

MEMORANDUM OF UNDERSTANDING  
BETWEEN THE  
U.S. DEPARTMENT OF AGRICULTURE  
AND THE  
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**I. Purpose**

This agreement between the United States Department of Agriculture (USDA) and the United States Department of Housing and Urban Development (HUD) defines procedures to coordinate the investigation and resolution of complaints alleging violations of the Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601-3619)).

It is recognized that HUD is responsible under law for enforcing the Fair Housing Act. In so doing, HUD is required to investigate allegations of housing discrimination, attempt conciliation of fair housing complaints, and determine whether there is reasonable cause to believe discrimination has occurred under the Act. Upon finding reasonable cause, HUD must bring the case before an administrative law judge, or if any party elects to have claims or complaints decided in a civil action, HUD must refer the complaint to the Department of Justice for prosecution in U.S. District Court.

Further, it is recognized that USDA is required by Section 808 of the Fair Housing Act and Executive Order 12892 to administer its programs and activities relating to housing and urban development in a manner affirmatively to further fair housing. In addition, it is recognized that USDA, under Title VI of the Civil Rights Act of 1964 (Title VI), the Age Discrimination Act of 1975, and the Rehabilitation Act of 1973, is responsible for ensuring that recipients of federal financial assistance through USDA do not discriminate. In so doing, USDA is required to investigate and conciliate complaints of discrimination and to refer unresolved complaints of discrimination to the U.S. Attorney General for appropriate action.

2. Scope

The scope of this MOU is limited to complaints of alleged discrimination asserting a violation of the Fair Housing Act that are filed against participants in housing-related programs and activities administered by USDA.

For the purposes of this memorandum, the term "complaint" shall be used as it is currently defined by both HUD and USDA in their respective regulations. In the case of USDA, the term covers both formal and informal complaints; for HUD, it covers both claims or complaints and complaints.

This memorandum does not cover complaints alleging that USDA has violated the Fair Housing Act. The disposition of such complaints will be addressed at a future date in a separate Memorandum of Understanding.

3. Affirmatively furthering fair housing.

In accordance with section 808(d) and (e) of the Fair Housing Act and Executive Order 12892, the Department of Agriculture affirms its commitment to administer its programs and activities related to housing and urban development in a manner affirmatively to further fair housing. USDA shall make affirmative efforts to ensure that participants in housing-related programs and activities do not discriminate in the sale or rental of housing or in the provision of housing-related services in violation of the Fair Housing Act. If USDA finds that discrimination in the sale or rental of housing or in the provision of housing-related services has occurred in its programs or activities, USDA shall take action, to the fullest extent permitted by law, to remedy the effects of such discrimination.

In addition, USDA shall make affirmative efforts to overcome the effects of conditions that resulted in limiting participation by persons protected by the Fair Housing Act in its programs related to housing and urban development.

To implement this section, USDA will undertake a review of its programs and activities related to housing or urban development, all relevant practices and procedures, and its related regulations, handbooks, and other written guidance materials, and revise them as necessary. The review will also seek to identify and eliminate impediments to fair housing choice that may be found in the design or operation of USDA programs. Upon request by USDA, HUD's Office of Fair Housing and Equal Opportunity (FHEO) will provide technical assistance in such a review and suggest appropriate revisions.

Furthermore, USDA agrees to train its program administration staff regarding nondiscrimination in the sale or rental of housing and the provision of housing-related services.

and affirmatively furthering fair housing requirements. HUD/FHEO will assist in such training upon request.

**4. Receipt of Claims or Complaints of Alleged Discrimination - USDA as Initial Contact**

When USDA receives a claim or complaint alleging conduct which, if true, would constitute a violation of the Fair Housing Act, the parties shall proceed as follows. (As used herein, "upon receipt" shall normally mean within two weeks.)

**(A) Upon receipt of the allegation, USDA shall:**

1) Forward a copy to the HUD Fair Housing Enforcement Center in the region where the alleged discrimination took place. Each allegation shall be accompanied by a USDA case number for tracking purposes, a copy of the letter sent to the complainant pursuant to (2) below, and an initial determination by USDA as to whether the complaint should be handled solely by HUD or whether, due to the nature of the complaint and the applicable law(s), USDA will investigate the claim or complaint concurrently under its authority under Title VI or any other relevant authority.

2) Mail a letter to the complainant notifying him or her that the allegation has been forwarded to HUD, explaining what his or her rights are under the Fair Housing Act, and explaining that the complaint is being reviewed for investigation by both HUD and USDA. The letter shall also:

(a) State that USDA and HUD may share copies of correspondence, summaries from interviews, investigative reports, and other related information, subject to the provisions of Section 7 of this Memorandum.

(b) Include information on the other anti-discrimination laws that may apply, including Title VI, the Age Discrimination Act of 1975, and the Rehabilitation Act of 1973.

(c) Indicate that the complaint may be investigated by HUD and/or USDA, separately or jointly, depending on the nature of the complaint and the applicable law.

(B) After receiving an allegation referred by USDA, HUD shall:

- 1) Send a letter of acknowledgment to USDA that includes, but is not limited to, the HUD case number assigned to the claim or complaint, and the location, address, and telephone number of the office where the claim or complaint will most likely be investigated.
- 2) Within 10 days, attempt to contact the complainant to begin the development of a complaint that can be accepted by HUD for further investigation.
- 3) Upon determining that it has jurisdiction over the complaint, draft and file a complaint. HUD will notify the complainant in writing of his or her rights under the Fair Housing Act.
- 4) Within 10 days of determining that it has jurisdiction over the complaint, notify the respondent in writing of his or her rights under the Fair Housing Act, including HUD's jurisdiction, and that the claim or complaint may also be investigated as a violation of other civil rights statutes by USDA.

#### 5. Receipt of Allegations of Discrimination – HUD as Initial Contact

When HUD receives a claim or complaint alleging conduct that, if true, would constitute a violation of the Fair Housing Act, or upon HUD's becoming aware that such alleged conduct involves a housing-related program or activity administered by USDA, the parties shall proceed as follows:

(A) Upon receipt of a Fair Housing Act claim or complaint or upon becoming aware of a possible violation of the Fair Housing Act involving a housing-related program or activity administered by USDA, HUD shall:

- 1) Forward to USDA a copy of the allegations made, with a case number for tracking purposes, and the location, address, and phone number of the HUD Fair Housing Enforcement Center where the complaint will most likely be investigated.
- 2) Within 10 days of receiving the claim or complaint, attempt to contact the complainant to begin the process of determining whether a claim or complaint or inquiry is jurisdictional.
- 3) Upon determining that it has jurisdiction over the complaint, draft and file complaint. HUD will notify the complainant in writing of his or her rights

under the Fair Housing Act, including HUD's jurisdiction, and inform the complainant that the claim or complaint may also be investigated as a violation of other civil rights statutes by USDA. The letter shall also:

(a) State that USDA and HUD may share copies of correspondence, summaries from interviews, investigative reports, and other related information, subject to Section 7 of this Memorandum.

(b) Include information on other anti-discrimination laws that may apply including Title VI, the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

4) Within 10 days of determining that it has jurisdiction over the complaint, HUD will notify the respondent in writing of his or her rights under the Fair Housing Act, including HUD's jurisdiction, and that the claim or complaint may also be investigated as a violation of other civil rights statutes by USDA.

(B) Upon receipt of a copy of a claim or complaint referred by HUD, USDA shall send a letter of acknowledgment to HUD that will include the case number assigned to the complaint by USDA; the location, address, and phone number of the USDA office where the complaint would most likely be investigated; and an initial determination as to whether, due to the nature of the claim or complaint, USDA will investigate the claim or complaint concurrently under its own authority or will investigate jointly with HUD.

#### 6. Response to Official Notice from Either HUD or USDA

(A) At any time that USDA or HUD closes a complaint subject to this agreement, the department closing the complaint will notify the other department, the complainant, and the respondent.

(B) Upon request, each department shall send a copy of any materials subject to this Memorandum to the other department, subject to the provisions of Part 7, below.

#### 7. Sharing of Documents

(A) Except as provided in (D), copies of all communications from complainants, respondents, and witnesses (or potential witnesses) and letters from each department to such persons shall be shared by the departments during a joint investigation or upon

request when joint investigations are not underway. Such a request may be prospective.

(B) Copies of relevant USDA site documents shall be forwarded to HUD within 7 days of a request for such documents. Relevant site documents shall include, but not be limited to, compliance reviews, tenant certifications, and fair housing marketing plans.

(C) USDA and HUD agree to cooperate in preparing for legal proceedings intended to enforce the Fair Housing Act, Title VI, the Age Discrimination Act of 1975, and the Rehabilitation Act of 1973. USDA agrees to cooperate in providing testimony by its staff or officials regarding the operations of programs or activities administered by USDA and assistance in preparing evidence relevant to the operations of such programs and activities. HUD agrees to cooperate in providing testimony by its staff or officials in USDA proceedings and to assist in preparing evidence relevant to such proceedings.

(D) It is recognized that the ability of HUD and USDA to share information may be limited by legal considerations, including but not limited to the Privacy Act, applicable privileges, federal law, court order, or special confidentiality agreements. In such cases, the parties will confer for the purpose of determining what information can be made available without compromising restrictions on the availability of such information.

## 8. Joint Investigations

To the greatest extent possible, HUD and USDA shall cooperate in the conduct of investigations involving alleged discrimination under the Fair Housing Act. HUD shall coordinate any joint investigation. At a minimum, such cooperation shall include:

- (A) Timely notice to the other department of any site visit;
- (B) Consultation with the other department regarding approaches to the investigation;
- (C) Forwarding to the other department a copy of the accepted complaint, together with notes from the interviews conducted in the development of the complaint and preliminary investigation, subject to the provisions of Part 7, above; and,
- (D) Technical assistance on how USDA programs and activities operate.

## 9. Conciliation, Informal Resolution, and Sanctions

(A) HUD and USDA agree to cooperate in the resolution of complaints which, if true, would violate both the Fair Housing Act and Title VI of the 1964 Civil Rights Act, the Rehabilitation Act of 1973, or the Age Discrimination Act of 1975.

(B) If a complainant or respondent in a Fair Housing Act case or complaint handled by HUD seeks to resolve any allegations of discrimination pending before USDA under Title VI, the Rehabilitation Act of 1973, or the Age Discrimination Act of 1975, HUD shall consult with USDA as to whether such terms can be included in a conciliation or settlement agreement, and if so, what the terms should be.

(C) If a complainant or respondent in a case or complaint handled by USDA under Title VI, the Rehabilitation Act of 1973, or the Age Discrimination Act of 1975, seeks to resolve any claim or complaint or allegation of discrimination also pending before HUD under the Fair Housing Act, USDA shall consult with HUD as to whether such terms can be included in a conciliation or settlement agreement, and if so, what the terms should be.

(D) No allegation of discrimination pending before USDA under Title VI, the Rehabilitation Act of 1973, or the Age Discrimination Act of 1975, which is also pending before HUD pursuant to the Fair Housing Act, may be resolved by HUD as to Title VI, the Rehabilitation Act of 1973, or the Age Discrimination Act of 1975, without the express consent of USDA.

However, HUD may conciliate cases or settle complaints under the Fair Housing Act involving allegations of discrimination by a participant in a program or activity assisted by USDA without the express consent of USDA.

(E) USDA and HUD shall each notify the other of any action taken regarding matters described in this section within two weeks of such action.

## 10. Closings, Determinations, and Final Decisions

(A) Each party agrees to notify the other of:

- 1) The date and the reason that a complaint is closed;
- 2) Any determination that the Fair Housing Act, Title VI, the Rehabilitation Act of 1973, or the Age Discrimination Act of 1975, has or has not been violated, including copies of any documents on which that determination was

based, to the extent available under the law and subject to the provisions of Part 7, above;

3) Any referral of a claim or complaint by either department to the Department of Justice or other federal enforcement body or election by the complainant or respondent in a Fair Housing Act case to have the charges adjudicated in U.S. District Court;

4) The issuance of a final decision after an administrative hearing or trial before a U.S. District Court; and,

5) Any other matters concerning the closure of a complaint or relating to the reasonable cause determination, including conciliation or settlement of the complaint or the imposition of sanctions, as set forth in Part 9, above.

(B) HUD shall forward to USDA any determination that the Fair Housing Act has or has not been violated within two weeks of making such determination. HUD shall attach the Final Investigative Report.

(C) After receiving a copy of the determination and investigative report from HUD, USDA shall review the documents and other relevant materials and make a determination, if it has not already done so, as to whether it will proceed with its own investigation under the civil rights provisions cited in Section 1 of this agreement.

(D) USDA shall notify HUD, the complainant, and the respondents whether it is pursuing a concurrent investigation within two weeks of making its decision. USDA shall provide HUD, the complainants, and the respondents with a copy of the preliminary investigation report within two weeks of filing the report with the USDA civil rights office.

## 11. Monitoring

(A) HUD and USDA shall each maintain a cumulative list of complaints involving housing-related programs and activities administered by USDA, including:

- 1) The name of the complainant
- 2) The address and phone number of the complainant
- 3) The case number of the complaint



4) The status of the complaint

5) The location, name and phone number of the staff person responsible for complaint.

(B) HUD and USDA shall meet not less than annually to discuss the operation of the MOU, make recommendations for improvements, and clarify the status of particular investigations.

## 12. Training

HUD and USDA shall cooperate in staff training on the Fair Housing Act, relevant activities related to housing or urban development, and on the operation of USDA programs.

## 13. Implementation

(A) This MOU becomes effective 90 days from the date of the last signature on the document.

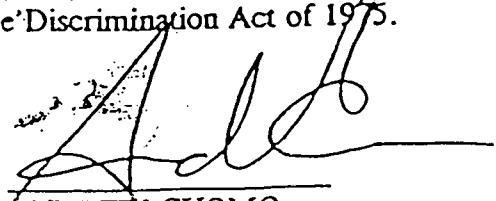
(B) Prior to the effective date, HUD and USDA shall develop internal procedures for implementation, including approval of standard letters for use by each party and guidelines for any joint investigations. A complete and final copy of those procedures shall be forwarded to the other party not less than 30 day prior to the effective date of this MOU.

(C) The parties agree to confer on the interpretation and application of the memorandum as necessary and to conduct jointly an annual review of its operation.

(D) Nothing in this MOU shall be construed to impair HUD's authority to enforce the Fair Housing Act.

(E) Nothing in this MOU shall be construed to impair USDA's authority to enforce Title VI, the Rehabilitation Act of 1973, or the Age Discrimination Act of 1975.

  
DAN GLICKMAN  
Secretary of Agriculture

  
ANDREW CUOMO  
Secretary of Housing  
And Urban Development

*Signed on 7/11/98*