

(12) *Hispanic Fair Housing Awareness Component.* Applicants are ineligible for funding if staff persons that have been providing bilingual services have not been employees with the applicant for 3 of the 5 years used to prove eligibility under the Hispanic Fair Housing Awareness Component. List all bilingual employees and provide proof of employment of staff. Grantees may not deny services to a client who is not Hispanic.

(13) *FHOI.* Applicants for FHOI only are ineligible if their organization received previous FHOI awards in FY 2001 or FY 2002.

(C) *Additional Requirements For PEI and FHOI.* (1) *Mandatory Referrals.* You must refer to HUD all cases arising from FHIP-funded enforcement activities. In all FHIP-funded cases where you find a basis for filing a complaint on behalf of a complainant other than your organization, you must file the complaint with HUD unless the complainant declines to do so in writing. You must return copies of all complaints that the complainant declines to file to HUD. In addition to filing complaints with HUD, a complainant may file a civil action in Federal or State Court.

(2) *Broad-Based and Full-Serviced.* Your organization must conduct a broad-based and full-service enforcement project that addresses discrimination against all persons protected by the Fair Housing Act on the basis of race, color, religion, sex, disability, familial status, or national origin.

(3) *Outreach Expenses.* The funds awarded for enforcement grants may be used for outreach and education activities (hereafter, outreach activities) in order to promote awareness of your project's services, as follows: under FHOI, you may provide for up to 10 percent of the requested funds for the sponsored organization to be used for outreach activities; under PEI, you may designate up to 5 percent of the requested funds for outreach activities.

(4) *Tester Requirements.* Testers in your FHIP-funded testing activities must not have prior felony convictions or convictions of crimes involving fraud or perjury. All testers must receive training acceptable to HUD or be experienced in testing procedures and techniques. Testers and the organizations conducting tests, and the employees and agents of these organizations may not:

(a) Have an economic interest in the outcome of the test; except to the extent that they could recover damages as provided by law;

(b) Be a relative related by adoption, blood, or marriage to any party in a case;

(c) Have had any employment or other affiliation, within the past year, with the person or organization to be tested; or

(d) Be a licensed competitor of the person or organization to be tested in the listing, rental, sale, or financing of real estate.

(5) *Review and Approval of Testing Methodology.* If your SOW proposes testing, other than rental housing testing, HUD may require copies of the following documents to be reviewed and approved by HUD prior to your carrying out the testing activities:

(a) The testing methodology to be used,

(b) The training materials to be provided to testers, and

(c) Other forms, protocols, cover letters, etc. used in the conduct of testing and reporting of results.

The testing methodology and training materials that you submit to HUD for review and approval are for enforcement purposes and will remain confidential.

(6) *Tester Training.* You must provide sufficient information in the application to show how testers are trained by your organization and how the materials will be used.

(7) *Conflict of Interest and Use of Settlement Funds.*

(a) You may not solicit funds from or seek to provide fair housing educational or other services or products for compensation either directly or indirectly to any person or organization that has been the subject of FHIP-funded testing by your organization during the 12 month period following the test. This does not preclude providing training or technical assistance that is court ordered or contained in a negotiated settlement. HUD reserves the right to impose additional provisions addressing potential conflicts of interest in the grant agreement.

(b) You must reimburse the United States for FHIP-funded activities whenever you receive funds as the result of enforcement activities funded in whole or in part by the FHIP program, including testing. You must provide information about reimbursements and/or potential reimbursements in a report that you submit to HUD (see Reports below). Provisions regarding terms for reimbursing the United States will be specified in your grant or cooperative agreement. This reimbursement requirement does not apply to compensation received as a result of a judgment in Federal or State Court. Calculate your reimbursement on a per complaint basis. Identify the complaint, then subtract the amount of non-FHIP funds from the amount of FHIP funds used to resolve the complaint. The

difference is the amount owed. For example:

Testing Expense = \$500 (All FHIP funds used)

Settlement Award = \$15,000

Reimburse HUD = \$500

(8) *Reports.* You must provide reports in a format (which may be computer-generated), at a frequency and with contents specified by HUD. At a minimum, the report must include the number and basis of complaints filed with HUD, with a FHAP agency, or in Federal/State Court as well as the number and terms of settlements or other outcomes achieved. If HUD does not prescribe a format or frequency, you will provide a narrative report within 90 days after all grant activities have ended or at the end of each 12 month period of the grant, whichever comes first. All settlements and verdicts are public except settlements or judgment that a court or other tribunal has ordered to be kept confidential. However, all settlements and verdicts are public involving cases processed using FHIP funds are a matter of public record. Your agency will not be able to claim attorney-client or other privileges against the release of data to the Department on any case where FHIP funds are used. You will also be required to provide status reports on case referrals you have made to HUD or a FHAP agency. These reports are for enforcement purposes and will remain confidential.

(9) *Enforcement Log.* You are required to record information about the funded project in a case tracking log (or Fair Housing Enforcement Log) in a format prescribed by HUD. Such information must include: The number of complaints of possible discrimination you have received; the protected basis of these complaints; the issue, test type, and number of tests utilized in the investigation of each allegation; the respondent type and testing results; the time for case processing, including administrative or judicial proceedings; the cost of testing activities and case processing; the entity to which the case was referred; and the resolution and type of relief sought and received. You must agree to make this log available to HUD. This log will be considered confidential for enforcement purposes. This log should only have case information in it where FHIP funds were used.

(10) *Attachments.* All PEI, FHOI, EOI applicants must submit a Statement of Eligibility. All applicants must submit resumes, or position descriptions for newly created positions of all key personnel; if you received HUD funding