



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
THE DEPUTY SECRETARY
WASHINGTON, DC 20410-0050

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Helen R. Kanovsky

MEMORANDUM FOR: Principal Staff
General Deputy Assistant Secretaries

FROM: Helen R. Kanovsky, Acting Deputy Secretary

SUBJECT: Improvements to the Departmental Clearance Process

HUD's Strategic Plan for 2014 through 2018 includes a management objective to reduce the time and complexity of the clearance process by establishing and enforcing clear protocols for drafting and reviewing documents placed in departmental clearance. To address the current, often too-long clearance process, the Strategic Plan provides that HUD will:

- Establish guidelines for processing significant policy documents;
- Identify when a preclearance review process must be held;
- Identify types of documents that do not need to undergo full departmental clearance; and
- Establish protocols pertaining to collegiality, collaboration, and cooperation.

To make recommendations on an approach for improving the clearance process, a Clearance Improvement Work Group, which consisted of representatives from all HUD program offices and key support offices (see attachment), was established and met this spring.

The working group found that the major deficiency with the existing clearance process is that, too often, HUD offices are seeing significant policy documents for the first time during departmental clearance. To be an effective clearance process, departmental clearance should be the last review of policy documents; that is, departmental clearance should be the final check by HUD offices before a document is issued publicly, and not offices' first introduction to the document.

On May 14, 2014, the working group presented me with a set of recommendations, which I have approved. The first step in implementing the recommendations is establishing the working group as a standing body, rather than as the temporary one devoted to developing recommendations, to assist the Office of Administration in overseeing compliance with the recommendations and to work with all offices to improve the clearance process.

By June 12, 2014, please advise Camille Acevedo, Associate General Counsel for Legislation and Regulations (202-402-5132 or camille.e.acevedo@hud.gov) if your current representative or representatives on the working group will continue to serve as your representative, or if you are designating another representative. You may also select one or more alternate representatives to serve on the standing working group, as at present with the temporary working group. As the improvement of the clearance process gets underway, the Office of Administration and the working group will be providing further direction and guidance. Thank you for your continued assistance and cooperation to date, and in advance for the continued improvement of the clearance process.

Attachment

Attachment 1 – Approved Actions to Improve the Clearance Process

1. Each HUD Office Must Designate a Policy Clearance Officer. Each HUD Office will designate a Policy Clearance Officer. These individuals do not replace Directives Management Officers (DMOs) or perform the functions of DMOs. The duties of HUD's DMOs include placing documents into departmental clearance, posting documents on the Clearance Calendar, and compiling and submitting clearance comments to originating offices, among other important functions. Policy Clearance Officers will be involved with the substance of documents that will be cleared through the Department and will provide clearance and preclearance assistance. For example, emergencies will arise that will call for documents to undergo an expedited clearance review and leave little time, if any, for a preclearance review. When this occurs, the Policy Clearance Officers of the reviewing offices will meet with the originating office and assist with clearing the document through their respective offices as expeditiously as possible. The Policy Clearance Officers will also work with HUD's Grants Management and Oversight Division to preclear new Notices of Funding Availability (NOFAs) and to assist with the scheduling of NOFAs for departmental clearance.
2. The Clearance Calendar Must be Used for all Departmental Clearances Except for NOFAs. With the exception of NOFAs, all HUD Offices must use the Clearance Calendar for departmental clearance. This system was approved by former Deputy Secretary Maurice Jones as the Department's system for clearances of rules; *Federal Register* notice; and directives of the program offices, which include handbooks, mortgagee letters, and other direct notices of the program offices. All HUD employees have access to the Clearance Calendar and it brings transparency to the clearance process. HUD's NOFAs were approved to undergo departmental clearance through a separate system, which better aligns with a system used by other agencies for clearing funding documents.
3. Significant Policy Documents Must be PreCleared. Significant policy documents are required to undergo a preclearance vetting by representatives from HUD Offices substantially affected by the policy, as well as with legal counsel from the Office of General Counsel (OGC) and policy counsel from the Office of Policy Development and Research (PD&R), before the documents are launched into formal departmental clearance. The Policy Clearance Officers will serve as the liaisons to assist in identifying the appropriate HUD colleagues from their respective offices to undertake a preclearance review.

Definition of Significant Policy Document. A significant policy document is any document that:

- i. Is subject to review by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review),¹ or absent such review would:

¹ The OGC Office of Legislation and Regulations will advise program offices if their rules are subject to Executive Order 12866.

- Cover policy or practices of another program office (such as, for example, the rule revising HUD's regulations in 24 CFR part 135, which implement section 3 of the Housing and Urban Development Act of 1968 (the Section 3 rule);
 - Implement new law (for example, implementation of the Violence Against Women Reauthorization Act of 2013); or
 - Change longstanding HUD policies and practices (such as, for example, Affirmatively Furthering Fair Housing); or
- ii. Constitutes a new NOFA; that is, a NOFA not previously cleared or issued by the Department.
4. Certain Documents May Bypass Departmental Clearance. Not every document needs to undergo formal departmental clearance. Documents that may bypass departmental clearance include:
- a. Technical correction documents;
 - b. Final rules that adopt a proposed rule without substantive change (typo clean-up is always permitted), if the final rule is targeted for issuance no later than 6 months after the end of the public comment period for the proposed rule; or
 - c. Descriptions or updates of operational requirements for an existing program.
5. Certain Documents May Be Issued Following Assistant Secretary or Equivalent Approval. Not every rule need be submitted to the Secretary's Office for approval. Approval and sign-off by the Assistant Secretary (or equivalent) is sufficient for many documents, including those documents that may bypass departmental clearance. The documents to be submitted to the Secretary's Office are significant policy documents, as defined above, or any document for which the program office head seeks to alert the Secretary of the subject matter by submission of the document for formal approval by the Secretary's Office. Offices that sign rules about to be published would alert the Secretary, Deputy Secretary, and others in the Secretary's Office through the weekly (a/k/a hot topics) report.
6. The Directives Handbook Will Be Enforced. Directives refer to non-*Federal Register* publications, such as handbooks, guidebooks, mortgagee letters, and direct notices from the program offices. The overwhelming majority of documents placed in departmental clearance are directives. Responsibility for overseeing compliance with the HUD Directives System handbook is in the Office of Administration. HUD staff, many of whom were on the working group to improve the clearance process, spent more than 2 years updating the HUD Directives System handbook to provide greater flexibility to offices clearing documents, and to provide inclusiveness in the clearance process.

Attachment 2 - Members of the Clearance Improvement Working Group

Dolores Cole, OCHCO
Linda Hawkins, OCHCO
Patty Whitehouse, OCHCO
Frances Bush, CPD
David Enzel, CPD
Tracy Richardson, FHEO
Nelson Bregón, FPM
Warren Friedman, OHHLHC
Ronald Clark, HSG
Sheila Ricks-Jordan, HSG
Kim Sanders, HSG
Laurie Winston, HSG
Camille Acevedo, OGC
Aaron Santa Anna, OGC
Marge Martin, PD&R
Linda Bronsdon, PIH
Merrie Nichols-Dixon, PIH