

Georgia Department of Community Affairs Other Compliance Manual

This manual provides other Federal Compliance definitions and guidance according to program regulations.

Non Discrimination (HOME & TAX CREDIT)

The owner shall not discriminate in the provision of housing on the basis of race, color, sex, national origin, religion, marital status, age or handicap. Additionally, owners of post-1989 allocated projects cannot refuse to accept a prospective tenant based solely on the fact that the applicant holds a Section 8 rental voucher or certificate. All owners, managers and staff members should be familiar with both state and federal civil rights and fair housing laws. An adverse finding of discrimination must be reported to DCA on the Owner's Annual Certification of Compliance. **The Owner should include a copy of the finding included with the annual certification.**

A. Fair Housing and Equal Opportunity (HOME & TAX CREDIT)

All Tax Credit and HOME recipients must comply with any and all federal laws, state and local laws relating to fair housing and equal opportunity including but not limited to the following:

- **Minority Business Enterprise Executive Orders 11625, 12432, and 12138** relating to use of minority and women-owned business enterprises which provide that owners must make efforts to encourage the use of minority and women's business enterprises in connection with HOME funds by prescribing procedures acceptable to establish and oversee an outreach plan.
- **The Federal Fair Housing Act** (42 U.S.C. §3601 et seq. (1968)) and the **Georgia Fair Housing Act** (O.C.G.A. §8-3-200 et seq., (1992 Supp.)) requires each owner to affirmatively further fair housing. It is illegal to discriminate against any person because of race, color, religion, familial status, sex, handicap, or national origin: in the sale of rental or housing of residential lots; in advertising the sale or rental of housing or residential lots; in the financing of housing or residential lots; in the provision of real estate brokerage services; or in the appraisal of houses or residential lots. Blockbusting, the use of racial fears and prejudices to entice one racial group to flee a neighborhood when members of a disparate racial group move into the area, is also illegal. Normally, "blockbusting" refers to realtor exploitation of racial tensions.
- **Age Discrimination Act of 1975** (42 U.S.C. §6101 et seq.) which prohibits discrimination based on age.
- **Executive Order 11063** which requires that all action necessary and appropriate be taken to prevent discrimination based on race, color, religion (creed), sex, national origin, familial status or disability in the sale, rental, leasing or other disposition of residential property and related facilities, or in the use or occupancy thereof, where such property or facilities are owned or operated by the Federal Government, or provided with HOME funds and in the lending practices with respect to residential property and related facilities of lending institutions insofar as such practices relate to loans insured, guaranteed or purchased by the U.S. Department of Housing and Urban Development.
- **Title VI Civil Rights Act - 1964** (42 U.S.C. 2000d) which provides that no person in the United States may, on the basis of race, color, or national origin, be excluded from participation in, or be denied the benefit of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance from the U.S. Department of Housing and Urban

Development.

B. Labor Standards (HOME)

If HOME funds are provided (whether for construction or non-construction expenses) to projects involving the construction of affordable housing consisting of 12 or more units, then the contract relating to the new construction or rehabilitation must comply with the following labor standards:

- Davis-Bacon Act, 40 U.S.C. 276(a)-5
- Contract Work Hours and Safety Standards Act, 40 U.S.C. 327-332
- Copeland “Anti Kickback” Act, 40 U.S.C. 276(c) 1982.
- All applicable regulations and HUD Handbook #1344.1

Each developer/owner is required to attend a preconstruction conference. During this conference DCA’s Federal Regulations Compliance Officer will distribute applicable forms and instructions relating to labor standards and answer any questions you may have. The following summary of general requirements is intended to be a summary and should not replace direct conversations with DCA staff. Records should be maintained to evidence compliance with all requirements.

General Requirements

Every construction and/or rehabilitation contract or subcontract must have appended to it the labor provisions contained in HUD Form 4010, obtained from DCA at the preconstruction conference. The property owner is required to ensure that all contractors and subcontractors comply with this requirement.

The Labor Standards do not apply to individuals who are considered volunteers or to members of an income eligible family who provide “sweat equity.”

Davis-Bacon Requirements

DCA will provide the owner/developer with the local prevailing wage rate for the class of laborer/mechanic involved in the project at the preconstruction conference. Wage rate decisions are based on determinations made by the U.S. Dept. of Labor (DOL).

The owner/developer is required to:

- Have a written contract with all contractors and subcontractors on the project;
- Submit to DCA a certification from the Bureau of Apprenticeship and Training for each apprentice employed on the project;
- Ensure that the applicable ratio of apprentices to journeymen is not exceeded;
- Ensure that all apprentices are paid the applicable wage rate;
- Ensure that the applicable wage rate decision, as changed or modified, is used in the contract bidding process, if any, and at the time the contract is awarded;
- Ensure that no party who is debarred/suspended or given limited denial of participation is used as a contractor or employee (see Section 1 of this Manual);
- Ensure that wage decisions and DOL posters are displayed on the project job site (poster will be distributed at the preconstruction conference);
- Attend a pre-construction conference with DCA (mandatory, before you start construction)

which is held after loan underwriting and thirty days prior to closing; and

- Allow DCA to monitor the construction and/or rehabilitation and conduct on-the-job interviews with workers on the job site.

Copeland Act Requirements

Under the Copeland “Anti-Kickback” Act, the owner/developer must:

- Ensure that persons working on the construction and/or rehabilitation of the project are paid weekly and that only those salary deductions which are permissible are taken;
- Submit to DCA, on a weekly basis, payrolls and Statements of Compliance from contractors and subcontractors (the forms will be distributed at the preconstruction conference and must be used to document compliance with this responsibility);
- Retain for at least three (3) years (and sometimes longer) the documents described in the immediately preceding paragraph B;
- Check the payrolls of the contractor and subcontractors for accuracy; and
- Ensure that contractors and subcontractors retain for at least three (3) years the basic records supporting the payrolls.

Contract Work Hours and Safety Standards Act

The property owner/developer must ensure that laborers and mechanics that work in excess of forty (40) hours in any work week receive overtime compensation at a rate at least equal to one and one-half times the basic rate of pay for overtime hours.

General Compliance Errors to Avoid:

- Starting work prior to preconstruction conference and loan closing without written authorization from DCA.
- Failure to obtain a wage determination from DCA prior to soliciting construction bids.
- Failure to submit weekly contractor/subcontractor payrolls and Statements of Compliance to DCA in a timely manner.
- Failure to provide documentation that employees are receiving the compensation reflected on payrolls (i.e. employee interviews).
- Failure to pay workers for overtime according to regulations.
- Failure to list workers under the appropriate job classifications.
- Failure to submit draw requests in a timely manner.
- Failure to submit additional job classification request for site work

Failure to comply with the items listed above may affect your compliance score and ability to compete in future funding rounds.

C. Affirmative Marketing Plan (HOME)

Affirmative Marketing requirements and procedures adopted by the DCA require each project owner to provide information to and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status or disability in accordance with the provisions of the Final Rule of the HOME Investment

Partnerships (HOME) Program. Each project owner must adopt an affirmative fair housing marketing plan to be utilized by the Owner, Developer and Property Manager in the marketing of the project. Each year, the Owner must submit a copy of the Affirmative Marketing Plan to DCA with the annual HOME Owners certification. If the Plan has undergone any updates or changes, they should be noted and documented.

REQUIREMENTS: At a minimum, DCA requires that each project affirmative fair housing marketing plan include the following:

- 1) Affirmative marketing requirements and procedures adopted by the Owner detailing methods of informing the public, owners, and potential tenants about Federal Fair Housing Laws and the project's affirmative marketing policy.
- 2) Affirmative fair housing marketing practices in soliciting renters, determining eligibility, and concluding all transactions must include that all units are made available to the "general public" and are not restricted to a particular class of people.
- 3) The project Owner must select sites for fair housing posters display (at a minimum in the property management office).
- 4) All appropriate project materials distributed to the public by the Owner, Manager, or Developer will contain the equal housing opportunity logo including but not limited to correspondence, notices and advertising, press releases and solicitations for renters.
- 5) Project owner must provide to all current tenants of any existing building being considered for assistance through the HOME programs a briefing and a written description of tenants' rights relating to federal fair housing laws and the projects affirmative marketing policy.
- 6) Project Owners and/or Management Company must make good faith efforts to solicit eligible persons who are not likely to apply for housing assistance, through special outreach efforts, including but not limited to: community reorganizations, places of worship, employment centers, fair housing groups, housing counseling agencies, social service agencies, medical service centers, homeless shelters and the use of minority specific media. Outreach efforts can include the distribution of flyers and or brochures at these locations.
- 7) To the extent feasible, project related contracts for work on HOME assisted housing should be awarded to business concerns which are located in or owned in substantial part by persons residing in the housing market area where the HOME assisted housing is or will be located.
- 8) To the extent feasible, training and employment of low-income persons residing within the housing market of the HOME assisted housing.

Each Project Owner is required to detail the project's Affirmative Fair Housing Marketing Plan in the HUD form that is included in the Form Appendix to this Manual. Additional information may be included by attachment to that form.

Annually, the project owner is required to:

- 1) Compile and analyze data showing race/ethnicity, gender, and household type of each applicant, and the application status, including if the applicant is currently housed, on the wait list, was offered but did not accept housing, or if the application was withdrawn or reject.

- 2) Assess the success of affirmative marketing efforts in light of the data above.
- 3) Identify any changes and or corrective actions to be taken where affirmative marketing requirements have not been met or affirmative marketing efforts have not been successful.
- 4) Complete a new Affirmative Fair Housing Marketing Plan which reflects any plan adjustments necessary to more effectively affirmatively market the project's units.
- 5) Report annual to DCA, the results of the previous year's affirmative marketing efforts.

RECORDS: A copy of the approved Affirmative Marketing Plan must be kept at the project site or rental office of the project. DCA compliance staff will request a copy of this form during the annual compliance monitoring. In addition records which describe affirmative marketing activities, including, but not limited to, a record of all published notices and newspaper articles, sales brochures, advertising and press releases shall also be maintained.

D. Section 3 of the Housing and Urban Development Act of 1968 (HOME) (12 U.S.C. §171U et seq.) Please see DCA's Section 3 Compliance Policy.

E. Tenant Relocation and Displacement Policies (HOME & TAX CREDIT)
Please see DCA's Relocation Manual.

F. Accessibility (Tax Credit and HOME)
Please see DCA's Accessibility Manual.

G. Environmental (Tax Credit and HOME)
Please see DCA's Environmental Manual.