

CHAPTER 3. FHAP COMPREHENSIVE FUNDING APPROACH.

3-1. OVERVIEW. The FHAP Comprehensive Funding Approach (CFA) provides noncompetitive support to State and local fair housing agencies for their complaint processing efforts. An incentive funding category within the CFA also provides funding for specialized fair housing projects. This program's final rule was published May 9, 1989, as 24 CFR Part 111, effective June 19, 1989. It replaced the FHAP competitive and noncompetitive components with a single noncompetitive funding approach. The CFA is administered by Regional FHEO Offices. Funds are provided through a Cooperative Agreement. There is substantial HUD involvement in the implementation of all aspects of the Agreement. This chapter describes the process of soliciting applications, determining funding levels, application approval procedures, and obligating funds.

3-2. ELIGIBILITY CRITERIA. Threshold eligibility requirements for agency participation are established by 24 CFR Section 111.107. An agency must meet the following criteria:

- A. A State or local fair housing law administered by the agency must be certified as substantially equivalent under the Fair Housing Act or the Department must have entered into an agreement for interim referral of complaints. Agencies that enter into agreements with the Department as interim agencies for referral of complaints subsequent to the September 13, 1988 enactment of the Fair Housing Amendments Act of 1988 are eligible for capacity building funds only;
- B. The agency must have executed a written Memorandum of Understanding with HUD which, at a minimum, describes the working relationship in force between the agency and the Department. An Interim Agreement in accordance with 24 CFR Section 115.11 may constitute such a Memorandum of Understanding;
- C. The agency must demonstrate procedures acceptable to HUD for cooperating with other FHAP funded agencies having concurrent jurisdiction;
- D. The agency must not unilaterally reduce the level of financial resources currently committed to fair housing complaint processing. Budget and staff reductions caused by legislative action outside the control of the agency will not, alone, result in a determination of ineligibility. However, HUD will take such actions into consideration in assessing the ongoing viability of an agency's fair housing program; and

- E. The agency must participate in training sponsored by HUD and designed in consultation between HUD staff and agency representatives to provide uniform skills and technical

knowledge.

- 3-3. FUNDING CATEGORIES. The length of an agency's participation in FHAP determines the category of funding which it is eligible to receive. For the first two years of participation in the program, agencies are eligible for Capacity Building funding. Thereafter, they are eligible for Contributions funding. Funding levels for both categories are announced annually in a Notice of Funding Availability (NOFA) published in the Federal Register.
- A. Capacity Building. This type of funding is limited to agencies seeking support for their first or second year of participation in the FHAP. The Capacity Building Agency will receive a fixed amount of funding annually. Agencies must submit acceptable applications to receive these funds.
- B. Contributions. This type of funding is limited to agencies beyond their second year of participation in the FHAP. The funding is available in the following three categories:
1. Training. Contributions agencies will receive the same amount of financial support for HUD-sponsored or approved fair housing training, subject to participation by a requisite number of persons in such training. (The regulation does not require the submission of an application).
 2. Complaint Processing. Contributions agencies will receive financial support for complaint processing based solely on the number of dual-filed housing discrimination complaints that were actually processed by an agency. In order to qualify for support, a complaint must be processed in accordance with the Criteria for Processing established by HUD which are incorporated into Cooperative Agreements by reference. The total amount of funding for an agency will be determined by the agency's prior fiscal year complaint processing performance.
 3. Incentive. Contributions agencies that meet additional criteria for incentive funding may apply annually for incentive funds describing the activities that would be of benefit to their respective jurisdictions. The funding to be received will be based on the population served by the jurisdiction. Agencies must submit an acceptable application to receive these funds.
(See paragraph 3.9E)

- 3-4. ADDITIONAL AGENCY ELIGIBILITY CRITERIA FOR THE INCENTIVE COMPONENT. In addition to the criteria outlined in paragraph 3-2, contributions agencies must meet additional performance criteria to be eligible for incentive funds. Applicants must show that they have accomplished the following during a twelve (12)

consecutive month period. The twelve (12) consecutive month period will be designated by HUD annually through the Notice Of Funding Availability (NOFA). An agency must have:

- A. Processed a stated minimum number of dual-filed complaints. The number of complaints to be processed will be identified in the NOFA. States and localities will be required to process a separate minimum number of complaints. To be considered a processed complaint, the complaint must be cognizable under the Fair Housing Act, accepted by the Regional Office, and have met the processing requirements under the Cooperative Agreement;
 - B. Submitted vouchers for the prior year of noncompetitive FHAP funding in a timely manner. To be timely, a voucher must be received by Regional Office within 15 days of due date prescribed in the funding instrument. The date stamp by Region will be used for determining the date of submission;
 - C. Processed complaints in a timely manner;
 - D. Conducted comprehensive and thorough investigations of dual-filed complaints; and
 - E. Spent (as certified by the head of the agency) during the agency's most recently concluded fiscal year, a certain percentage of its funds that are not Federal funds in support of fair housing activities. This portion must be no less than the minimum percentage, as determined by HUD and set forth in the NOFA, of all funds expended by the applicant for fair housing activities.
- 3-5. INTENT TO APPLY. HUD may request that Contributions Agencies submit a statement of intent to apply for incentive funds along with a copy of the agency's fair housing budget from the previous year prior to the issuance of the annual NOFA. Such a request will help HUD determine the appropriate formula for incentive funds. Agencies that fail to provide the requested information within the prescribed time frames, set forth in the HUD generated correspondence, may be denied incentive funds. A statement of intent will not be required from agencies that are not eligible for or that elect not to receive incentive funds.

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- 3-6. NOTICE OF FUNDS AVAILABILITY (NOFA). Solicitation of applications funding is announced through a NOFA which describes the program objectives, eligibility requirements, and award terms and conditions (Appendix 10). The NOFA:
- A. Applications will be available immediately after the NOFA is published;
 - B. Describes eligibility criteria, Method for distributing funds,

bases for determining levels of funding for each funding category, and application and award procedures;

- C. Establishes the unit value of a processed complaint, the capacity building and incentive funding levels, and the amount of funds that will be provided to support participation of contribution agencies in HUD-sponsored training;
 - D. Establishes, for incentive funding, the minimum number of complaints that must have been processed, the time period this covers, and the percentage of non-Federal resources for fair housing that the jurisdiction must have supplied in order to qualify for incentive funds; and
 - E. Announces the availability of application kits to eligible State and local fair housing agencies. Agencies eligible to receive capacity building or incentive funding must submit information required in the application kit.
- 3-7. APPLICATION KIT. An application kit consistent with the NOFA is prepared by the Grant/Cooperative Agreement Officer (Regional FHEO Director) and mailed to potential applicants eligible to apply for Capacity Building and Incentive funds (Appendix 11).
- A. To ensure uniformity nationwide, Headquarters prepares a model application kit and provides it to the Grant/Cooperative Agreement Officer (G/CAO) in each Region for his/her use in developing the kit.
 - B. The G/CAO inserts the solicitation number, the Regional Office address, the phone number including the TDD number for inquiries regarding the solicitation and the place designated for receipt of applications. The G/CAO also signs the cover letter.
 - C. In the application kit, the G/CAO completes the instructions for the Standard Form (SF) 424 (Appendix 12a) by inserting, for each potential applicant, the category of funds for which they are eligible to apply and the maximum amount. A copy of this page, showing the agency's name at the top, should be

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retained in the G/CAO solicitation file. The G/CAO completes all items on the SF 424, Attachment B, which are the same for all applicants. These items are:

1. Item 1 is "Non-construction";
2. Item 8 is "New";
3. Item 9 is "DHUD", with the name of the Regional Office;

4. Item 10 is "14.401" for the FHAP CFA;
 5. Item 11 is "FAIR HOUSING ASSISTANCE PROGRAM
"CAPACITY BUILDING () OR INCENTIVE ()"; and
 6. Item 16 is "No". This program is not covered by E.O.
12372.
- D. When the NOFA is issued, the G/CAO dates the letter and inserts the due date and time required for receipt of applications on pages 1 and 2 of the cover letter to the kit.
- E. The complete kit consists of the following:
1. Cover letter from G/CAO stating the solicitation number, inviting the submission of applications, giving the date and place for submission, and explaining the applicability of the Freedom of Information Act to applications for funding;
 2. Attachment A - Application Instructions and Conditions, which provide detailed instructions for the preparation of an application and budget, the submission requirements, and the award procedures;
 3. Attachment B - Application and Budget, SF 424 and 424A (Appendix 12). This form must be used by all applicants to apply for capacity building or incentive funding. Use of the SF 424 for this purpose has been approved by OMB;
 4. Attachment C - Assurances. All applicants for Federal financial assistance must certify that they will comply with select regulations, policies, guidelines and requirements, as they relate to the application, acceptance and use of the funds. This certification is SF 424B (Appendix 12b). An applicant must sign this certification for each award it receives;
 5. Attachment D - Certifications. All applicants must certify that they meet specific certifications required

by the FHAP program regulation at 24 CFR Section 111.111(e). They must also complete a Certification for a Drug Free Workplace (Attachment 12C) and Disclosure of Lobbying activities (Attachment 12D). The Disclosure of Lobbying activities are required for any grants, contracts or cooperative agreements exceeding \$100,000.

6. Attachment E - Sample Cooperative Agreement Provisions. All kits provide a sample of the provisions which will be included in the award document, including Appendix A : Statement of Work. This appendix is an attachment to the

Cooperative Agreement which sets out the specific work the agency must do.

3-8. APPLICATION PACKAGE.

- A. The application package for Capacity Building and Incentive applicants contains all information needed by a potential applicant. The package includes the NOFA, the Kit, the FHAP Regulation (24 CFR Part 111) and the Substantial Equivalency Regulation (24 CFR Part 115).
- B. When the NOFA is published, the G/CAO shall immediately mail an application package to all contributions agencies eligible to apply for incentive funds and to all potential first and second year applicants eligible to receive funds (capacity building agencies). Upon request, the G/CAO shall also send kits to an agency with laws which, on their face, provide substantially equivalent rights and remedies and have been published for comment in the Federal Register. The G/CAO shall maintain an accurate listing of the names and addresses of potential applicants to which kits were sent. That listing is made part of the official G/CAO file on the solicitation.
- C. Agencies which are entering their third year or beyond of funding do not submit funding applications for case processing and training funds. Those funding levels are determined by the number of cases actually processed in the prior 12 month period identified in the NOFA.
- D. For contributions agencies which are not eligible to apply for Incentive funds, the G/CAO prepares the Cooperative Agreements immediately upon publication of the NOFA, and implements the procedures outlined at the end of this chapter for placement of those awards.
- E. Additional funds may become available following the initial round of funding after publication of a NOFA, as a result of an agency's failure to apply. HUD may award these funds to an agency which received certification after a HUD-prescribed

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deadline, or to an agency that was determined to be ineligible for incentive funds at the time of application but that subsequently demonstrated its eligibility. Agencies meeting this criterion may be sent an application kit, but the cover letter should inform them that funding is dependent upon the availability of excess Capacity Building or Incentive funds.

- F. Citizens and organizations may wish to participate in the development of proposals for fair housing enforcement activities in their jurisdiction. While HUD does not mandate citizen participation, HUD does require that the fair housing enforcement agency must advise interested parties of its

intent to apply for FHAP dollars and specify how the funds will be used. Eligible agencies must, upon request, make available a copy of the funding application it submitted.

- 3-9. APPLICATION CONTENT. Each agency must submit an application in narrative form signed by the head of the agency. The application must include:
- A. A description of the applicant's proposed activities and objectives;
 - B. A schedule for completion and the estimated cost of each proposed activity;
 - C. Any additional information that may be requested in the NOFA;
 - D. All Capacity Building applicants must present justifying information the amount of funds requested, the need for the proposed activity and the number of fair housing complaints processed during HUD's previous fiscal year and;
 - E. All applicants for Incentive funds must include data from the agency's most recent completed fiscal year showing amounts of funds expended on the applicant's fair housing program and the amount spent from non-Federal sources, a statement of work for the tasks to be completed with such funds, and a budget.
- 3-10. ELIGIBLE ACTIVITIES UNDER THE CAPACITY BUILDING AND INCENTIVE COMPONENTS. The primary purpose of Capacity Building and Incentive funds is to support activities that produce increased awareness of fair housing rights and remedies. All proposed activities for funding must address, or have ultimate relevance to, matters affecting fair housing which are cognizable under the Fair Housing Act. Examples of activities considered to be within keeping of this mandate include, but are not limited to, the following:

- A. Activities designed to develop and implement outreach efforts designed to heighten public awareness of various forms of discrimination that are prohibited under the Fair Housing Act as well as fair housing rights and responsibilities;
- B. Activities that are designed to create, modify, or improve local, regional or national information systems concerned with fair housing matters;
- C. Activities designed to improve an agency's capability to ensure fair housing through new or redirected approaches to the agency's internal structure or compliance techniques;
- D. Activities designed to develop and conduct a testing and auditing program for specific protected classes or special

- market areas for fair housing enforcement or litigation;
- E. Activities which will identify new or subtle practices of housing discrimination, as well as designing ways to eliminate such practices;
 - F. Activities to address acts of violence and/or intimidation related to equal housing opportunity. These activities may also include the development of programs for prevention and response, technical assistance, and education;
 - G. Activities designed to coordinate fair housing enforcement efforts of governmental enforcement agencies with various community resources which have an impact on the prevention or elimination of discriminatory housing practices;
 - H. Technical assistance activities to enable agencies to work with private fair housing groups, educational institutions, real estate industry, members of other housing industry groups, and other private and governmental entities in the prevention and elimination of housing discrimination;
 - I. Activities designed to provide services to aggrieved individuals, consistent with rights and remedies afforded under applicable Federal, State and local laws that prohibit discrimination in housing;
 - J. Affirmative marketing activities to inform persons of housing opportunities available in government-assisted housing and the private fair housing market;
 - K. Activities designed to improve systemic discrimination investigations by State or local agencies, HUD or the Department of Justice;

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- L. Fair housing training for enforcement agency staff; and
 - M. Activities designed to create, modify or improve an agency's complaint information and monitoring capacity to make its system compatible with HUD's for the internal monitoring of fair housing complaint activity.
- 3-11. ASSISTANCE TO APPLICANTS IN PREPARING APPLICATIONS. The development of a good Capacity Building application is critical. Regional FHEO staff shall provide the maximum amount of assistance possible to potential capacity building applicants. This is done to ensure that the proposed usage of funds is based on a close examination of the needs of the jurisdiction and that the usage can be expected to result in an on-going capability to enforce the agency's fair housing law.

- A. Confirmation of Receipt. Within two weeks of sending the application kit to eligible agencies, the GTR should contact the agency to ensure that the kit was received and that all attachments were included. This contact should also determine whether the agency anticipates any problems which the Region could address.
- B. Agency Analysis of Trends in Housing Discrimination. Regional FHEO staff shall suggest to applicants that they secure data and analyze trends as they relate to potential housing discrimination in the jurisdiction and the agency's current capability. Types of information that may be helpful are:
1. Description of the population size and composition, breakdown of minority population by racial/ethnic groups, extent of non-English speaking residents and native language of such groups, projected short-and long-range population trends, and the number of persons with disabilities;
 2. Description of the residency patterns and trends by racial/ethnic group, areas of significant segregation, and transitional areas undergoing racial changes such as gentrification;
 3. Description of types and amount of housing available for rent and/or sale in the jurisdiction, to show the degree of scarcity of particular types of housing, areas which are buyer markets and areas which are seller markets;
 4. Description of the current staffing of the fair housing agency, including the composition by job title, sex, and

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racial/ethnic origin of its staff and bilingual capabilities, and staff with disabilities; and

5. Description of fair housing enforcement efforts, including statistics on the size of fair housing caseload, the number of housing complaints processed in the last twelve months, and other fair housing activities implemented by the agency.
- C. Agency Development of Fair Housing Program. After securing the above information, the agency should analyze the areas which need improvement in order to maximize the effectiveness of its law. The agency should then develop a list of needs to help in deciding how to use the Capacity Building or Incentive money. Such needs should consider all aspects of enforcement, including documentation of the extent and nature of housing discrimination, outreach, education, and agency capability to process cases. The Regional FHEO staff shall assist the agency, as necessary, in developing a fair housing program to

address the needs identified in these analyses.

1. Documentation of the extent and nature of segregation and housing discrimination is essential for securing the support needed to combat it. Appropriate documentation also enables the agency to develop solutions appropriate to the problems in the area. Sources of documentation include:
 - a. testing;
 - b. public hearings;
 - c. public school enrollment records;
 - d. census data and "windshield surveys"; and
 - e. police records of reports of violence and/or intimidation related to housing.
2. Outreach activities include dissemination of information a out fair housing rights and remedies.
 - a. Written materials that may be developed include brochures, pamphlets, posters, car cards, public service announcements and other publicity items. Bilingual outreach materials should be available for any sizeable non-English speaking population. Large print, braille, and tape recordings, is required for the sight-impaired.

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- b. The agency may also develop referral sources knowledgeable of the agency's law and complaint filing procedures. Such referral sources can be developed in all significant population groups and can include organizations for Blacks, Asians, Hispanics, Native Americans, women, disabled, other civil rights and fair housing groups, related public agencies such as the Welfare Department, the Mayor's/Governor's Office, the Public Housing Authority, and other private groups such as civic associations, churches and synagogues.
 - c. Outreach should be designed to consider the needs of the visually impaired and hearing impaired including TDD capability. All agency programs and services must be accessible to the disabled.
3. Educational activities may be developed for the public and agency staff. The agency may develop agendas and training materials to conduct workshops and seminars. It may also purchase equipment such as videocassette

recorders to facilitate the presentation of training.

- a. Training in fair housing should be available for community groups, the real estate industry, civil rights organizations, advocacy groups for the disabled, and all resources in a jurisdiction capable of impacting on segregation and discrimination.
 - b. The agency also needs internal training to ensure that staff responsible for all aspects of fair housing enforcement have the specific knowledge, skills, and ability to perform their duties effectively.
4. Case processing procedures are most useful if they are specific to fair housing. Close monitoring of case processing alleviates unnecessary delays and ensures that agency procedures are consistent with HUD's record-keeping and reporting requirements. Regulations, technical memoranda, handbooks, and other written guidance on fair housing should be used by the Regional Office to provide better and more uniform processing.

3-12. PREPARATION OF APPLICATION. After developing the ideas, and information suggested in paragraph 3-11, the agency should rank its needs in order to improve its capability to enforce its law.

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Then it should determine what resources are available to implement needed programs, including HUD's FHAP resources and public and private resources within the jurisdiction.

- A. Program Narrative Statement. Within the amount of resources available, the agency should develop a proposal to address the needs most crucial to an effective fair housing enforcement program. The Program Narrative Statement must be consistent with the level of funding which an agency requests. The statement should be specific, allowing the (G/CAO) to determine that the amount applied for is a reasonable cost projection.
- B. There are several special criteria which apply to Capacity Building Agencies.
 1. Capacity Building Agencies which propose to spend any money on processing complaints must justify the amount by its prior 12-month case processing activity. The amount applied for should not exceed the number of complaints expected to be processed multiplied by the per unit reimbursement level established for Contributions agencies. Unused money should be spent on activities that will expand the level of complaint activity.

2. Capacity Building applicants which intend to pay the costs of participation by agency staff in HUD-sponsored training at the National and Regional levels with Federal funds need to include that purpose and amount in their Program Narrative Statement and in their budget. The fixed amount to support the costs of training is not a separate component for Capacity Building Agencies. Budget justification for this money should be that the agency will use these funds to support its participation in HUD-sponsored training at national and regional levels.
3. The minimum number of persons to be trained can not be less than the number specified in the NOFA for Contributions Agencies. The amount reimbursed to an agency will depend on the number of persons trained during the period of performance of the Agreement, rather than the costs of training such personnel. However, in the event that the cost to the agency is less than the amount received from HUD, the agency must use those funds for activities related to fair housing.
4. Failure to apply for training money does not relieve an agency of the obligation to participate in the training.

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Participation is mandatory for all recipients of FHAP funds.

5. Capacity Building agencies are required to have a Complaint Monitoring and Reporting System that meets a minimum standard, as HUD plans to implement a computer network between the Department and equivalent agencies, using a personal computer-based system. Therefore, the applicant will need an IBM-compatible computer with at least 640K of RAM, at least 20 megabyte hard disk drive, a Hayes Compatible Modem with a 1200 Baud rate, and D-Base III. To the extent that the applicant already has this equipment available to its fair housing staff, it need not purchase duplicate equipment. Any equipment purchased with Federal funds at a unit cost in excess of \$5,000 will be considered U.S. Government property, on loan to the agency.

3-13. APPLICATION SUBMISSION REQUIREMENTS. An applicant must submit an original and two copies of:

- A. A SF-424, signed by an official authorized to bind the recipient and identifying the individual who is authorized to negotiate and accept all assistance provided the organization.
- B. A Program Narrative Statement describing the applicant's

proposed activities and objectives. The Statement should describe how the objectives are related to reasonable fair housing concerns for the applicant. Where the relevance to matters affecting fair housing is not obvious, the relevance must be explained.

- C. A schedule for completion of each task/activity;
- D. Signed Standard Assurances, SF 424B;
- E. Completed Drug Free Workplace;
- F. Signed certifications required by 24 CFR Part 111 (See Paragraph 3-14 below);
- G. For Incentive Funds applicants, information showing the agency's fair housing expenditures during its prior fiscal year and the amount from non-Federal sources; (For Capacity Building applicants the justifications are described in paragraph 3-12B above)

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- H. SF-424A Budget form containing data in Sections A, B, C & D; and
 - I. Summary of the development of the individual costs which is consistent with the activities proposed. The summary should contain an estimated cost of each proposed activity and include the basis for each cost listed.
- 3-14. CERTIFICATION. The FHAP regulation, 24 CFR Part 111, requires the following certifications:
- A. The applicant must certify that the application submitted is authorized under State or local law. The applicant must also certify that it has the legal authority to carry out the activities proposed within the application;
 - B. The agency must certify that it will adhere to a written agreement, either a Memorandum of Understanding (MOU) or an Interim Agreement, which governs all fair housing referral activity and complaint processing between that agency and the appropriate Regional HUD office.
 - C. Applicants, for incentive funding only, must certify that all budget information submitted is true and accurate. The applicant must also certify that a minimum percentage of the agency's expenditures for fair housing activities, in the most recent fiscal year, have been from non-Federal sources. That minimum percentage will be announced annually in the NOFA.
 - D. The applicant must certify that the agency will

abide by the Drug-Free Workplace and lobbying certifications.

3-15 APPLICATION MAILING REQUIREMENTS.

- A. The application should be sent or delivered to the G/CAO at the address specified in the kit. This will be the address of the Regional FHEO Director. The envelope should be marked DATED MATERIAL.
- B. Any application received at the office designated in the solicitation after the exact date and time specified for receipt will not be considered unless it is received before award is made and:
 - 1. It was mailed on or before 12:00 midnight on the application deadline date. In such cases, applicants must use registered, certified, or U.S. Postal Services Express Mail next day service - Post Office to Addressee,

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to substantiate the date of mailing. The only evidence to establish the date of mailing is the label and/or postmark on the wrapper or on the original receipt from the U.S. Postal Service. (The term "postmark" means a printed, stamped, or otherwise placed impression that is readily identifiable without further action as having been supplied and affixed by the U.S. Postal Service.) If neither shows a legible date, and the application is received after the date specified, the application shall be deemed to have been mailed late. Private metered postmarks (such as those from Federal Express or other courier companies) shall not be acceptable proof of the date of mailing; or

- 2. It was the only application received.
- C. Hand delivered applications must be received in the designated office by the application deadline date and time (documentation is the notation on the application wrapper of the time and date received by the designated office).
- D. Any modification of an application is subject to the same conditions as in paragraphs (B) and (C) above.
- E. Notwithstanding the above, a late modification of an otherwise successful application which makes its terms more favorable to HUD will be considered at any time it is received and may be accepted.
- F. Applications may be withdrawn by written notice or telegram (including mailgram) received at any time prior to award. Applications may be withdrawn in person by an applicant or

their authorized representative, provided their identity is made known and they sign a receipt for the application prior to award.

3-16. APPLICATION APPROVAL PROCEDURES. HUD considers an application approved for funding as of the date on which HUD's written offer, to enter into a Cooperative Agreement, is sent to the agency. The award is to be considered obligated when the Cooperative Agreement (Appendix 13) has been signed by the Cooperative Agreement Officer.

A. If the Regional Office of HUD finds deficiencies in the application, that office will notify the applicant, in writing, of all problems found, and request clarifications and corrections to be submitted within 20 days. If the applicant fails to respond within the twenty (20) day time frame, HUD may consider that the Agency to have elected to abandon or withdraw its application.

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B. If, after an Agency has attempted to correct an application's deficiencies, the Regional Office still determines that the application still contains deficiencies, the Agency may appeal the decision of the Regional Office to the Assistant Secretary of Fair Housing and Equal Opportunity.

C. The Assistant Secretary may reverse the decision of the Regional Office unless one or more of the following have occurred:

1. The proposed application includes ineligible activities or is otherwise deficient;
2. The application was not received within the time frame set forth in the NOFA;
3. The application did not include all of the required information requested in the NOFA or the application kit;
or
4. The application fails to provide the required materials or evidence necessary to support the proposed activities.

3-17. APPLICATION REVIEW. The G/CAO will ensure that the application meets the threshold eligibility requirements and the submission requirements in Paragraph 3-13 above.

A. The G/CAO will ensure that the narrative statement is reviewed to determine that:

1. The activities proposed for outreach, education, and other projects are consistent with the agency's statement

of need, the nature and extent of housing discrimination described, the population characteristics of the jurisdiction and that all outreach and education activities described are accessible to those with visual and hearing impairments;

2. The proposed activities can be expected to impact successfully on the problems identified;
3. Capacity Building Agencies have a sufficient volume of complaints to justify the amount requested for case processing;
4. Capacity Building Agencies which did not budget for the cost to attend HUD-sponsored training understand that they are still required to send at least the minimum

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number of participants and that agencies which budgeted for this cost provided a sufficient amount of funds to attend;

5. Capacity Building Agencies have proposed a Complaint Monitoring and Reporting capability that will be adequate to effectively track case processing and will be compatible with a HUD Personal Computer Network (or show they already have such a network);
 6. The budget is consistent with the proposed activities and does not exceed the amounts that the agency is eligible to apply for; and
 7. Any indirect cost rate is adequately justified. This must be in accordance with the requirements of OMB Circular A-87. The G/CAO should consult with the Office of Regional Counsel (ORC) for guidance.
- B. Subsequent to the initial review, the G/CAO may request additional data to clarify the application and modify it in accordance with the G/CAO's request for revisions to make its terms more favorable to the Government.
- C. After all requested clarifications have been received, the G/CAO will prepare and process a Cooperative Agreement in accordance with the procedures outlined below.
- 3-18. COOPERATIVE AGREEMENTS. In the CFA, funding is provided through firm-fixed price Cooperative Agreements. This means that upon satisfactory completion of the work, the recipient receives the negotiated amount, regardless of actual costs incurred. The recipient is required to comply with the Schedule of Articles of Award, the Statement of Work, and the Assurances. (Appendix 13)

- A. Cover Page of the Agreements. The cover page of the Agreement is the HUD-1044, Assistance-Award/ Amendment. The items on this HUD form are:
1. Assistance Instrument. This is a Cooperative Agreement.
 2. Type of Action. The original obligation is an award. Any subsequent change is a numbered amendment.
 3. Instrument Number. The unique number assigned by the G/CAO to that Agreement. The instrument number should

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not exceed 12 digits for Regions 1-9 and 13 digits for Region X. Headquarters establishes instructions to the G/CAO to ensure that all instrument numbers in the program are different. The numbering system provides for a unique number for each agreement as follows:

- a. The first two digits would be FF, to stand for FHEO, Fair Housing (with FC in the Community Housing Resource Board grants to stand for FHEO, CHRBS);
- b. The next three digits would be 201 through 210, to stand for Regions I through X. Region I would be 201, Region II would be 202, etc.;
- c. The next digit would be K, to stand for Cooperative Agreement. (G would be used for Grant and C for contract.);
- d. The next two digits would be the Fiscal Year of the NOFA; and
- e. The last four digits (five digits for Region X) would be assigned by the G/CAO to the funding instruments in his/her Region. Each Region would be given a series of 1000 numbers beginning with 1000 to 1999 and ending with 10000 to 10999. Each Region would use the first number, i.e. the number ending in 000, for the solicitation (RFA). Subsequent numbers would be assigned to the Cooperative Agreements. In Region I, 1000 would be the RFA number. 1001 would be the last four digits of the first Cooperative Agreement executed in Region I, 1002 would be the final digits of the second Agreement executed in Region I, etc. In Region II, the solicitation would end with 2000. 2001 would be the last four digits of the first Agreement executed in Region II, 2002 would be the final digits of the second Agreement, etc. The number must run consecutively. Do not use any spaces or

punctuation. An example of a number is:
FF201K892001.

4. Amendment Number. If the type of action is an amendment to an Agreement, this block shows which amendment it is, i.e. the first amendment to an Agreement is 1, the second is 2, etc. In an amendment, only the instrument number and those blocks in which there is a change need to be completed. The rest can show "NO CHANGE."

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5. Effective Date of This Action. This is the date on which the award or amendment to the award becomes effective. For agencies beyond their first year of noncompetitive funding, the award date is the day following the expiration date of their prior Agreement. For the first year of funding, the uniform funding cycle date of September 22 will be used if the applicant has received substantial equivalency or entered into an agreement for the interim referral of complaints and has submitted all clarifications required to make the application acceptable. Otherwise, the effective date of the award will be the date on which both the above conditions are met.
6. Control Number. This permits the G/CAO to assign a number internally to enable easier recordkeeping. The same Control Number can be used for each Agreement pursuant to the same NOFA or different numbers can be used.
7. Name and Address of Recipient. Use the mailing address for the recipient agency. The depository address for receipt of payments may be placed in the payment article of the Agreement or that article may reference the recipient's depository card on file in the RAD.
8. HUD Administering Office. The name and address of the G/CAO goes in this block.
9. HUD Government Technical Representative. Use the name and address of both the GTR and GTM.
10. Recipient Project Manager. Insert the name and phone number of the person in the agency who is the primary contact for the Agreement.
11. Assistance Instrument. For CFA, it is Fixed Price. (Type II is Cost Reimbursement.)
12. Payment Method. For CFA, it will either be the Check Reimbursement or the automated clearinghouse (wire

transfer) method.

13. HUD Payment Office. The name and address of the finance office in HUD that processes the payment of the voucher. This is the Regional Accounting Division.
14. Assistance Amount. The amount HUD provides is put on three lines: HUD Amount This Action, Total HUD Amount,

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and Total Instrument Amount. Recipient Amount is always -0-. For amendments, the original amount is put on the first line, "Previous HUD Amount." The increase or decrease is on the second line and the Total HUD Amount and Total Instrument Amount are then calculated and entered.

15. HUD Accounting and Appropriation Data.
 - a. Appropriation Number. This is the number or numbers of the appropriation(s) used to fund the Agreement. (Usually this will be only one appropriation number; however, in exceptional circumstances a Cooperative Agreement may be funded from a combination of two appropriations.) FHAP appropriation numbers always begin with 86, which stands for HUD, and end with 0144, which stands for FHEO funding program. The middle digits of the appropriation number, separated by a slash, show the year the money was appropriated and the fiscal year the appropriation expires. For example, 869/00144 would be the FHAP funds appropriated in FY 1989, which must be obligated by the end of FY 1990. The appropriation number(s) must be the same as the number(s) shown on the HUD-718 that established the reservation or reservation amendment for the project.
 - b. Reservation Number. This is the number the G/CAO used on the HUD-718 to request the reservation of funds prior to making the award.
 - c. Amounts Previously Obligated. For the initial award, this block is -0-. In amendments that change the total amount of the Agreement, this block shows the total already obligated in the original HUD-1044 and any amendments already in effect.
 - d. Obligation by this Action. For the initial award, this is the Total Instrument Amount. For amendments, it is the amount of the increase or decrease.
 - e. Total Obligation. This is the amount of the

origins award, plus any increases or decreases as they become effective. For CFA, it is the same as Total Instrument Amount in Block 14.

16. Description. This block further describes the award, what is incorporated in it, and the order of precedence

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between the schedule and the general provisions. In amendments, this block provides a detailed description of any changes made in the funding instrument. An example for a Contributions Agreement would say:

COOPERATIVE AGREEMENT FOR FAIR HOUSING ASSISTANCE PROGRAM
COMPREHENSIVE FUNDING: CONTRIBUTIONS, TRAINING, AND
INCENTIVE FUNDS

This agreement consists of the following, which is incorporated herein and made a part hereof:

- a. Cover Page HUD-1044 (12/78);
- b. Schedule of Articles;
Attachment A - Statement of Work
Attachment B - Criteria for Processing
- c. Administrative Requirements for Grants & Cooperative Agreements; and
- d. Assurances

ORDER OF PRECEDENCE: Notwithstanding any provisions of this agreement to the contrary, in the event of a conflict among any of the documents pertaining to the duties and responsibilities of the parties, the Statement of Work will take precedence over the Schedule of Articles.

17. Requirement to Sign. This block is checked whenever the recipient's signature is required to make the award or amendment effective. It is always required for the original award and substantive amendments such as changes in the scope of work or the agreement amount.
18. No Requirement to Sign. This block is checked when the recipient's signature is not required to make an award effective. It is usually checked when there is an administrative amendment, such as the name of the GTM.
19. Recipient. The recipient signs in this block whenever block 17 requires a signature. An original signature should be on three copies returned to HUD. Beneath the signature, the name and title should be typed and the

date shown.

20. HUD. The G/CAO's original signature goes in this block on all three copies of the award or amendment, even where

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no recipient signature is required. Beneath the signature, the name and title of the G/CAO should be typed and the date shown. The Regional Director should use the Title "Cooperative Agreement Officer."

- B. Articles of Award. The Schedule of Articles in the Capacity Building and the contributions agreements both contain the same basic provisions. Some of these provisions are modified, as appropriate, for the specific agreement. The provisions in the Schedule of Articles are:
1. Scope of Work (Fixed Price). Explains recipient responsibility in performance of work set out in the Statement of Work;
 2. Period of Performance. Establishes time provided to perform the work. If is 12 months from the effective date of the instrument;
 3. Inspection and Acceptance. States who is responsible for acceptance of products. All but the final products may be accepted by the GTM, if so delegated. The GTR is responsible for the final product;
 4. Conduct of Work. Explains that the GTR/GTM will monitor the technical effort but the G/CAO must authorize deviations from the Agreement;
 5. Instrument Amount, Payment, and Submission of Invoices. Describes the distribution of the award by categories of funding; sets out the date for submission of vouchers and amount per voucher; shows to whom the vouchers should be submitted by title, number of copies, and address; explains what should be reported and what added criteria applies; and, shows the address of the depository to which payments should be remitted;
 6. Use of Grant Funds. This article specifically provides that all funds must be used for activities that address or have ultimate relevance to matters cognizable under the Fair Housing Act. While this was previously a requirement of the FHAP regulation, it had not been included as a requirement in the funding instrument;
 7. Maintenance of Effort. The requirement that an agency must not unilaterally reduce the level of financial resources currently committed to fair housing complaint

processing has been added to the funding instrument. As in the use of grant funds, this has always been a requirement in the program regulation;

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8. HUD's Substantial Involvement. Wherever the funding instrument used is a Cooperative Agreement, HUD's substantial involvement in the review and approval of all aspects of the work must be specified in the Schedule of Articles. Involvement may include, but is not limited to, review and guidance in progress and upon completion of case investigations, special education and outreach projects, development and presentation of training, and participation in presentation of fair housing programs;
 9. Use of Consultants. Requires that payments to consultants shall not exceed the equivalent of the daily rate paid to GS-18 Federal employees;
 10. Publications and News Releases. Defines publications, provides for government ownership of official work products, sets out prepublication approval procedures, sets out procedures to ensure that all publications are accessible to the disabled, requires acknowledgement of the Federal funding, disclaimer of Federal responsibility for accuracy or interpretations and requires the recipient to provide copies of all news releases and public announcements to the GTR;
 11. Reproduction of Reports. Establishes the maximum number of copies and maximum number of pages that can be reproduced of reports, data or other written materials required by the Agreement;
 12. Government Property. Contains a list of all equipment acquired for the project with Federal funds and provides that the G/CAO will give instructions on the disposition of the equipment at the conclusion of the Agreement. (Only for Agreements in which equipment to be purchased exceeds \$5,000 in value.);
 13. Flow Down Provisions. Requires recipient to include provisions to carry out the purposes of the Agreement in all contracts and subcontracts; and
 14. Disputes. Authorizes G/CAO to make final decisions on disputes, and establishes procedures and time limits for appeals.
- C. Statement of Work. This portion of the agreement establishes.
1. General Requirements. The general requirements on the

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and enforcing the recipient's fair housing law in accordance with its Memorandum of Understanding;

2. Training. The number of persons who must participate in the HUD-sponsored training and the per unit deduction for not meeting the minimum number of persons to be trained;
 3. Capacity Building. The agreement to develop an adequate complaint processing capability, to adequately process housing discrimination complaints and to implement capacity building activities set forth in the application and in the list of product deliverables;
 4. Contributions. The agreement to adequately process housing discrimination complaints in accordance with the Criteria for Processing and to augment its fair housing enforcement efforts through outreach, education, training and technical assistance;
 5. Incentive Funding. The agreement to utilize Incentive funds in accordance with its application and in the list of product deliverables;
 6. Complaint Monitoring and Reporting System. For the one year in which a Complaint Monitoring and Reporting System is funded, special requirements for implementation of the CMRS; and
 7. Product Deliverables and Due Dates. This should be the most significant products which GTR and G/CAO deem important to receive in order to assure that the recipient has satisfactorily completed all of the required work. For materials which will be disseminated, this should include a draft of the material as a deliverable to ensure that the content is approved prior to making copies in quantity.
- D. Administrative Requirements. This portion of the Agreement sets forth the uniform administrative requirements reflected in 24 CFR Part 85 Intergovernmental Review of DHUD Programs and Activities pertaining to post award requirements.

3-19 NOTIFICATIONS.

- A. Congressional. The GTR shall coordinate with the Assistant Secretary for Legislation and Congressional Relations, all issues requiring notification of assistance awards. In Regional Offices, the coordination may be done through the Public Information Officer.

- B. Unsuccessful Applicants. The G/CAO shall promptly notify, in writing, each applicant whose application will not receive an award. The notice shall briefly explain why the application was not selected and shall offer the unsuccessful applicant an opportunity for a more detailed explanation upon request.
- 3-20. REGIONAL FUNDS ASSIGNMENT. Based on levels of funding which the Assistant Secretary determines to publish in the NOFA, Headquarters will secure from Regional Offices the information needed to determine the amount of funds each Regional Office will require in order to award funds to all eligible applicants. Those funds will be assigned to Regional Offices using a HUD-185 (Regional Funds Assignment Form) (Appendix 14). A separate HUD-185 will be used for each appropriation year. In the event that a Region receives part of its assignment from the previous year's appropriation, it should use those funds for awards which will definitely be obligated prior to the end of the fiscal year. Otherwise, such funds will expire.
- 3-21. PROCESSING COOPERATIVE AGREEMENTS WITH CONTRIBUTIONS AGENCIES FOR CASE PROCESSING AND TRAINING ONLY.
- A. Establishing Funding Levels.
1. Funding levels for the Contributions agreements will be based on the number of cases actually processed in the prior 12 month period identified in the NOFA. It is essential that after the GTR has identified this number for each agency, the G/CAO check with the agency to get its agreement on that number so that the agreement prepared by the G/CAO will be accurate and the funds reservation can be accurately made. In instances where there is a dispute between the GTR and the agency, resolution of differences should be high priority. After reaching agreement on the number of cases processed in the prior 12 month period, the Cooperative Agreement funding level should be calculated in accordance with the amounts provided in the NOFA for case processing. The training allocation is the same fixed amount for each agency and is also provided in the NOFA. The sum of the two amounts is the funding level.
 2. In the event that the number of cases is disputed, the agency should be advised to sign an agreement based on the undisputed number of cases. If the subsequent resolution is in favor of the agency, the G/CAO would prepare and execute an upward modification of the award.

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B. Reserving Funds. A funds reservation must be made for each Cooperative Agreement prior to sending an offer of award to the applicant. The Regional Director designates a source officer to prepare, record and monitor reservations requests, and provide the Regional Accounting Division (RAD) with a copy of the source officer's signature. The source officer reserves funds by completing a HUD-718 (Funds Reservation and Contract Authority) form and submitting it to the RAD (Appendix 15). The RAD will certify on that form that the funds are available, sign and date the form, and return it. In preparing the HUD-718, the source officer will complete the blocks identified below.

1. Name and Address of Project Identification. This is the name and address of the recipient agency. Do not use the name of a sub-contractor, even if such sub-contractor will handle most aspects of complaint processing.

Project Contract, IAA or Purchase Order Number. This is the Cooperative Agreement Number assigned the G/CAO, in accordance with the instructions above.

2. Date of Preparation. The date the request is prepared.
3. Reservation Number. The first part of this number is FHEO, to identify the office. The second is the Region. The third is the fiscal year and the fourth is the numerical order of the reservation. For example, the first reservation prepared by the source officer for the FHAP in Region I is FHEO-I-89-1001. (Reservations for State and local, CHRBS and FHEO contracts would use the same numbering system, and a log should be maintained to ensure that each reservation has a different number.)
4. Name and Title of Source Officer. This is the name and title of the source officer in the Regional FHEO Office.
5. Funding and Accounting Classification.
 - a. Appropriation or Fund Symbol. This is the appropriation from which the reservation is requested. There can be more than one appropriation number on the form, but each number must be on a separate line. If there is more than one appropriation used for the funds reservation, the

amount being reserved from each appropriation should be shown.

- b. Cost Center Code. For the FHAP CFA, the Cost Center Code is TIN. For Type II, it is TIC.)
- c. Sub-object Class Code. This is not applicable to FHAP Agreements. It is only used in reservations for salaries and expenses and working capital funds.
- d. Reservation Outstanding. This is the amount of any reservation previously made for the appropriation under this specific reservation number. For an initial reservation, it is always blank. If it is an amendment, the amount is the amount shown in column (f) of the previous HUD-718. (Appendix 15)
- e. Increase (Decrease), This is the amount being reserved in an initial reservation. If there is a change in any amount already reserved under a particular reservation number, the amount of the change is put here. Decreases are shown by putting the amount in parenthesis, e.g. A decrease of \$1,000 is (\$1,000).
- f. Net Amount. This is the total of (d) and (e) above.

In the Funding and Accounting Classification blocks, the same information should be completed for each line where a different appropriation is listed.

- 6. Purpose of this Action. The appropriate boxes are checked. Where it is an increase/decrease, an amendment number should be used, following the same numbering system used for reservations.
- 7. Description of Project. All reservations can use: "Funds to assist State and local agencies in processing Title VIII complaints."

Contract Conditions. Agencies must be certified by HUD as substantially equivalent or have agreements for interim referral of complaints.
- 8. Date/Signature of Source Officer. This is signed by the person designated as source officer.

9. Date/Title/Signature of Authorizing Official. This is signed by the Regional FHEO Director.

After all the above blocks are completed, the form is sent to the RAD for certification that funds are available and recordation of the reservation. In the event that there are insufficient funds available, the G/CAO should immediately contact the Assistant Secretary for Fair Housing and Equal Opportunity to request an increase in the assignment.

- C. Congressional Notification. After the RAD has certified that the funds are available, the G/CAO should request that the Office of Legislation and Congressional Relations (OLCR) notify the appropriate Members of Congress of the anticipated award. The G/CAO should provide OLCR with the name, address and phone number of the recipient, the purpose of the award and the amount of the award, and request a release date. This is provided on a Congressional Notification Form (HUD 416.2). The date of the request and the release date should be recorded on the form and the form should be retained in the Cooperative Agreement file. No offer should be made until a release date is secured (Appendix 16).
- D. Offer to Agency.
 1. The G/CAO will prepare a Cooperative Agreement in accordance with the amounts calculated for case processing (based on cases actually processed in the prior 12 month period announced in the NOFA) and established for training support, completing all portions of the Cooperative Agreement that vary by agency.
 2. The G/CAO should send four (4) copies of the Agreement to the Recipient, with a letter explaining how the agreement amounts were arrived at and including a copy of the NOFA, the SF 424B, Standard Assurances, the Drug Free Workplace Certification, and the Certifications required by 24 CFR Part 111. The letter should:
 - a. instruct the recipient to sign and return three (3) copies, holding the 4th copy until it receives an official executed copy from HUD;
 - b. include the G/CAO name and address to which the signed agreements should be sent, as well as the due date;
 - c. advise the agency that it is required to sign the SF 424B and the Certification Form for 24 CFR Part 111

d. advise the agency to submit a completed HUD-274, (Appendix 17) Designation of Depositary Form, if it does not have a depositary form on file with the RAD or if it wishes to change its designated depositary to be used for remittal of payments.

3. The G/CAO should monitor receipt of the Agreements to ensure that obligations are made as early as possible and that all obligations are made prior to September 22 or the expiration date of their current Agreement, whichever is earlier.

E. Execution by G/CAO of the Agreement.

1. Upon receipt of three signed copies of the Agreement, the G/CAO should recheck the file to ensure that:

- a. there is an approved funds reservation (HUD-718) (Appendix 15) for the amount of the Agreement;
- b. there are three (3) copies of the Cooperative Agreement with an original signature of the recipient;
- c. there are no changes in the Agreement made by the recipient that are unacceptable to the G/CAO; and
- d. the standard assurances and certification have been signed and the Drug Free Workplace and Lobbying Activities Certification have been completed.

2. The G/CAO should sign the three copies, sending one to the RAD, one to the recipient and keeping one for the official file. A xerox copy marked "Conformed Copy" should be provided to the GTR and the GTM. The copy to the RAD may be transmitted by bucksliip and should be accompanied by any Designation of Depositary form (HUD-274) (Appendix 17) submitted by the agency.

3-22. PROCESSING COOPERATIVE AGREEMENTS FOR CAPACITY BUILDING AND INCENTIVE FUNDING AGENCIES.

A. Establishing Funding Levels. When all required data and information have been received from the applicant, the G/CAO will review the budget and ensure that it is still consistent with the proposed activities. Where there are indirect cost

rates, consultant fees and other proposed expenditures that are subject to special requirements, the G/CAO should consult with the Regional Contracting Officer (RCO) to ensure that all proposed expenses are allowable. Then the

G/CAO should determine the total amounts requested for Capacity Building or Incentive Funds and ensure that they do not exceed the maximum amount for which the agency is eligible. Agencies eligible for Incentive funding also receive case processing and training support. These amounts are calculated the same as in 3-20A above and added to the Incentive amount to get the Total Instrument Amount.

- B. Reserving Funds. This is the same as 3-20 B, above.
- C. Congressional Notification. This is the same as 3-20 C, above.
- D. Offer to Agency.
 - 1. The G/CAO should prepare a Cooperative Agreement in accordance with the amounts approved in the budget, completing all portions of the Cooperative Agreement that vary by agency.
 - 2. The G/CAO should send four (4) copies of the Agreement to the Recipient, with a letter (Appendix 13a) instructing the recipient to:
 - a. sign and return three (3) copies, holding the 4th copy until it receives an official executed copy from HUD;
 - b. advise the agency to submit a completed HUD-274, Designation of Depository Form, if it does not have a depository form on file with the RAD or if it wishes to change its designated depository to be used for remittal of payments; and
 - c. include the name and address to which the signed agreements should be sent, as well as the due date.
 - 3. The G/CAO should monitor receipt of the Agreements and contact agencies with outstanding agreements to ensure that most obligations are made prior to the 4th quarter and that all obligations (except those where agencies are awaiting certification) are made prior to September 22 or the expiration date of their current agreement, whichever is earlier.

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- E. Execution by G/CAO of the Agreement.
 - 1. Upon receipt of three signed copies of the Agreement, the G/CAO should recheck the file to ensure that:
 - a. there is an approved HUD 718 (Appendix 15) funds

reservation for the amount of the agreement;

- b. there are three (3) copies of the Cooperative Agreement with an original signature of the recipient;
 - c. there are no changes in the Agreement made by the recipient that are unacceptable to the G/CAO; and
 - d. the standard assurances and certification have been signed and the Drug Free Workplace and Lobbying Activities Certification have been completed.
2. The G/CAO should sign the three copies of the award, sending one to the RAD, one to the recipient and keeping one for the official file. A xerox copy marked "Conformed Copy" should be provided to the GTR and the GTM. The G/CAO should also provide the RAD with any Designation of Depository Form (HUD-274) (Appendix 17) it receives from the agency.