures, Chapter 3-8, states in part that applications must be physically received by HUD by the due date and time. HUD will date-stamp incoming applications to evidence (timely or late) receipt, and upon request, HUD will provide the applicant with an acknowledgment of receipt.

Based on our review of the 409 FHIP SF-424s, Application For Federal Assistance, for 1996 and 1997, we determined that FHEO did not accurately and consistently document the receipt date of the applications as required. For example:

- Two applications without date stamps were rendered ineligible because they were received after the due date;
- Five applications without date stamps were funded;
- Three applications had multiple date stamps with differing dates.

Also, our review of the fiscal year 1997 application packages showed that 15 of the applications had date stamps that did not match the erroneous receipt dates shown in the Grants Management System (GMS). The dates shown in GMS ranged from August 26, 1970 to January 1, 2001.

We attribute the above problems to a lack of adequate supervision over staff to ensure that the required procedures were completed satisfactorily.

**Application Scores Were Not Processed Timely Or Accurately**

FHEO staff did not ensure that all the scores from the Technical Evaluation Panel (TEP) members were entered into the GMS before the 1997 grant awards were announced. Consequently, we concluded that the integrity of FHEO's award process is questionable, and there is no assurance that the award determinations were correct.

**HUD Must Maintain Documentation**

As stated in the Notice of Funds Availability (NOFA) for the 1996 and 1997 FHIP grants, Section 102 of the HUD Reform Act of 1989 and the final rule codified at 24 CFR Part 4, contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD, including FHIP. Part 4.5 provides that HUD will make

available for public inspection, for at least five years, all documentation and other information regarding the basis for the funding decision with respect to each application submitted to HUD for assistance.

**Scoring Data Was Incomplete**

Our review disclosed that not all of the scores from the TEP members were entered into the GMS before the 1997 grant awards were announced on September 30, 1997. Our review showed that, as of October 8, 1997, one week after the awards were announced, the scoring information and determinations were missing for 25 of the 273 applications eligible for funding. Of these 25 applications, seven were funded, and the remaining 18 were not funded, even though the GMS scoring data was incomplete. According to FHEO officials, manual calculations were made to complete the scoring information to announce the awards.

The responsible TEP member explained that he was unable to input his scores into the GMS before the awards were announced because of other higher priority work. However, we believe that the FHIP Director should have ensured that the scores were entered timely.

**Supporting Documentation For The 1996 Grant Scoring Determination Was Not Maintained**

Our review disclosed that the GMS scoring data for the 1996 applications cycle had been corrupted, leaving FHEO with no historical record of the scores, as required. Thus, we concluded that the integrity of the grant award process is questionable, and could result in FHEO not being able to adequately address appeals filed by unsuccessful applicants.

24 CFR Part 4.5 provides that HUD will make available for public inspection, for at least five years, all documentation and other information regarding the basis for the funding decision with respect to each application submitted to HUD for assistance.

**Computer Data Was Deleted**

Grant scoring information in the GMS for the 1996 applications was deleted in error when the 1997 grant scoring information was being processed. This occurred because of a flaw in the design of the program. The system was programmed to link scores to the names of the TEP members. When the 1996 TEP members were not selected to participate in the 1997 scoring process, their names were deleted from GMS, thus eliminating the 1996 scores linked to their names. GMS was first implemented for the FY 1996 grant competition and hard copy documentation of the evaluation and selection process was not maintained to support data entered into the system.

FHEO's system administrator was unaware of the GMS problems until we requested historical data which did not reflect the scores used for awarding the

grants. Our discussions with Information Technology staff disclosed that this problem occurred because of a program flaw which did not freeze historical data when entering new fiscal year information. Also, audit trails to determine when the error occurred did not exist.

**b. FHEO Approved Grant Drawdowns That Were Not Fully Warranted**

FHEO approved grant drawdowns totaling \$6.2 million (73%) of the \$8.5 million reviewed that were not fully warranted because not all of the required grant tasks had been completed. Consequently, FHEO approved drawdowns that included tasks that were paid for, but never completed.

**Tasks Must Be Completed Before Payment**

HUD Handbook 2210.13 REV-3, Government Technical Representative (GTR) Handbook Chapter 2-3, states that the Statement of Work (SOW) concisely explains what is to be accomplished in terms of products or results so that you can effectively monitor and evaluate the progress and final result of the project. The SOW sets forth actual minimum requirements, as opposed to desired features. Based on the SOW, the program office recommends the contract type best suited to HUD's interests. Fixed-price contracts are used when specifications are clearly defined and the contractor is required to deliver a product that conforms to the specifications or the completion of specific tasks before payment is made.

FHEO's, Guidebook for Monitoring Fair Housing Initiatives (FHIP) Grant Agreements, dated September 1996, Chapter 2-2, states in part that a very significant role of the GTR is to review and approve materials developed/produced by recipients to assure consistency with the Fair Housing Act and with the tasks in the Statement of Work. Equally important is the responsibility to provide assistance to the grantee to effectively carry out the project. Chapter 2-10 further states that, provided that the grantee is in full compliance with all terms and conditions of the grant agreement and submits the defined project deliverables, the grantee will receive payment in accordance with the payment schedule detailed in the grant document. The payment request is approved by the GTR after acceptance of the accomplishment or task. The GTR must document in the Grant Officer file, approval or reasons for rejection of requests for payments.

**Drawdowns Not Fully Warranted**

We reviewed 24 of the 226 FHIP grants awarded between 1994 and 1996, with drawdowns totaling \$8.5 million, to determine whether the funds were paid to the grantees in accordance with the grant agreements. Our review disclosed that FHEO approved drawdowns totaling \$6.2 million (73%) that

were not fully warranted at the time they were disbursed because the grantees had not completed all the required tasks.

#### **Some Tasks Never Completed**

In some cases, the grantees accomplished the uncompleted items after they received the drawdowns. However, an undetermined portion of \$3.6 million in grant drawdowns included tasks that were paid for, but never completed. We did not determine the dollar amount attributable to the uncompleted tasks because of the questionable payment schedule structure discussed above. In our opinion, in those cases where the grantee eventually performed the tasks for which it was already paid, the GTR should have recognized the deficiencies prior to the drawdown and required that the uncompleted tasks be submitted prior to approving the drawdown. If a grantee has already received the grant funds without submitting the required deliverables, it may have less motivation to complete the remaining requirements.

The responsible GTRs generally agreed that the drawdowns concerned were approved without all the required tasks being accomplished. The GTRs explained, however, that they generally did not disapprove drawdowns, unless they were the final drawdowns, because the grantees needed the funds to continue operating. The GTRs said that if they did not approve the drawdowns, then the grantees may not be able to continue operating and then none of the grant tasks would be accomplished. In some cases, the GTRs said that the missing deliverables were not significant to the overall objectives of the grant and did not necessitate disapproving the drawdown. Further, the GTRs said that they would notify the grantees of the missing deliverables, and would request that the deliverables be submitted with the next quarterly submission. This procedure, however, was not verifiable since it was not documented.

#### **Causes**

Based on our review of the grant files and discussions with FHEO and FHIP officials, we believe that the above deficiencies were primarily caused by three factors:

- The structure of the grant agreement payment schedule;
- A lack of a checklist procedure for the GTRs to document the receipt and review of deliverables; and
- The lack of routine supervisory review.

#### **Agreement Structure**

As discussed above, the grant agreement payment schedule specifies a grant drawdown amount and the corresponding grant tasks that must be satisfactorily completed by the grantee prior to the drawdown being approved. We found, however, that because the payment schedule did not correlate a grant dollar amount with each grant task, GTRs were not able to revise scheduled drawdown amounts in situations where

only a portion of the scheduled drawdown would be warranted because the grantee had not completed all the required grant tasks.

#### **Absence Of Checklist**

Another contributing cause was the lack of a checklist procedure for the GTRs to document the receipt, review, and acceptance of grant deliverables. We found that the GTRs were not consistently documenting the receipt, review, and acceptance of grant deliverables. Consequently, the GTRs had problems determining, in some cases, when certain deliverables had been submitted by grantees, whether the GTR reviewed the deliverables and concluded that they were acceptable, and which tasks correlated to specific drawdowns. The GTRs explained that because of the high volume of work required of them, they were not always able to take the time necessary to document their receipt and review of grant deliverables. We believe that a checklist procedure, such as a standardized worksheet, would facilitate this function, as well as to ensure that each GTR is performing the procedure consistently and timely.

#### **No Supervisory Review**

The lack of supervisory review also contributed to the deficiencies. The responsible FHEO director said that she did not routinely review the grant working files because of other higher priorities. In fact, the official said that she only reviews the final grant performance assessment reports, unless there is a specific problem with a grantee. We believe that had there been periodic supervisory review of the grant files, these deficiencies could have been identified and corrected more timely.

### **AUDITEE COMMENTS AND OIG EVALUATION**

FHEO generally disagreed with the draft finding and claimed that it has adequate documentary records to support all of its grant decisions. FHEO provided its written comments under two separate headings, “grant award process” and “grant drawdowns”, which are summarized below.

#### **GRANT AWARD PROCESS**

##### **Processing Of FHIP Grant Applications**

Concerning SF-424s, Application For Federal Assistance, identified in the finding with missing or multiple date stamps, FHEO stated that it was able to determine each application’s receipt date by looking at the date stamps for the numbered applications that preceded and followed the application with the missing date stamp. A few applications had no date stamp because they had been submitted after the deadline and therefore were ineligible. In these instances, FHEO documented the receipt of the application by attaching the postmark from the envelope to the application. For the small number of applications which had more than one date stamp, FHEO accepted the earlier receipt date as the official

date for the purpose of determining eligibility. For those applications cited in the draft finding as missing, FHEO stated that it had located the applications.

FHEO's stated policy for determining the receipt date of applications with missing date stamps is clearly unacceptable because it contradicts a HUD Handbook requirement to date-stamp incoming applications to evidence timely or late receipt and to provide the applicant with an acknowledgment of receipt upon request. In addition, by condoning this practice, we believe that HUD could be vulnerable to embarrassing appeals and/or possible lawsuits from applicants who may appeal the timeliness of their applications' submissions.

Concerning the missing SF-424s, Applications For Federal Assistance, cited in the draft audit finding, FHEO claimed that they have located the missing applications in the grant officer's active files and in other storage boxes. After reviewing these applications, we revised the draft finding accordingly.

Also, FHIP procedures require that all applications be sequentially filed in a notebook. This was not accomplished because all out of sequence numbered applications were missing. Accordingly, we concluded that FHIP's compliance with written procedures was inadequate for controlling the receipt of the 1996 and 1997 applications.

**Discrepancies Between  
Receipt Dates**

In regards to the discrepancies between the application receipt dates shown on hard-copy and computerized data sources, FHEO stated that it relied on the hard copy materials to determine the timeliness of the applications submitted, not the date identified in its computer system. FHEO explained that the computer system date was not required to be entered and if a date was not entered, the system provided a default date, which was generally not the actual date of receipt. FHEO noted that it has since changed its procedure to require the receipt date to be entered. In summary, FHEO asserted that because it relied on the date shown on the hard-copy materials, it did not jeopardize the award process.

FHEO's claim that it relied on hard-copy materials to determine the date is inconsistent with the information provided to us during our review. During our field work, FHEO staff advised us that both sources contained discrepant and/or incomplete information, however, they stated that the GMS was the primary data source for receipt dates and other information used to process FHIP grant awards. Accordingly, we used the GMS for audit testing purposes. FHEO's response did not alter the finding or our recommendations.

**Announcement Of  
Funding Decisions**

FHEO disagreed that it had announced the awards for funding before the scores were entered into the computer, and that FHEO did not maintain documentation to support its funding decisions. FHEO explained that due to

problems with the GMS, FHEO returned to using manual records, and stated that it retained a full set of manual records to support its funding decisions. FHEO agreed that the GMS contained flaws which allowed for some grant scoring information to be deleted and has suspended use of the system until the problems are corrected.

FHEO's response does not fully address our intent. The response should include the specific tasks to be performed, estimated completion dates, and the cost associated with correcting the GMS programming flaws.

## GRANT DRAWDOWNS

### December 1996 Memorandum

FHEO acknowledged that it was necessary to issue a memorandum directive to its staff in December 1996 regarding the documentation requirements for approving FHIP drawdown payments. FHEO noted that most of the drawdown deficiencies cited in the finding occurred before this directive was issued and claimed that the related revised procedures substantially and prospectively corrected the problems cited in the finding.

We disagree with FHEO's comments that its December 1996 memorandum corrected the premature drawdown problem because the condition persisted after the memorandum was issued. Specifically, FHEO improperly approved \$1.4 million or 23 percent of the \$6.2 million in draws that were insufficiently supported after the memorandum was issued. We acknowledge that most of the draws reviewed were approved prior to December 1996, however, FHEO incorrectly inferred without verification that its issuance of a single directive would automatically correct its inadequate drawdown controls.

### Obsolete Or Discrepant Criteria

FHEO identified instances or clarified where the finding was based on obsolete or discrepant criteria. FHEO noted that the finding referenced obsolete provisions of a HUD Handbook and inappropriately used citations which applied to contracts for grants. FHEO clarified that the FHIP grants are fixed-price grants which lack a direct relationship between the costs incurred by the grantee and the amount paid by HUD. Further, FHEO stated that under fixed price grants, HUD pays the grantee for the completion of certain defined tasks or the achievement of a well-defined milestone, as cited in 24 CFR Parts 84 and 85. FHEO further stated the payment schedule included in each grant agreement specifies the tasks the grantee must complete before payment is made. This approach ensures that the grantee completes the necessary tasks toward the completion of the grant, that outlays are timely, and that grantees are compensated for their performance.

FHEO's claim that the finding is invalid due to our use of an obsolete Handbook provision is untrue. HUD Handbook 2210.13 was replaced in November 1996 with HUD Handbook 2210.3 REV-8, however, both references contain essentially the same substantive guidance for GTRs as cited in the finding. Additionally, relevant sections of 24 CFR Parts 84 and 85 similarly support the basis of the finding. Further, FHEO issued its Monitoring Guidebook in September 1996 which provided the same guidance for its staff to follow.

We do not disagree with FHEO's statement that FHIP grants are fixed-price grants which provide payment to the grantee upon completion of certain defined tasks or the achievement of a well-defined milestone. Further, based on a payment schedule included in the grant agreement which provides task based budgeted amounts the grantee must complete to receive payment. Contrary to this requirement as cited in the finding, FHEO approved grantee drawdowns even though the grantee did not sufficiently complete the required tasks.

We agree that fixed-price grants lack a direct relationship between the costs incurred by the grantee and the amount paid by HUD. However, as stated in 24 CFR 84.25, the budget developed in connection with each grant is the financial expression of the project or program, as approved during the award process. The total grant amount is consequently based on the budgeted amount to accomplish the project. Therefore, we believe that the total grant amount, could be broken down into specific budgeted amounts for each grant task that comprise the grant. By doing so, FHEO can more accurately correlate and determine the amount of a drawdown, in situations where a grantee has requested a drawdown, but has not completed all the tasks required for a full drawdown. If each grant task is assigned its own individual budgeted amount, FHEO and the grantee have a common basis to determine what task(s) were completed or uncompleted, and the payment amount due to the grantee.

**Checklist Not Used** FHEO agreed that it did not maintain a consistent form of documentation, such as a prescribed checklist, to indicate that FHEO had received the deliverables from the grantee and had found the work to be acceptable. FHEO stated that it has since prepared such a checklist.

We also agree with FHEO's comments that the use of a checklist and greater supervision would improve its oversight and grantee compliance but it would not sufficiently correct the basic problem of premature drawdowns. During our review, we noted numerous instances where the grantees' statements of work were revised during the course of the grant term. We believe that these statement of work revisions further demonstrate the need for FHEO to implement a system to accurately compensate the grantees for their performance, and FHEO will have better control over its disbursement of grant funds.

**Recommendations For  
Corrective Action**

FHEO disagreed with Recommendation 3A because it believes it has already maintained documentation sufficient to justify the selection of 1996 and 1997 awards, and also disagreed with Recommendation 3C because it is not necessary or appropriate. FHEO stated that the payment schedule is appropriate as is, and that the use of a checklist and greater supervision of staff will address the findings identified with respect to proper approval of drawdowns. FHEO agreed with Recommendations 3B, 3D, and 3E. FHEO officials provided an alternative procedure that would provide better control over the disbursement of grant funds, therefore, we revised Recommendation 3C.

**RECOMMENDATIONS**

We recommend you:

- 3A. Take action to ensure that complete and accurate documentation is maintained to support the basis of the FHIP awards.
- 3B. Take action to ensure that the Grants Management System programming flaws are corrected.
- 3C. Develop a procedure to ensure that Grantees are compensated only for completed tasks.
- 3D. Develop and implement a checklist procedure to document the GTR's receipt, review, and acceptance of the grant deliverables.
- 3E. Provide supervisory oversight to the FHEO staff responsible for the timely receipt and processing of grant application packages.
- 3F. Provide consistent supervisory oversight to the FHEO staff to ensure that established grant administration policies and procedures are followed.

## Finding 4

### FHEO's Annual Reports To The U.S. Congress Are Not Timely

For FYs 1994 through 1996, FHEO has either failed to submit or has submitted delinquent annual reports to the U.S. Congress. As of December 31, 1997, FHEO still has not submitted to the Congress its overdue annual reports for FYs 1995 and 1996. FHEO's FY 1994 annual report was issued in June 1996, 14 months after it was due. As a result, the Congress may not be aware of FHEO's progress in eliminating discriminatory housing practices. The delinquencies occurred because FHEO did not execute the necessary task orders timely, and failed to coordinate the compilation of required information.

#### Annual Reporting Requirements

FHEO has consolidated the four reporting requirements contained in Sections 3608 and 3616 of the Fair Housing Act (Act) into one comprehensive annual report to the Congress. The reporting requirements includes information concerning the:

- Nature and extent of progress made in eliminating discriminatory housing practices;
- Characteristics of persons who are applicants, participants, or beneficiaries of HUD's programs;
- Characteristics of persons eligible for, assisted by, or benefiting from each community development, housing assistance, and mortgage and loan insurance and guarantee program administered by HUD; and
- Progress made in accomplishing the objectives of the Fair Housing Initiatives Program (FHIP), the use of funds under FHIP, and any findings, conclusions, recommendations as a result of the funded activities.

#### Report Due March 31

In accordance with Section 3616 which requires the FHEO to submit its annual report for its FHIP activities to the Congress within 180 days after the close of each fiscal year, FHEO established a comprehensive annual report with the same due date which included the reporting requirements for its three other requirements. Thus, FHEO's annual reports are due to the Congress by March 31.

#### Reports Not Submitted Timely

For FYs 1994 through 1996, FHEO did not submit its annual reports timely to the Congress. The following

table shows the status of each of the annual reports as of December 31, 1997.

<b>Fiscal Year</b>	<b>Status of Report</b>	<b>Months Overdue</b>
1994	Issued 6/96	14 months
1995	Not Issued Yet	21 months
1996	Not Issued Yet	9 months

As shown above, FHEO has demonstrated a pattern of not submitting annual reports within required time limits. FHEO has set a goal to issue the FY 1997 annual report in April 1998. If FHEO meets this goal, the report will be less than one month overdue. However, we believe that this goal may be too optimistic in light of the fact that FHEO has not changed its procedures used in previous years, and had not, as of December 31, 1997, executed the necessary task order for the contractor.

**Congress May Not Be Aware Of  
FHEO's Accomplishments**

As a result of FHEO's non-submission and/or its delinquent submission of its annual reports, the Congress may not be aware of FHEO's progress in eliminating discriminatory housing practices, or obstacles it is encountering in furthering fair housing. For example, the draft 1995 report discloses that during the fiscal year, eight additional localities had passed fair housing laws that are substantially equivalent to Federal legislation. Thus, an increasing number of FHAP agencies are assisting HUD in eliminating discriminatory housing practices. Additionally, the draft 1996 report discloses that, "in spite of HUD's best efforts to eliminate housing discrimination in America, it still exists and in some ways has increased against certain protected classes, and has directly impacted upon members of those group's ability to participate fully and benefit from the services offered by the Department". We believe that this is valuable information to Congress, and the importance of such information is diminished by FHEO's delays in reporting it.

Based on discussions with FHEO officials in Headquarters, as well as discussions with the contractors that prepared the annual reports, we determined that the delays in completing the reports timely were due to FHEO's failure to execute the necessary task orders timely and its lack of coordination in compiling the required information for the reports.

**Task Orders Not  
Executed Timely**

Based on our review of the task orders for the annual reports, we found that they were not executed in time to allow the annual reports to be completed by the deadline.

Details are as follows:

<b>Annual Report</b>	<b>Fiscal Year Ending</b>	<b>Task Order Signed by Contractor</b>	<b>Months Elapsed</b>
1994	9/30/94	8/29/95	11 months
1995	9/30/95	3/15/96	6 months

1996	9/30/96	9/26/96	0 months
1997	9/30/97	none signed	3 months

As shown above, the task orders for the 1994 and 1995 annual reports were not executed timely. The task order for the 1994 report was not signed by the contractor until August 1995, 11 months after the fiscal year ended, and five months past the report deadline. Thus, work on the annual report did not begin until after it was past due. Similarly, the task order for the 1995 report was not signed by the contractor until March 1996, the same month in which the report should have been issued. Thus, work on the report did not begin until that month. While we found that FHEO executed the task order for the 1996 report the same month the fiscal year ended, as of December 31, 1997, it had not yet executed a task order for the 1997 report, even though the fiscal year had ended more than three months before.

**Lack Of Coordination In Compiling Information**

Based on discussions with FHEO officials and the contractors that prepared the reports, we concluded that FHEO's lack of coordination in compiling the information for the reports contributed to the delays in completing the reports. The contractor that prepared the 1994 report explained that because FHEO did not designate one person to act as a coordinator, she was required to follow up on requested information that was not submitted from different offices. The same problem occurred with the 1995 report where the contractor was not provided all the information needed to complete several sections of the report. Subsequently, the contractor sent the fiscal year 1995 annual report to a subcontractor for editing even though the report was not complete. A memo from the contractor to FHEO indicates that because FHEO was slow in providing needed information, the report was edited without it and further revisions, made since editing was completed, had counteracted the editing. This memo also indicated that several comments were submitted and addressed more than once, and were redundant and time consuming. These continuing revisions were based on comments from task force members who reviewed each draft and then each gave separate comments to the contractor. Since FHEO did not designate a coordinator to consolidate the task force comments before sending them to the contractor, the report was revised more often than the contractor had scheduled.

Similarly, the contractor prepared drafts of the 1996 annual report without all the necessary information rather than wait for task force members to provide all of the information that had been requested from their program areas. The contractor believed that by doing this, the task force members would be encouraged to quickly provide information to complete the report. However, no additional information was provided to the contractor. Consequently, the contractor was required to hold one-on-one meetings with the task force members to obtain the information.

Additionally, the contractor that prepared the FY 1996 annual report completed preliminary work on the FY 1997 report before ceasing work in December 1997. Preparation of the FY 1997 annual report was halted because a task order had not yet

been approved. The Acting Deputy Assistant Secretary for Program Operations and Compliance did not know the reasons why funding for the task order to resume preparation of the FY 1997 annual report had not been provided as of February 1998.

### **AUDITEE COMMENTS AND OIG EVALUATION**

FHEO commented that while its annual reports have been submitted late, it had advised Congress of the progress in eliminating discriminatory housing practices through a variety of means other than the annual report, such as testimony by principal FHEO staff in congressional oversight hearings, budget submissions, and briefings for members of Congress and their staff.

FHEO attributed much of the delays in the issuance of the annual reports to its limited availability of staff and contract funds, as well as the coordination and review required by other offices within HUD. FHEO stated that HUD has consolidated all of its reporting requirements into a single report to Congress, starting with Fiscal Year 1997. With this in mind, FHEO stated that it will provide its contributions to the combined report in sufficient time to ensure that all statutory reporting requirements are met.

Since FHEO stated that it is correcting the problem, we have no further comment.

### **RECOMMENDATIONS**

We recommend you:

- 4A. Develop and implement written procedures and a timetable for effective coordination of information and timely completion of annual reports.
- 4B. Implement a procedure to provide written notification to the U.S. Congress if the annual report deadline will not be met, along with the reasons for the delays.

## ***Management Control***

In planning and performing our audit, we considered management control systems used by FHEO to determine our auditing procedures and not to provide assurance on management control. Management control is the process effected by an entity's

management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- Effectiveness and efficiency of operations
- Reliability of financial reporting, and
- Compliance with applicable laws and regulations.

In each of these categories of objectives, organizations will establish their own specific control objectives and control procedures aimed at achieving these broad objectives. If organizations are to meet these control objectives, five components of internal control—control environment, risk assessment, control activities, information and communications, and monitoring—must be present. Control objectives in each category are inextricably linked with five supporting components.

We determined that the following management control systems were relevant to our audit objectives:

- Processing and investigating discrimination complaints.
- Completing compliance reviews and resolving known deficiencies.
- Receiving, awarding, and scoring grant applications.
- Approving and paying drawdown requests.
- Compiling information and preparing annual reports.

We assessed all the categories identified above. For the assessment, we obtained an understanding of the design of relevant policies and procedures and whether they had been placed into operation, and we evaluated control risk.

A significant weakness exists if management control does not give reasonable assurance that all three control objectives are met. Based on our review, we believe the following were significant weaknesses:

- Lack of or inadequate management controls.
- Insufficient supervisory oversight.
- Design flaws in grant management system and payment schedules.

# *Prior Audit Findings*

This was our first national audit of FHEO since the Fair Housing Act was amended in 1988. However, in September 1994 the United States Commission on Civil Rights (USCCR) issued a report, *The Fair Housing Amendments Act of 1988: The Enforcement Report*, which assessed the fair housing activities of HUD and DOJ. The report had 33 findings and recommendations. One of the key findings was:

In the vast majority of cases, HUD has not made a cause determination within the 100-day benchmark set by Congress. Congress clearly expected that HUD would reach a conclusion as to reasonable cause within 100 days in most complaints.

Finding 1 of this audit reports this same deficiency.

In addition, the USCCR issued a report in June 1996, based on its assessment of the Title VI enforcement efforts of 10 Federal agencies and 10 subagencies, including HUD. USCCR generally concluded that, with few exceptions, the Federal agencies responsible for Title VI enforcement have neglected their responsibilities to ensure that their recipients and subrecipients complied with Title VI. The report contained numerous recommendations to ensure that Title VI is enforced. Finding 2 of our audit, reports the same deficiency.

OIG also conducted an internal audit of the Beaumont Fair Housing and Public Housing offices. The audit report (Audit Report No. 97-FW-174-0001), issued in June 1997, contained three findings, disclosing that the Beaumont offices were not achieving their mission, HUD may not have sufficient funding to carry out court-ordered improvements, and the court ruling may result in costly duplicate services. Finding 3 has been resolved and OIG has concurred with management decisions for Findings 1 and 2. Final actions, however, are still pending.

# Appendices

## Appendix 1

### Auditee Comments



U. S. Department of Housing and Urban Development  
Washington, D.C. 20410-2000

OFFICE OF THE ASSISTANT SECRETARY  
FOR FAIR HOUSING AND EQUAL OPPORTUNITY

June 10, 1998

RECEIVED OIG  
JUN 11 1998

MEMORANDUM FOR: Glenn S. Warner, District Inspector General for Audit, 9AGA

FROM: *Eva M. Plaza*  
Eva M. Plaza, Assistant Secretary for Fair Housing and Equal Opportunity, E

SUBJECT: Internal Audit of the Office of Fair Housing and Equal Opportunity Draft  
Audit Report

Attached are the Office of Fair Housing and Equal Opportunity's comments to your draft internal audit report. We welcome any additional comments or suggestions.

Please note the content of page 19 is different from the page 19 in the package faxed to you and Ruben Velasco earlier today. This package replaces the earlier one.

I'm looking forward to seeing you at our exit interview. Please contact Susan M. Forward at (202) 708-4211 if you have any questions, or to schedule a time.

## EXECUTIVE SUMMARY

The Office of Fair Housing and Equal Opportunity (FHEO) appreciates this opportunity to comment upon the Office of Inspector General (OIG) draft report and explain the management reforms it is undertaking.

Over the past several years, FHEO has recognized certain deficiencies in its operations, many of which are also subsequently identified in the OIG report. In response, and particularly under the leadership of a new Assistant Secretary who has taken charge since the OIG conducted its audit, FHEO has restructured the organization, reallocated staff resources, and instituted new information systems through a process that received a Hammer Award from Vice President Gore. These changes demonstrate FHEO's commitment and capacity to achieve fully its mission to enforce the Fair Housing Act and related civil rights laws.

The draft report presents findings regarding four areas of FHEO operations: (1) management of discrimination complaint investigations; (2) responsibility to ensure that HUD program participants comply with civil rights-related requirements; (3) administration of the Fair Housing Initiatives Program (FHIP); and (4) submission of reports to Congress. While FHEO accepts some of the OIG findings, FHEO emphasizes in this response the management reforms it continues to implement which address the problems both FHEO and the OIG have identified.

FHEO has significantly upgraded its capability to promptly investigate and resolve discrimination complaints by redesigning its Fair Housing Act enforcement program in consultation with Price-Waterhouse, a nationally recognized management consulting firm. The Price Waterhouse recommendations, which FHEO adopted and which were just beginning to be implemented at the time of the OIG review, set out a broad range of reforms. These include the development of specific timeframes for each stage of the complaint process and their incorporation into performance evaluation standards for staff and managers. The recommendations also led to the development of a new computerized system for monitoring and tracking FHEO discrimination investigations, the Title Eight Paperless Office Tracking System (TEAPOTS).

TEAPOTS is the most sophisticated management and operational complaint support and tracking system used by any civil rights office in the federal government. It will significantly improve the quality of case processing by providing direction to front-line staff and improving the review capability of both first and second-level managers. Moreover, TEAPOTS will be utilized by FHEO's partners in state and local entities, thus providing a seamless electronic interface between FHEO headquarters, its field offices, and the Fair Housing Assistance Program (FHAP) participants.

Assuming that FHEO is provided with sufficient staff and material resources, the implementation of TEAPOTS and the remaining management reforms are sufficient to ensure appropriate and prompt investigation and resolution of discrimination complaints. As the draft OIG report notes, however, some of the problems identified are attributable to factors unrelated to management. The most efficient systems still require adequate staffing. FHEO also notes that the draft OIG report does not accurately reflect certain aspects of the case processing system, including the appropriate role of the "assess" component, the significance of the 100-day time frame set forth by Congress, and the methods by which FHEO funds FHAP agencies.

In addition to its Fair Housing Act enforcement responsibility, FHEO must ensure that recipients of federal funding comply with federal civil rights laws and regulations. FHEO has moved to complete the compliance reviews that were underway at the time the audit was conducted and to take corrective action where appropriate.

FHEO has also taken significant steps to ensure the appropriate administration of the FHIP. These include providing additional supervisory staff, developing automated information management systems, and establishing internal controls to ensure adherence to policies regarding fund disbursement. FHEO notes, however, that the draft OIG report misconstrues certain aspects of the FHIP management system, including the appropriate documentary basis for prior FHIP grant decisions and the method used for approving grant drawdowns. Most significantly, FHEO notes that it has an appropriate documentary record for all FHIP funding decisions, and at the time of the OIG audit, had established procedures to assure that grant deliverables are received prior to drawdowns.

FHEO acknowledges that its annual reports to Congress have not been timely. Since the OIG completed its audit, FHEO has completed the two prior reports<sup>1</sup> and will shortly provide written notification of the submission date for the 1997 report. If FHEO is unable to provide the report by that date, it will provide due notice.

In conclusion, FHEO believes that it has identified and taken significant measures to ensure that its program operations have adequate management supports and safeguards. This is particularly important in light of the Secretary's commitment to and emphasis on Fair Housing Act enforcement. Such enforcement activities conducted by FHIP-funded fair housing groups and FHAP agencies have resulted in multiple, highly-significant actions, such as the recent \$3 billion settlement in Texas resolving allegations of lending discrimination. These cases, and the attention they have generated upon FHEO's mission, illustrate the well-coordinated partnership between FHIP-funded groups, FHAP agencies, and FHEO. The President of the United States

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<sup>1</sup> FHEO has already provided to Congress the 1995 Report. FHEO has completed the 1996 Report and will provide to Congress within the next 30 days.

has similarly recognized this activity as fundamental to the Administration's One America Race Initiative and its commitment to making real change in people's lives.

**US Department of  
Housing and Urban  
Development**

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**FHEO Response to the Inspector  
General's Draft Report**

**FINDING 1:****FHEO Needs to Significantly Improve its Management of Complaint Investigations**

The Office of Fair Housing and Equal Opportunity (FHEO) is charged with the administrative enforcement of the federal Fair Housing Act. Each year, thousands of Americans rely on FHEO to investigate complaints of illegal housing discrimination in a fair and expeditious manner.

The draft audit report cites three specific concerns about FHEO's management of complaint investigations: delays in the initial processing of claims from the public; prolonged investigations; and a lack of oversight of FHEO and Fair Housing Assistance Program (FHAP) investigations.

FHEO wishes to address each of these matters individually to assure the public that FHEO has already remedied any actual deficiencies that have been cited and to correct the record where the factual basis for the finding is inaccurate.

FHEO's administrative processing of complaints follows three basic stages: the initial assessment of the incoming claim to determine jurisdiction;<sup>1</sup> the investigation of the complaint, which includes efforts to informally resolve the case at appropriate intervals during the investigation; and ultimate administrative determination or resolution of the case. This stage can be accomplished through a finding of "reasonable cause" that the Act has been violated, a finding of "no reasonable cause," or the resolution of the case through conciliation.<sup>2</sup>

**RESPONSE**

FHEO is vigorously engaged in doubling the number of fair housing enforcement actions taken. Accordingly, FHEO welcomes the draft report's comments as helpful advice as FHEO works toward this goal. Below, FHEO responds to the concerns identified above, each of which warrant individual reflection, discussion, and action.

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<sup>1</sup> A complaint is jurisdictional if it alleges facts which, if true, would constitute a violation of the Fair Housing Act.

<sup>2</sup> Certain classes of cases, such as zoning and land use cases, are referred to the Department of Justice for disposition without a determination from HUD.

### Handling of Incoming Claims

The draft report notes early stage delays in FHEO's handling of claims received from the public.<sup>3</sup> FHEO agrees that handling claims expeditiously in the early stages of the process is critical to timely law enforcement. Also, given its limited resources, FHEO recognized the importance of taking sufficient time upfront to conduct more intensive analysis and fact-gathering in potential complaints, before they are filed, to determine whether the complaints state a jurisdictional claim under the Fair Housing Act. Therefore, in 1995, FHEO hired Price Waterhouse to assist it in developing an intake process that gave due consideration to these two important interests.

FHEO has found that the reduction of non-jurisdictional claims that proceed to the investigation stage warrants taking additional time at the intake stage to determine jurisdiction. FHEO determined that 25 days was an appropriate length of time in which to assess the claim.<sup>4</sup> In fact, following the national implementation of this new process in May 1997, the percentage of cases closed for administrative reasons during the investigative stage (reasons such as the failure to state a jurisdictional claim) dropped from 48% to 16%. This rate continues to drop.

This newly-established timeframe for assessing complaints overrode the 20-day timeframe that FHEO had published in its handbook for investigators, and FHEO formally notified its staff of the change. The fact that the outdated handbook contained a different timeframe for the assess process than the policy in effect was misleading, and left the Office of Inspector General (OIG) review team with the misimpression that FHEO was operating under a timeframe at odds with its established policy.

FHEO is continuing to work to reduce the number of claims that remain open for more than 25 days.

### Investigation Timeframe

The Fair Housing Act requires HUD to complete its Fair Housing Act investigations within 100 days of the filing of the complaint unless it is impracticable to do so. The draft report notes that many of FHEO's investigations have exceeded the 100-day timeframe.<sup>5</sup>

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<sup>3</sup> With respect to a large number of those claims, FHEO was waiting for a complainant to return a filed complaint.

<sup>4</sup> Within 25 days of receipt of the claim, FHEO will mail to the complainant either (1) a copy of a complaint to be signed or (2) a letter notifying the complainant that FHEO found the complaint to be non-jurisdictional.

<sup>5</sup> FHEO's efforts to reduce the backlog may have inflated the age of the cases that the IG examined. During fiscal year 1996, HUD made significant efforts to close aged cases, closing 160% of the number of cases opened. Many of the cases closed then were older cases, which inflated the average time for closures. During fiscal year 1997, HUD initiated a similar drive for FHAP agencies to complete aged cases.

FHEO agrees that people who file complaints, and others involved in the complaint process, are entitled to thorough, impartial, and expeditious investigations. FHEO is sometimes unable to complete investigations within the 100-day timeframe for a number of reasons. Sometimes, cases warrant additional investigation that despite the best efforts of FHEO make it impracticable to complete the investigation within that specified time. For example, lending discrimination cases often require an extensive analysis of loan files and typically exceed the time frame. Other reasons beyond FHEO's control, that the OIG review team failed to note in the report include: abandonment of the case by the complainant, inability to locate key witnesses, and the refusal of a party to cooperate with the investigation. FHEO also submits cases to the HUD's Office of General Counsel during the investigation stage and can contribute to review and issuance of formal charges of discrimination. This can contribute to delays in resolution.

The report also notes that FHEO's case-tracking database recorded the closing date as the date the closure information was entered. In these cases, the case processing time for some FHEO cases was actually shorter than the time suggested by the database entries.

Management reform is expected to address some of the staffing issues that have contributed to delayed investigations. Management 2020 has resulted in the reallocation of staff to the investigative and enforcement side, and has initiated a major training program which we expect will result in better trained investigators. In addition, FHEO has sought approval for 11 technical specialists to assist field staff in the use of technology, to enhance investigations, and to generate management-based analytical tools. FHEO has also requested 80 previously "unplaced" employees from other parts of the Department to assist in its investigations of cases. Finally, staff of the former Fair Housing Enforcement Centers (FHEC) and the Program Operations and Compliance Centers (POCCs) are being cross-trained to enable the HUB directors to make staff adjustments based on workload demands.

Even taking into consideration all of the above factors, however, FHEO has managed to reduce the average age of cases closed during the period between May 8, 1997 and May 8, 1998 to 55 days from filing date to closure.

## **Oversight**

### A. Oversight of FHEO Field Offices and Investigations

The draft report states that first-line supervisors do not adequately supervise investigators, and that the Headquarters office does not adequately supervise the field offices. Based upon a sampling of case files from three FHEO field offices, the report attributes the following to a lack of supervisory oversight: gaps of inactivity in investigations, infrequent conciliation attempts, and a lack of documentation of staff/supervisor communication.

While management reform was underway, FHEO had to allocate limited staff resources to maximize productivity while also ensuring satisfactory supervisory oversight. The report concluded that Headquarters' supervision of the field was inadequate based on the specific finding that Headquarters did no on-site monitoring of field office operations. Although a monitoring plan had been developed for 1997, FHEO Headquarters officials concluded that, in a time of limited resources, field supervision could be conducted by more efficient means than relying primarily on-site monitoring, which requires frequent travel by Headquarters staff. The new TEAPOTS system, with all data collected in a paperless file, will permit Headquarters to perform first-line and remote-monitoring without spending the substantial sums of travel monies needed in the past.

The report unfairly concludes that the absence of a supervisory record in a case file signals the failure of a supervisor to monitor the investigator's processing of that case. Most interaction between investigators and first-line supervisors is verbal and informal. FHEO believes it would be counterproductive to focus staff on preparing formal memoranda detailing all discussions a first-line supervisor has with a staff member about each pending case. Again, the new TEAPOTS system is a better tool for documenting the progress of the investigation and supervisory notes to investigators.

Working with Price Waterhouse, FHEO established time frames for investigating different types of complaints, taking into account the complexity and nature of the allegations. These time frames compose the new "Tracks" system, as follows:

- 30 to 45 days for investigation, and a total processing time (including counsel review and final action) of 68-83 days, for a case requiring prompt judicial action, as where a temporary restraining order is necessary;
- 30 to 45 days for investigation, and a total processing time (including counsel review and final action) of 68-83 days, for an "expedited case." "Expedited cases" may include: those with simple issues requiring minimal investigation and those featuring continuing, egregious discrimination;
- 25 days for reaching an agreement-in-principle in cases where early conciliation is appropriate;
- 74 days for investigation, and a total processing time of 113 days, for cases needing a full investigation; and
- 180 days for investigation, and 218 days for completion of processing, for complex, systemic and novel cases.

The track to which a case is assigned is documented in TEAPOTS, where Headquarters and field managers can monitor individual investigator's progress in

meeting the time frames. When fully implemented in the fall of 1998, both for HUD cases and for FHAP cases, TEAPOTS will:

- require that each jurisdictional element be accounted for in order for an investigation to proceed;
- mandate the timely completion of an investigative plan for each case;
- chronicle all conciliation efforts, or the lack thereof;
- document the gathering of data and the basic analysis of the case;
- allow for entry of supervisory notes to investigators;
- chronicle the issuance of 100-day letters in the event the investigation extends beyond the 100-day goal;
- help generate a final investigative report and a determination report, suitable for supervisory and counsel review and approval;
- permit immediate supervisory review of every complaint at every step in the claim process; and
- generate weekly reports on case processing progress.

FHEO is making compliance with Tracks time frames part of its performance standards for investigators. Investigators who do not complete work faster than the limits specified by Tracks will be unable to earn an outstanding rating. Field managers will be held responsible for ensuring compliance.

FHEO will also provide enhanced computer training for managers and investigators. FHEO has also encouraged managers and investigators to use the Internet to help expedite property searches, to identify other potential respondents to the complaint, and to locate "lost" parties or witnesses.

Since the time of the audit, staff have received training on the FHEO's Mortgage Lending Information System. This system combines Home Mortgage Disclosure Act information with census data to produce a series of tables illuminating patterns of discrimination in mortgage lending.

FHEO also adopted Price Waterhouse's recommendations on improving customer service. Under these recommendations, staff must contact the parties to a case at least every 30 days, to better share with them information about the status of the investigation and the nature of the data collected. Once again, TEAPOTS will allow FHEO to monitor staff compliance with this requirement, since managers and

Headquarters staff will be able to review, at any time, any complaint filed with the Department.

#### B. Oversight of the Fair Housing Assistance Program (FHAP)

The FHAP program is critical to fighting housing discrimination. It allows HUD to effect fair housing enforcement in a greater number of communities throughout the country than it otherwise could using only HUD resources. The draft report expresses concerns about the conduct of annual assessments, the function of capacity building funds, and payments for investigatory work. These concerns are addressed in that order below.

##### **Annual Assessments**

First, FHEO disagrees with the report's statement that its annual assessments of the Indiana and California FHAP agencies did not adequately address case management problems at those agencies. In fact, FHEO's annual assessments of both agencies led the agencies to effect case management changes resulting in increased staff proficiency and improved quality of cases.

##### **California State Agency**

FHEO's 1996 and 1997 annual assessment reports for the California agency clearly identified the agency's aged caseload and staffing shortages as performance problems. The audit report correctly attributes the agency's case backlog to a high average caseload per investigator. However, FHEO identification of these problems during its performance assessment, resulted in the agency taking action to remedy the problems. The agency quickly added staff in 1997. When staffing returned to the full level of 18 investigators, the average caseload dropped from 60 cases per investigator in 1996 to a more manageable 48 cases per investigator. The California agency continued to make progress, and later in 1997 the average caseload per investigator dropped to 45 cases. Also, despite a 10.5% increase in the total number of new complaints filed with the agency in 1997, the agency's aged-case inventory also went down that year. Further, the California agency volunteered to be one of three offices to pilot the TEAPOTS system in order to improve its efficiency.

Due to the significant improvements the California agency continued to make in 1997 with respect to its case management, FHEO decided it was unnecessary to put the agency on a Performance Improvement Plan (PIP).

##### **Indiana State Agency**

FHEO issued a performance assessment of the Indiana agency on October 2, 1997. The assessment clearly described several areas of unsatisfactory performance, including workload management. It noted inadequate staffing for the agency's fair housing work (the agency enforces other anti-discrimination laws) and recommended specific improvements.

In 1997, FHEO also withheld payment to the Indiana agency for 20 cases which were insufficiently investigated in 1994 and provided the Indiana agency with technical assistance and training to improve its capacity. FHEO later determined that the agency's performance was improving, and did not issue a PIP.

The OIG report states that FHEO staff did not consider the results of state audits when it conducted its performance assessments of the California and Indiana agencies. In both cases, FHEO was aware of the state audits. In fact, FHEO staff routinely see these audits. The Chicago FHEO office, for example, was aware of the Indiana audit, took it into account, and discussed its results with the Director of the Indiana state agency. Likewise, the California FHEO office was aware of the state audit of the FHAP agency but ultimately based its evaluation on criteria and issues different than those relied upon in the state's audit. The state audits are no substitute for FHEO's annual assessments of FHAP performance. FHEO conducts its assessments to ascertain whether the State and local agencies maintain substantial equivalency certification. The state audits typically focus on different criteria and issues. Moreover, the standards used in state audits are not consistent nationwide.

### **Capacity and Case Processing Funding**

The draft report concludes that capacity building and case processing funding<sup>6</sup> for FHAP agencies was inefficient and inequitable. A discussion of the FHAP certification process and how FHAP funding operates should assist in clarifying the FHAP program.

All agencies participating in the FHAP administer a law or ordinance which FHEO has legally determined provides rights and remedies that are substantially equivalent to those provided under the Fair Housing Act. The agencies fall into one of two categories – they are either certified or certified for an interim period. If FHEO certifies the agency for an interim period, it receives capacity building funds for its first three years of participation in the FHAP. After four or more years, an agency becomes eligible for another form of funding called contributions funding.

FHEO assesses the performance of all the FHAP agencies on an annual basis. If FHEO gives a negative evaluation, it can place the agency on a PIP or it can withdraw or deny full certification.

The audit report illustrates its claim that capacity building funding for the FHAP agencies is uneconomical and inequitable by reference to a chart on page 12. The chart portrays several agencies as recipients of FHAP funding despite their record of producing few or even no fair housing cases.

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<sup>6</sup> In this context, when FHEO refers to case contributions funds, it is only referencing the case processing component of this funding.

The data in the audit chart is not accurate.<sup>7</sup> The correct data is as follows:

CAPACITY BUILDING AGENCIES (Does not Reflect Per Case Counting)		
FHAP AGENCY	FISCAL YEAR 1996	FISCAL YEAR 1997
Parma, Ohio	\$100,000	\$100,000
Reading, Pennsylvania	\$75,000	\$100,000
Elkhart, Indiana	\$100,000	\$100,000
Rockland County, New York	0	\$100,000

<sup>7</sup> The chart contains four categories of ambiguities and errors. First, it lists as receiving capacity funding some agencies that in fact did not receive capacity funding. Second, amounts of funding listed for some agencies is wrong. Third, the meaning of the column header "No. of Open and/or Closed Cases" is not clear. The time frame used was some period that ended in September of 1997. Since cooperative agreements are done annually, the numbers identified for the time frame (9/97) and the period of performance that the cooperative agreement covers are not identical. Fourth, the numbers for cases processed contain errors.

CONTRIBUTIONS AGENCIES (Reflects Payment for Case Processing)		
FHAP AGENCY	FISCAL YEAR 1996	FISCAL YEAR 1997
Charleston, West Virginia	\$17,000 (10 cases)	\$3,400 (2 cases)
Huntington, West Virginia	\$17,000 (10 cases)	\$10,200 (6 cases)
Lawrence, Kansas	\$0 (0 cases)	\$10,200 (6 cases)
Hillsborough, Florida	\$13,600 (8 cases)	\$0 (0 cases)
Clearwater, Florida	\$10,200 (6 cases)	\$20,400 (12 cases)
Dubuque, Iowa	\$10,200 (6 cases)	\$6,800 (4 cases)
New Hanover, North Carolina	\$15,300 (9 cases)	\$8,500 (5 cases)
Gary, Indiana	\$18,700 (11 cases)	\$30,600 (18 cases)
Dayton, Ohio	\$25,500 (15 cases)	\$22,100 (13 cases)

The auditors fail to understand the purpose of capacity funding. Capacity building funds are a fixed, annual amount used to assist agencies in developing and enhancing complaint processing resources, training staff, and developing and executing non-investigatory activities needed to implement the jurisdiction's fair housing law or ordinance. The purpose of the financial assistance is to help these agencies develop their capacity to receive and investigate complaints. This funding is not based on the number of complaints an agency investigated in a specific year.

On the other hand, agencies that receive funds for case processing receive a flat \$1700 for each processed complaint which meets FHEO standards. FHEO reviews each case submitted for payment against uniform criteria for processing. In fiscal year 1997, FHEO refused to pay for 358 out of 3801 cases submitted for review, a denial rate of almost 10%. FHEO believes this method of funding is equitable and efficient and that current FHEO monitoring methods are appropriate.

## RECOMMENDATIONS

### **1A. Require each management level to adhere to established policies and procedures.**

Management compliance with established policies and procedures will be carefully monitored through TEAPOTS. When all components are fully implemented, TEAPOTS will allow monitoring of actual case progress and days expended on investigation. Also, under Management 2020, HUB directors will have enhanced authority and will report to a single person in Headquarters.

### **1B. Establish a task force to substantially reduce the current case backlogs.**

Management 2020 and the Price Waterhouse reforms provide flexibility for FHEO to address the backlog. Under these initiatives, Headquarters is requiring each HUB director to develop and implement a plan for reducing the backlogs.

Needless to say, any plan to establish a task force must take into account FHEO's staffing shortages. Detailing investigators and other staff for this purpose draws staff away from other functions, such as responding to calls for emergency help, as in cases where complainants face imminent eviction or threats to their lives.

To assist in processing aged cases, FHEO has requested the services of 80 of the Department's formerly "unplaced" employees who are to be reassigned under Management 2020. These employees would be trained in an expeditious manner to investigate or assist in the investigation of these cases.

In the past, FHEO has successfully used temporary and term employees to fulfill this function. If these 80 formerly "unplaced" staff are not reassigned to FHEO, we have requested funding to hire an equivalent number of temporary employees.

**1C. Ensure that TEAPOTS is modified and/or improved to better manage caseload and to ensure timely completion of investigations.**

TEAPOTS is designed for better management of the caseload and for ensuring timely completion of investigations.

FHEO agrees that TEAPOTS had flaws at the time of the audit. Originally, FHEO piloted TEAPOTS in a limited number of field offices before launching it nationwide. However, FHEO discovered additional problems during the national roll-out. This was the version of TEAPOTS that the OIG auditors witnessed.

The new version of TEAPOTS, to be implemented in June 1998, will allow FHAP agencies to input information directly into the system. This will eliminate the need to reconcile two separate databases and allow FHEO to monitor the timeliness and effectiveness of FHAP investigations while they are underway, rather than wait for them to be concluded. With this new system, FHEO will be able to intervene quickly if cases languish. Moreover, FHEO will provide additional training and technological support to its field offices which will greatly reduce human errors in using the system.

**1D. Conduct a review of FHEO's methods used to fund FHAP agencies to ensure that funds paid to FHAP's are determined in an economical and effective manner.**

FHEO believes that its current method of FHAP funding is economical and effective. Capacity building funds are designed to do just that – build capacity in agencies new to the program. New agencies use these funds for a myriad of activities (i.e., training, case processing, education and outreach, data and information systems).

In 1994, FHEO commissioned a study to determine the average cost of complaint processing by the agencies, and determined that, on average, it costs an agency \$1,700 to process the complaint from receipt to determination.<sup>8</sup> This flat rate does not cover the additional costs an agency incurs if a case proceeds beyond the determination stage to administrative hearing or a civil proceeding. If it did, the reimbursement amount per case would be much higher than \$1,700.

FHEO and the FHAP agencies handle thousands of complaints per year and each case is unique. To develop a payment schedule which reimburses the agency based on each activity performed in each case would be prohibitively expensive and would hinder budget forecasting. Accordingly, FHEO believes that a reimbursement schedule based on the average cost of processing each case is the most efficient method of reimbursement available.

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<sup>8</sup> The study examined eight activities associated with case processing and four categories of case closures. Unfortunately, there was insufficient data available then to include a cost estimate for enforcement activities, i.e., all those activities taking place after a cause determination has been rendered by the agency, including litigation expenses. These expenses could be expected to add substantially to the \$1,700 amount.

**1E. Review procedures for monitoring FHAP's to insure that deficiencies identified in state audits are corrected, and that FHEO uses Performance Improvement Plan (PIP) regulations to ensure satisfactory work performance by the FHAP's.**

Consistent with this recommendation, FHEO will review its procedures for monitoring the FHAPs. FHEO will issue policy guidance requiring the consistent receipt, review, and consideration of state audit reports. However, as stated above, the state audit reports are of limited utility to HUD while it is conducting its performance assessment. FHEO's performance assessment is based on many factors beyond those considered in the state audits.

With respect to monitoring complaints processed by FHAP agencies, FHEO reviews each case and determines eligibility for payment. This is evidenced by the number of complaints FHEO reactivated during FY 1997. Out of 3801 cases, FHEO withheld payment in 358, or nearly 10%.

Finally, while FHEO's authority to use PIPs is relatively new, FHEO will not hesitate to use PIPs if it uncovers management problems at agencies, and there is no evidence that the agency is taking steps to improve its performance.

**FINDING 2:****FHEO Did Not Always Ensure that Program Participants Complied with Civil Rights and Assistance to Handicap Regulations**

FHEO is responsible for ensuring that recipients of federal assistance comply with Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. The OIG review team examined 33 compliance reviews<sup>9</sup> from FHEO's California, Illinois, and Texas State Offices in an effort to assess how well FHEO was discharging these responsibilities.

The OIG report expressed two general concerns, based upon its sample review of the files. First, the review team found that several of the compliance reviews had not been completed. Second, the team found that, in some instances where FHEO had completed the review, FHEO did not take sufficient follow-up measures to ensure that the recipients took appropriate corrective actions.

**RESPONSE:**

Compliance reviews continue to be a very important compliance tool for FHEO. FHEO agrees that compliance reviews should be conducted in a timely manner and that corrective action should be taken when violations have been found.

FHEO has looked into the reasons why some of the reviews audited were incomplete and has moved quickly to address the problems identified.

Compliance reviews focus on recipients of HUD funding. A lack of clear protocols and meaningful cooperation between FHEO and the program funding offices resulted in delays in the collection of relevant information from within the Department and from the recipient. In addition, the same lack of cooperation led to less than effective remedies and monitoring actions.

The responsibility to ensure compliance with the civil rights laws is viewed by Secretary Andrew Cuomo as the responsibility of the Department as a whole. That is, each program funding office is responsible for ensuring that recipients of HUD funds will use the funds in ways that affirmatively further fair housing. As each office develops a Business Operating Plan, the necessary protocols will be developed to ensure that an FHEO compliance review of a HUD recipient will be conducted with the knowledge, participation and support of the funding office. Remedies necessary to

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<sup>9</sup> There were actually less than 33 program participants involved in the 33 compliance reviews that were audited. In some cases, FHEO conducted both Title VI and Section 504 compliance reviews of the recipient. In such cases, delays may be attributable to HUD's efforts to complete both compliance reviews or to achieve compliance with both program requirements at the same time. Moreover, any difficulties with the Housing Authority administration would delay completion of both program activities.

correct the violations will be developed by FHEO, with support from the program offices.

Generally, FHEO found the delays were attributable to case processing obstacles, such as the need for extensive file reviews or the need for repeated on-site visits. In addition, the need for analysis of complex legal matters contributed to the delay. In one case, FHEO had to suspend its compliance review to avoid conflicts with pending litigation brought by the Department of Justice.

FHEO also sought to determine the reasons for the delays in achieving corrective action by the recipients. FHEO found that Section 504 violations may take a long time to correct because any corrections must also comply with other Federal, state, and local laws. Moreover, some corrections require the allocation of special funding. In such cases, we did not issue a finding of non-compliance because the recipient was in the process of coming into compliance.

Finally, during the conduct of either a Title VI or a Section 504 review, and before the issuance of findings, the recipient may offer assurances of compliance. Such assurances may require a delay in the issuance of findings while the recipient makes good-faith efforts to correct the violation.

In addition to the above-cited explanations, FHEO specifically addresses the delays and deficiencies identified in the California, Illinois, and Texas cases below.

#### **CALIFORNIA**

The OIG team examined the case files from 20 compliance reviews, and noted incomplete reviews in 3 of the 20 and no corrective action in 7.

FHEO acknowledges the delays in issuing findings in the three compliance reviews. In one of them, the issuance of a final report is imminent. In the second, a finding of compliance is pending. In the third, a follow-up review to document additional concerns is necessary.

The report also cited seven cases needing corrective action. FHEO has achieved corrective action in four of them. In one of the three remaining cases, the recipient failed to reach a Voluntary Compliance Agreement (VCA) with FHEO and FHEO will soon issue a final finding of non-compliance. In another, the required corrective action involves construction, and that construction is now in progress. With respect to the third case, involving the San Bernadino Housing Authority, in December 1997, the Department issued a monitoring letter to the Housing Authority identifying the deficiencies to be corrected and is following up on it.

## ILLINOIS

The audit of the Illinois office found three out of the seven compliance reviews incomplete.<sup>10</sup> Although the audit did not name each such review, FHEO has moved to finalize the unfinished reviews pending in Illinois. A Letter of Findings against one housing authority<sup>11</sup> awaits legal clearance. FHEO will close a second review as a result of the settlement of independent litigation brought by the Department of Justice against the recipient. This settlement will ensure future correction of the deficiencies FHEO found. FHEO is currently negotiating a VCA with a third agency.<sup>12</sup>

## TEXAS

FHEO is moving forward to address the two cases the report identifies as requiring further attention from FHEO.

The first case is FHEO's compliance review of the Kaplan Housing Authority (KHA). The need to review the extensive data, with limited staff resources, contributed to the delay of the KHA compliance review. FHEO also reviewed the matter further to identify individual victims and ensure the protection of their rights. Despite these delays, on January 29, 1998, FHEO issued a Letter of Findings and proposed a Voluntary Compliance Agreement (VCA) on April 10, 1998. That VCA has just been signed by the KHA, and the Department plans to sign within the week.

The second case is the San Antonio Housing Authority<sup>13</sup>. The untimely departure of the Executive Director during the negotiations delayed FHEO action here.

## OIG NOTE

We have deleted this portion of the response because it is no longer applicable to the final report.

<sup>10</sup> The draft report named one of them, the Housing Authority for the County of Lake. The FHEO Midwest Office was aware of the situation there, but developments in Granite City and Cicero cases diverted limited resources from the immediate on-site review that was needed for Lake County. The cross-training of other Department cylinders envisioned by Management 2020 will help to make up for this shortage of personnel.

<sup>11</sup> Due to confidentiality considerations, it would not be appropriate to name this HA publicly at this time.

<sup>12</sup> FHEO issued the Letter of Findings for South Bend, Indiana on December 5, 1997. FHEO issued the Voluntary Compliance Agreement on February 3, 1998.

<sup>13</sup> The draft report alluded to two other cases needing further attention but did not name them.

## RECOMMENDATIONS

### **2A. Develop and implement a management tracking system to better manage caseloads and to ensure timely completion of compliance reviews.**

FHEO agrees that the existing system does not effectively systematize compliance reviews or allow adequate management of caseloads. However, FHEO is taking steps to develop a compliance review data collection and tracking system based on the TEAPOTS model, which will allow for systematic data collection and analysis. The new system will also track the dates and actions taken both in compliance reviews and in compliance monitoring. FHEO has requested additional resources to fully implement this new system.

### **2B. Provide consistent supervisory staff oversight to ensure that compliance reviews are being completed in accordance with established time frames.**

As with TEAPOTS, the proposed compliance-review management system will track the various steps in compliance reviews to ensure effective monitoring of time frames. Managers and Headquarters staff will be able to monitor case development by accessing the system, allowing them to intervene whenever the investigator or the field office is not meeting the prescribed time frames.

### **2C. Follow up on all active compliance reviews to determine what action, if any, is needed to complete the reviews in order to bring program participants into compliance.**

FHEO has followed up on the specific compliance reviews identified in the OIG report, and has initiated a process to track other compliance review activity and set time frames for completion. TEAPOTS has served as a model for this tracking system.

Also, FHEO will no longer initiate compliance reviews based on arbitrary Management Plan goals since these numbers often do not consider resource limitations or changing FHEO priorities. Instead, as a result of FHEO Management Reform, FHEO will not initiate a compliance review unless information received through its monitoring activities or other sources of information (i.e., FHEO field staff, Community Builders and other program areas) indicate a recipient may be in non-compliance. Further, FHEO will impose program sanctions on recipients who are in non-compliance with greater frequency than it has in the past, thus avoiding the sometimes long delays between investigation and enforcement.

### **2D. Develop a procedure to include the appropriate program office as party to the VCA so that the program offices can provide assistance in monitoring and enforcing the terms of the VCA.**

FHEO believes that it is not appropriate or necessary to bind other program areas to the VCA as a matter of routine. Where complex areas of non-compliance are identified, requiring program involvement in assuring remedial action, FHEO will seek

the assistance of the program area. FHEO has already begun using this approach. HUD's Management Reform Plan reinforces this close cooperation with other program areas a close working relationship with other program areas. Under the HUD Management Reform Business Operating Plan, all HUD program disciplines are expected to take actions to ensure non-discrimination and to affirmatively further fair housing in HUD programs, including participating in FHEO compliance activities.

**FINDING 3:****FHEO Needs to Better Administer Its Fair Housing Initiatives Program (FHIP)**

The Department's partnership with private fair housing organizations funded through the FHIP is critical to its fair housing enforcement efforts.

The OIG report expresses two concerns about FHEO's administration of the FHIP: the execution of the grant award process and the execution of responsibility for approving and disbursing funds.

**RESPONSE**

First, FHEO would like to emphasize that the General Accounting Office issued a report in March 1997 that concluded that FHIP funds are being used appropriately. Further, consistent with the HUD 2020 Management Reform Plan for increased accountability in HUD's programs, FHEO has established management controls to ensure that the program achieves cost-effective results and maintains the continued financial integrity of the program.

In addition to the controls already in place, FHEO is aggressively taking actions to strengthen the program. FHEO has assigned additional supervisory staff to its office which oversees the program; it has also developed automated information management systems; and it has established internal controls to ensure adherence to policies regarding fund disbursement.

FHEO welcomes OIG input on specific steps it can take to further strengthen the program. Following is FHEO's response to each of the two general areas of concern identified by the OIG review team.

**GRANT AWARD PROCESS**

The OIG report cites concerns about several aspects of the grant award process, each of which we address individually. Overall, we have an adequate documentary record to support all grant decisions.

Missing or Multiple Date Stamps on FHIP Applications

FHEO acknowledges that documenting the receipt of applications is critical in determining an applicant's eligibility. The report states that some of the FHIP applications that FHEO received did not have date stamps or showed multiple date stamps.

FHEO reviewed the applications according to the procedures in effect (see Attachment #1) and found that, in some cases, the staff person responsible for date stamping the applications had initialed the application and had written the receipt date by hand rather than using the date stamp. Although this practice was not used

consistently, FHEO deems these handwritten date stamps acceptable for purposes of determining the dates of receipt.

For each application cited as missing a date stamp, FHEO was able to determine the receipt date by looking at the date stamps for the numbered applications that preceded and followed the one missing the date stamp. A few applications had no date stamps at all because they had been submitted after the deadline and thus had been immediately ruled ineligible. In these instances, HUD documented the untimely receipt of the application by attaching the postmark from the envelope to the application. For the small number of applications which had more than one date stamp, FHEO accepted the earlier receipt date as the official date for the purpose of determining eligibility.

#### Missing Applications

The OIG report states that the review team was unable to locate some specific applications. FHEO conducted a search for those specific files and found they were located in: the grant officer's file (if selected for funding), the storage boxes marked "original files" (if not selected for funding), or the box labeled "ineligible applications." None of these applications were missing. Rather, they were filed among the grant officer's active files or stored as noted above.

#### Discrepancies Between Hard-Copy and Computerized Data

The audit report also notes that the stamped receipt date on the applications did not always match the receipt dates entered in the Grants Management System (GMS). This would be a significant concern if timeliness and eligibility decisions were determined through the GMS. However, any differences between the date-stamped SF-424's (application cover sheet) and the data in the Grant Management System (GMS) did not jeopardize the FHIP competition because FHEO relied on the date on the hard-copy materials to determine timeliness.<sup>14</sup>

The audit notes that HUD announced the awards for funding before FHEO had entered all the scores from the Technical Evaluation Panel (TEP) members into the computer. The audit also states that FHEO did not maintain documentation of the bases for the funding decisions. FHEO disputes this finding. FHEO maintained a full set of manual records to support the FY 1997 awards. It is true that under pressure, the GMS did not perform up to expectations, and FHEO chose to return to the use of manual records to support the award determinations rather than delay the awards until the system could be upgraded. However, FHEO was quickly able to switch to the use of manual records, such that the grant selection and award process was not jeopardized.

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<sup>14</sup> The receipt date was not a mandatory field for data entry. Where the date was not entered, the system provided a default date. This default date was generally was not the correct date of receipt. For future competitions, FHEO has required that staff enter the receipt date. FHEO has also corrected the GMS system so this problem does not occur again.

The basis for each award is clearly documented by the GMS data combined with the Technical Evaluation Program (TEP) Reports submitted to the Selecting Official, and other manual documents, including: budget analysis comments, eligibility checklists, letters of ineligibility, and a summary report for each eligible application. This documentation meets the requirements of the HUD Reform Act. Nevertheless, FHEO acknowledges that there is always room for improvement, and will take steps to assure that any missing data for the 1997 competition is entered into GMS by the appropriate TEP member within the next 30 days.

The audit report stated that the GMS did not contain documentation for the awards made in 1996. Some grant scoring information was deleted in error when the 1997 grant scoring information was being processed. This occurred because of a flaw in the design of the GMS software program.<sup>15</sup> FHEO and the Office of Information Technology have noted the program flaw and have begun to build in appropriate audit trails. FHEO has suspended use of the system until the audit trails are installed and the system is fully tested. Despite the deletion of data from GMS, FHEO provided the OIG review team access to both hard copies and a back-up system copy of the 1996 data. The hard copies and back-up system fully document the funding decisions. In so doing, FHEO met the requirements of the HUD Reform Act and ensured the integrity of the award process.

#### GRANT DRAWDOWNS

The draft report cites instances where FHEO staff approved drawdowns prior to grantees' completion of all required tasks. The draft report states that these premature drawdowns were due to: the payment schedule structure, the lack of checklist procedures for documenting receipt and review of deliverables, and the lack of routine supervisory review.

In December 1996, the Director of the Office of Fair Housing Initiatives and Voluntary Programs issued a memorandum to staff regarding appropriate procedures for approving and disbursing payments under the FHIP (See Attachment #2). This memorandum addressed the issue of partial payments and provided instructions on documenting all payments. The OIG report based its findings on a review of disbursements, most of which occurred prior to this directive. The attached December 1996 guidance substantially corrected the identified problem.

The OIG report concluded that the payment schedule for FHIP grantees did not provide a correlate grant dollar amount for each grant task, suggesting that there should be such a correlation. The basis for this finding comes from provisions of a HUD Handbook which is no longer valid. Also, these provisions apply only to contracts rather than to grants. With few exceptions, FHEO has utilized fixed-price grants consistent with the applicable HUD regulations governing grants administration.

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<sup>15</sup> The GMS was programmed to link scores to the names of the TEP members. Unbeknownst to FHEO staff, the design of GMS allowed some 1996 scores to be deleted when the corresponding names of 1996 TEP members were deleted at the start of the 1997 competition.

A key characteristic of a fixed-price grant is the lack of a direct relationship between the costs incurred by the grantee and the amount paid by HUD. Under fixed price grants, HUD pays the grantee for the completion of certain defined tasks or the achievement of a well-defined milestone<sup>16</sup>.

The payment schedule included in each grant agreement lists specific tasks the grantee must complete in order to receive the payment amount identified. This approach ensures that the grantee is completing necessary tasks toward the completion of the grant, that outlays are timely, and that grantees are compensated for their performance.

The OIG further concludes that FHEO grant monitors did not maintain a consistent form of documentation, such as a prescribed checklist, to indicate that FHEO had received the deliverables from the grantee and had found the work to be acceptable. Although such a checklist did not exist when the audit took place, FHEO staff has since prepared one (See Attachment #3). Also, in September 1996, FHEO distributed a Monitoring Guidebook which directed staff to document their monitoring reviews and provided guidance on ensuring that project tasks are completed consistent with the Statement of Work, the Fair Housing Act, and other administrative requirements. Moreover, in February 1997, FHEO Headquarters and Field staff engaged in grants management received FHIP Grant Administration Training, focused on reviewing and approving the various deliverables involving key grant tasks (administrative, educational, enforcement and organizational).

## RECOMMENDATIONS

### **3A. Take action to ensure that complete and accurate documentation is maintained to support the basis of the FHIP awards.**

FHEO believes that it has maintained documentation sufficient to justify the selection of awards in 1996 and 1997. In all instances, FHEO maintained a combination of automated and hard-copy documents. To further assure confidence in the integrity of the grant award process, FHEO has:

- Re-examined its procedures for accepting applications and will seek the guidance of the Office of the Chief Financial Officer to assure proper internal controls are in place;
- Secured administrative support for the evaluation process through contractual arrangements;
- Sought TEP members whose time will be totally devoted to this task so that reading and comments are timely and complete; and

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<sup>16</sup> See 24 C.F.R. Parts 84 & 85.

- Supplemented staff of the grants Office with other experienced FHEO staff.

**3B. Take action to ensure that the Grants Management System programming flaws are corrected.**

FHEO is updating the system to ensure the security of the data once grant awards have been made. This system will establish an audit trail to show all changes that are made during the evaluation and award phases. Additionally, many functions that were performed by various individuals will be limited to one System Administrator. These corrections are being undertaken in collaboration with the Office of Information Technology.

**3C. Restructure the grant agreement payment schedule to correlate the FHIP grant draw amount with the grant tasks.**

For reasons outlined above, FHEO does not believe that this recommendation is necessary or appropriate. The payment schedule is the appropriate vehicle to use in a fixed-price grant arrangement and is consistent with governing HUD regulations. The use of the attached checklist and greater supervision of staff will address the findings identified with respect to proper approval of drawdowns.

**3D. Develop and implement a checklist procedure to document the GTR's receipt, review and acceptance of the grant deliverables.**

FHEO has developed an expanded review checklist as guidance to GTR's to document the acceptance of grant deliverables for disbursing grant drawdowns. The checklist for payment drawdowns is attached; FHEO is still in the process of developing the checklist for grant deliverables. Be assured that FHEO staff will receive written and oral guidance for use of these checklists, documenting their receipt, review, and acceptance of grant deliverables.

**3E. Provide consistent supervisory oversight to the FHEO staff to ensure that established grant administration policies and procedures are followed.**

FHEO recently appointed a Director of the Division which administers FHIP. She has committed to put into place a tracking system which will facilitate program monitoring, and will also incorporate benchmarks into staff performance plans for 1998.

**FINDING 4:****FHEO'S Annual Reports to the U.S. Congress are not timely**

The OIG report cites the failure of FHEO to submit annual reports on the State of Fair Housing for Fiscal Years 1995 and 1996. It is true, as the report noted, that the 1994 report was delayed 14 months. The draft report attributes the delays to the failure to execute task orders timely and the lack of coordination in compiling information. The auditors concluded that as a result of these delinquencies in the submission of the annual reports, Congress may not be aware of FHEO's progress in eliminating discriminatory housing practices or obstacles it is encountering in furthering fair housing.

**RESPONSE**

FHEO is troubled by the delay of the annual report to Congress. FHEO is now developing procedures to ensure timely submission in the future. However, FHEO has advised Congress of its progress in eliminating discriminatory housing practices through a variety of means other than the annual reports, such as: testimony by principal FHEO staff in Congressional oversight hearings, budget submissions, and briefings for members of Congress and their staff. FHEO recognizes, however, that these regular updates are not substitutes for the annual report.

The 1995 Report to Congress has been published and provided to Congress. This Report includes information regarding the FHIP awards for 1994 and 1995. HUD expects to publish the 1996 Report and provide it to Congress within the next 30 days. It will include information regarding the 1996 FHIP awards. While FHEO finds any delay unacceptable, much of the delays in the issuance of these reports can be attributed to the limited availability of staff and contract funds, as well as the coordination and review required by other offices within the Department.

This year, the Department has consolidated all of its reporting requirements into a single report to Congress. This new collaborative annual report will be prepared and printed by September 1998. This report will include FHEO's 1997 Report to Congress.

FHEO is also now preparing a report on the 1997 FHIP awards and will provide it to Congress before the end of this fiscal year. FHEO will be providing this data in a report separate from the annual state of Fair Housing report because the two reports have different reporting dates. Section 561 of the Housing and Community Development Act of 1987, as amended in 1992, requires that HUD provide Congress FHIP data within six months of the end of the fiscal year. FHEO will also include the FHIP data in the 1997 State of Fair Housing report.

Also, in producing the Fair Housing Report and the FHIP report, FHEO must coordinate with other offices in HUD, including the Office of the Secretary and the Office of Public Affairs, to ensure that HUD provides Congress with a timely and accurate report.

## RECOMMENDATIONS

- 4A. Develop and implement written procedures and a timetable for effective coordination of information and timely completion of annual reports.**

FHEO is developing procedures and a timetable for improving the coordination of information and the completion of its annual reports.

- 4B. Implement a procedure to provide written notification to the U.S. Congress if the annual report deadline will not be met, along with the reasons for the delays.**

FHEO recognizes the importance of providing timely annual reports to Congress on the state of Fair Housing. We are currently preparing the FY 1997 Annual Report. This report will be included in a larger Departmental report, satisfying all of the Department's requirements for reports to Congress. FHEO's contribution to the combined report will be submitted in sufficient time to ensure that all statutory requirements regarding its annual report obligations are met.

## Appendix 2

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