

12-P-1270
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A RESOLUTION BY

FINANCE/EXECUTIVE COMMITTEE

A RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY OF ATLANTA TO ENTER INTO A VOLUNTARY COMPLIANCE AGREEMENT WITH THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT WITH A TERM OF THREE YEARS, IN RESPONSE TO THE CITY OF ATLANTA'S CIVIL RIGHTS COMPLIANCE REVIEW; AND FOR OTHER PURPOSES.

substitute

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1ST ADOPT 2ND READ & REFER
- PERSONAL PAPER REFER

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First Reading

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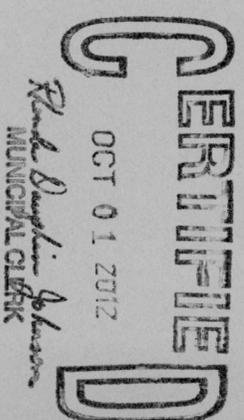
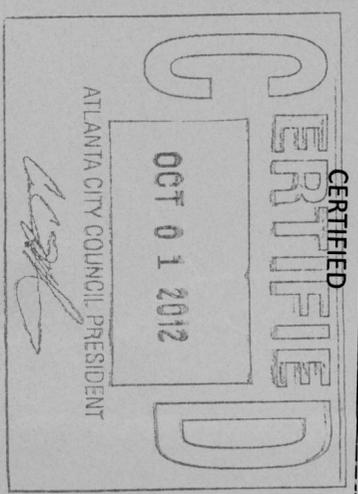
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ADOPTED BY
COUNCIL

OCT 10 2012

FINAL COUNCIL ACTION
 2nd 1st & 2nd 3rd
 Readings
 Consent V Vote RC Vote



MAYOR'S ACTION

APPROVED

OCT 10 2012

WITHOUT SIGNATURE
 BY OPERATION OF LAW



CITY COUNCIL
ATLANTA, GEORGIA

A SUBSTITUTE RESOLUTION BY
FINANCE/EXECUTIVE COMMITTEE

12-R-1270

A RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY OF ATLANTA TO ENTER INTO A VOLUNTARY COMPLIANCE AGREEMENT WITH THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT WITH A TERM OF THREE YEARS, IN RESPONSE TO THE CITY OF ATLANTA'S CIVIL RIGHTS COMPLIANCE REVIEW; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta (the "City") underwent a Civil Rights Compliance Review (the "Review") administered by the U.S. Department of Housing and Urban Development ("HUD") during the month of March 2012; and

WHEREAS, the Review included an audit of City programs funded in whole or in part with Community Development Block Grant, Home Investment Partnership Program, Neighborhood Stabilization Program funds and Americans with Disability Act compliance for fiscal years 2008, 2009 and 2010; and

WHEREAS, in July 2012 the City received HUD's findings regarding the Review, copies of which are attached hereto as Exhibit A; and

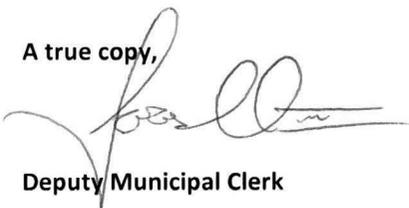
WHEREAS, as a result of the Review, the City must enter into a Voluntary Compliance Agreement (the "VCA") with HUD, a copy of which is attached hereto as Exhibit B, outlining the City's plan for compliance in areas of noncompliance; and

WHEREAS, the term of the VCA shall be three (3) years from the date on which the parties execute the VCA.

THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY RESOLVES, that the Mayor, on behalf of the City is hereby authorized to enter into the VCA with HUD in substantially the same form as the document attached hereto as Exhibit B.

BE IT FINALLY RESOLVED, that the VCA shall not become binding upon the City, and the City shall incur no liability upon same until the VCA is approved by the City Attorney as to form, executed by the Mayor, attested to by the Municipal Clerk, and delivered to HUD.

A true copy,



Deputy Municipal Clerk

ADOPTED by the Atlanta City Council
APPROVED as per City Charter Section 2-403

October 01, 2012
October 10, 2012



EXHIBIT A
LETTERS OF FINDINGS



EXHIBIT B
VOLUNTARY COMPLIANCE AGREEMENT



VOLUNTARY COMPLIANCE AGREEMENT

BETWEEN

**UNITED STATES
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY**

AND

**CITY OF ATLANTA
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
55 TRINITY AVENUE/68 MITCHELL STREET
ATLANTA, GEORGIA 30303**



CITY OF ATLANTA GOVERNMENT
VOLUNTARY COMPLIANCE AGREEMENT
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I. INTRODUCTION

The U.S. Department of Housing and Urban Development (“The Department”) administers Section 3 of the Housing and Urban Redevelopment Act of 1968 (Section 3), 12 U.S.C. § 1701u, and regulations issued at 24 C.F.R. Part 135; Section 504 of the Rehabilitation Act of 1973, as amended (Section 504), 29 U.S.C. § 794, and regulations issued at 24 C.F.R. Part 8; Section 109 of the Housing and Community Development Act of 1974, as amended (Section 109), 42 U.S.C. § 5301 et seq. and regulations at 24 C.F.R. Part 6 and § 570.602; and Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. § 2000, and regulations at 24 C.F.R. Part 1; ADA implementing regulations at 24 CFR 8.56(a), 6.11(b), Part 135, 1.7(a), and AFFH Statutory Authority 42 USC §3608(e)(5) respectively; and meeting its obligations under its Civil Rights Certification to Affirmatively Further Fair Housing.

During March 19-23, 2012, the Department conducted an on-site compliance review under the authorities of Section 3, Section 504, Section 109, AFFH, Title II and Title VI of the Community Development Block Grant (CDBG) program and Home Investment Partnership Program (HOME) administered by the City of Atlanta Government, Georgia (the City). The areas reviewed included: compliance with Section 3 requirements; compliance with Section 504 and Title II requirements; citizen participation; benefits, services and methods of administration; record-keeping; the City’s Affirmatively Furthering Fair Housing (AFFH) certification; and compliance with the Limited English Proficiency (LEP) provisions of Title VI.

Following the completion of the compliance review and analysis of the evidence, the Department made findings of noncompliance under Section 3, Section 504, Title II, Title VI, Section 109, and AFFH.

II. DEFINITIONS

Accessible – When used with respect to the design, construction, or alteration of housing and non-housing programs, “accessible” means that the program when designed, constructed, altered or adapted, can be approached, entered, and used by individuals who use wheelchairs. A program that is designed, constructed, altered or adapted to be in compliance with the Uniform Federal Accessibility Standards (UFAS) and, where applicable, the Americans with Disabilities Act Standards for compliance and is accessible (ADA Standards), meet the minimum standards for compliance and is accessible. See 24 C.F.R. §§8.3; 8:32; 28, C.F.R. §35.

Accessible Route – A continuous, unobstructed UFAS-compliant path as prescribed in 24 C.F.R. §§ 8.3 and 8:32; 28 C.F.R. § 35.151; and UFAS, §4.3 (see definition of “Dwelling Unit” and “Non-Housing Programs”).

Alterations – Any change in a facility or its permanent fixtures or equipment, including remodeling, renovation, rehabilitation, reconstruction, changes or re arrangement in structural parts and extraordinary repairs. See 24 § 8.3.

Auxiliary Aids – Service that enables persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving Federal financial assistance. The type of auxiliary aid or service necessary to ensure



effective communication involved. See C.F.R. § 8.3.

Development – The whole or one or more residential structures and appurtenant structures, equipment, roads, walks and parking lots that are covered by a single contract for Federal financial assistance or application for assistance; or are treated as a whole for processing purposes, whether or not located on a common site.

Dwelling Unit – A single unit of residence that provides a kitchen or food preparation area, in addition to rooms and spaces for living, bathing, and sleeping.

Effective Date – The effective date of this Agreement is the date of the last signature in Section VII.

Non-Housing Programs – All or any portions of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks passageways, parking lots, restrooms, or other real or personal property including the site where the building, property, or structure is located. A Non-Housing Program includes, but is not limited to, common areas, entrances, the on-sites offices which is defined separately as “Administrative Office”, centers, corridors, hallways, restrooms, meeting rooms, recreation rooms, senior citizens, social service offices, mail delivery, laundry rooms/facilities and trash disposals. Furthermore, Non-Housing Programs including any aid, benefit or service provided by the City, policies, administrative procedures, services, and non-tangible matters whose operation contribute to the application for housing, full enjoyment of housing, and full participation in the City’s housing programs. To the extent that entrances, elevators, and common areas provide accessible routes and connects’ dwelling unit and Non-Housing Programs, they fall within the provisions of this Agreement.

Person With a Disability – For purposes of this Agreement, a person with a disability is any person who has a physical or mental impairment that substantially limits one or more major life activities such as caring for oneself, manual tasks, walking, seeing, hearing, speaking, breathing or learning; has a record of such impairment; or, is regarded as having such an impairment. See 24 C.F.R. § 8.3.

Reasonable Accommodation – A reasonable accommodation is a change, modification, alteration, or adaptation in a policy, procedure, practice, program, facility or unit that provides a person with a disability the opportunity to participate in, or benefit from, a program (housing or non-housing), service or activity.

VCA –Voluntary Compliance Agreement.

Structural Impracticability – Changes having little likelihood of being accomplished without removing or altering a load-bearing structural member and/or incurring an increased cost of fifty percent (50%) or more of the value of the element of the building or facility involved. See UFAS § 3.5.

UFAS – Effective July 11, 1988, the design, construction, or alterations of buildings to ensure conformance §§ 3-8 of the Uniform Federal Accessibility Standards (UFAS) shall be deemed to comply with the requirements of 24 C.F.R. §§ 8.21, 8.22, 8.23 and 8.25.



UFAS – Accessible Unit – A dwelling unit that is designed, constructed, altered or adapted to comply with UFAS and is located on an accessible route, as defined in this Agreement. The unit can be approached, entered and used by individuals with disabilities, including individuals who use wheelchairs and on an Accessible Route, as defined in this Agreement. The accompanying Non-Housing Programs must also be accessible unless the City can demonstrate that the structural alterations needed to make the Non-Housing Programs accessible are structurally impracticable or would create an undue financial and administrative burden.

III. GENERAL PROVISIONS

1. This Agreement is effective on the date it is signed by the Director, Fair Housing and Equal Opportunity (FHEO), Region IV (the Director). The Director, acting on behalf of the HUD Secretary, retains authority to approve or disapprove this Agreement. This Agreement applies to the City's programs funded in whole or in any part with CDBG and HOME funds, and shall be binding upon the City, its agents, successors, and assigns or beneficiaries who own, control, operate or sponsor said programs.
2. This Agreement shall remain in effect until the City has satisfactorily completed the provisions set forth in this Agreement, or for a minimum of four years after the effective date of this Agreement, whichever is later. The City's failure to meet the terms of the Agreement will be considered a breach of the Agreement, which may be enforced pursuant to 24 C.F.R. §§ 1.8, 6.12, and 8.57.
3. Upon the City's submission of any plans, policies, or documents to FHEO in accordance with the dates specified in this Agreement, the Director shall review and approve or disapprove within 30 days. The City shall have 30 days to cure any deficiency(s) in the plans, policies, or documents, and resubmit to FHEO. Once approved by the Director, the City shall take the required action(s) specified elsewhere in this Agreement.
4. This Agreement does not in any way limit or restrict the Department's authority to investigate any complaints involving the City made pursuant to Section 3, Section 504, Section 109, Title VI, Title II, or any other authority within HUD's jurisdiction.
5. No amendment to, modification of, or waiver of any provision of this Agreement shall be effective unless the following conditions are met: (1) all signatories to the Agreement are notified in advance of the proposed amendment, modification, or waiver; (2) the amendment, modification, or waiver is in writing; and (3) the amendment, modification, or waiver is approved and signed by the Director. Any such amendment, modification, waiver, or consent shall be effective only in the specific instance and for the specific purpose for which given.
6. This Agreement does not affect any requirements for the City to comply with all requirements of Section 3, Section 504, Section 109, Title II, and Title VI not addressed in this Agreement. Also, nothing in this agreement alters or abrogates the City's obligation to Affirmatively Further Fair Housing in complete compliance with 24 C.F.R. §91.225(a)(1).
7. Upon the effective date of this Agreement, this Agreement is a public document. A copy of



this Agreement shall be made available to any person for his or her review in accordance with the law. The City shall provide a copy of this Agreement to any person upon request.

IV. SPECIFIC PROVISIONS

8. Voluntary Compliance Agreement Administrator

- a. Within 30 days of the effective date of this Agreement, the City shall hire or appoint an Acting Voluntary Compliance Agreement Administrator (VCA Administrator).
- b. Within 90 days of the effective date of this Agreement, the City shall hire or appoint a Voluntary Compliance Agreement Administrator (VCA Administrator).
- c. Upon selection of the new VCA Administrator, the City shall provide the Department with the name of the individual selected to serve in that capacity.
- d. The VCA Administrator will report directly to the City.
- e. The City shall have a VCA Administrator for the duration of this Agreement.
- f. The VCA Administrator will be responsible for coordinating all compliance activities under this Agreement. Specifically:
 1. Implementing the provisions of this Agreement
 2. Coordinating the activities of the City personnel who will assist the VCA Administrator in implementing this Agreement;
 3. Submitting all reports, records and plans required by this Agreement.
- g. The City shall commit sufficient resources/staffing so that the VCA Administrator can successfully accomplish these objectives.
- h. In the event that the VCA Administrator resigns or is otherwise terminated prior to the expiration of this Agreement, the City shall designate an Acting VCA Administrator within 15 days of this resignation or termination notice of the VCA Administrator. Upon designation, the City shall provide the Department with the name of the individual selected to serve as the Acting VCA Administrator.
- i. Within 60 days of the termination or resignation of the VCA Administrator, the City shall select a new VCA Administrator. Upon designation, the City shall provide the Department with written notice of the new VCA Administrator.

9. Record Keeping - Collection of Racial, Ethnic, Gender and Disability Data (24 C.F.R. §§1.6, 6.10, and 8.55)

Within 45 days from the effective date of this Agreement, the City shall ensure the reporting forms it designates for use in its collection and reporting of race and ethnicity data reflect the categories for reporting race and ethnicity in accordance with OMB Standards for Federal Data on Race and Ethnicity: HUD Policy Statement and Implementing Guidelines (dated



August 13, 2002).

Within 60 days from the effective date of this Agreement, the City shall submit to the Department its revised collection and reporting forms. Within 15 days of the Department's approval, the City will distribute the forms to its participating cities/sub-recipients, and communicate to these entities the immediate and continuing requirement to collect and report data to the City on the race, ethnicity, gender, and disability characteristics of applicants and participants, or beneficiaries, utilizing the reporting procedure designated by the City.

Within 45 days of the Department's approval of the forms, the City shall ensure that all future applications, contracts, and funding instruments involving the expenditure of CDBG and HOME monies contain an explicit requirement for participating cities/sub-recipients to collect and report data on the race, ethnicity, gender, and disability characteristics of applicants and participants, or beneficiaries, utilizing the collection and reporting procedure designated by the City.

10. Benefits, Services, and Methods of Administration – Analysis of Participation in Funded Programs and Activities (24 C.F.R. §§1.4, 6.4, 8.4)

Within 60 days from the effective date of this Agreement, the City shall develop a written policy requiring, on an annual basis, a City-wide, comprehensive analysis of the rates of participation by minority racial and ethnic groups, persons with disabilities, and female-headed householders in all City housing activities and public service programs funded in whole or in part by CDBG and HOME. The policy will include requiring the City, if under-representation is identified in any funded activity, to ensure the development and implementation of affirmative marketing and outreach strategies targeting under-represented groups. Under-representation is defined for purposes of compliance with this Agreement as a participation rate in any funded activity wherein the participation rate by a particular minority group is less than that minority's representation among the general population within the City.

Within 70 days from the effective date of this Agreement, the City shall provide to the Department a copy of its written policy. Within 10 days of the Department's approval, the City shall disseminate the policy and communicate it to all relevant entities, and will implement it.

The first annual comprehensive City analysis of the afore-mentioned rates of participation shall be completed no later than April 1, 2013, and shall be submitted to the Department no later than April 1, 2013. The City shall include in its submission to the Department all documentation, such as submissions of participating cities/sub-recipients that provide the documentary foundation for the analysis. The analysis will be submitted to the Department on an annual basis thereafter for the duration of this agreement.

11. Section 504 Effective Communication Policy (24 C.F.R. § 8.6)

Within 60 days of the effective date of this Agreement, the City shall submit to the Department an Effective Communication Policy that sets forth the steps the City shall take to



ensure that its communication with applicants, beneficiaries, and members of the public with disabilities is as effective as communication with others. The policy will ensure that the City shall furnish appropriate auxiliary aids and services, where necessary to afford an individual with disabilities an equal opportunity to participate in the City's programs, services, and activities. Within 30 days of the Department's approval, the City shall disseminate the Effective Communication Policy to participating cities/sub-recipients, and communicate to these entities their corresponding requirements to develop local effective communication policies within 30 days, utilizing the policy developed by the City. The City will require submission of these policies to the City within 30 days of completion. The Effective Communication Policy, attached as Appendix A, shall serve as a guide to the City in developing its Effective Communication Policy and Procedures.

Within 60 days of the effective date of this Agreement, the City agrees to list a TDD/TTY or the Georgia Relay telephone number on all of its policies and documents that it makes available to participants, beneficiaries, or employees, including its letterhead, and any document that lists a telephone number. The City also agrees to communicate to its participating cities/sub-recipients, the requirement to list a TDD/TTY or the Georgia Relay telephone number on all of their policies and documents that they make available to participants, beneficiaries, or employees, including their letterhead, and any document that lists a telephone number.

Within 160 days of the effective date of this Agreement, the City shall submit to the Department a copy of its policies, documents, and letterhead that contain a TDD/TTY or Georgia Relay telephone number, and a copy of the participating cities'/sub-recipients' policies, documents, letterhead, and materials used to market CDBG and HOME programs that contain a TDD/TTY or Georgia Relay telephone number.

12. Designation of Section 504 Coordinator (24 C.F.R. § 8.53)

Pursuant to 24 C.F.R. §8.53 (a) and 28 C.F.R. 35.107, and this Agreement, the City shall designate a Section 504/ADA Coordinator to perform the following functions:

- a. coordinate the City's compliance with Section 504 and the Department's implementing regulations;
- b. assume the duties set forth in this Agreement including, but not limited to, the development and implementation of the Reasonable Accommodation and Effective Communication Policies and Procedures.
- c. Coordinate the City's compliance with Title II and the ADA; and
- d. Coordinate with the City's VCA Administrator on the implementation of the provisions of this Agreement.

The individual designated to serve as the City's Section 504/ADA Coordinator must have prior experience that demonstrates knowledge of and expertise concerning Section 504, the ADA, the Fair Housing Act, the regulations implementing those statutes and applicable accessibility standards. Additionally, the individual should have knowledge of and expertise in the ABA, or must obtain such knowledge and expertise upon hiring or appointment to the position.



Within ninety (90) days of the effective date of this Agreement, the City shall select a qualified individual to serve as the City's Section 504/ADA Coordinator. Upon selection, the City shall provide the Department with the name and contact information of the individual selected to serve as the Section 504/ADA Coordinator and a copy of the Section 504/ADA Coordinator's resume and/or curriculum vitae.

In the event that the Section 504/ADA Coordinator resigns or is otherwise terminated prior to the expiration of this Agreement, the City shall:

- a. Within fifteen (15) days of the Section 504/ADA Coordinator's resignation or termination, designate an Acting Section 504/ADA Coordinator. Upon designation, the City shall provide the Department with the name and contact information of the individual selected to serve as the Acting Section 504/ADA Coordinator.
- b. Within sixty (60) days of the resignation or termination of the Section 504/ADA Coordinator, the City shall hire or appoint a new Section 504/ADA Coordinator with prior experience demonstrating knowledge of and expertise concerning Section 504, the ADA, the Fair Housing Act, the ABA, the regulations implementing those statutes and applicable accessibility standards. The City shall provide the Department with the name of the individual selected to serve as the Section 504/ADA Coordinator.

13. Section 504 Notice (24 C.F.R. § 8.54)

Within 90 days of the effective date of this Agreement, the City shall submit to the Department a Section 504 Nondiscrimination Notice for the Department's approval. The Notice will include the identification and contact information for the City's Section 504 Coordinator. Within 30 days of the Department's approval, the City shall include the Section 504 Nondiscrimination Notice in its policies and documents that it makes available to participants, beneficiaries, or employees, and disseminate the policy to its participating cities/sub-recipients for mandatory inclusion in their policies and documents they make available to their participants, beneficiaries, or employees. The City and participating cities/sub-recipients must comply with this provision by including appropriate inserts in existing materials and publications.

14. Section 504 Accessibility (24 C.F.R. § 8.21)

Within 30 days of the effective date of this Agreement, the City shall communicate to its program offices that it shall develop within 60 days, a written timeline, to remedy the barriers to accessibility identified in the Accessibility Report. The duration of the timeline, for completion, shall not exceed 33 months from the effective date of this Agreement. Upon completion, the program offices shall submit to the City written certification by a 504 Design Consultant that the facilities associated with the administration of CDBG funded activities comply with the requirements of the Uniform Federal Accessibility Standards (UFAS).



- a. Within ninety (90) days of the effective date of this Agreement, the City will submit, for the Department's review and approval, the name, qualifications and experience of a 504 Design Consultant/Architect/Engineer with whom the City proposes to contract with, who is fully certified to prepare contract documents in compliance with the Section 504/ADA modification made pursuant to this Agreement. This organization must have experience in architectural plan development, preparation, and contract administration of 504 design and construction to ensure compliance with Section 504, the ADA and the Fair Housing Act. The Department will provide its approval or comments within thirty (30) days of the City's submission of the proposed architectural/engineering firm.
- b. The Department-approved 504 Design Consultant/Architect/Engineer selected to review and certify the modifications made pursuant to this Agreement shall submit documentation to the City to verify that the firm maintains errors and omissions liability insurance and document that the firm's Principal will certify all firm findings made pursuant to this Agreement.

Within 60 days of the effective date of this Agreement, the City shall communicate to its sub-recipients and program offices that it shall develop within 90 days, a written timeline, to remedy the barriers identified in the Accessibility Report. The duration of the timeline shall not exceed 33 months from the effective date of this Agreement. Upon completion, the program offices shall submit to the City written certification by a third-party architectural or engineering firm that the facilities associated with the administration of CDBG funded activities comply with the requirements of the Uniform Federal Accessibility Standards (UFAS).

The City shall also develop a written monitoring plan for its' monitoring of the sub-recipients' and program offices' remedial activities with respect to accessibility. This plan will also contain a written timeline for the City's monitoring activities.

Within 90 days of the effective date of this Agreement, the City shall develop a written timeline to remedy the barriers to accessibility identified in the Accessibility Report. The timeline shall not exceed 33 months from the effective date of this Agreement.

Within 100 days of the effective date of this Agreement, the City shall submit to the Department the afore-mentioned timeline, the City's monitoring plan, and the City's timeline.

Within 35 months of the effective date of this Agreement, the City shall provide to the Department: 1) written certification by a third-party architectural/engineering firm that the City's facilities associated with the administration of CDBG and HOME funded activities comply with the requirements of the UFAS, and 2) the sub-recipients' and program offices' written certification that their facilities associated with the administration of CDBG funded activities comply with the requirements of the UFAS.

Within 90 days of the effective date of this Agreement, the City shall require all recipients/sub-recipients to conduct a physical accessibility survey of their administrative



offices, common areas, and all facilities associated with the administration of CDBG and HOME funds to identify barriers to physical accessibility. The physical accessibility standard to be utilized is the UFAS.

Within 180 days of the effective date of this Agreement, the City shall submit evidence of the completion of the physical accessibility surveys to the Department and written timelines to remediate the barriers identified in the recipients/sub-recipient's physical accessibility surveys. The timelines shall not exceed 33 months from the effective date of this Agreement.

Within 40 months of the effective date of this Agreement, the City shall provide to the Department written certification by a third-party architectural/engineering firm that the City's facilities associated with the administration of CDBG and HOME funded activities comply with the requirements of UFAS.

15. AFFH (24 C.F.R. §§ 1.4, 6.4, 91.225, 570.601)

a) Within 12 months days of the effective date of this Agreement, the City shall complete the Analysis of Impediments to Fair Housing Choice (AI). In drafting and finalizing this AI, the City shall:

- i) use HUD's Fair Housing Planning Guides, I and II, as a reference, and
- ii) include participation and input of all racial and ethnic groups represented in the community and persons with disabilities throughout the public planning process and document efforts.

b) The City's AI will include the following essential elements:

- i) a scientific methodology that relies primarily on quantitative data;
- ii) an analysis of the most current demographic, geographic, housing market, and economic data for the City;
- iii) an analysis of the current local relations, public policies, economic and housing - circumstances, and other relevant conditions;
- iv) proper data and analysis to reasonably conclude that a barrier to affordable housing is also an impediment to fair housing choice that disparately impacts persons based on race, color, national origin, sex, religion, familial status, or disability;^[1] and

[1] A barrier to affordable housing is a condition or circumstance that impedes housing choice on an equal opportunity basis. An impediment to fair housing choice is a condition or circumstance that impedes housing choice/access to housing based on one or more of the following protected classes of the Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended): Race, color, national origin, sex, religion, familial status, and disability. If an AI identifies barriers to affordable housing that are also impediments to fair housing choice, the AI and AFFH narratives within submissions must provide analyses to explain how barriers to affordable housing disproportionately impact persons in protected classes.



- v) a fair housing action plan that recommends specific actions to ameliorate the effects of the identified impediments along with short term and long term milestones, timeframes for completion and a means to provide measurable results.
- c) Within 13 months of the effective date of this Agreement, the City shall provide a copy of the draft AI to FHEO. Upon approval by FHEO, the AI will:
 - i) be incorporated into, and will be an enforceable part of this Agreement, and
 - ii) be used in the 2012, 2013 and 2014 AAPs to address AFFH.
- d) In order to meet its continuing obligations to affirmatively further fair housing, the City shall:
 - i) Solicit input from community leaders, public interest groups, and others during the CDBG planning cycle, specifically, those groups or representatives of groups least likely to apply or participate;
 - ii) Advertise to residents their rights to fair housing and how housing discrimination complaints can be filed with HUD, the Georgia Commission on Equal Opportunity (GCEO), or any local fair housing agency;
 - iii) Refer housing discrimination complaints and any inquiries about possible violations of fair housing laws to HUD, Georgia Commission on Equal Opportunity (GCEO), or any local fair housing agency;
 - iv) Create and fund campaigns to broaden support for fair housing and distribution of affordable housing in all communities, including public outreach that specifically addresses the benefits of racially and ethnically integrated communities and emphasizing that affordable housing programs funded by CDBG or HOME are open to all groups;
 - v) Educate realtors, condominium and cooperative boards, and landlords with respect to fair housing requirements;
 - vi) Provide information regarding rental and homeownership housing programs and affordable housing projects funded by CDBG or HOME in addition to those developed by City housing authorities including those funded privately through other incentive programs of the City. Such information must be readily available to the public, including through the City's website. (The information shall include, but not be limited to, identification of affordable housing developments (both existing and under construction) in the City, homebuyer counseling programs, down payment assistance programs);



- vii) Utilize its AI to plan and implement specific annual activities designed to ameliorate the effects of identified impediments to fair housing choice; and
- viii) Document within submissions to the Department all AFFH actions: Future ConPlan submissions must document long-term plans to overcome the effects of identified impediments to fair housing choice; AAPs must document the specific activities planned during the relevant program year to overcome the effects of identified impediments to fair housing choice; and CAPERs must provide an annual report of the AFFH actions implemented during the relevant program year with quantitative data that establish the measurable results.

On an annual basis for each of the three years from the effective date of this Agreement, specifically April 1, 2013, in accordance with paragraph 20, the City shall provide to FHEO, a written report of its activities to affirmatively further fair housing in accordance with its AFFH Certification. The report shall include: a description of the activities implemented along with an explanation of the impediment addressed and the quantitative impact on persons in specific protected class groups; timeframes for completion; short-term and long-term milestones; measurable results; dates; identification of participants; marketing materials used to notify the public of the scheduled activities; and monetary allocations and disbursements.

16. Monitoring Participating Cities/Sub-recipients (24 C.F.R. §§1.4, 6.4 and 8.4)

Within 120 days from the effective date of this Agreement, the City shall establish sub-recipient monitoring procedures for the City's routine annual review of sub-recipient compliance with relevant civil rights laws and related records, including:

- a) collection and maintenance of accurate race, ethnicity, gender and disability characteristics of applicants and participants or beneficiaries in accordance with paragraph 8;
- b) review of records pertaining to the analysis conducted to determine if particular groups were under-represented as beneficiaries in accordance with paragraph 9, and City actions as a result;
- c) review of records of affirmative marketing and outreach conducted to address the identified under-representations in accordance with paragraph 9, and City actions as a result;
- d) designation of a Section 504 Coordinator for all participating cities/sub-recipients that employ fifteen or more persons in accordance with paragraph 11;
- e) conduct of a limited accessibility survey¹ of the participating cities/sub-recipients' facilities associated with the administration of CDBG and HOME funded activities (parking lot, office, public restrooms, etc.); and,

¹ The Department will provide the City a Uniform Accessibility Survey checklist.



- f) conduct of a periodic review of Section 504 policy and procedures compliance by participating cities/sub-recipients (maintenance of a waiting list, reasonable accommodation policy, reasonable accommodation tracking system, maximization of accessible units, and transfer policies).

Within 120 days from the effective date of this Agreement, the City shall establish procedures for routinely monitoring participating cities/sub-recipients to ensure compliance with relevant civil rights laws. This will entail reviewing pertinent participating City and sub-recipient records related to actions, policies, practices, or regulations that impact the availability of housing and determining the presence of any circumstance or condition that may disparately impact the availability of housing or equal access to housing based on race/ethnicity, color, national origin, religion, sex, familial status, or disability. The written procedure must specifically address the methodology the schedule for monitoring and provide remedial actions the participating City or sub-recipient must follow to ameliorate the effects of any discriminatory actions, policies, practices, or regulations. It must also address the City's procedure for communicating with the participating City or sub-recipient; document all communications between the City and the participating City or sub-recipient; and document the actions, policies, or practices of the participating City or sub-recipient.

Within 150 days from the effective date of this Agreement, the City will provide to the Department a copy of its monitoring plan. Within 30 days of the Department's approval, the City shall distribute the monitoring plan to its participating cities/sub-recipients and will implement the plan. Within 30 days of the Department's approval, the City will conduct a baseline monitoring of participating cities/sub-recipients in accordance with the monitoring procedures and annually thereafter. The City will capture the results of this monitoring activity in a monitoring report.

The City will provide the Department a copy of the initial 30-day monitoring report and, on an annual basis for three years from the effective date of this Agreement, the City shall provide to the Department a copy of the annual monitoring report. The report will include copies of the monitoring forms for each participating City/sub-recipient as well as the City's written assessment of each activity.

17. Title VI – Limited English Proficiency

Within 90 days of the effective date of this Agreement, the City shall conduct the four-factor analysis of LEP needs, pursuant to the enclosed LEP guidance, to determine if a need for expanded services to LEP populations within the City is warranted, and develop a Language Access Plan (LAP), if appropriate, based upon the four-factor analysis to ensure that language barriers do not deny or limit access to its citizen participation process and HUD-funded programs and activities.

Within 100 days of the effective date of this Agreement, the City shall submit to the Department its four-factor analysis and LAP, if applicable. Within 10 days of the Department's approval, the City shall implement the LAP.



Within 150 days of the effective date of this Agreement, the City shall revise all of its policies and documents that it makes available to participants, beneficiaries, or employees, including its letterhead, to include language of the availability of translators and how to request a translator, and written translation of vital documents.

Within 160 days of the effective date of this Agreement, the City shall submit to the Department a copy of its policies, documents, and letterhead that contain information about the availability of translators and written translated documents.

18. Section 3 Responsibilities (24 C.F.R. § 135.32)

- a. Within 30 days of the effective date of this Agreement, the City will appoint an Interim Section 3 Coordinator.
- b. Within 90 days of the effective date of this Agreement, the City shall hire or appoint a Section 3 Coordinator.
- c. Upon selection of the new Section 3 Coordinator, the City shall provide the Department with the name of the individual selected to serve in that capacity.
- d. The City shall have a Section 3 Coordinator for the duration of this Agreement.
- e. The Section 3 Coordinator will be responsible for coordinating all compliance activities under this Agreement.

Within 90 days of the effective date of this Agreement, the City will develop a Section 3 plan ("Plan") to ensure that the City directs economic opportunities generated from the Department funded projects, to the greatest extent feasible, to low- and very low- income persons, particularly those receiving assistance for housing and the businesses that provide economic opportunities to these persons to the Department for approval. In developing the Plan, the City shall:

- i) Implement procedures to notify Section 3 residents about training and employment opportunities, and Section 3 business concerns about contracting opportunities. The procedures shall include, but not be limited to, providing information on the City's website.
- ii) Implement procedures to notify potential contractors of Section 3 requirements. The procedures shall include, but not be limited to, providing comprehensive information about Section 3 on the City's website, and during pre-bid meetings for Section 3 covered projects.
- iii) Establish a process by which the City will certify Section 3 residents and business concerns.



- iv) Create and maintain a roster of eligible Section 3 residents and business concerns to provide to sub-recipients and potential contractors during pre-bid meetings, and when contracts are awarded.
- v) Use 24 C.F.R. Appendix to Part 135 as a reference to develop a plan to facilitate the training and employment of Section 3 residents and the awarding of contracts to Section 3 business concerns.
- vi) Incorporate in all Section 3 covered contracts the requirement for contractors to develop a Section 3 plan detailing how they will comply with Section 3. The Plan shall include, but not be limited to, specific information about the contractor's current workforce, plans for new hires, anticipated subcontracting needs, and strategies for targeting Section 3 residents and business concerns for new economic opportunities.
- vii) Implement procedures to monitor sub-recipients and contractors to ensure their compliance with Section 3 requirements. Monitoring activities shall include documenting sub-recipients' and contractors' efforts to hire Section 3 residents and award contracts to Section 3 businesses (if applicable), the results, and impediments, if any.
- viii) Develop appropriate penalties for noncompliance and incentives for sub-recipients and contractors that exceed minimum goals.
- ix) Ensure that it distributes its reporting forms designated for use in collecting and reporting new Section 3 hires and contracts/subcontracts awarded to Section 3 business concerns to its sub-recipients and contractors and communicate to these entities the immediate and continuing requirement to collect and accurately report this data to the City.
- x) Develop a procedure to ensure it directs its efforts to provide, to the greatest extent feasible, training and employment opportunities for Section 3 residents and contracting opportunities to Section 3 business concerns. The procedure shall include the order of providing preferences to Section 3 residents and business concerns as set forth in 24 C.F.R. §§ 135.34 and 135.36.

Within 100 days of the effective date of this Agreement, the City shall provide to the Department a copy of the Plan. Upon approval by the Department, the Plan will be incorporated into, and will be an enforceable part of this Agreement.

- a) The City shall ensure that all annual Section 3 Summary reports, HUD form 60002, are accurate, and include all of the City's and its sub-recipients' and contractors' Section 3 new hires and contracts awarded to Section 3 business concerns.
- b) The City agrees to ensure that all of its solicitations for bid notices, Notice of Funding Availability (NOFA), Request for Proposal (RFP), etc., include the Section 3 clause or at a minimum, reference the Section 3 clause.



The City agrees to include the Section 3 clause in all covered contracts for both the City and its sub-recipients.

On an annual basis for three years from the effective date of this Agreement, in accordance with paragraph 14, the City shall provide to the Department copies of its bid notices, NOFAs, RFPs, and Section 3 covered contracts.

- d) The City agrees to ensure that the Section 3 Coordinator or his or her designee attends all pre-bid meetings and informs potential contractors of Section 3 requirements and sanctions for non-compliance.

On an annual basis for three years from the effective date of this Agreement, in accordance with paragraph 14, the City shall provide to the Department the date and location of pre-bid meetings held during the reporting period along with an identification of staff in attendance and a summary of the information provided to potential contractors regarding Section 3.

- e) On an annual basis for three years from the effective date of this Agreement, the City shall review the progress the City, its sub-recipients, contractors, and subcontractors have made in meeting the minimum numerical goals for employment and contracting. If the City finds that the numerical or "safe harbor" goals² have not been met, the City will review the City's, its sub-recipients', contractors', and subcontractors' efforts to determine what modifications are necessary to meet these goals and modify its Plan accordingly. The City shall reduce its review to writing and provide the Department a detailed report of its review within 60 days of submitting its annual report. The report will include identification of any of the actions listed in this Agreement and the City's Plan that proved ineffective or impractical, the alternatives considered, and reason(s) for rejecting or accepting each alternative considered.
- f) Within 180 days of the effective date of this Agreement, the City will conduct a baseline monitoring of sub-recipients and contractors in accordance with the monitoring procedures and annually thereafter.

19. Citizen Participation (24 CFR §6.6)

Within 90 days from the effective date of this Agreement, the City shall update its written Citizen Participation Plan (CPP) to include affirmative outreach to encourage participation by racial and ethnic minorities, non-English speaking persons, people with disabilities, and single parent head of households living in areas where federal funds are most likely to be spent. The new outreach plan shall include, but not be limited to:

- a) Concrete plans to solicit participation from populations least likely to have awareness of CDBG and HOME funding availability;

² See 24 C.F.R. § 135.30.



- b) Advertising the details of the City's citizen participation process (e.g. meetings, opportunities to provide comment/feedback, press releases, etc.) by utilizing groups (e.g. non-profit organizations, community organizations, local government agencies) associated with the jurisdiction's minority groups;
- c) Sending press releases to neighborhood planning groups and/or various organizations representing minorities, individuals with disabilities, and other groups identified with protected class populations;
- d) Identifying the type of media to be used to advertise public meetings; identify the names of the newspapers/publications and/or call letters for radio and/or television stations, and identify the circulation or audience of the media (e.g. White, Black, Hispanic, Asian, persons with disabilities, etc.).
- e) Identifying the organizations to be contacted, such as minority and women's organizations, grass roots, faith-based or community-based organizations, labor unions, employers, public and private agencies, disability advocates, school and community leaders associated with organizations that are familiar with the local planning areas and that serve groups that are least likely to participate. The City must also identify the group (e.g. White, Black, Hispanic, Asian, persons with disabilities, etc.) associated with each organization listed.

Within 120 days from the effective date of this Agreement, the City shall provide a copy of the outreach plan to the Department for approval.

On a quarterly basis for three years from the effective date of this Agreement, the City shall include a report on attendance at public hearings in its AAPs.

The City shall include its new outreach plan in the 2013, 2014, 2015 AAPs and the 2015-2019 ConPlan along with supporting documentation.

On a quarterly annual basis for three years from the effective date of this Agreement, the City must include a report on citizen participation for each public planning meetings to the Department. The City is required to submit an attendance report that include the time, date, locations of the meetings, the number of attendees, the race, ethnicity, and disability status of attendees.

V. TRAINING, MONITORING, AND REPORTING PROVISIONS
(24 C.F.R. §§ 1.6(b), 8.55(c))

- 20. Within 60 days of the effective date of this Agreement, the City agrees to train the Section 504 Coordinator in the provisions and obligations of this Agreement, and the City's Section 504 responsibilities.



21. Within 180 day of the effective date of this Agreement, the City agrees to train current and future staff of the City's Community Development Division in the provisions and obligations of this Agreement.
22. The Department will monitor compliance with this Agreement. The Department will require written reports concerning compliance; may inspect premises, examine and copy documents; and may interview personnel, with reasonable notice during normal business hours during the duration of this Agreement. The City assures its full cooperation in any monitoring review undertaken by the Department to ensure compliance with this Agreement.
23. The Director will determine whether the City has complied with the terms of this Agreement. The City retains any due process or other rights to review or appeal any Department's determination.
24. The City shall submit to the Director, in addition to submissions set forth elsewhere in this Agreement, written reports and/or documents that summarize the completion, or the progress of remedial actions required under the Special Provisions sections of this Agreement. The first report will be due six months after the effective date of this Agreement; the second report will be due twelve months after the effective date; subsequent reports will be due every twelve months thereafter for the term of the Agreement.
25. All required certifications and documentation of compliance will be submitted to:

Carlos Osegueda, Region IV Director
Office of Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban Development
Five Points Plaza Building
40 Marietta Street -16th Floor
Atlanta, Georgia 30303-2806

VI. CONSEQUENCES OF BREACH AND ENFORCEMENT

26. It is understood that this Agreement may serve as the City's sole notice of the required contents of and deadlines for progress reports. Failure to provide documentation of compliance with the terms of this Agreement constitutes a breach of the Agreement, and may result, without further notice to the City, in a referral of the matter to the Department of Justice for appropriate enforcement proceedings, the termination of or refusal to grant or continue federal financial assistance, or the initiation of debarment proceedings.
27. In the event the City fails to comply in a timely manner with any requirement of this Agreement without obtaining advance written agreement from the Department. The Department may enforce the terms of this Agreement by any contractual, statutory, or regulatory remedy available to the Department.



28. Failure by the Department to enforce this entire Agreement or any provision in the Agreement with regard to any deadline or any other provision herein shall not be construed as a waiver of its right to do so with regard to other deadlines and provisions of this Agreement. Furthermore, the Department's failure to enforce this entire Agreement or any provision thereof shall not be construed as a waiver of any obligation of the City under this Agreement.

VII. EFFECT OF NON-COMPLIANCE WITH THIS AGREEMENT

29. The parties intend to resolve their disputes with respect to non-compliance with this Agreement in a timely and efficient manner. Upon a finding of non-compliance, the Department will provide the City with a written statement specifying the facts of the alleged non-compliance and a reasonable opportunity to resolve or cure the alleged non-compliance; or, in the alternative, an opportunity to negotiate in good faith the Department's findings of non-compliance. However, if the Department determines that the City has not satisfactorily resolved the findings of non-compliance, the Department may take any of the following actions for non-compliance, unless specifically noted otherwise in this Agreement.
30. Any act(s) or omission(s) by a City employee who violates the terms of this Agreement may serve as grounds for HUD's imposing debarment, as set forth in 24 C.F.R. §24.300; suspension, as set forth in 24 C.F.R. §24.400; or limited denial of participation, as set forth in 24 C.F.R. §24.705 for that employee.
31. Any act(s) or omission(s) that violates the terms of this Agreement may serve as grounds for the United States to seek specific performance of any or all of the provisions of this Agreement in federal court.
32. Any act(s) or omission(s) that violates the terms of this Agreement may serve as grounds for the Department to conduct a compliance review under Section 504, the ADA, Title II, Title VI, or other appropriate statutory or regulatory authority.
33. Any act(s) or omission(s) that violates the terms of this Agreement may serve as grounds for the United States to pursue an action in federal court for the failure to comply with civil rights authorities.
34. The acts set forth in this Section VIII are not mutually exclusive, and the Department has the right to pursue any or all of these remedies or any other remedies available under law.



SIGNATURES

ATTEST:

Sworn to and subscribed
Before me this _____ day
of _____, 2012.

XXXXXXX. INC.

Notary Public

PRESIDENT

(Signature lines on next page)

ATTEST:

CITY OF ATLANTA:

Municipal Clerk (Seal)

MAYOR

RECOMMENDED:

Chief Financial Officer

APPROVED AS TO FORM:

Senior Assistant City Attorney
Approved on behalf of the Secretary:
U. S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity:

Carlos Osegueda, FHEO Region IV Director

Date



APPENDIX A

SAMPLE

EFFECTIVE COMMUNICATION POLICY

It is the policy of the City of Atlanta to ensure that communications with applicants, residents, employees, and members of the public with disabilities are as effective as communication with others.

The City including its employees, agents, contract employees, and management companies/agents, shall furnish appropriate auxiliary aids and services, where necessary, to afford individuals with disabilities, including individuals with hearing or visual disabilities, an equal opportunity to participate in, and enjoy the benefits of, the programs, services and activities conducted by the City.

AUXILIARY AIDS AND SERVICES:

"Auxiliary aids and services" include, but are not limited to: (1) qualified sign language interpreters, note-takers, transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments; and, (2) qualified readers, taped texts, audio recordings, Braille materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments.

REQUEST FOR EFFECTIVE COMMUNICATION:

When an auxiliary aid or service is required to ensure effective communication, the City will provide an opportunity for an individual with a disability to request the auxiliary aid or service of his or her choice. The City will give primary consideration to the choice expressed by the individual. "Primary consideration" means that the City will honor the choice, unless it can show that another equally effective means of communication is available; or, that use of the means chosen would result in a fundamental alteration in the nature of its service, program, or activity or in an undue financial and administrative burden.

The individual will submit his/her request for auxiliary aids or services to the appropriate City official designated below. All requests shall be dated and time stamped upon receipt by the appropriate City official.

Within forty-eight (48) hours of receipt of the individual's request, the designated City official will consult with the individual with the disability when the preferred type of auxiliary aid or service is not available or not required, and the official is attempting to ascertain whether an alternative means of communication will ensure effective communication.



Within five (5) business days following receipt of the effective communication request(s), the designated City official will provide the requesting individual with a written notification of the proposed auxiliary aid or service to be provided.

The Section 504/ADA Coordinator will maintain copies of all requests for effective communication and the City's response, including final disposition, for the duration of this Agreement.

Individual requests for Effective Communication will be directed to the following City of Atlanta officials:

Resident Requests:

BC resident's requests for auxiliary aids or services should be made to the Property Manager at the resident's development.

Applicant Requests:

Applicants for the City's housing programs should make requests for auxiliary aids and services to the City's Effective Communication Coordinator. The City's Effective Communication Coordinator shall report directly to the the City's Section 504 Coordinator.

Other Requests:

Requests from members of the public who wish to participate in programs, services and/or activities of the City shall submit their request(s) for auxiliary aids and services to the City's Effective Communication Coordinator. The City's Effective Communications Coordinator shall report directly to the City's Section 504 Coordinator.

However, individuals with disabilities who request auxiliary aids or services for public events such as public hearings, Board hearings, public meetings, etc., shall make their requests no later than seventy-two (72) hours prior to the event.

GRIEVANCES PROCEDURES:

If the requesting individual with a disability is not satisfied with the City's response to the individual's request(s) for an auxiliary aid or service, the individual may file a formal grievance, including appropriate supporting documentation, if any, with the City's Section 504 Coordinator. The grievance may be communicated orally or in writing. However, all oral grievances must be reduced to writing and maintained in the City's files. In addition, the City shall provide assistance to any individual who requests assistance in filing a grievance, including assistance in reducing the individual's grievance to writing. All grievances shall be dated and time stamped.

Within seventy-two (72) hours of receipt, the City's Section 504 Coordinator will respond to the individual's grievance.



The Section 504 Coordinator will provide his/her formal decision, in writing, within ten (10) business days after receipt of the grievance.

If the individual is dissatisfied with the City's Section 504 Coordinator's determination, the individual may pursue remedies under City's HUD-approved Grievance Procedures.

RCS# 2322
10/01/12
2:35 PM

Atlanta City Council

CONSENT I

ALL ITEMS EXCEPT 12-R-0997
OCTOBER 1, 2012
ADOPT AS AMNDED

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 1

Y Smith	B Archibong	Y Moore	Y Bond
NV Hall	Y Wan	Y Martin	Y Watson
Y Young	Y Shook	Y Bottoms	Y Willis
Y Winslow	Y Adrean	Y Sheperd	NV Mitchell

CONSENT I

		10-01-12
ITEMS ADOPTED ON CONSENT	ITEMS ADOPDED ON CONSENT	ITEMS ADVERSED ON CONSENT
1. 12-O-1056	35. 12-R-1283	42. 12-R-1290
2. 12-O-1129	36. 12-R-1284	43. 12-R-1291
3. 12-O-1179	37. 12-R-1285	44. 12-R-1292
4. 12-O-1180	38. 12-R-1286	45. 12-R-1293
5. 12-O-1181	39. 12-R-1287	46. 12-R-1294
6. 12-O-1167	40. 12-R-1288	47. 12-R-1295
7. 12-O-1168	41. 12-R-1289	48. 12-R-1296
8. 12-O-1169		49. 12-R-1297
9. 12-O-1170		50. 12-R-1298
10. 12-O-1171		51. 12-R-1299
11. 12-O-1172		52. 12-R-1300
12. 11-O-1195		53. 12-R-1301
13. 12-O-1321		54. 12-R-1302
14. 12-O-1038		55. 12-R-1303
15. 12-O-1199		56. 12-R-1304
16. 12-O-1243		57. 12-R-1305
17. 12-O-1315		58. 12-R-1306
18. 12-R-1163		59. 12-R-1307
19. 12-R-1253		60. 12-R-1308
20. 12-R-1265		61. 12-R-1309
21. 12-R-1266		
22. 12-R-1268		
23. 12-R-1278		
24. 12-R-1279		
25. 12-R-1280		
26. 12-R-1282		
27. 12-R-1191		
28. 12-R-1274		
29. 12-R-1275		
30. 12-R-1310		
31. 12-R-1323		
32. 12-R-1101		
33. 12-R-1270		
34. 12-R-1272		



U. S. Department of Housing and Urban Development
Southeast /Caribbean Office of Fair Housing
and Equal Opportunity
Five Points Plaza
40 Marietta Street.
Atlanta, Georgia 30303-2806

JUL 09 2012

Certified Mail – Return Receipt Requested

Mayor Kasim Reed
City of Atlanta
55 Trinity Avenue
Atlanta, Georgia 30303

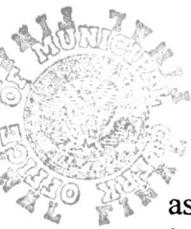
Commissioner James E. Shelby
Department of Planning & Community Development
55 Trinity Avenue
Suite 1450
Atlanta, GA 30303

SUBJECT: Letter of Findings of Noncompliance
Community Development Block Grant (CDBG) Program, HOME Program, and
Neighborhood Stabilization Program (NSP)
Case Numbers: 04-12-R002-3 (Section 3)
04-12-R002-9 (Section 109)
04-12-R002-6 (Title VI)
04-12-R002-F (Affirmatively Furthering Fair Housing (AFFH))
Program Review Period: Federal Fiscal Years 2008, 2009, 2010

Dear Mayor Reed:

The U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity (the Department), has completed the review of the Community Development Block Grant (CDBG), Home Investment Partnership (HOME), and Neighborhood Stabilization (NSP) programs administered by the City of Atlanta (City). FHEO conducted the review pursuant to the authorities of Section 3 of the Housing and Urban Development Act of 1968 (Section 3), 12 U.S.C. §1701u, and HUD's implementing regulations at 24 C.F.R. Part 135; Section 109 of the Housing and Community Development Act of 1974, as amended (Section 109), 42 U.S.C. §5301, *et seq.*, and HUD's implementing regulations at 24 C.F.R. Part 6 and §570.602; Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. §2000, and HUD's implementing regulations at 24 C.F.R. Part 1; and Title VIII of the Civil Rights Act of 1968, as amended (Fair Housing Act), 42 U.S.C. §3601, *et seq.*, and HUD's implementing regulations at 24 C.F.R. Part 100; and Affirmatively Furthering Fair Housing (AFFH) Statutory Authority 42 USC §3608(e)(5).

Section 3 requires recipients to direct employment, job training, and contracting economic opportunities generated by HUD housing and community development financial assistance, "to the greatest extent feasible," to low- and very low-income residents who live in areas where HUD-



assisted projects are located and businesses that provide economic opportunities to low- and very low-income persons in neighborhoods where HUD funding is directed. Section 109 prohibits discrimination in any activity or program funded under the Housing and Community Development Act of 1974 and specifically “provides that no person in the United States shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with community development funds because of race, color, national origin, sex, or religion.” Title VI prohibits discrimination in any activity or program receiving federal financial assistance and specifically “provides that no person in the United States shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance because of race, color, or national origin.” Statutory Authority 42 USC §3608(e)(5) and the Fair Housing Act requires HUD to “Administer housing programs...in a manner affirmatively to further the policies of the Fair Housing Act,” including the general policy to “provide, within constitutional limits, for fair housing throughout the United States.”

BACKGROUND

The compliance review consisted of five parts: (1) An analysis of data obtained from internal records and documents submitted by the City;¹ (2) On-site reviews of the City’s relevant files; (3) On-site reviews of sub-grantee files; (4) Interviews with key staff and principal sub-grantee staff including members of the City’s Department of Planning and Community Development (“PCD”) and Grants Services, including Derrick Jordan, Interim Director, PCD; Valerie Fountaine, NSP Project Manager, PCD; Lee Hannah, Director, Grants Services; James Talley, Director, Grants Management; Charlotte Daniely, Budget and Policy Manager; Sebrina Hightower, Senior Management Analyst; Billie Warren; Director, Office for Enterprise Assets Management (OEAM); Deborah Colbert, Supervisor, Customer Service OEAM; Mitzie Bickers, Director, Office of Human Services; Shona Dismuke, Management Analyst, Office of Human Services; Paul Taylor, Director, Office of Park Design; Nicole Young, Project Manager, Office of Park, Recreation, & Cultural Design; Debra Lum, Executive Director, Atlanta Workforce Development (AWDA); and Laurette Woods, Human Resources and (5) Interviews with sub-recipients including Angela Coggins, John C. Birdine Facility; Rainie Jueschke, Development Director, Center for Puppetry Arts; Lisa Rhodes, Office Administrator, Center for Puppetry Arts; Gino Zamoscinki, Building Manager, Center for Puppetry Arts.

A request was made to meet with James E. Shelby, Commissioner, Department of Planning and Community Development; and J. Anthony Beard, Commissioner, Department of Finance - Office of the CFO; however, only Commissioner Shelby made himself available.

EOS Tyiesha Mitchell attempted to interview a City employee; however, the employee refused to cooperate with the compliance review. This matter was quickly resolved by Commissioner James E. Shelby and Lee Hannah, Director, Grants Services. The employee was later interviewed by lead investigator Bonita Howard-Gaskin.

¹ These documents included citizen participation files, participant files, sub-grantee reports, the City’s Analysis of Impediments, and policies and procedures.



Mary Pressley, Director of Community Planning and Development (CPD), HUD; and Charles Greenfield, City of Atlanta Monitor, HUD, were notified of the entrance and exit conferences.

The HUD Office of Community Planning and Development provides CDBG funds on a formula basis to the City to develop viable urban communities by providing decent housing and suitable living environments and expanding economic opportunities, principally for low- and moderate-income persons. Under the HOME program, HUD allocates funds by formula among eligible State and local governments to strengthen public-private partnerships and to expand the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing for low-income and very low-income families. Generally, HOME fund recipients must match HOME funds with non-federal resources.

The City of Atlanta is required to administer its CDBG and HOME programs in accordance with federal regulations. CDBG and HOME funds generally assist the City in meeting the housing and public service needs of the community by providing safe neighborhoods through neighborhood park creation, infrastructure improvements, and broadening the supply of decent, affordable housing. The City's CDBG and HOME programs specifically fund numerous housing and community development activities that enhance the City's neighborhoods by providing assistance to local communities for programs and activities that primarily benefit low-income and moderate-income residents, improvement of neighborhoods with high concentrations of low-income and moderate-income residents, and eliminate slum and blight conditions within the City. This report, which refers to the City's performance, includes activities specifically conducted by the City as well as those conducted by its sub-recipients.

During the entrance and exit conferences the City was provided the opportunity to submit any additional information or documentation that was not submitted in response to the data request letter and during the on-site review.

The Department conducted the on-site compliance review March 19-23, 2012. The areas examined during the compliance review included: Section 109 requirements, specifically citizen participation; benefits, services, and methods of administration; Section 3 program requirements; Section 504 program compliance; Title VI requirements, specifically maintenance of record keeping requirements and compliance with the Limited English Proficiency (LEP) provisions of Title VI; Affirmatively Furthering Fair Housing (AFFH) certification documentation;. Section 504 Compliance Review of City Hall South; Atlanta City Hall Tower; Lanier Deck (Employee Parking); City Hall South Parking; Office of Human Services; Center for Puppetry Arts; Collier - English Park; Collins-Spinks Park; and John C. Birdine Neighborhood Center were conducted simultaneously with this review.

The staff interviewed, (some of whom were new to their positions), were cooperative and evinced a genuine commitment to enhancing the City's compliance with its civil rights-related responsibilities.

A summary of the Department's findings and concerns on Section 3, Section 109, Title VI, and AFFH is set forth below. Essentially similar findings of non-compliance or concerns in multiple areas of the review are consolidated into a single finding or concern.



PRELIMINARY FINDINGS

1. Benefits, Services and Methods of Administration

24 CFR §6.10(c) and 1.6(b) requires that each recipient shall keep such records and submit to the responsible Department official or his designee timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the responsible Department official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part 1. In general, recipients should have available for the department racial and ethnic data showing the extent to which members of minority groups are beneficiaries of federally assisted programs.

The Department finds that the City also does not comply with 24 C.F.R. §6.10(c) and 1.6(b) because the City cannot demonstrate that it maintains accurate records about persons and households benefiting from the programs based on race, color, national origin, and sex. Further, the City does not collect the accurate race and ethnicity data from applicants or beneficiaries of its federally funded programs and activities.

The Department's review of the City's direct benefit activities revealed that the City does not collect and maintain data relative to female head-of-households. The review also revealed that the City did not consistently collect accurate and consistent records to reflect the race, ethnicity, sex and the disability status of the direct program beneficiaries.

The Department's review of the City's records further determined a disparity in reporting and recordkeeping. During the on-site the investigators identified seven (7) minorities. These seven (7) individuals were listed as CDBG applicants according to the demographic chart provided by Valerie Fountain. The City did not have the applicants' files. According to a staff member, the seven (7) files were homeowner occupied applicants of HOME funding; therefore, the applicant files are housed with the sub-recipients. The staff member also informed the investigators that the applicant list provided was incorrect and the applicants are actually recipients of HOME funding. However, the review team was later provided the files of applicants of HOME funding.

The City provided a listing of NSP beneficiaries. The review team requested the files of one Hispanic and five Whites and beneficiaries. The review team was told that those files were not available and that those applicants received funding from the State.

During the on-site, the review team requested the files of applicants who were denied NSP funding. A staff member indicated that the City does not maintain such records because the sub-recipients determine who are approved or denied NSP funding. Therefore, the City only screens the applications to ensure the applicants meet the minimum income requirement and funding is distributed based on the applicant's annual income.

In response to the data request, the City provided a listing of its sub-recipients. The review team requested the file or record of sub-recipient Women to Women Detention Center. Key staff explained this program was not successful due to staff turnover and that the money needed to be



diverted to a different program. The records review revealed there was no record or file for this sub-recipient.

The Department requested to review the monitoring report files for sub-recipients Urban Residential Finance Authority; ACCION USA; Atlanta Development Authority; Atlanta Micro Fund; Quality Living Services, Inc, and Rebuilding Together Atlanta. The Department was informed there was not a centralized filing system due to multiple staff compiling information for their own specific area of need for the sub-recipients. Therefore, the Department requested to review any information on file for the six sub-recipients. The City provided the files for Urban Residential Finance Authority; ACCION USA; Atlanta Development Authority; requested and could not locate the remaining three: Atlanta Micro Fund; Quality Living Services, Inc, and Rebuilding Together Atlanta.

In response to the data request, the City provided copies of its monitoring reports for its sub-recipients. Some reports revealed sub-recipients were cited for failure to comply with regulatory guidelines as it relates to fair housing and equal opportunity. The City's monitoring reports indicated that the sub-recipients were required to correct the deficiencies by March 1, 2012. The key staff interview revealed the City conducts a follow-up via email or telephone. The key staff indicated that the reviews are conducted annually; therefore, it would be at least another year before the City actually went out to see if the sub-recipients complied with the requirements of the monitoring reports.

The records review revealed sub-recipient Urban Residential Finance Authority (URFA) charged homebuyers an excessive administrative fee in the amount of \$1,000 and the City instructed URFA to reimburse all homebuyers by March 1, 2012. There was no record on file to verify that URFA complied by reimbursing the applicants as instructed. The interviews of two key staff members produced no information as it relate to this reimbursement. A key staff member stated he would have to contact the contractor for an update but believes all homebuyers were reimbursed. The key staff members could provide any documentation to show that this reimbursement was initiated or completed.

Title VI and Section 109 implementing regulations at 24 C.F.R. §§1.4 and 6.4 prohibit recipients from administering their programs or activities in any manner that limits access on the bases of race, color, national origin, religion, or sex. There is no evidence or documentation to show that the City administered its programs and activities in a manner that does not limit access to these groups.

The City is required by Title VI and Section 109 to analyze the demographic data for groups that appear under-represented in HUD-funded programs, particularly for affordable housing development activities. If an analysis of the demographic data evidences under-representation of any group based on race, color, national origin, religion, or sex, the recipient must adjust the administration of its programs and activities to assure equitable participation. The City did not provide any demographic data for under-represented groups.

Key staff interview explained the City requires sub-recipients to provide CDBG Service Beneficiary Report for Public Services (CD-3) forms upon reimbursement of funds and that the CD-3



form is maintained in the sub-recipient's file. However, a review of 44 files revealed all files had a ~~disbursement of funds but 21 files did not have a CD-3 form.~~

The City provided the review team samples advertising and outreach materials for program funding availability and eligibility for FYs 2008, 2009, and 2010. The Department determined that the City does not ensure that the sub-recipients are conducting special outreach to attract groups "least likely" to apply for funded activities, such as those representing people with disabilities and other minority groups. The review revealed that the sub-recipients outreach is limited to placing newspaper advertisements, posting information on their websites, and distributing information to past applicants. These actions do not affirm that the City, as a whole, is ensuring meaningful access to programs by affirmatively marketing to those least likely to apply for funded activities.

The City's Citizen Participation Plan (CPP) states that the City will provide assistance to non-English speaking residents at public hearings on draft Annual Action Plan, when a significant number of non-English speaking residents can be expected to participate. The CPP further states translation assistance will be provided *upon request* if notice is given to the City at least 5 working days prior to Public Hearings.

Public hearings are announced on the Atlanta City Council website; the City of Atlanta website; the Atlanta Journal Constitution (AJC) and Atlanta's local channel 26. All written information, including applications and public notices, are written and announced in English only. Further, there was no evidence to indicate that language interpreters are available during public hearings.

The City inconsistently collected race, ethnicity and sex data for applicants and beneficiaries of the programs. Staff interviews, however, revealed the City does not analyze and is not currently analyzing the participation levels of groups "least likely" to apply in funded activities. The City, therefore, has not developed affirmative marketing efforts to attract those underrepresented groups and those least likely to apply and ensure meaningful access to the City's CDBG and HOME programs.

FINDINGS

2. Section 3

Section 3 implementing regulations at 24 C.F.R. Part 135 require recipients of certain HUD financial assistance to provide, "to the greatest extent feasible," job training, employment, and contracting opportunities to low- and very low-income residents and eligible businesses. The implementing regulations specifically direct recipients to comply with Section 3 in their own operations and to ensure compliance in the operations of their contractors and subcontractors. These responsibilities include: (1) Notifying Section 3 residents and business concerns about training, employment, and contracting opportunities; (2) Notifying potential contractors about Section 3 requirements and incorporating the Section 3 clause in all solicitations and contracts; (3) Facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns; (4) Obtaining compliance from contractors and subcontractors; and (5) Documenting the



actions taken to comply with Section 3 requirements, including submitting the HUD form 60002 annually. While Section 3 regulations do not specifically define “to the greatest extent feasible,” HUD guidance has set a “greatest extent feasible” standard by prescribing that recipients must make every effort feasible to recruit, target, and direct economic opportunities to Section 3 residents and businesses beyond routine advertising and soliciting.

a. Notifying Section 3 Residents and Business Concerns

The Department finds that the City is not in compliance with 24 C.F.R. §135.32(a), which requires recipients to create implementing procedures to notify Section 3 residents about training and employment opportunities generated by Section 3 covered assistance and to notify Section 3 business concerns about contracting opportunities generated by Section 3 covered assistance “to the greatest extent feasible.”

The City has failed to implement “greatest extent feasible” procedures to notify Section 3 residents and business concerns about Section 3 economic opportunities in accordance with 24 C.F.R. §135.32(a). The City, does not have a Section 3 plan to provide to “greatest extent feasible” procedures: (1) Notification to Section 3 residents regarding Section 3 training and employment opportunities; (2) Guidance to its sub-grantees regarding their responsibility to create and implement procedures to notify Section 3 residents about training and employment opportunities; (3) Notification to Section 3 business concerns about existing contracting opportunities; and (4) Guidance to its sub-grantees regarding their responsibility to create and implement procedures to notify Section 3 business concerns about contracting opportunities generated by Section 3 covered assistance.

With respect to the first two requirements listed in the previous paragraph, interviews with the City’s staff and sub-grantee staff revealed that neither the City nor its sub-grantees notify Section 3 residents about training and employment opportunities. Section 3 requires the City to notify Section 3 residents about training and employment opportunities in addition to ensuring that its sub-grantees do the same. The City, furthermore, must inform units of local government of the Section 3 requirements and assist local government and contractors in meeting the requirements set forth in the regulations. The City has not fulfilled these obligations “to the greatest extent feasible” under Section 3.

With respect to the third and fourth procedures, the City’s sole process for notifying Section 3 business concerns of Section 3 contracting opportunities was to include reference to Section 3 in contracts. Merely referencing Section 3 does not meet “the greatest extent feasible” standard. Further, interviews with staff and sub-grantee staff revealed the City has provided insufficient guidance regarding the sub-grantees’ obligation to provide notification and outreach to Section 3 business concerns. Again, the City met neither obligation “to the greatest extent feasible.”



b. Notifying Potential Contractors About Section 3 and Incorporating Section 3 Clause in Solicitations and Contracts

The Department finds that the City is not in compliance with 24 C.F.R. §135.32(b), which requires recipients to notify potential contractors for Section 3 covered projects of the requirements “to the greatest extent feasible.”

The review revealed that the City did not provide any information regarding the requirements of Section 3 during pre-bid, award, or post-bid meetings.

The Department additionally finds that the City is not in compliance with 24 C.F.R. § 135.38, which requires recipients to incorporate the Section 3 clause in all solicitations and contracts. Interviews with principal staff members revealed one staff member, Sabrina Hightower, who was familiar with the Section 3 clause (boiler plate) and presented a copy to the investigators. The remaining staff members either declined to respond or had no knowledge of Section 3, Section 3 responsibilities, or the inclusion of the clause in its construction and rehabilitation contracts. These facts confirm that the City did not act to the “greatest extent feasible” to notify contractors for Section 3 covered projects of the Section 3 requirements.

c. Facilitating Training and Employment of Section 3 Residents and the Award of Contracts to Section 3 Business Concerns

The Department finds that the City is not in compliance with 24 C.F.R. §135.32(c), which requires recipients to offer training and employment opportunities to Section 3 residents and to award contracts to Section 3 business concerns “to the greatest extent feasible” to reach the numerical goals in §135.30.

24 CFR § 135.30 (3) indicates recipients of section 3 covered community development assistance, and their contractors and subcontractors (unless the contract or subcontract awards do not meet the threshold specified in § 135.3(a)(3)) may demonstrate compliance with the requirements of this part by committing to employ section 3 residents as: (i) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995; (ii) 20 percent of the aggregate number of new hires for the one year period beginning in FY 1996; and (iii) 30 percent of the aggregate number of new hires for the one year period beginning in FY 1997 and continuing thereafter.

The City has not made “to the greatest extent feasible” efforts to offer training and employment opportunities to Section 3 residents or to award contracts to Section 3 business concerns. The City has not taken any steps beyond referencing Section 3 in its contracts. Staff interviews and interviews with sub-grantee staff members revealed the City made no substantial efforts to offer training and employment opportunities to Section 3 residents and to award contracts to Section 3 business concerns. The City failed to meet the minimum numerical goals for providing training, employment, and contracting opportunities to Section 3 residents and business concerns. The City was unable to provide documentation to justify its failure to reach numerical goals. The



interviews revealed that staff member either declined to respond or had no knowledge of numerical goals for Section 3 hires and awarding contracts to Section 3 businesses.

Atlanta Workforce Development Agency's (AWDA) primary purpose is to administer employment training programs mandated under the Workforce Investment Act (WIA) of 1998 to the citizens of Atlanta and to offer workforce solution services to metro Atlanta businesses. Key staff of AWDA could not provide any input regarding the City's Section 3 program. The staff indicated that an AWDA registry is maintained of eligible Section 3 residents and that only the contractors and subcontractors that work with AWDA provides a list of its current employees. Further, that all of AWDA's clients are PHA residents, and it is mandatory that all PHA residents utilize the AWDA for training and job opportunities.

d. Obtaining the Compliance of Contractors and Subcontractors With Section 3

The Department finds that the City is not in compliance with 24 C.F.R. §135.32(d), which requires recipients to assist and actively cooperate with the Assistant Secretary in obtaining compliance with the requirements of Section 3 from contractors and subcontractors.

Staff interviews revealed the City lacked knowledge regarding the applicability of Section 3 and the Section 3 requirements. Further, the City did not maintain any documentation regarding compliance with the requirements of Section 3 from contractors and subcontractors. Interviews with sub-grantee staff revealed that sub-grantees lack knowledge of Section 3 requirements and therefore did not take any steps to ensure compliance by contractors and sub-contractors with Section 3.

Based on the review and interviews, the Department finds the City has not provided "to the greatest extent feasible," job training, employment, and contracting opportunities to low- and very low-income residents and eligible businesses. The staff indicated that the City did not have any Section 3 Annual Summary reports (HUD-60002) for years 2008 through 2009. The principal staff explained that files were missing due to the activities of the past Section 3 Coordinator who had retired.

Additionally, the Department reminds the City that continued non-compliance under Section 3 may affect compliance under Section 109. Under Section 109, the City "may not, directly or through contractual, licensing, or other arrangements, ... [u]se criteria or methods of administration that have the effect of subjecting persons to discrimination or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to persons of a particular race, color, national origin, religion, or sex." 24 C.F.R. § 6.4(a)(ix). Section 3 noncompliance could defeat or impair the purpose of associated HUD programs with respect to demographic groups of a particular race, color, or national origin, thereby calling into question the City's compliance with Section 109.

3. Affirmatively Furthering Fair Housing (AFFH)

The Fair Housing Act, Title VI, Section 109, and the Department's implementing regulations at 24 C.F.R. §1.4, 6.4, 91.225, and 570.601² require a recipient of federal funds to administer all

² HUD regulations at 24 C.F.R. §§ 91.225 and 570.601 flow from Section 808(e)(5) of the Fair Housing Act, which



programs and activities related to housing and community development in a manner that affirmatively further fair housing choice. The regulations at 24 C.F.R. §91.225 require a HUD grantee to sign an annual certification that it will affirmatively further fair housing and assume responsibility for fair housing planning by: (1) Conducting an analysis to identify impediments to fair housing choice within its jurisdiction; (2) Taking appropriate actions to overcome the effects of any impediments identified through that analysis; and (3) Maintaining records reflecting the analysis and actions taken in this regard.

By signing the above described AFFH Certification, an entitlement jurisdiction authorizing official asserts that “the jurisdiction will affirmatively further fair housing, which means it will conduct an analysis of impediments to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified in that analysis, and maintain records reflecting that analysis and actions in this regard.” The regulations envision that an entitlement’s authorizing official will have access to documentation that supports the accuracy of these assertions prior to signing the AFFH Certification. The Department is concerned that the City has not fully met the requirements to affirmatively further fair housing under 24 C.F.R. §1.4, 6.4, 91.225, and 570.601.

a. Conducting an Analysis of Impediments to Fair Housing Choice (“AI”)

The City’s first assertion within the AFFH Certification is that the jurisdiction conducted “... an analysis of impediments to fair housing choice within the jurisdiction.” An impediment to fair housing choice is a condition or circumstance that impedes housing choice or housing access based on one or more of the protected classes of the Fair Housing Act, specifically race, color, national origin, sex, religion, familial status, and disability. According to HUD guidelines, a jurisdiction should conduct an AI at least once every three to five years (preferably consistent with the ConPlan cycle)³ to identify impediments to fair housing choice within the jurisdiction. An AI provides a framework for a jurisdiction to engage in fair housing planning. The AI also provides a framework for the City to plan and implement actions to overcome impediments to fair housing choice and attempts to cover all eight of the essential elements of an appropriate and complete AI. An appropriate and complete AI must contain the following eight essential elements:

- 1) A comprehensive review of the current laws, regulations, zoning codes, economic and housing circumstances, public policies, procedures and practices, and other relevant conditions within the jurisdiction;
- 2) An assessment of how those laws, regulations, zoning codes, economic and housing circumstances, public policies, procedures and practices, and other relevant conditions affect the location, availability, and accessibility of housing;
- 3) An analysis of the most current demographic, geographic, housing market, and economic data for the jurisdiction;
- 4) An assessment of conditions, both public and private, affecting fair housing choice for all protected classes;

requires the Secretary of HUD to administer the Department’s housing and urban development programs in a manner to affirmatively further fair housing.

³ See *Fair Housing Planning Guide (“Guide”), Volume I*, p. 24.



- 5) An evaluation of the availability of affordable, accessible housing in a range of unit sizes;⁴
- 6) A scientific methodology that relies primarily on quantitative data;
- 7) Proper data and analysis to reasonably conclude that a named barrier to affordable housing is also an impediment to fair housing choice that disparately impacts persons based on race, color, national origin, sex, religion, familial status, or disability; and
- 8) A fair housing action plan that clearly identifies the impediments to fair housing choice within the jurisdiction and recommends specific actions to ameliorate the effects of the identified impediments.

The City does not have a current AI. Records revealed that the City's last AI was prepared August 2006. The principal staff members interviewed communicated that the transition in the administration, coordination of different projects and a lack of HUD funding as the reasons that the AI is outdated.

A review of the City's 2006 AI revealed that it tends to confuse affordable housing barriers with impediments to fair housing choice. A barrier to affordable housing is a condition or circumstance that impedes housing choice on an equal opportunity basis. An impediment to fair housing choice is a condition or circumstance that impedes housing choice/access to housing based on one or more of the following protected classes of the Fair Housing Act: race, color, national origin, sex, religion, familial status, and disability. If an AI identifies barriers to affordable housing that are also impediments to fair housing choice, the AI and AFFH narratives within submissions must provide analyses to explain how potential barriers to affordable housing disproportionately impact persons in protected classes.

Additional deficiencies of the City's AI are:

- The AI does not list affordable housing, regarding renting and home ownership, for racial and ethnic minorities and persons with disabilities as an impediment to fair housing. However, based on the research within the AI, discriminatory treatment against these groups should be listed as an impediment.
- The City lists specific actions, the responsible party for accomplishing the proposed action, and a proposed timeline for the action's completion. However, no specific dates for completion are listed. Many of the actions were scheduled to be performed within 30-180 days. The AI was conducted six years ago; there is no indication as to whether any follow through or appropriate actions to overcome the effects of any impediments identified through that analysis.
- The AI details the City of Atlanta's transportation system (MARTA) but does not use outside sources to describe local transportation or school data.
- The AI does not identify fair housing impediments based on the protected classes' access to opportunities in non-minority communities. Instead, the AI lists affordable housing as a major impediment. However affordable housing is not equivalent to fair housing. The

⁴ *Guide, Volume I*, pp. 25 – 26.



recommended action steps include fair housing initiatives to decrease discrimination, but they do not detail a plan to integrate racially segregated communities.

- The City does not seem to have fair housing services currently in place for its citizens.
- The AI does not discuss needed actions to ensure that affordable housing, regarding both rental and ownership, are available for persons with disabilities.
- The AI does not include foreclosure rates by race and national origin for the City.
- The AI does not identify impediments to fair housing choice based on each of the protected classes including: race, color, religion, sex, national origin, disability, or familial status.
- The AI does not address impediments where minorities were treated unfairly while trying to obtain HUD assisted housing or public housing.
- The AI does not mention PHA's and potential fair housing impediments within the city of Atlanta.
- The City combines affordable housing barriers and impediments to fair housing, thereby raising a concern that the City may not properly act to address impediments to fair housing choice in AFFH activities. The City must annually review the AI to ensure that it properly plans and completes AFFH action.

b. Actions to Overcome Impediments to Fair Housing Choice

The City's second assertion in the AFFH Certification is that the City will "... take appropriate actions to overcome the effects of any impediments identified through the analysis."⁵ According to HUD guidelines, such actions must include short-term and long-term milestones, timeframes for completion, and a means to provide measurable results.⁶

In the course of the Department's review, the City did not provide evidence to validate this assertion of its AFFH Certification. The City's 2008-2010 CAPER and 2008-2010 AAP, do not provide proper information to verify that the City has taken appropriate actions to overcome the effects of the impediments to fair housing choice identified within the City's 2006 AI, nor was an updated AI submitted.

The Department's assessment of the City's 2008 – 2010 CAPER and AAPs submissions reveals that the City's reports regarding its AFFH efforts are repetitive;⁷ lack appropriate detail to demonstrate that the City planned and implemented specific annual activities to overcome identified impediments to fair housing choice; and consistently confused required action, such as action required by statute or regulation, with action specifically tailored to affirmatively further fair housing

⁵ See 24 C.F.R. §§91.225(a); 570.601.

⁶ *Guide*, Volume I.

⁷ The City generally reports the same information every year.



choice in the City's jurisdiction based on a current AI. The principal staff stated that they do not use the AI or reference the recommendations to overcome impediments to fair housing choice when writing the CAPER and AAP. Also, and that many of the recommendations in the 2006 AI have not been implemented by the City.

As a result, none of the reviewed submissions contain any data to demonstrate progress in increasing fair housing choice for persons in protected classes or describe any activities the City funded or implemented to overcome impediments to fair housing choice.

Interviews with the principal staff, did not demonstrate the proper awareness regarding the City's responsibility to affirmatively further fair housing. None of the individuals interviewed were able to properly address the relationship between their funding from the City and the AI, and they were likewise unable to articulate connections between their responsibility to the City to perform under Federal funding and their responsibility to meet the AFFH Certification.

The interviews did not confirm that the City consciously considers AFFH or the AI when: creating sub-grantee application selection criteria; monitoring sub-grantees; managing housing and neighborhood development projects; analyzing project success; enforcing contracts; reviewing loan applications for underwriting; coordinating the consolidated planning process; or administering affordable housing programs. Additionally, those involved in the implementation of HOME and CDBG program are not distinguishing between specific "fair housing choice," desegregation goals, and the general provision of housing.

The principal staff interviewed revealed that the Department of Grants Management has allocated \$100,000 to be used towards creating a contract with Metro Fair Housing to develop a new AI. According to the staff, the contact would likely be "underway" by the summer of 2012 and a projected completion date of 2013.

c. Maintenance of Records

The City's third assertion in signing the annual AFFH Certification is that the City meets its obligation to maintain "records reflecting the analysis and actions taken in this regard."⁸ Specifically, HUD requires entitlements to document all AFFH actions in compliance with federal regulations and to ensure that sub-grantees do the same.

The review revealed deficiencies in the City's recordkeeping that bring into question the validity of all of the assertions of the City's AFFH Certification. The review determined that no internal records have been kept regarding AFFH activities to carry out the recommendations in the 2006 AI. Further, the City does not maintain sufficient records to indicate or determine whether sub-recipients comply with the recordkeeping regulations. The Department's review of various program files found none of the records included any details regarding AFFH specific efforts to promote greater housing choice by acting affirmatively to remove impediments to fair housing choice for persons in protected classes (i.e. race, color, national origin, sex, religion, familial status, and disability).

⁸ See 24 C.F.R. §§ 91.225(a); 570.601.



As a recipient of Federal financial assistance, the City must ensure that sub-grantees provide records that document all of their AFFH activities with an explanation of how such projects address the identified impediments to fair housing choice. Principal staff communicated that sub-recipients are required to attend and document meetings and AFFH activities. The principal staff also communicated that staff is required to attend public meetings and forums regarding housing. However, the City could not provide a copy or record of the meetings nor AFFH activities.

The on-site review and interviews revealed that the City could not provide any documentation identifying AFFH activity. Similarly, the City could not provide any documentation identifying actions taken to address impediments to fair housing choice. The principal staff members communicated that records were not maintained on AFFH activities.

4. Title VI and LEP

Title VI implementing regulations at 24 C.F.R. Part 1.4(b) prohibit recipients from administering their programs or activities in such a way as to limit access on the basis of race, color, or national origin. Access to such programs by persons who have limited English proficiency is protected, on the basis of national origin, under Title VI and its implementing regulations.

On January 22, 2007, the Department issued final guidance to assist recipients in developing procedures to assure equal access to persons who are LEP. The guidance indicates that recipients are expected to provide "written translation" of vital documents when the LEP population in the market area (City) exceeds 1,000 persons. Vital documents include Public Notices, ConPlans, AAPs, and CAPERs.

The City's staff interviews confirmed that the City does not have a plan to assist persons with limited English proficiency. The staff explained that language assistance is not necessary because neither the City nor its sub-recipients provide any services or assistance to persons who are LEP. The staff could not articulate how they arrived at this statement. The City's 2010 CAPER shows that beneficiaries that identified as Hispanic, Latino, and Asian were provided assistance in program years 2008-2010. The AAPs for the program years covered by this review did not reveal any planned affirmative efforts to reach non-English speaking City residents. According to U.S. Census Data the City has a 10.6% population (420,003) who speak a language other than English. This LEP segment of the population may require additional efforts to ensure equal access to the City's CDBG/HOME funded programs and activities.

Further, the review revealed that the City has not incorporated a LAP into the operations of its CDBG/HOME programs. Interviews with staff members confirmed that the City does not utilize a LAP and has not adopted formal procedures to provide meaningful access to LEP persons. The evidence supports that the City and individual staff members have not taken any actions to make reasonable efforts to serve LEP persons. Interviews of key staff communicated that the City's Senior Attorney is the City's assigned bi-lingual interpreter; and, if the City's Senior Attorney were not available then the City would have a problem or they would refer the LEP person to Constituents' Services. A key staff member recanted this statement during a later interview and explained that the City does not have a plan to assist persons with limited English proficiency.



The City has not developed flyers in languages other than English that describe its programs. The City did not advertise or post public notices inviting citizens to upcoming public meetings in languages other than English. Nor did the City provide written translations of any CDBG/HOME related reports and documents in other languages.

The City's Citizen Participation Plan (CPP) states that the City will provide assistance to non-English speaking residents at public hearings on draft Annual Action Plan, when a significant number of non-English speaking residents can be expected to participate. The CPP further states translation assistance will be provided *upon request* if notice is given to the City at least 5 working days prior to Public Hearings.

Public hearings are announced on the Atlanta City Council website; the City of Atlanta website; the Atlanta Journal Constitution (AJC) and Atlanta's local channel 26. All written information, including applications and public notices, are only written and announced in English. There are no language interpreters available during the public hearings.

Based on these actions, the City has established the need for a LAP to serve the City's LEP populations and ensure meaningful access to the City's HUD-funded programs.

CONCLUSION

Pursuant to 24 C.F.R. §§ 8.56(h) and 6.11(4)(c), and with respect to the findings under Section 109, you may request a complete review of this Letter of Preliminary Findings within 30 days of receipt of this letter. Send or deliver any such request, complete with a written statement and supplemental information that may warrant modification of this LOF, to Carlos Osegueda, Region IV Director, Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, Atlanta, Georgia written statement that explains, validates, or otherwise addresses the practices under review. There is no similar right to a review of the findings under Title VI, Section 3 and AFFH.

The relevant regulations envision that we address these findings of non-compliance by engaging in an informal cooperative process to reach a mutually agreeable resolution. Such informal resolution must be memorialized through the execution of a Voluntary Compliance Agreement (VCA) with a clear timetable for implementation.⁹ The Department intends to resolve the findings of non-compliance as soon as possible.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon a third party's request. In the event that the Department receives such a request, we will protect, to the extent provided by law, personal information, which, if released, would constitute an unwarranted invasion of privacy.

In conclusion, the Department expresses gratitude to you and your staff for the cooperation and assistance extended to the Department's staff throughout the review. We look forward to a prompt resolution of the deficiencies identified in this report.

⁹ See 24 C.F.R. §§ 1.7(d)(1); 6.41(e); 135.74(c).



In the interim, please contact Ms. Valecia L. Bello, Chief, Program Compliance Branch, at (678) 732-2496, or Ms. Bonita E. Howard, Equal Opportunity Specialist, at (678) 732-2563, with any questions and to coordinate the VCA negotiations between the Department and the City.

Sincerely,

Carlos Osegueda
Region IV Director
Office of Fair Housing and
Equal Opportunity

cc:

Mary Pressley, Atlanta Director, Office of Community Planning and Development

Lee Hannah, Director, Grants Services

Charles Greenfield, CPD Representative, Office of Community Planning and Development

Cathy Hampton, City Attorney

Peter Andrews, Deputy City Attorney

Mariangela Corales, Senior Assistant City Attorney