



OFFICE of  
**INSPECTOR GENERAL**  
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UNITED STATES DEPARTMENT OF  
HOUSING AND URBAN DEVELOPMENT

# FHEO is Making Progress in Addressing Challenges in Conducting Civil Rights Compliance Reviews

**Audit Report Number: 2024-BO-0004**

**September 13, 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: HUD's Office of Fair Housing and Equal Opportunity Is Making Progress in Addressing Civil Rights Compliance Review Challenges

Attached are the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our audit assessing the challenges HUD's Office of Fair Housing and Equal Opportunity faces in conducting civil rights compliance reviews.

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) 994-8345.

## Highlights

### FHEO Is Making Progress in Addressing Challenges in Conducting Civil Rights Compliance Reviews | 2024-BO-0004

#### What We Audited and Why

We audited the U.S. Department of Housing and Urban Development's (HUD or Department) Office of Fair Housing and Equal Opportunity's (FHEO) process for conducting civil rights compliance reviews. FHEO's operational readiness to carry out robust compliance reviews is critical to HUD's goals to advance equity and support underserved communities. Our objective was to survey and assess challenges FHEO faced in conducting compliance reviews.

#### What We Found

Based on our survey, FHEO is making progress in addressing several challenges in conducting civil rights compliance reviews, including (1) limited staff and resources, (2) the need for trained and experienced staff, (3) a lack of centralized guidance for conducting compliance reviews, (4) a lack of guidance for making strategic target selections, and (5) structural barriers that affect compliance reviews. With increased resources and capacity, improved guidance, increased authority to determine and interpret civil rights related program requirements within the Department, and a commitment from all program offices, FHEO's compliance review function can be more effective in promoting compliance with civil rights laws.

#### What We Recommend

This report contains no recommendations.

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## Background and Objective

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 part for a residence, as well as vacant land offered for sale and lease for constructing or locating a building.

The U.S. Department of Housing and Urban Development’s (HUD or Department) Office of Fair Housing and Equal Opportunity (FHEO) enforces the Act and other relevant laws by investigating allegations of housing discrimination, advancing fair housing and civil rights laws, and pushing HUD-funded recipients of Federal financial assistance to comply with civil rights authorities.<sup>1</sup> FHEO advances civil rights through four primary functions: (1) investigating fair housing complaints, (2) managing fair housing grants and cooperative agreements, (3) advancing civil rights in HUD programs, and (4) conducting civil rights compliance reviews.

The term “compliance review” is not defined in statute or regulation, and FHEO performs this oversight through several different workstreams. One such workstream is front-end oversight of HUD grant recipients at the preaward stage and at key transition points. This process includes reviewing grantee planning or policy documents as well as departmental planning or policy documents going through the clearance process. FHEO also has legal authority to conduct civil rights compliance reviews of HUD funded recipients’ program design, implementation, and administration. However, FHEO’s civil rights compliance review resources are limited due to FHEO’s statutory mandate to investigate filed complaints. FHEO prioritizes its limited compliance review resources on high impact civil rights compliance reviews of HUD recipients where there is a substantial reason to believe material non-compliance may exist. A compliance review can include a limited desk audit of a recipient’s planned or ongoing actions or policies or an in-depth investigation of allegations or suspected noncompliance more comparable to an investigation under the Act. While compliance resources are limited, the scope of FHEO’s compliance authority is broad and multifaceted, covering discrimination based on race, color, religion, national origin, age, and disability, among other protected bases, across tens of thousands of recipients and sub-recipients of HUD funds.

Our audit objective was to survey and assess the challenges FHEO faced in conducting civil rights compliance reviews.

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<sup>1</sup> Other relevant laws include Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, and the Age Discrimination Act of 1975. Combined, this legislation prohibits discrimination based on race, color, national origin, disability, sex (including gender identity and sexual orientation), religion, and age in programs and activities receiving Federal financial assistance.

## Results of Audit

### FHEO Is Making Progress in Addressing Challenges in Conducting Civil Rights Compliance Reviews

FHEO has challenges in conducting civil rights compliance reviews, including (1) limited staff and resources, (2) the need for trained and experienced staff, (3) a lack of centralized guidance for conducting compliance reviews, (4) a lack of guidance for making strategic target selections, and (5) structural barriers that affect compliance reviews. FHEO is aware of these challenges and is making progress in addressing them. With increased resources and capacity, improved guidance, greater empowerment within the Department, and a commitment from all program offices, FHEO's compliance review function can be more effective in promoting compliance with civil rights laws.

### Challenges in Conducting Civil Rights Compliance Reviews

Regulations at 28 CFR (Code of Federal Regulations) 42.407(c) require Federal agencies, including HUD, to establish and maintain an effective program of compliance reviews to determine compliance with Title VI of the Civil Rights Act of 1964's prohibition against discrimination based on race, color, and national origin. According to FHEO field supervisory equal opportunity specialists (EOS) and FHEO senior leadership, longstanding challenges in conducting compliance reviews include:

- (1) limited staff and resources,
- (2) the need for trained and experienced staff,
- (3) a lack of centralized guidance for conducting compliance reviews,
- (4) a lack of guidance for making strategic target selections, and
- (5) structural barriers.

Based on our survey, FHEO is making progress in addressing these challenges, which will help it maintain an effective program of compliance reviews. The sections below highlight the challenges that FHEO faces in conducting compliance reviews and FHEO's recent efforts to address those challenges.

### Limited Staff and Resources

FHEO personnel reported being underresourced to carry out compliance reviews on a meaningful scale. Limited staff and resources were cited as a challenge by 18 of the 32 EOS field supervisors who responded to our question about the biggest challenge FHEO faces regarding compliance activities.<sup>2</sup> FHEO senior leaders acknowledge that significant resources are dedicated to investigating housing discrimination complaints that are not discretionary, unlike Department-initiated compliance reviews. They further stated that the agency's need to investigate statutorily deadline-driven administrative complaints leaves insufficient staff time for proactive compliance reviews to promote civil rights compliance among recipients of HUD funding. FHEO's Department-initiated compliance reviews for whole categories of discrimination are an important function for advancing equity and supporting underserved communities.

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<sup>2</sup> A total of 46 supervisory EOSs responded to the survey, and 14 of them stated that the question about the biggest challenge FHEO faces regarding compliance activities did not apply to them.

Supporting the supervisory EOS perspective that limited resources are a challenge, we found that FHEO’s staffing levels have decreased 24 percent, from 576 full-time equivalents (FTE) in 2010 to 435 in 2019. FHEO regained some capacity in 2021, with an increase to 534 FTEs, although its workstreams also increased, to include front-end reviews of the Rental Assistance Demonstration Program (RAD),<sup>3</sup> additional complaint processing related to the *Bostock* decision,<sup>4</sup> the Violence Against Women Reauthorization Act of 2022, and addressing issues in the distribution and use of billions of dollars in disaster funding, including racial equity, accessibility, and individuals with limited English proficiency. FHEO also expects that it will need significant staffing resources to implement the Affirmatively Furthering Fair Housing rule, currently in the rulemaking process.

Additionally, FHEO’s funding resources were flat or decreased between 2011 and 2020. FHEO did not experience a significant budget increase until 2021 after more than a decade. In 2010, compliance work was funded through salaries, which were included in the program office salaries and expenses (POSE) budget. Using the fiscal year 2010 POSE actual budget of about \$67.2 million as a baseline, we measured the salaries’ dollar increases and decreases from 2011 to 2021. See the table below for the dollar and percentage changes in the POSE funding for that period.

Year	POSE funding	Dollar difference from 2010	Percentage difference from 2010
2011	\$68,794,884	\$1,639,001	2.4%
2012	69,735,000	2,579,117	3.8%
2013	66,888,000	-267,883	-0.4%
2014	66,883,000	-272,883	-0.4%
2015	64,367,000	-2,788,883	-4.2%
2016	64,180,000	-2,975,883	-4.4%
2017	66,225,000	-930,883	-1.4%
2018	66,329,000	-826,883	-1.2%
2019	62,080,000	-5,075,883	-7.6%
2020	66,367,000	-788,883	-1.2%
2021	76,135,000	8,979,117	13.4%

<sup>3</sup> In November 2016, HUD published the RAD Fair Housing, Civil Rights, and Relocation Notice (Notices H (Office of Housing) 2016-17 and PIH (Office of Public and Indian Housing) 2016-17) to ensure that public housing agencies converting inventory to a RAD structure complied with the Fair Housing Act and other civil rights statutes. RAD projects must meet the civil rights requirements (through FHEO’s front-end review), or the financing of the housing and infrastructure redevelopment cannot go to closing.

<sup>4</sup> In *Bostock v. Clayton County*, 590 U.S. (2020), the Supreme Court held that Title VII of the Civil Rights Act of 1964’s prohibition on discrimination “because of ...sex” covers discrimination based on gender identity and sexual orientation. Executive Order 13988 expanded the finding to all laws that prohibit sex discrimination, including the Fair Housing Act, which expanded the parameters of sex discrimination for FHEO to investigate.

In recent years, FHEO highlighted the need for additional resources for compliance review activities. For example, in its 2022 congressional justification, FHEO stated, “FHEO also will need additional human capital to fully execute the part of its mission that involves ensuring non-discrimination in HUD-funded programs. In recent years, such affirmative compliance activities were deemphasized, as the limited number of headquarters and regional staffs focused on Act enforcement. With this request, FHEO will also devote compliance staff to combating other challenges in HUD-funded programs and projects, such as disability discrimination.” The 2023 justification stated, “FHEO plays a critical role in conducting limited front-end reviews and compliance reviews of HUD-funded programs. These reviews are extremely time-intensive, and due to insufficient resourcing, FHEO has often had to divert compliance staff away from this work stream to address investigations and enforcement activities statutorily required by the Fair Housing Act. FHEO requires sufficient resourcing to support proper front-end and compliance coverage of HUD-funded programs nationwide in keeping with civil rights laws and the President’s Memorandum to HUD on Redressing Our Nation’s and the Federal Government’s History of Discriminatory Housing Practices and Policies.” Also, FHEO’s submission with its fiscal year 2024 budget request included a reorganization proposal to Congress that would provide FHEO with a dedicated senior executive to lead FHEO’s civil rights compliance efforts and consolidate FHEO compliance-related operations under that executive. As of August 2024, this reorganization proposal was still under review.

## **Need for Trained and Experienced Staff**

When surveyed, 14 of 32 FHEO EOS field supervisors identified the need to build capacity and maintain trained and experienced staff as important for establishing an effective compliance review program. FHEO senior leaders acknowledge that training is a challenge and that considerable resources were invested toward planning for and building staff capacity over the last 2 years. Some of these activities included a compliance leadership planning retreat held in December 2022 and a civil rights compliance conference and training for 127 FHEO compliance staff nationwide held in February 2023. This 3-day event addressed an overview of compliance reviews and investigations, choosing compliance review and investigative targets, and information on a compliance library and new online resources for FHEO staff. Participants reported a positive experience, noting that the conference strengthened their ability to apply and enforce civil rights in HUD programs, improved their connections with colleagues and resources, helped them better understand and value their role in the organization, and inspired and motivated them in performing their work.

FHEO also started a cross-regional initiative to conduct coordinated civil rights compliance reviews under Title VI of the Civil Rights Act of 1964. This initiative models meaningful target selection for civil rights compliance reviews by using HUD’s own data reflecting some of the most segregated HUD-assisted multifamily properties in the country to achieve impactful outcomes. FHEO estimated that approximately one-third of FHEO’s compliance staff nationwide participated in this initiative, including many of FHEO’s newest staff members and most program compliance branch chiefs. FHEO stated that as part of this initiative, it opened 16 multifamily reviews nationwide and as of August 2024, executed 15 voluntary conciliation agreements, which included \$939,000 in relief for harmed applicants; investments in advertising, outreach, and website visibility; and improved language access, impacting nearly 3,000 units in HUD’s assisted multifamily housing portfolio. FHEO stated that the agreements also led to revisions to key policies and practices, including (1) application distribution and acceptance, (2) criminal records and credit screening, and (3) the operation of mandatory meals programs consistent with HUD’s civil rights requirements. The initiative provided comprehensive training and tools to FHEO staff nationwide on (1) selecting compliance review targets, (2) conducting civil rights compliance reviews, and (3) negotiating



voluntary compliance with recipients. FHEO stated that it intends to benchmark lessons from this initiative to model additional learning opportunities for its staff.

## **Lack of Centralized Guidance for Conducting Civil Rights Compliance Reviews**

When surveyed, 14 of 32 EOS field supervisors cited a lack of centralized guidance as another challenge. FHEO senior leaders acknowledged this need and developed an internal Fair Housing Compliance Resource Library with new online resources for FHEO compliance staff, which were discussed during the February 2023 civil rights compliance conference and training. This library includes a welcome guide explaining the site; instructions on how to use the site; and links to various topics, such as press releases, training videos, and comprehensive guidance material. FHEO stated that it considers the U.S. Department of Justice’s (DOJ) Title VI investigative and legal manuals as central guidance in conducting FHEO’s civil rights compliance activities and that it collaborates with DOJ to train investigators to use this guidance.<sup>5</sup> Finally, FHEO acknowledged that it needs additional guidance to instruct FHEO field staff on how to conduct some front-end civil rights reviews and stated that additional guidance is in development for Site and Neighborhood Standards reviews, Designated Housing Plan reviews, and reviews of public housing agency and Office of Community Planning and Development planning documents.

## **Lack of Guidance for Strategic Target Selection**

FHEO senior leaders acknowledged that they should work toward making strategic target selection decisions, including defining a “meaningful and impactful review” for their staff to aim for when selecting compliance reviews. FHEO explained that its overall effectiveness is greatly affected by target selection decisions because of limited resources. Senior leaders stated that it is difficult to balance selecting “doable” targets with staff resources and skills (including HUD’s Office of General Counsel attorneys that litigate matters before the Administrative Law Judges) that are impactful with respect to the number of persons reached. FHEO stated that it had broad discretion to conduct civil rights compliance reviews of recipients of HUD funding and conducted these reviews based on the availability of resources. As part of its efforts to address this challenge, FHEO held a conference in February 2023, which included training and updated terminology related to strategic target selections.

## **Structural Barriers**

FHEO senior leaders stated that a lack of agency deference with clearance items and FHEO’s review of HUD program offices’ preaward and planning documents represented structural barriers challenging its implementation of a civil rights compliance review program. FHEO senior leaders stated that they believe FHEO should be accorded deference to determine and interpret civil rights-related program requirements. According to them, fair housing and civil rights compliance is a “cross cutting competency” applicable to all HUD directives and is necessary to encourage equity and combat discrimination in all programs or activities receiving HUD funding. Therefore, they believe that FHEO should have a certain amount of empowerment regarding the approval of clearance items. HUD Handbook 000.2, REV-3 was recently revised to add FHEO as a mandatory reviewing office for all Departmental notices, rulemaking

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<sup>5</sup> DOJ is responsible for Federal coordination of the cross-cutting requirements of the civil rights authorities, including Title VI and Section 504 under Executive Order 12250.

actions, NOFOs, and other policy documents. This change will help improve compliance monitoring within HUD by ensuring that all official policy documents undergo civil rights review. While not yet published, as of August 2024, the revised handbook has completed Departmental clearance.

FHEO's preaward review work is a key component of its compliance review strategy because it is intended to find civil rights problems before they materialize and is an area in which FHEO can draw insight for targeting investigative compliance reviews. Having increased empowerment to interpret civil rights-related program requirements would help program offices hold HUD's recipients accountable for their civil rights and fair housing obligations.

## **Conclusion**

FHEO is advocating for and working toward the addition of increased resources and capacity, improved guidance, and greater empowerment within the Department. This action along with a commitment from all program offices to hold recipients accountable could improve overall program effectiveness. FHEO's compliance review function can become more effective in promoting compliance with civil rights laws.

## **Recommendations**

This report contains no recommendations.

## Scope and Methodology

We performed our audit from July 2022 through September 2023 remotely and at our office located in Hartford, CT. The audit generally covered the period October 1, 2018, through September 30, 2021, but was expanded to allow for a review of FHEO's annual reports to Congress for fiscal years 2011 through 2021 and congressional justifications for fiscal years 2011 through 2023, as described below. We also expanded our audit period to August 2024 to assess FHEO's recent efforts to address its challenges.

To accomplish our objective, we

- Reviewed applicable laws, regulations, notices, assessments, and DOJ investigative and legal manuals.
- Reviewed FHEO's annual reports to Congress for the period 2011 through 2021 to identify the number of compliance reviews conducted during that period, as reported in FHEO's Housing Enforcement Management System (HEMS).<sup>6</sup>
- Analyzed FHEO staffing as of December 2021, including a detailed analysis of the field staff members primarily responsible for conducting compliance reviews of recipients of Federal financial assistance in their respective regions.
- Interviewed FHEO officials to gain an understanding of FHEO's budget process and identify challenges faced in headquarters related to Department-initiated compliance reviews.
- Using Microsoft Forms, surveyed 100 percent of the 67 FHEO supervisory EOSs stationed in the field at the time of our fieldwork. We received 46 responses to our survey, resulting in a response rate of 69 percent (46 of 67). The survey included the following questions:
  - Using a percentage (such as 10 percent, 25 percent, etc.), describe how much of your time is spent on duties related to compliance activities. We received a response from all 46 FHEO supervisory EOSs who replied to the survey.
  - Using a percentage, collectively, how much of your staff's time is spent on duties related to compliance activities? We received a response from all 46 FHEO supervisory EOSs who replied to the survey.
  - Describe all of the types of compliance-related activities you and your staff generally complete. We received a response from 23 of the 46 FHEO supervisory EOSs who replied to the survey.
  - Describe how recipients are generally selected for a compliance review. We received a response from 20 of the 46 FHEO supervisory EOSs who replied to the survey.
  - Are compliance activities coordinated with the other program offices and if so, how? We received a response from 18 of the 46 FHEO supervisory EOSs who replied to the survey.
  - What is the biggest challenge, if any and in your opinion, FHEO faces regarding compliance activities? We received a response from 32 of the 46 FHEO supervisory EOSs who replied to the survey.
  - Regarding the periodic submission of compliance reports by recipients, (1) what types of compliance reports, if any, are recipients required to submit for review; (2) who reviews the reports; and (3) how are the reviews documented? We received a response from 25 of the 46 FHEO supervisory EOSs who replied to the survey.

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<sup>6</sup> HEMS automates the investigation and compliance business processes for FHEO.

- What manuals, notices, and other guidance has HUD issued for carrying out its compliance program? We received a response from 25 of the 46 FHEO supervisory EOSs who replied to the survey.
  - Any additional comments or concerns. This question was optional, and we received a response from 7 of the 46 FHEO supervisory EOSs who replied to the survey.
- Analyzed FHEO’s congressional justifications, specifically the program office salaries and expenses budget information for fiscal years 2011 to 2023, to compare funding and FTEs.
  - Reviewed FHEO’s February 2023 Civil Rights Compliance Conference, the cross-regional initiative in which FHEO conducted coordinated civil rights compliance reviews under Title VI, updated regional directors’ performance elements, preaward compliance-related activities, and FHEO’s reorganization proposal to assess recent efforts FHEO had made to address its challenges.
  - Interviewed FHEO’s senior leaders to obtain an understanding of its compliance-related workstreams.

To achieve our objective, we relied on HEMS, a system in which data on compliance reviews are documented, which is the source of the information provided in FHEO’s annual reports to Congress. We relied on HEMS to determine the number of compliance reviews initiated and completed, including under which authority. 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.

# Appendix

## Auditee Comments and OIG's Evaluation

On July 29, 2024, we issued the discussion draft report to the Deputy Assistant Secretary for Enforcement. On September 3, 2024, the Deputy Assistant Secretary informed us that HUD chose not to provide formal written comments for inclusion in the final report. However, the Deputy Assistant Secretary provided some minor suggested edits, which we incorporated into the final report.