

§ 107.65

provided, shall be applied in accordance with the relevant regulations. Actions which may be taken include: cancellation or termination, in whole or in part of the contract or agreement; refusal to approve a lender or withdrawal of approval; a determination of ineligibility, suspension or debarment from any further assistance or contracts provided, however, that sanctions of debarment, suspension and ineligibility are subject to the Department's regulations under part 24 of this title; and provided further, that no sanction under section 302 (a), (b) and (c) of E.O. 11063 shall be applied by the Assistant Secretary for FH&EO without the concurrence of the Secretary.

(c) The Department shall use its good offices in order to promote the abandonment of discriminatory practices with regard to residential property and related facilities provided with assistance prior to the effective date of E.O. 11063 and take appropriate actions permitted by law including the institution of appropriate litigation to provide such equal housing opportunities.

(d) In any case involving the failure of a lender to comply with the requirements of the Executive order or this part, the Assistant Secretary for FH&EO shall notify the Federal financial regulatory agency having jurisdiction over the lender of the findings in the case.

§ 107.65 Referral to the Attorney General.

If the results of a complaint investigation or a compliance review demonstrate that any person, or specified class of persons, has violated E.O. 11063 or this part, and efforts to resolve the matter(s) by informal means have failed, the Assistant Secretary for FH&EO in appropriate cases shall recommend that the General Counsel refer the case to the Attorney General of the United States for appropriate civil or criminal action under section 303 of E.O. 11063.

PART 108—COMPLIANCE PROCEDURES FOR AFFIRMATIVE FAIR HOUSING MARKETING

Sec. 108.1 Purpose and application.

24 CFR Subtitle B, Ch. I (4-1-99 Edition)

- 108.5 Authority.
108.15 Pre-occupancy conference.
108.20 Area office responsibility for monitoring plans and reports.
108.21 Regional office compliance responsibility.
108.25 Compliance meeting.
108.35 Complaints.
108.40 Compliance reviews.
108.45 Compliance report.
108.50 Sanctions.

AUTHORITY: Sec. 7(d), Department of Housing and Urban Development Act of 1965, 42 U.S.C. 3535(d).

SOURCE: 44 FR 47013, Aug. 9, 1979, unless otherwise noted.

§ 108.1 Purpose and application.

(a) The primary purpose of this regulation is to establish procedures for determining whether or not an applicant's actions are in compliance with its approved Affirmative Fair Housing Marketing (AFHM) plan, AFHM Regulation (24 CFR 200.600), and AFHM requirements in Departmental programs.

(b) These regulations apply to all applicants for participation in subsidized and unsubsidized housing programs administered by the Department of Housing and Urban Development and to all other persons subject to Affirmative Fair Housing Marketing requirements in Department programs.

(c) The term applicant includes:

(1) All persons whose applications are approved for development or rehabilitation of: Subdivisions; multifamily projects; manufactured home parks of five or more lots, units or spaces; or dwelling units, when the applicant's participation in FHA housing programs has exceeded, or would thereby exceed, development of five or more such dwelling units during the year preceding the application, except that there shall not be included in a determination of the number of dwelling units developed or rehabilitated by an applicant, those in which a single family dwelling is constructed or rehabilitated for occupancy by a mortgagor on property owned by the mortgagor and in which the applicant had no interest prior to entering into the contract for construction or rehabilitation. For the purposes of this definition, a person remains an applicant from the date of submission of an application through

duration of receipt of assistance pursuant to such application.

(2) All other persons subject to AFHM requirements in Departmental programs.

(d) The term *person* includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives or agents, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries and public entities.

[44 FR 47013, Aug. 9, 1979, as amended at 50 FR 9268, Mar. 7, 1985]

§ 108.5 Authority.

The regulations in this part are issued pursuant to the authority to issue regulations granted to the Secretary by section 7(d) of the Department of Housing and Urban Development Act of 1965, 42 U.S.C. 3535(d). They implement the functions, powers, and duties imposed on the Secretary by Executive Order 11063, 27 FR 11527 and title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3608.

§ 108.15 Pre-occupancy conference.

Applicants shall submit a Notification of Intent to Begin Marketing to the HUD Area Office having jurisdiction over the area in which the housing is located no later than 90 days prior to engaging in sales or rental marketing activities. Upon receipt of the Notification of Intent to Begin Marketing from the applicant, the FH&EO Division of the Area Office Division shall review any previously approved plan and may schedule a pre-occupancy conference. Such pre-occupancy conference shall be held prior to initiation of sales or rental marketing activities. At this conference, the previously approved AFHM plan shall be reviewed with the applicant to determine if the plan, and/or its proposed implementation, requires modification previous to initiation of marketing in order to achieve the objectives of the AFHM regulation and the plan.

(Approved by the Office of Management and Budget under control number 2535-0027)

[44 FR 47013, Aug. 9, 1979, as amended at 48 FR 20903, May 10, 1983]

§ 108.20 Area office responsibility for monitoring plans and reports.

(a) *Submission of documentation.* Pursuant to initiation of marketing, the applicant shall submit to the Area Office reports documenting of the implementation of the AFHM plan, including sales or rental reports, as required by the Department. Copies of such documentation shall be forwarded to the Director of the Office of Regional Fair Housing and Equal Opportunity by the FH&EO Division of the Area Office as requested.

(b) *Monitoring of AFHM plan.* The FH&EO Division of the Area Office is responsible for monitoring AFHM plans and providing technical assistance to the applicant in preparation or modification of such plans during the period of development and initial implementation.

(c) *Review of applicant's reports.* Each sales or rental report shall be reviewed by the FH&EO Division of the Area Office as it is received. When sales or rental reports show that 20% of the units covered by the AFHM plan have been sold or rented, or whenever it appears that the plan may not accomplish its intended objective, the Area Office FH&EO Division shall notify the Director of the Office of Regional FH&EO.

(d) *Failure of applicant to file documentation.* If the applicant fails to file required documentation, the applicant shall be sent a written notice indicating that if the delinquent documentation is not submitted to the Area Office within 10 days from date of receipt of the notice, the matter will be referred to the Director of the Regional FH&EO for action which may lead to the imposition of sanctions.

§ 108.21 Regional office compliance responsibility.

The Director of the Office of Regional FH&EO shall be responsible for determining whether an applicant's actions are in apparent compliance with its approved AFHM plan, the AFHM regulations, and this part and for determining changes or modifications necessary in the plan after initiation of marketing.