

of the provisions of title VIII of the Civil Rights Act of 1968, HUD regulations issued thereunder and Affirmative Fair Housing Marketing requirements, a review may be undertaken to determine compliance with those requirements. The respondent shall be given at least five (5) days notice of the time set for any compliance review and the place or places for such review. The complainant shall also be notified of the compliance review.

§ 107.51 Findings of noncompliance.

(a) A finding of noncompliance shall be made when the facts disclosed during an investigation or compliance review, or other information, indicate a failure to comply with the provisions of E.O. 11063 or this part. In no event will a finding of noncompliance precede the completion of the compliance meeting procedures set forth in § 107.40.

(b) Determinations of noncompliance with E.O. 11063 shall be made in any case in which the facts establish the existence of a discriminatory practice under § 107.15(g).

(c) The existence or use of a policy or practice, or any arrangement, criterion or other method of administration which has the effect of denying equal housing opportunity or which substantially impairs the ability of persons, because of race, color, religion (creed), sex or national origin, to apply for or receive the benefits of assistance shall be a basis for finding a discriminatory practice unless the respondent can establish that:

(1) The policy or practice is designed to serve a legitimate business necessity or governmental purpose of the respondent;

(2) The policy or practice effectively carries out the interest it is designed to serve; and

(3) No alternative course of action could be adopted that would enable respondent's interest to be served with a less discriminatory impact.

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

§ 107.55 Compliance report.

(a) Following completion of efforts under this part, the Director of the Office of Regional FH&EO or a designee shall prepare a compliance report

promptly and the Assistant Secretary for FH&EO shall make a finding of compliance or noncompliance. If it is found that the respondent is in compliance, all persons concerned shall be notified of the finding. Where a finding of noncompliance is made, the report shall specify the violations found. The Director of the Office of Regional FH&EO shall send a copy of the report to the respondent by certified mail, return receipt requested, together with a Notice that the matter will be forwarded to the Assistant Secretary for FH&EO for a determination as to whether actions will be initiated for the imposition of sanctions. The Regional Director of the Office having jurisdiction over the programs involved and the Area Manager shall also receive a copy of the report and the notice of intention to refer the matter to the Assistant Secretary for FH&EO.

(b) The Notice will provide that the respondent shall have seven (7) days to respond to the violations found and resolve and remedy matters in the compliance report. At the expiration of the seven (7) day period the matter shall be referred to the Assistant Secretary for FH&EO.

(c) The complainant shall be sent a copy of the findings and compliance report and shall have seven (7) days to comment thereon.

§ 107.60 Sanctions and penalties.

(a) Failure or refusal to comply with E.O. 11063 or the requirements of this part shall be proper basis for applying sanctions. Violations of title VIII of the Civil Rights Act of 1968 or a state or local fair housing law, with respect to activities covered by the Executive order, or of the regulations and requirements under E.O. 11063 of other Federal Departments and agencies may also result in the imposition of sanctions by this Department.

(b) Such sanctions as are specified by E.O. 11063, the contract through which Federal assistance is provided, and such sanctions as are specified by the rules or regulations of the Department governing the program under which Federal assistance to the project is