
CHAPTER 3. MANAGEMENT OF FHEO MONITORING ACTIVITIES

- 3-1. THE MONITORING PROCESS. Monitoring is an ongoing process of reviewing recipient performance which uses all available data in order to make judgments about grantee performance, and to secure remedial actions that may be necessary as a result of deficiencies revealed by such data. Data may be obtained through a review of the Grantee Performance Report (GPR) and other reports submitted to the Area Office, through visits to a locality, on-site reviews and contacts with civil rights and other community organizations.
- a. Information Sources in the Area Office. All data available in the Area Office should be used to track grantee performance. The sources of information available for review and analysis include:
- (1) The FHEO Community Profile;
 - (2) The Grantee Performance Report or other periodic reports (including reports required for action grants, the Secretary's Discretionary Fund, Section 312 loans and Urban Homesteading Programs);
 - (3) Approved applications and amendments;
 - (4) Grant contract(s) or agreement(s);
 - (5) Monitoring visit reports, copies of Area Office letters to recipients regarding past monitoring findings, and responses from the recipient indicating actions taken or to be taken relative to these findings (written responses, notes from Area Office meetings with grantee representatives, etc.);
 - (6) Citizen and administrative complaints, including grantee response to such complaints and Area Office findings relative to this response;
 - (7) Litigation;
 - (8) Annual in-house review;
 - (9) Request for payment on Letter of Credit and Status of Funds Report, SF 183, requests for release of funds, and credit reports;

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- (10) Housing Development files and computer printouts indicating locations of HUD-assisted housing;
 - (11) Housing Management files and computer printouts indicating racial occupancy in and locations of HUD-assisted housing;
 - (12) Other information available from the Economic and Market Analysis Division and the CPD Division which may be relevant to a grantee's community development programs.
 - (13) Area Office Selected Cities Review form (prepared by Area Office for the Headquarters CPD Selected Cities meetings), including the FHEO data prepared for FHEO participation in these meetings.
 - (14) FORMS/CPD Management Information System.

b. Other Sources of Information. In addition to the above, the following sources can provide important data with respect to the FHEO concerns in CPD programs:

- (1) Regional FHEO Complaint Investigation Findings, if any;
- (2) Regional FHEO Compliance Review Findings, if any;
- (3) Fair housing or other civil rights organizations active in the localities selected for monitoring; and
- (4) Organizations in CDBG neighborhoods.

3-2. PREPARATION OF ANNUAL MONITORING PLAN. One month after receipt of the Operating Plan, the Director, FHEO Division shall prepare and distribute a monitoring plan for the fiscal year based on the criteria in paragraph 3-3. The monitoring plan shall include the CPD programs to be monitored (e.g., CDBG, UDAG, Urban Homesteading) and shall identify the number and names of grantees to be visited for each program during each quarter.

a. Quarterly Schedule. A more detailed schedule shall be prepared for each quarter showing the following:

- (1) Specific grantees to be monitored;
- (2) Month in which the grantees are to be visited;
- (3) Whether visit will be as part of an Area Office team or conducted by FHEO staff separately;

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- (3-2) (4) Activities and specific FHEO areas within each program to be monitored by FHEO staff; and
- (5) FHEO staff to conduct the visit.
- b. Scheduling Factors. In accordance with CPD Handbook 6509.2 REV Chapter 2, paragraph 2-3(b), the CPD Division Director shall consult with the FHEO Division concerning the scheduling of monitoring visits. In preparing its own plan, the FHEO Division should consider CPD plans and is encouraged to participate as a member of an Area Office team on scheduled monitoring visits. However, FHEO staff also may conduct monitoring visits independently. In addition to the criteria in paragraph 3-3 of this Handbook, factors to consider in preparing the plan and quarterly schedules are as follows:
- (1) Application submission dates of grantees;
 - (2) Workload as determined by projected schedules for submission of applications for community development and/or housing programs;
 - (3) Availability of staff;
 - (4) Travel funds;
 - (5) Possibility of conducting concurrent monitoring of several programs; e.g., CDBG, Section 8 Existing Housing (Equal Opportunity Housing Plan), and UDAG;
 - (6) Coordination with scheduled Regional compliance reviews; and
 - (7) Coordination with scheduled CPD monitoring visits, where possible.
- c. Distribution of Annual Plan and Quarterly Schedules. No later than 30 days after receipt of the Operating Plan, a copy of the FHEO annual monitoring plan must be provided to the offices listed below. No later than 15 working days prior to the beginning of each quarter, a copy of the quarterly schedule should be provided to:
- (1) CPD Division Director;
 - (2) Other Area Office entities, as needed;
 - (3) FHEO Regional Director;
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- (4) Headquarters, FHEO Office of Management and Field Operations, Field Support and Evaluation Division.
- d. Quarterly Review of Annual Plan. Prior to the beginning of each quarter, the annual monitoring plan for the remainder of the year should be reviewed and amended if necessary. Copies of each quarterly plan shall be distributed as described in subparagraph 3-2c no later than 15 working days prior to the beginning of the quarter.
- 3-3. CRITERIA FOR SELECTION OF GRANTEEES TO BE VISITED. The FHEO Director shall select those grantees to be visited based on the current year's Operating Plan and the criteria set forth below. The criteria listed are not presented in order of priority.
- a. Grantees that were required during the current program year to submit a special assurance in addition to certification(s) of compliance with fair housing and equal opportunity requirements;
- b. Grantees that were subject to program adjustments or grant conditions relating to fair housing and equal opportunity requirements; or have unresolved FHEO monitoring findings relating to one or more aspects of their CDBG, UDAG or other CPD programs;
- c. Grantees that, based on residential patterns, demographic characteristics, history relating to civil rights matters, high level of participation in HUD programs or problems in specific program areas, should be visited by FHEO staff. Problems in program areas might include local assisted housing site selection practices or policies, displacement and relocation activities that heavily affect minority households, or patterns in city employment or in assisted housing that have resulted in UDAG threshold determinations of ineligibility.
- d. Grantees that are undertaking activities which are likely to have a significant impact on minorities;
- e. Grantees that have been identified by the Assistant Secretary for FHEO for concentrated FHEO activities; and
- f. Grantees that have administrative complaint(s) relating to fair housing and equal opportunity matters.

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- 3-4. PRE-VISIT PREPARATION. When FHEO staff is to participate in a visit to a CPD grantee as part of an Area Office Monitoring Team, the CPD Division shall be responsible for coordinating the pre-visit activities. When FHEO staff only is involved in a visit, the staff doing the monitoring is responsible for completing the pre-visit preparation. The Director, CPD Division, or his/her designee, should be advised of all scheduled visits.
- a. Persons doing the monitoring are responsible for reviewing HUD's grantee file, with special attention given to previous monitoring reports, grantee reports, approved applications and amendments, special assurances, contract conditions, and audit(s). It is useful to prepare a summary showing the following major items:
- (1) Status of actions taken to correct previous FHEO monitoring findings;
 - (2) Status of actions taken to carry out special assurances;
 - (3) Status of contract conditions;
 - (4) Status of any related law suits or anticipated litigation;
 - (5) Status of FHEO-related audit findings;
 - (6) Citizen and administrative complaints related to FHEO concerns;
 - (7) Status of Title VI or Section 109 Voluntary Compliance Plans, if any; and
 - (8) Any known or suspected problems related to FHEO concerns.
- b. All FHEO participants should be thoroughly familiar with the grantee file. An agenda should be established including the specific areas to be monitored by each team participant. Especially where FHEO is participating in an Area Office team visit, care should be taken to avoid duplication of each other's work and unnecessary use of grantee staff time.
- c. The visit should be arranged as far in advance as possible. The grantee should be advised of the areas to be monitored, the names of the HUD participants, the dates of the visit, who on the grantee's staff should be available, and which
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files or information will be reviewed. When conducting an on-site review independently, FHEO staff are responsible for pre-visit arrangements. Prior confirmation of the visit should be made with the grantee. If a letter is sent to the grantee, a copy should be provided to the Director, CPD Division.

- 3-5. MONITORING VISIT. When conducting a monitoring visit, the following steps should be followed by FHEO staff:
- a. Meet with appropriate local officials and explain the visit's purpose and schedule;
 - b. Review pertinent grantee files, including third party contractors' files, for required documentation and to verify the accuracy of information provided to HUD;
 - c. Interview appropriate members of the grantee's staff and, as appropriate, third party contractor staff;
 - d. Interview representatives of civic, civil rights, women and minority organizations to discuss the grantee's performance. (Examples of such groups include the National Association for the Advancement of Colored People, The Urban League, The Hispanic Federation local Human Relations Commissions, Legal Services and fair housing organizations, Citizens Planning and Housing Associations, League of Women Voters);
 - e. Visit project sites for a sample of the projects and activities selected initially for monitoring. Based on the examination of the grantee's files, interviews with grantee staff, and citizen interviews, the need for visits to other project sites may be indicated;
 - f. Discuss with the grantee any discrepancy among data resulting from the files examination, interviews, and visits to project sites; and
 - g. Offer to meet with the chief elected official and the grantee staff prior to concluding the visit for the purpose of sharing proposed monitoring findings and receiving grantee comments, if any.

- 3-6. CONSULTATION WITH GRANTEE PRIOR TO ISSUING MONITORING LETTER. It is essential that the conclusions reached after the monitoring visit are supported by accurate information. Therefore, prior to issuing the monitoring letter, the FHEO staff shall consult with the grantee to clarify observations and findings. The grantee should be afforded an opportunity to provide additional information or explanation of factors to be considered by FHEO staff prior to the development of monitoring conclusions and the preparation of the monitoring letter. Such consultation may be in the form of an exit interview, additional meetings or a telephone conversation.
- 3-7. DOCUMENTING MONITORING CONCLUSIONS. After consultation with the grantee, a monitoring letter to the grantee shall be sent reporting the results of the monitoring visit.
- a. Content of Monitoring Letter. The monitoring letter shall include the following elements:
- (1) Grant number of each grant monitored;
 - (2) Area Office staff who monitored;
 - (3) Date of visit;
 - (4) Scope of monitoring, including areas monitored (e.g., benefits to minorities, fair housing actions, grantee employment) and projects monitored (if not all projects were monitored);
 - (5) Monitoring conclusions (both positive and negative) supported by facts considered in reaching the conclusions;
 - (6) Specific corrective and remedial action required, if any;
 - (7) Due date of corrective and remedial action; and
 - (8) If appropriate, offer of technical assistance.

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- (3-7) b. Monitoring Letter Resulting from Area Office Team Visit in which FHEO Participates. When the monitoring visit was a team visit, a single monitoring letter should be sent to the grantee. A memorandum outlining FHEO monitoring conclusions and recommendations, if any, shall be sent from the FHEO Director to the Area Manager, Attention CPD Director. The

contents of the FHEO memorandum shall be incorporated into a single monitoring letter coordinated by CPD. Prior to the signature of the Area Manager, or designee, the FHEO Director shall be given an opportunity to concur in the letter. If the FHEO Director does not concur, the reasons for the nonconcurrence shall be documented in a memorandum to the Area Manager, with a copy to the CPD Director.

- c. Monitoring Letter Resulting from Visit Conducted by FHEO Independently. If FHEO staff conducted an independent Visit, the FHEO Director shall assign responsibility for preparing the monitoring letter. Prior to the signature of the Area Manager, or designee, the CPD Director shall be provided an opportunity to concur in the letter. If the CPD Director does not concur, the reasons for nonconcurrence shall be documented in a memorandum to the Area Manager, with a copy to the FHEO Director.
- d. Timing of Monitoring Letter. Follow-up should occur as early as possible, particularly if there are major findings. Generally, the monitoring letter should be sent 15 calendar days after conclusion of the monitoring visit. A longer period may be permitted for grantees with large programs or when several grantees are monitored on a single trip. In no case should the time between the visit and the date of the letter exceed 25 calendar days.
- e. Distribution of Monitoring Letters and Documentation. The FHEO Division shall receive and maintain copies of all correspondence relating to FHEO monitoring conclusions. Letters to grantees reporting the results of a monitoring visit must be maintained in Area Office Grantee files as well as within the FHEO Division.
 - (1) Distribution of Letters. Monitoring letters should be distributed as follows:
 - (a) Area Office Director of CPD Division.
 - (b) Regional Director of FHEO.

- (c) Headquarters, FHEO Office of Management and Field Coordination, where there is a need for corrective action in FHEO-related matters.
- (2) Other Documentation Related to Monitoring Letter. In addition to recording monitoring conclusions in a letter to the grantee, other significant actions and

decisions related to FHEO monitoring should be documented. This would include the following:

- (a) Any decisions by the Area Manager to override FHEO staff monitoring conclusions or recommendations for corrective and remedial actions. A copy of the memorandum explaining the override shall be forwarded to Headquarters, FHEO Office of Management and Field Coordination.
- (b) Updated data on the FORMS/CPD management information system to record FHEO monitoring visit, conclusions and follow-up actions.

3-8. FOLLOW-UP ACTION. The FHEO Division Director shall ensure that FHEO staff follow-up on any corrective action relative to FHEO monitoring findings. Follow-up activity shall be coordinated with CPD. If a single letter was sent following a team visit, the CPD representative will perform items "a" and "b."

- a. In the event that the grantee fails to meet a due date for corrective action, a telephone call is appropriate and shall be documented.
- b. If the grantee has not responded within 30 days after the date the grantee was required to take corrective action, a letter shall be prepared for signature by the Area Manager. The letter shall request the status of the required action and warn the grantee of the possible consequences of failure to comply as provided under applicable regulations. A copy of the follow-up letter shall be provided to CPD. If the follow-up letter is prepared by the CPD representative, a copy of the letter shall be provided to the FHEO Director.
- c. The grantee's proposed corrective and remedial action I responsive to areas of equal opportunity concern shall be reviewed by FHEO staff. The reviews are to be completed within fifteen calendar days of receipt of the grantee's proposed actions. If the FHEO review indicates that the action was less than satisfactory, a letter shall be prepared to the grantee which specifies needed additional

action and the due date for such action. If these additional actions are to be incorporated in a single letter coordinated by CPD Division, the FHEO Director shall be provided an opportunity to concur. If the FHEO Director does not concur, the reasons for the nonconcurrence shall be documented in a memorandum to the Area Manager, with a

copy to the CPD Director. The letter shall be signed by the Area Manager or designee. If the letter is prepared by FHEO Director, the Director of CPD shall be provided an opportunity to concur. If the CPD Director does not concur, the reasons for nonconcurrency shall be documented in a memorandum to the Area Manager, with a copy provided to the Director FHEO.

- d. A new due date may be established subject to good faith efforts by the grantee to resolve the findings. A follow-up visit may be necessary to verify corrective action or to provide technical assistance when the grantee has been unable to resolve or correct the finding.

3-9. CLOSING MONITORING FINDINGS. The FHEO Division shall receive and maintain copies of all correspondence relating to FHEO monitoring findings. When review of documentation of grantee corrective action indicates satisfactory action, a letter shall be prepared from the Area Manager to the grantee stating that the findings are closed. In the CDBG and UDAG programs, the date the finding was cleared shall be recorded in the FORMS/CPD system.

3-10. MONITORING ACTIVITIES TRACKING SYSTEM. A system for tracking the status of FHEO monitoring activities must be established by the FHEO Division. In addition to serving as a management tool for the FHEO Division Director, the system will be the basis for periodic reporting which may be requested by Headquarters. The FORMS/CPD management information system can be used as the tracking system. The Area Office FHEO Monitoring Activities Tracking System, maintained by the FHEO Division shall contain as a minimum the data elements listed below.

- a. Grantee name.
- b. Grant number.
- c. Date of FHEO monitoring.
- d. Type of FHEO finding.
- e. Positive finding(s).

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- f. Type deficiency(ies).
 - g. Type of action(s) taken.
 - h. How resolved.

3-11. COORDINATION OF AREA OFFICE MONITORING AND REGIONAL OFFICE COMPLIANCE ACTIVITY. Area Office FHEO monitoring activity and Regional Office compliance activity are based on the same legal authorities; however, there are significant differences in the purpose and in the corrective and remedial actions which may be taken as a result of monitoring and as a result of compliance findings. Information gained as a result of monitoring activity may result in compliance activity; information gained as a result of compliance activity may generate Area Office monitoring activity. Close coordination between the Area Offices and Regional Offices is necessary.

- a. The purpose of Area Office FHEO monitoring activity is set forth in paragraph 1-1(a), (b) and (c). Corrective and remedial actions which may be taken based on FHEO monitoring findings are those programmatic actions authorized by HUD regulations applicable to the individual programs listed in paragraph 1-2. Types of corrective and remedial actions are discussed in Chapter 6. Information gained as a result of monitoring may be referred to the Regional Office of FHEO for possible compliance actions. Referral to the Regional Office for a compliance review shall not substitute for action by Area Office FHEO.
- b. Monitoring by the Area Office FHEO staff is carried out pursuant to the Secretary's application and review responsibilities under the requirements of Section 104 of Title I of the Housing and Community Development Act of 1974. Regional Office FHEO compliance reviews carry out the Secretary's responsibilities, as delegated to the Assistant Secretary for Fair Housing and Equal Opportunity, to enforce through compliance procedures Title VI of the Civil Rights Act of 1964, Section 109 of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, Section 3 of the HUD Act of 1968, the Age Discrimination Act of 1975 and the Equal Employment Opportunity clause of grant agreements. Where there is a finding of apparent non-compliance, the Regional Director of FHEO seeks remedial action through negotiated compliance agreements. If voluntary compliance efforts fail, an administrative hearing follows. After a hearing, compliance findings may result in suspension or terminations of Federal

(3-11) financial assistance, referral to the Attorney General with a recommendation for civil action, including mandatory or injunctive relief, as well as other remedies provided in 24 CFR 570.912 or 570.913 for CDBG and UDAG programs.

- c. The Regional Office Director of Fair Housing and Equal Opportunity should be advised when FHEO monitoring has resulted in findings of nonconformance with Title VI, Section 109, Equal Employment Opportunity clause of the Grant Agreement, Section 3 of the HUD Act of 1968, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; or the Age Discrimination Act of 1975 (see Chapter 2 for a description of these requirements). A copy of the FHEO monitoring findings, and supporting data, should accompany a referral memorandum to the Director, Regional FHEO. Careful documentation relating to all such findings is of critical importance, as it can greatly assist the Regional FHEO Compliance staff in determining whether to conduct a compliance review and which activities to target if a review is conducted.
- d. The Regional Director, FHEO shall provide the Area Manager and the Area Office FHEO Director with a copy of the annual compliance review plan. Prior to conducting an on-site compliance review, the Regional Director FHEO may request that the Area Office provide copies of, or access to, such documentation as the approved application, the application approval letter, special assurances and conditions, if any, the Grantee Performance Report in the CDBG program, the Quarterly Progress Report in the UDAG program, monitoring reviews and monitoring letters.
- e. The Regional Director, FHEO shall provide the Area Manager and the Directors of FHEO and CPD with a copy of the letter to the grantee regarding conclusions from a Regional FHEO compliance review.