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INSPECTOR GENERAL
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UNITED STATES DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT

The Kentucky Commission on Human Rights Has Opportunities To Improve Its Fair Housing Complaint Intake Process

Audit Report Number: 2024-BO-1001

February 15, 2024

To: Lynn M. Grosso
Deputy Assistant Secretary for Enforcement, Office of Fair Housing and Equal Opportunity, ED

//signed//

From: Kilah S. White
Assistant Inspector General for Audit, Office of Inspector General, GA

Subject: The Kentucky Commission on Human Rights, Louisville, KY, Has Opportunities To Improve Its Fair Housing Complaint Intake Process

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our audit of the Kentucky Commission on Human Rights' fair housing complaint intake process.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, as amended, requires that OIG post its reports on the OIG website. Accordingly, this report will be posted at <https://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call Ronald J. Lloyd, Audit Director, at (617) 994-8380.

Highlights

The Kentucky Commission on Human Rights Has Opportunities To Improve Its Fair Housing Complaint Intake Process | 2024-BO-1001

What We Audited and Why

We audited the Kentucky Commission on Human Rights' fair housing complaint intake process. We initiated this audit based on an internal risk assessment of Fair Housing Assistance Program agencies' challenges. Our audit objectives were to (1) determine the extent to which the Commission processed fair housing inquiries within 30 days and (2) evaluate its reasons for closing fair housing inquiries.

What We Found

We were unable to determine the extent to which the Commission processed fair housing inquiries within 30 days due to a lack of supporting documentation. Also, the Commission could not provide evidence that would have allowed us to determine whether fair housing inquiries were properly closed. In addition, the Commission did not have clarity on what inquiries should be recorded in the U.S. Department of Housing and Urban Development's (HUD) Enforcement Management System (HEMS) or what type of documents should be recorded in that system to support closure decisions. These conditions occurred because the Commission lacked staffing for its housing intake process, lacked an effective system to track the processing of inquiries, and was not always able to retrieve documents because some emails were lost. Also, the Commission did not have a record retention policy for its intake, and its staff was inadequately trained for recording intake data in HEMS. As a result, the Commission could not consistently provide assurance to its customers that it properly processed and closed inquiries from complainants in a timely manner. If complainants' alleged discrimination is not addressed properly and in a timely manner, the Commission may not help to stop ongoing discrimination, hold those responsible for their actions, and deter future discrimination.

What We Recommend

We recommend that HUD's Deputy Assistant Secretary for Enforcement require the Commission to (1) update its intake policy and procedure to clarify which inquiries are to be recorded in HEMS; (2) develop an internal agency intake training guide, distribute it to all agency housing staff members, and ensure that all intake staff members participate in HUD-approved training related to intake; (3) implement a record retention policy to ensure that decisions on inquiries are sufficiently supported; (4) implement a plan to ensure that it has sufficient staff to meet its obligations under the Fair Housing Assistance Program cooperative agreement; and (5) implement a system to better track the intake and processing of potential fair housing inquiries.

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Background and Objectives

The Fair Housing Act, as amended, prohibits discrimination on the basis of race, color, religion, national origin, sex, disability, and familial status. The Act applies to certain issues, including harassment and discrimination in the sale, rental, advertising, or financing of housing; the provision of brokerage services; and other activities related to residential real estate transactions. With some exceptions, the Act covers all “dwellings,” which are defined generally as buildings designed to be used in whole or in part for a residence, as well as vacant land offered for sale and lease for constructing or locating a building. The Act gives the U.S. Department of Housing and Urban Development (HUD) the authority and responsibility to administer the Act. HUD’s Office of Fair Housing and Equal Opportunity (FHEO) is the office responsible for investigating allegations of housing discrimination. FHEO is charged with enforcement, administration, development, and public understanding of Federal fair housing policies and laws. To achieve its mission, FHEO enters into cooperative agreements with State and local agencies under programs such as the Fair Housing Assistance Program (FHAP). Under these agreements, HUD provides funds annually on a noncompetitive basis to FHAP agencies that administer fair housing laws, which HUD considers substantially equivalent to the Fair Housing Act. FHAPs receive HUD complaint processing funds only for those inquiries that become filed complaints.

Although HUD refers the processing of fair housing allegations at the inquiry stage to some FHAP agencies, HUD retains the responsibility of ensuring oversight and the proper administration of all fair housing allegations including those that do not become filed complaints. FHAP agencies receive housing discrimination inquiries and conduct investigations to determine whether the alleged discrimination occurred. HUD expects that agencies enforce the law and pursue justice through conciliation agreements, settlements, and administrative or judicial enforcement.

We initiated this audit of the Kentucky Commission on Human Rights’ complaint intake process based on a risk assessment of 77 FHAP agencies in which we considered several factors, including funding, risks to beneficiaries, HUD priorities and initiatives, historical oversight, and third-party interests. Through this assessment, we found that HUD noted concerns surrounding the Commission’s investigative staffing levels, a lack of documentation for investigations, and the untimely processing of inquiries that became filed complaints and proceeded to investigations. The Commission had the highest risk due to several factors, including the lack of uploaded investigation data in the HUD Enforcement Management System (HEMS)¹ and the number of inquiries closed at intake that the Commission coded in HEMS as “complainant failed to cooperate.” The audit focused on the complaint intake process for closed inquiries that did not become filed complaints because HUD does not perform monitoring of those FHAP inquiries. HUD requires that FHAPs use their own intake policies and procedures to process and close inquiries. Also, HUD guidance states that FHAPs must create inquiries in HEMS for those allegations that are referred by HUD to the agency for processing at the inquiry stage, and complete certain fields in HEMS for those inquiries.

The Kentucky General Assembly created the Commission in 1960. Initially, the Commission was instructed to encourage fair treatment and foster mutual understanding and respect and to discourage discrimination against any racial or ethnic group or its members. However, in 1966, the Commission’s role expanded with the passage of the Kentucky Civil Rights Act. This law made discrimination illegal on a

¹ HEMS automates the investigation and compliance business processes for FHEO.

state level, and it made the Commission the statutory authority to enforce the law for the Commonwealth.

The Commission receives, initiates, investigates, conciliates, and rules upon jurisdictional inquiries alleging violations of the Kentucky Civil Rights Act. Certified with substantial equivalency to HUD as a FHAP and to the U.S. Equal Employment Opportunity Commission, the Commission also enforces the policies set forth in the U.S. Civil Rights Act, U.S. Fair Housing Act, U.S. Americans With Disabilities Act, and other Federal civil rights laws. The Commission is mandated by the Kentucky Civil Rights Act to educate members of the public about their rights under the law to live free of discrimination in Kentucky. The agency conducts a comprehensive program of education, training, outreach, and partnership and a public awareness initiative to vigorously carry out this task. The Commission's headquarters is in Louisville, KY, with an office in Covington, KY. The Commission is comprised of 11 commissioners, an executive director, and 14 agency staff members. Its Education and Outreach unit oversees the intake process. The unit consists of four employees. Three of the four employees process public accommodation intake, employment intake, and the Commission's mail. The remaining one employee processes housing intake at the state level.

According to the Commission's intake standard operating procedures, the intake process must be completed within 30 days. The intake process begins when a claimant provides information regarding an alleged discriminatory housing practice. This information is called an inquiry. The Commission receives inquiries via telephone, walk-ins, mail, email, online submissions, and HUD referrals. The date received is the initial contact date, which starts the 30-day intake process. When the Commission receives an inquiry, it performs an intake interview to determine whether it has the four required elements of jurisdiction, including (1) standing, (2) timeliness, (3) respondent jurisdiction, and (4) subject-matter jurisdiction.² With this information, the Commission completes a complaint form, which is sent to the complainant 20 days from the initial contact date. The Commission will make reasonable accommodations to assist persons with disabilities in filing a complaint. The complainant is to return the signed and notarized complaint form to the Commission within 10 days. With the signed form, the Commission converts the inquiry to a filed complaint and proceeds to the investigation stage of processing. If the complaint form is not returned by the complainant within 20 days (including a 10-day extension), the Commission closes the inquiry and records the complainant as failing to cooperate. If the Commission determines that an inquiry lacks jurisdiction, it informs the complainant by telephone, mail, or email, and the inquiry is closed.

Our audit objectives were to (1) determine the extent to which the Commission processed fair housing inquiries within 30 days and (2) evaluate its reasons for closing fair housing inquiries.

² The Fair Housing Act defines standing as referring to a complainant who claims to have been injured or is about to be injured by a discriminatory housing practice. To be timely, the complainant must file a complaint within 1 year of the date of the most recent occurrence of the alleged discriminatory housing practice. For respondent jurisdiction, the Act exempts some transactions from coverage such as certain religious organizations and housing for older persons.

Results of Audit

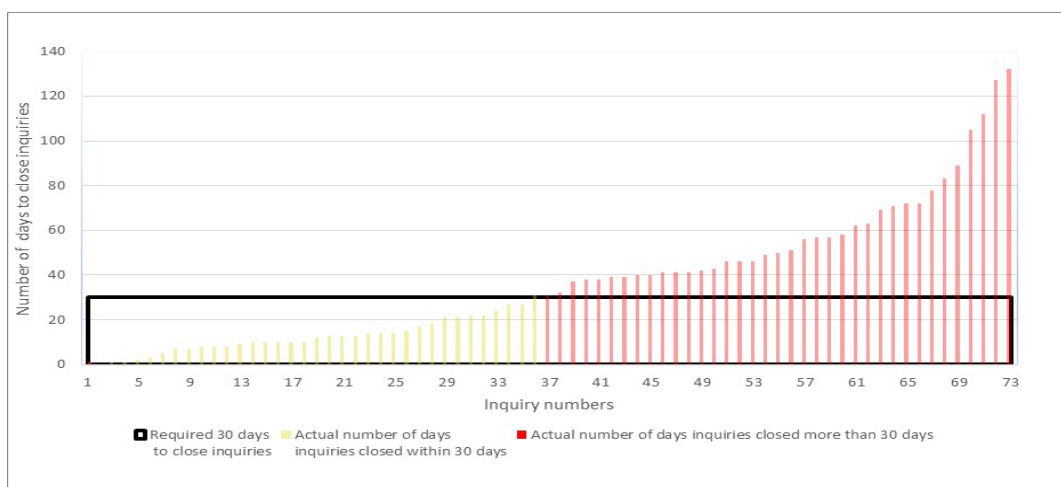
The Commission Has Opportunities To Improve Its Fair Housing Complaint Intake Process

We were unable to determine the extent to which the Commission processed fair housing inquiries within 30 days due to a lack of supporting documentation. Also, the Commission could not provide evidence that would have allowed us to determine whether fair housing inquiries were properly closed. In addition, the Commission did not have clarity on what inquiries should be recorded in HEMS or what type of documents should be recorded in HEMS to support closure decisions. These conditions occurred because the Commission lacked staffing for its housing intake process, lacked an effective system to track the processing of inquiries, and was not always able to retrieve documents because some emails were lost. Also, the Commission did not have a record retention policy for its intake, and its staff was inadequately trained for recording intake data in HEMS. As a result, it could not consistently provide assurance to its customers that it properly processed and closed inquiries from complainants in a timely manner. If complainants' alleged discrimination is not addressed properly and in a timely manner, the Commission may not help to stop ongoing discrimination, hold those responsible for their actions, and deter future discrimination.

We Were Unable To Determine the Extent to Which the Commission Processed Fair Housing Inquiries Within 30 Days Due to a Lack of Supporting Documentation

The Commission maintained documentation to support that it closed 35 of 285 sampled fair housing inquiries (or 12 percent) within 30 days in accordance with its standard operating procedures. Another 38 inquiries were not processed within 30 days. We were unable to determine the timeliness of the remaining 212 inquiries (74 percent of sample) because the Commission did not maintain sufficient information, such as initial contact dates and closure dates, to support whether they were closed within 30 days. The illustration below shows the number of days it took for the Commission to close the inquiries.

Figure 1. Number of days to close inquiries



Source: OIG analysis of the Commission's fair housing inquiries

The Commission stated that it did not process the 38 untimely inquiries within 30 days because it lacked staffing for its housing intake process. It stated that before 2018, it had a division with three employees who processed intakes, including fair housing inquiries. However, due to budget constraints, it dissolved the division in 2018. As a result, its Education and Outreach division was responsible for all intake processes, with only one employee assigned to process fair housing inquiries. Also, the Commission did not have a record retention policy for its intakes regarding which documents needed to be retained and for how long. In addition, its staff was inadequately trained for recording intake data in HEMS.

The Commission Did Not Provide Evidence That Nearly Two-Thirds of Sampled Fair Housing Inquiries Were Properly Closed

The Commission may close an inquiry for several reasons, according to its standard operating procedures. In cases in which the Commission determines that it does not have jurisdiction over an inquiry, it should inform complainants that their inquiries are not jurisdictional. For inquiries with uncooperative complainants, it should grant an additional 10 days after the 30-day period to allow complainants to respond before closing the inquiry. The Commission stated that it attempted to contact the complainant for an intake interview two or three times before closing the inquiry.

The Commission properly closed 113 of 285 fair housing inquiries in accordance with its process and standard operating procedures. However, it did not provide evidence to support that the remaining 172 inquiries were properly closed. Specifically, it did not provide correspondence, such as letters or emails, to support that it informed the complainants that their inquiry was not jurisdictional or notified them of a 10-day extension granted to complainants due to their lack of response. In addition, the Commission did not provide notes to show that it attempted to contact the complainants for an intake interview. Based on our review, as shown in table 1 below, the Commission could not provide sufficient evidence for almost half of its HEMS-recorded closed inquiries, although the proportion of unsupported closures for inquiries not in HEMS had increased to 76 percent.

Table 1. Commission closure of fair housing inquiries

Inquiries	Properly closed	Unsupported closures	Total	Percentage of unsupported closures
Recorded in HEMS	82	72	154 ³	47%
Not recorded in HEMS	31	100	131 ⁴	76%
Total	113	172	285	60%

In addition, the Commission did not have clarity on what inquiries should or should not be recorded in HEMS and what type of documents should be recorded in HEMS. For example, some of the 154 inquiries recorded in HEMS were either referred by HUD or submitted online or via telephone by complainants. However, HUD guidance states that FHAPs must create inquiries in HEMS when referred by HUD and

³ 154 inquiries were a portion of the audit universe of 272 inquiries recorded in HEMS that were reviewed during the audit.

⁴ 131 inquiries were the total number of inquiries not recorded in HEMS.

complete certain fields in HEMS for those inquiries. FHAPs must provide HUD with a list of open inquiries that are not recorded in HEMS, such as complainant inquiries submitted online or via telephone.

The Commission did not have an effective system to track inquiry processing. Specifically, it maintained hardcopy documents stored in boxes to support inquiries, and they were not organized. In addition to hardcopy documents, the Commission maintained support for some inquiries in email format but was unable to retrieve documents requested because it had changed its computer server and some documents in the emails were lost. Also, it did not have a record retention policy for its intakes regarding which documents needed to be retained and for how long. In addition, its staff was inadequately trained for recording intake data in HEMS, such as addressing inquiries received from HUD versus inquiries received online or through correspondence, walk-ins, or emails.

Conclusion

The Commission could not consistently provide assurance to its customers that it properly processed and closed inquiries from complainants in a timely manner. If complainants' alleged discrimination is not addressed properly and in a timely manner, the Commission may not help to stop ongoing discrimination, hold those responsible for their actions, and deter future discrimination. These conditions occurred due to (1) a lack of staffing for the Commission's housing intake process, (2) an ineffective system to track the processing of inquiries, (3) lost emails, (4) no retention policy for its intake, and (5) a lack of training.

Recommendations

We recommend that HUD's Deputy Assistant Secretary for Enforcement require the Commission to

- 1A. Update its intake policy and procedure to clarify which inquiries are to be recorded in HEMS.
- 1B. Develop an internal agency intake training guide, distribute it to all agency housing staff members, and ensure that all intake staff members participate in HUD-approved training related to intake.
- 1C. Implement a record retention policy to ensure that decisions on inquiries are sufficiently supported.
- 1D. Implement a plan to ensure that it has sufficient staff to meet its obligations under FHAP cooperative agreement.
- 1E. Implement a system to better track the intake and processing of potential fair housing inquiries.

Scope and Methodology

We performed our audit from January through June 2023 remotely and at the Commission's office located in Louisville, KY. Our audit period was January 1, 2020, through May 31, 2022, which includes a two-year period from when we requested HEMS data in June 2022.


To accomplish our audit objectives, we

- Reviewed applicable laws and regulations, HUD guidance, the Commission's standard operating procedures, Commission training information, HUD monitoring reviews of the Commission, and agreements between HUD and the Commission.
- Interviewed Commission staff remotely and in person to gain an understanding of the intake process and determine the Commission's staffing on intake housing inquiries.
- Determined that the Commission processed and closed 282 inquiries at intake that did not become filed complaints and were recorded in HEMS during our audit period. Based on our audit work, there were duplicates. Therefore, the number of inquiries which the Commission recorded, processed, and closed in HEMS at intake was 272. We ended our review at 154 of the 272 inquiries because according to the Commission's executive director, we would have obtained the same audit results if we had continued reviewing those remaining inquiries.
- Determined that the Commission processed and closed 131 inquiries at intake that did not become filed complaints and were not recorded in HEMS during our audit period. The 131 inquiries were communicated to the Commission from complainants via online submission, email, mail, and telephone. We reviewed all 131 inquiries.
- Accessed HEMS for the 154 inquiries recorded in HEMS in our audit period and reviewed various HEMS screens for support.
- Obtained and reviewed any available support from the Commission for the 154 inquiries recorded in HEMS and the 131 inquiries not recorded in HEMS in our audit period.

We evaluated available support from the Commission and documentation and notes from HEMS for the 154 inquiries recorded in HEMS. We also evaluated available support from the Commission for the 131 inquiries not recorded in HEMS. We evaluated the support to determine the inquiries' initial contact date and closure date to calculate the days it took to process the inquiries in accordance with the Commission's intake standard operating procedures. We also evaluated the support to determine whether the Commission properly closed the inquiries in accordance with its intake process and standard operating procedures.

We determined that internal controls over effectiveness and efficiency of operations were relevant to our audit objective(s). We assessed the relevant controls. Based on our review, we believe that the Commission did not have adequate controls to ensure that it followed its own requirements.

We relied in part on data in HEMS to determine whether the Commission closed inquiries within 30 days, identified the closure reasons, and obtained documentation to support the closure reasons. Although we



did not perform a detailed assessment of the reliability of the data, we performed a minimal level of testing and found the data to be adequate for our purposes.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective(s). We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective(s).

Appendix

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation – Auditee Comments



KENTUCKY COMMISSION ON HUMAN RIGHTS

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Cynthia B. Fox
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Raymond M. Burse
Commission Chair

February 5, 2024

Kilah S. White
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Sent Via Electronic Mail To: kwhite@hudoig.gov

Dear Ms. White:

The Kentucky Commission on Human Rights is appreciative of the exit interview and for the opportunity to provide comments and feedback on the Office of Inspector General (OIG) draft audit report entitled *The Kentucky Commission on Human Rights Has Opportunities to Improve Its Fair Housing Complaint Intake Process*; Audit Report Number: 2024-BO-XXXX.

Please accept this letter as our concurrence with the findings and recommendations proposed in the draft report. Enclosed with this letter, I have included our plans for implementing the recommendations proposed by HUD OIG.

The audit objective was to (1) determine the extent to which the Commission processed fair housing inquiries within 30 days and (2) evaluate its reasons for closing fair housing inquiries.

We appreciate the review of the intake process within the agency. The Kentucky Commission on Human Rights takes our enforcement of federal and state fair housing laws and our responsibilities to individuals encountering discrimination very seriously. With that in mind, and with the recommendations of the audit, we have begun to analyze our protocols and procedures for processing not only inquiries that become filed complaints and are entered into HEMS, but also those which do not.

Once again, thank you for the opportunity to comment on this draft report. If you have any questions, please feel free to contact me, via email at Cynthia.fox@ky.gov.

Sincerely,

Cynthia B. Fox,
Executive Director
(Attachment 1)

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Comment 1 >

OIG Evaluation of Auditee Comments

Comment 1 We commend the Commission for analyzing its protocols and procedures for processing all inquiries during its intake process. We acknowledge the Commission’s planned corrective actions and look forward to working with HUD through the audit resolution process to ensure that the Commission fully addresses the recommendations.