

ReOregon

Subrecipient Manual

Version 1



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8 Fair Housing & Civil Rights

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8 Fair Housing & Civil Rights

This section presents summaries of the key regulations and requirements of civil rights, fair housing, equal opportunity, and equal employment opportunity (EEO) laws applicable to the administration of the Oregon CDBG-DR funds.

The civil rights laws and related laws and regulations are designed to protect individuals from discrimination on the basis of:

1. Race
2. National origin
3. Religion
4. Color
5. Sex
6. Age
7. Disability

As they apply to federal programs, these laws protect individuals from discrimination in:

1. Housing
2. Benefits created by federal projects
3. Employment
4. Business opportunities
5. Population groups specifically protected by provisions of these laws include:
 - a. Minorities (specifically Blacks, Hispanics, Asians and Pacific Islanders, and American Indians and Alaska Natives)
 - b. Women
 - c. Groups distinguished by age
 - d. Persons with disabilities
6. Familial status

The applicable laws and regulations provide for:

1. Non-discrimination
2. Equal opportunity
3. Affirmative action (to reduce past discrimination)

Laws and Statutes: Civil Rights laws applicable to CDBG-DR programs that subrecipients must adhere to are set forth, but not limited to, the statutes and executive orders below:

Statute/Executive Order	Description
Title VI of the Civil Rights Act of 1964	<p>No person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of:</p> <ol style="list-style-type: none"> 1. Race 2. Color 3. National origin
Section 3 of the Housing and Urban Development Act of 1968, as amended, codified at 24 CFR Part 75	<p>To the greatest extent feasible, employment and other economic opportunities, should be directed to:</p> <ol style="list-style-type: none"> 1. Low and very low income persons 2. Business concerns that provide economic opportunities to low and very low income persons
Title VIII of the Civil Rights Acts of 1968, as amended (Fair Housing Act)	<p>Prohibits discrimination in housing on the basis of:</p> <ol style="list-style-type: none"> 1. Race 2. Color 3. Religion 4. Sex 5. National origin <p>Also requires HUD to administer its programs in a manner that affirmatively promotes fair housing.</p>
Section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended	<p>Requires subrecipients to certify that they will, among other things, affirmatively further fair housing.</p>
Section 504 of the Rehabilitation Act of 1973, as amended and Section 508	<p>No otherwise qualified individuals shall, solely, by reason of their handicap, be:</p> <ol style="list-style-type: none"> 1. Excluded from participation (including employment) 2. Denied program benefits 3. Subjected to discrimination
Section 109 of the Housing and Urban Development Act of 1974, as amended	<p>Under any program or activity funded in whole or in part under Title I or Title II of the act (regardless of contract's dollar value), no person shall be excluded from participation (including employment), denied program benefits or subjected to discrimination on the basis of:</p> <ol style="list-style-type: none"> 1. Race 2. Color 3. National origin 4. Sex

The Age Discrimination Act of 1975, as amended	No person shall be excluded from participation, denied program benefits or subjected to discrimination on the basis of age.
Executive Order 11063	No person shall, on the basis of race, color, religion, sex or national origin, be discriminated against in: <ol style="list-style-type: none"> 1. Housing (and related facilities) provided with federal assistance 2. Lending practices with respect to residential practices when such practices are connected with loans insured or guaranteed by the federal government
Executive Order 11246, as amended	No person shall be discriminated against, on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin in any phase of employment during the performance of federal or federally assisted construction contracts in the excess of \$10,000.
Executive Order 13166	Improving access to services for persons with limited English proficiency.
Equal Access to HUD-assisted or Insured Housing 24 CFR 5.105 (a)(2)(i-ii)	Requires equal access to housing in HUD programs, regardless of sexual orientation, gender identity, or marital status (new regulation effective 3/5/2012).
Americans with Disabilities Act (ADA)	Legislation that prohibits discrimination and guarantees that people with disabilities have the same opportunities as everyone else.
Architectural Barriers Act of 1968	Requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds after September 1969 must be accessible to and usable by persons with disabilities.

8.1 Citizen Participation Plan

Subrecipient must provide for and encourage citizen participation (see Section 104(a) (2) of the Housing and Community Development Act and 24 CFR 570.486) except where waivers or alternative requirements are provided. Subrecipient must:

1. Prepare and adopt an Outreach, Marketing, and Citizen Participation Plan. As part of this plan, procedures must include methods for encouraging citizen participation and should provide citizens the email, address, phone number, and times for submitting complaints.

2. Develop grievance procedures. The written complaint procedures shall also provide for a timely written response to complaints and grievances, within 15 working days where practicable.

Concerned citizens have the ability to file a complaint or appeal a decision to OHCS.

8.2 Citizen Participation Notification

Subrecipient must publish notices regarding Citizen Participation and Complaint Procedures, Section 504, and Affirmatively Furthering Fair Housing (AFFH) and the rights and responsibilities associated with federal grant funding received.

Initial civil rights notices should be provided to OHCS at project start-up once the executed Subrecipient Agreement with the OHCS is received.

The subrecipient must publicize in one of four ways:

1. Posting to subrecipient's website and keeping a screen shot of posting in program files
2. Newspaper advertisement (documented with tear sheet/full-page advertisement/photocopy with publisher's identification and date/publisher's affidavit)
3. Public posting at both the city hall/courthouse and at least one location within the target area (documented with affidavit of posting and copy of the notice)
4. Public posting in courthouse/city hall and on subrecipient's website during the term of the contract (documented with affidavit of posting and copy of the notice as well as screen shots of the posting)

8.3 Excessive Force Policy

Subrecipients receiving CDBG-DR funds must adopt an excessive force policy that prohibits the use of excessive force against non-violent civil rights demonstrations. (See also State's Certification Requirements at 24 CFR 91.325(b)(6)).

When subrecipients sign the Subrecipient Agreement, they certify that they will pass and enforce the following policies:

1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals or groups engaged in non-violent civil rights demonstrations

2. A policy enforcing applicable state and local laws against physically barring entrance to or exit from, a facility or location that is the subject of such non-violent civil rights demonstrations within its jurisdiction

8.4 Fair Housing

The Fair Housing Act requires all subrecipients and/or developers funded in whole or in part with HUD financial assistance to certify that no person was excluded from participation in, denied the benefit of, or subjected to discrimination in any housing program or activity because of their age, race, color, creed, religion, familial status, national origin, sexual orientation, military status, sex, disability, or marital status. OHCS complies with and enforces the Civil Rights requirements of Title I of the Housing and Community Development Act and the Fair Housing Law.

OHCS follows policies and procedures for compliance with AFFH during the design and implementation of all program activities. This includes an assessment of the demographics of the impacted residents, of proposed project areas, socioeconomic characteristics, environmental hazards or concerns, and other factors material to the AFFH determination.

Subrecipients must ensure that they annually submit reports to OHCS for all beneficiaries residing in CDBG-DR assisted units which include data on the racial, ethnic, and gender characteristics ([87 FR 31636](#)). OHCS will provide subrecipients with a form they can utilize in order to capture this information. This form should be submitted as part of the subrecipient's reporting requirements.

8.4.1 Affirmative Fair Housing

To ensure compliance with 24 CFR 5.151, OHCS, its designee, or subrecipient will work with landlords in order to take meaningful and specific actions to AFFH. If a project contains five or more units, OHCS will ensure that the landlord develops a project-specific Affirmative Fair Housing Marketing Plan (AFHMP) and a tenant selection Plan. The AFHMP is a defined marketing and outreach plan that strategizes how targeted outreach to minority groups in the community that are least likely to apply for housing will be conducted. The AFHMP is required for projects which contain five or more units.

HUD Handbook 8025.1 provides extensive guidance on AFHM plans and can be found at: https://www.hud.gov/program_offices/administration/hudclips/handbooks/fheo/80251

8.4.2 Fair Housing Activities Requirements

All subrecipients must undertake and complete at least one additional fair housing activity for each grant prior to the final draw for grant funds. Actions that the state will accept without further review include:

1. Develop and adopt a comprehensive fair housing action plan, identifying specific actions and timetables. Document the analysis and make it available to the public. Develop a fair housing action plan with corresponding steps to address actions the subrecipient will undertake to promote fair housing.
2. Conduct or participate in an analysis of impediments to fair housing in the community. Document the analysis and make it available to the public. Develop a fair housing action plan with corresponding steps to address actions the subrecipient will undertake to promote fair housing.
3. Undertake a review of existing fair housing ordinances, zoning, and land use practices for discriminatory policies and practices. Document the review and make it available to the public. Develop a fair housing action plan with corresponding steps to address discriminatory practices.
4. Support and participate in an educational program coordinated with local realtors, home builders, and/or mortgage lenders designed to provide information on fair housing rights.
5. Establish a fair housing complaint referral program that provides public information and assistance to persons who want to file a complaint with the federal government or the State of Oregon. Procedures for filing housing discrimination complaints are described on the HUD website at portal.hud.gov/hudportal/HUD?src=/topics/housing_discrimination and at the Fair Housing Council of Oregon by calling (503)223-8197 or 1-800-424-3247 (Voice and TTY).
6. Provide financial or other documented local support to state or local fair housing organizations that provide information, referral, and other assistance in the community. CDBG-DR administration funds can be used for this without receiving prior approval from the state.
7. Host an informal fair housing session for local employers to encourage cooperation in efforts to find housing for their employees and to promote equal housing choices within the community.
8. Speak to an elementary school class about the fair housing rights of the children and their families.

9. Host and invite the Fair Housing Council of Oregon to have a discussion with group leaders or rental property owners and managers about their fair housing responsibilities.
10. Adopt a resolution that supports government-assisted housing programs in the community and print a notice or advertisement that appears in a prominent location of the local newspaper that states that the subrecipient is an active supporter of fair housing laws. The notice or advertisement must include the contact information for the subrecipient's fair housing representative.
11. Develop a community fair housing webpage that prominently displays the community's commitment to further fair housing on the community website, including links to fair housing enforcement and education agencies.
12. Subrecipients may ask the state to approve other actions designed to further fair housing choice in their communities, such as implementing the actions identified within the subrecipient's fair housing action plan.

Oregon State Requirement Note: Subrecipients must meet the minimum requirements below:

1. All grant subrecipients must adopt and publish a Fair Housing Resolution (Exhibit 2B) and submit the affidavit of publication to OHCS within 6 months prior to the first draw for non-construction activities/funds.
2. All grant subrecipients must distribute and post the fair housing posters and brochures at City Hall and/or the County Court House and other locations within the community and submit documentation that this was completed within 6 months prior to the first draw for non-construction activities/funds. Brochures and posters can be found at: www.fhco.org or https://www.hud.gov/program_offices/fair_housing_equal_opportunity/marketing

Note for item 1 and 2 above: If the grant subrecipient's jurisdiction comprises 5% or more non-English speaking persons, the fair housing resolution, brochures, and posters must be disseminated in the applicable non-English language.

3. All grant subrecipients must undertake and complete at least one additional fair housing activity for each grant prior to the final draw for grant funds. The subrecipients must inform OHCS of the specific additional fair housing action they plan to undertake and clearly document within the project file that the action was completed. Documentation can include but is not limited to a copy of a newly adopted fair housing action plan, newspaper articles covering the additional fair housing activity, meeting and board minutes, contracts and agreements with workshop presenters, sign-in sheets, websites, and video files. Every subrecipient

must adopt and publish a Fair Housing Resolution prior to receiving the first drawdown of grant funds. A resolution adopted for a prior project is acceptable if it has been published within 6 months prior to the first grant drawdown. See **Exhibit 2B** for a model resolution.

Note for #3 above: If a grant subrecipient has received more than one grant per program year, for example P10005 and P10027, the grant subrecipient need only conduct one additional fair housing activity for both grants.

8.4.3 Fair Housing Organizations and Resources

Information about fair housing can be obtained by contacting the Fair Housing Council of Oregon (FHCO) at 1-800-424-3247 (hot line) or at <http://www.fhco.org/>.

The FHCO also has resource packets with a host of materials summarizing the fair housing laws, resource lists, and contact information available upon request. Grant subrecipients are encouraged to obtain a copy of this resource packet as early as possible in the project to use as a resource in complying with federal and the State of Oregon fair housing laws.

Examples of local organizations that are often involved in fair housing activities include:

- Community development corporations and other non-profits
- Boards of realtors
- Lender associations and financial institutions
- Legal aid programs
- Public housing authorities
- Community action agencies
- Fair Housing Council of Oregon (FHCO): The FHCO is a statewide non-profit organization that provides a wide range of resources to communities. They promote equal access to housing by providing education, outreach, technical assistance, and enforcement opportunities.

Their contact information is:

Fair Housing Council of Oregon
1221 SW Yamhill St., #305
Portland, OR. 97205
Phone: 503-223-8197
Statewide: (800) 424-3247 information@fhco.org

The State of Oregon has developed a 2016–2020 Fair Housing Action Plan, which provides a listing of resources and actions necessary to remove impediments to fair housing. A copy can be obtained here: <https://www.oregon.gov/ohcs/development/Documents/conplan/2020%20CAPER/2020-FHAP-Report-Draft.pdf>. Subrecipients can obtain copies of fair housing posters, brochures and videos for use from Oregon Housing and Community Services, FHCO, and from OHCS.

8.5 Section 504

Compliance with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 754), requires that subrecipients shall operate each program or activity receiving federal financial assistance so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with handicaps.

Section 504 provides that “No otherwise qualified individual with handicaps in the United States shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” The subrecipient is responsible for compliance with Section 504 by the developer in economic development programs.

8.5.1 Section 504 Requirements

In order to comply with Section 504, the following actions must be initiated:

1. **Assurance** — Each subrecipient agreement with OHCS includes compliance provisions that the CDBG-DR program will be operated in compliance with Section 504 requirements (24 CFR 8.50(a)). This provision within the agreement obligates the subrecipient for the period during which federal financial assistance is extended. This assurance must be submitted prior to receipt of the executed contract with OHCS.
2. **Self-Evaluation** — Each subrecipient shall have completed a self-evaluation of current policies and practices with respect to communications, employment, and program/physical accessibility to determine whether, in whole or in part, they do not or may not meet the requirements of being accessible to individuals with disabilities. The self-evaluation will have been completed within 6 months of receipt of any grant award after July 1988.
3. **Building Designation and Status** — The self-evaluation shall designate all buildings and structures as “new” or “existing” depending on whether the building was constructed or altered after July 1988 (24 CFR 8.51(a)). The self-evaluation shall determine whether buildings and structures that house programs and services for

the public can be approached, entered, and used by persons with disabilities. At minimum, the following items should be addressed in the self-evaluation: parking — spaces, curbs, ramps; routes and pathways — slopes, levels, ramps, notices, entrance ways — widths and heights; interiors — door grasp, pressure, pathways, elevators; service — counter heights, notices; and auxiliary services — telephones, restrooms, drinking fountains.

4. Policy Modifications vs. Structural Changes — Each subrecipient shall modify any policies and practices that do not meet the requirements for program accessibility (24 CFR 8.51). Compliance with 504 does not necessarily require a subrecipient to make each of its existing facilities accessible to and usable by individuals with handicaps, or require a subrecipient to take any action that they can demonstrate would result in a fundamental alteration in the nature of its program or activity or in undue financial and administrative burdens. Therefore, a subrecipient may comply with the requirements of this section in its programs and activities receiving federal financial assistance through such means as relocation of programs, assignment of aids to beneficiaries, home visits, or any other method that results in making its program or activity accessible to individuals with handicaps. A subrecipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section (24 CFR 8.21(i)).
5. Visually or Hearing Impaired — Each subrecipient must ensure that members of the population eligible to be served or likely to be affected directly by a federally assisted program who have visual or hearing impairments are provided with the information necessary to understand and participate in the program. Methods for ensuring participation include, but are not limited to, qualified sign language and oral interpreters, readers, or the use of taped and Braille materials.
6. Benefit to Those with Disabilities — Each subrecipient must maintain data for OHCS showing the extent to which individuals with disabilities are beneficiaries of federally assisted programs.

8.5.2 Other Section 504 Requirements, as Applicable

If structural changes to non-housing facilities will be undertaken to achieve program accessibility, a subrecipient shall develop a transition plan with the assistance of interested persons, including handicapped individuals or organizations representing handicapped individuals, for those areas that cannot be made accessible administratively (24 CFR 8.21 (4)).

The construction activities identified in the transition plan must have been/must be completed within 3 years of completion of the self-evaluation that was done within 6 months of the first grant award made after July 1988 (24 CFR 8.21(c) 3). The transition plan must be made available for public inspection, and, at a minimum, it shall:

1. Identify all physical obstacles that limit the accessibility of programs and activities to individuals with disabilities.
2. Describe in detail the method to be used in making the facility accessible.
3. Set forth a schedule for completion of the modifications. If the schedule exceeds one (1) year, then the subrecipient must identify the actions to be taken during each year of the transition period.
4. Identify the individual responsible for implementation of the plan.
5. Identify the persons or groups with whose assistance the plan was prepared.

NOTE: Unless the grant subrecipient has recently acquired a facility that was constructed prior to 1988 that will house programs and services available to the public and intends to make physical alterations to this facility, the 3-year construction period for meeting the accessibility requirement for existing facilities under this regulation will have expired.

NOTE: New non-housing facilities (designed, constructed, or altered after July 11, 1988) shall be designed and constructed to be readily accessible to and usable by individuals with handicaps (24 CFR 8.32).

If the subrecipient employs 15 or more persons:

1. Designated 504 Coordinator — A responsible employee must be designated to coordinate the community's efforts to comply with Section 504.
2. Grievance Procedures — The community must adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part. Such procedures need not be established with respect to complaints from applicants for employment or from applicants for admission to housing covered by this part.
3. Statement of Compliance — The subrecipient shall publish a statement of compliance to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the subrecipient. The notification shall state, where appropriate, that the subrecipient does not discriminate in admission or access to, or treatment or employment in its

federally assisted programs and activities. The notification shall also include an identification of the responsible employee designated above.

A subrecipient shall make the initial notification required by this paragraph within 90 days of receipt of the executed contract with OHCS. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in subrecipient's publications, and distribution of memoranda or other written communications.

- Records Maintenance & Disclosure — The subrecipient must maintain a file, make available for public inspection, and provide to the responsible civil rights official, upon request: (1) a list of the interested persons consulted, (2) a description of areas examined in the self-evaluation and any problems identified, and (3) a description of any modifications made and of any remedial steps taken.

The regulation requires that you must have available a Telecommunication Device for the Deaf (or TDD) or equally effective method for communicating with hearing impaired persons. Oregon has an approved relay service, which may be utilized. In order to utilize the relay system, the subrecipient must have a policy indicating the use of the relay system by the subrecipient and publish the telephone numbers in the newspaper.

Oregon Requirement Note: Persons with all types of disabilities must be able to communicate with the subrecipient. When the subrecipient communicates with applicants and beneficiaries of the project by phone, a TTY is required. Where such contact is infrequent, the subrecipient may instead use a TTY relay service. The Oregon Telecommunications Relay Service (OTRS) provides full telephone accessibility to deaf, hard of hearing, or speech-impaired persons. To access OTRS, call the voice number from a TTY or 711 from a voice phone. More information is available at www.oregonrelay.com or by calling 800-735-1232.

The Public Utility Commission encourages public agencies that receive more than one call a week from persons with hearing impairments to purchase a TTY rather than depend on the relay service, which was established to assist individual citizens.

8.5.3 Communicating with Persons with Hearing, Visual, and Manual Impairments

Section 504 regulations also require that the recipient "...furnish appropriate auxiliary aids where necessary to afford an individual with handicaps an equal opportunity to participate in, and enjoy the benefits of, a program or activity receiving Federal financial assistance." (24 CFR 8.6(a)(1))

This means that the recipient must make arrangements in advance of all public meetings to offer, on request and as appropriate, sign language interpreters or other assistance. These services do not have to be provided automatically for every meeting, but the willingness to make accommodation for persons with hearing, visual, or manual impairments must be offered in public announcements about public meetings. In addition, all public meetings must be held in a location that is accessible to all individuals.

Oregon Department of Human Services' Deaf and Hard of Hearing Services maintains a directory of communication services at www.oregon.gov/DHS/BUSINESS-SERVICES/ODHHS/Pages/index

In every public meeting notice, the recipient must include a statement to the effect that persons with hearing, visual, or manual impairments who wish to participate in the meeting should contact the recipient by a certain date so that appropriate communication assistance can be arranged. The recipient must be ready to back up that commitment with the necessary assistance. If there are no requests for assistance, the meeting can proceed without making special arrangements. The meeting must be held in a location accessible to all individuals. During regular monitoring of the grant, the state must see evidence that the required notice has been made and, if a request was made for assistance, how the recipient responded.

Subrecipients may use the following sample language for public meeting notices:

“The [meeting facility] is handicapped accessible. Please let us know if you will need any special accommodations to attend the meeting.”

8.5.4 Section 504 Requirements for Complaints

The subrecipient will provide a timely written response to every citizen complaint. The subrecipient's response must be provided within 15 working days of the receipt of the complaint, or the subrecipient must document why additional time for the response was required.

The subrecipient must publicize how and to whom a complaint can be submitted.

Complaints must be received in writing. The subrecipient must respond in writing within 15 days of receipt of complaint or provide the complainant with a reason why the response cannot be completed within the 15 days.

The subrecipient must keep a complaint log that documents the following:

- Date complaint received
- Name of complainant and contact information
- Date subrecipient responded to the complaint
- The outcome of the complaint and final resolution
- Date complaint closed

8.6 Equal Employment Opportunities (EEO)

8.6.1 Equal Opportunities and Non-Discrimination Provisions

Subrecipients must take actions to ensure that no person or group is denied benefits such as employment, training, housing, and contracts generated by the CDBG-DR project on the basis of race, color, religion, sex, national origin, age, or disability.

8.6.2 Non-discrimination, Equal Opportunity, and Affirmative Action in Employment

Employment may not be denied on the basis of race, color, national origin, sex, age, religion, familial status, or disability. Steps that can be taken to prevent discrimination in employment include the following:

1. Maintain employment data that indicates staff composition by race, sex, disabled status, and national origin.
2. Review existing personnel policies to ensure compliance with non-discrimination and equal opportunity requirements.
3. Advertise locally as an equal opportunity employer.
4. Publish an annual statement of non-discrimination or include such statement in any CDBG-DR program communications/publications.
5. Develop a network of information points that serve minority, elderly, women, disabled, and ethnic groups, in addition to newspapers or public service channels, to advertise employment opportunities.
6. Develop and implement a Section 3 compliance plan.
7. Display equal opportunity posters prominently at all job sites.
8. Take affirmative action to overcome the effect of past discrimination.

8.6.3 Actions to Overcome Prior Discrimination

Documentation is necessary of any affirmative actions the local government has taken to overcome the effects of prior discrimination as determined through a formal compliance review or court proceeding, where the subrecipient has previously discriminated against persons on the grounds of familial status, race, color, national origin, or sex in administering a program or activity funded in whole or in part with CDBG funds.

Oregon State Requirement Note: Subrecipients that have been the subject of formal compliance or court actions related to discriminatory practices must inform the state about their situation and describe actions resulting from the compliance order or court action. During the state's onsite monitoring of the program, the subrecipient must provide any such documentation for the preceding 5 years.

8.6.4 Non-discrimination, Equal Employment Opportunities, and Affirmative Action for Construction Contracts

Subrecipients must take all necessary steps to notify minority businesses, women's business enterprises, labor surplus area firms, and Section 3 businesses of bidding opportunities. Contractors may not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. Steps that can be taken to prevent discrimination and monitor for compliance include the following:

1. Advertise as an equal opportunity employer in bid solicitations.
2. Include minority businesses, women's business enterprises, labor surplus area firms, and Section 3 businesses in bid solicitations whenever possible.
3. Document and maintain a list of locally owned businesses that were awarded contracts.
4. Include Section 3 and EEO clauses as part of bid packets and all applicable contracts.
5. Inform contractors of Section 3 and equal opportunity requirements at pre-construction conference or through other means of notification.
6. Require contractors to submit monthly utilization reports and monitor contractor's compliance at work site.

8.6.5 Non-discrimination, Equal Employment Opportunities, and Affirmative Action in Housing

The Fair Housing Act prohibits discrimination against protected class members in the sale, rental, conditions, and financing of dwellings and in other housing-related transactions. Steps that can be taken to prevent discrimination in housing include the following:

1. Develop and adopt a fair housing policy that includes methods of enforcement.
2. Disseminate information concerning housing services and activities through agencies and organizations which routinely provide services to protected groups.
3. Review contract documents used by subrecipient and lending institutions participating in local programs to eliminate any discriminatory intent or practice.
4. Evaluate criteria for selecting subrecipients of housing assistance for any discriminatory effect.
5. Offer assistance to persons experiencing discrimination in housing.
6. Provide housing counseling services to minorities and women seeking housing outside areas of concentration.
7. Work with local real estate brokers to formulate a Voluntary Area-wide Marketing Agreement.
8. Work with local banks to post "equal lending opportunity" advertisements.
9. Use "equal housing opportunity" slogan and logo on subrecipient correspondence.
10. Sponsor fair housing seminars and campaigns.
11. Work with minority and women leaders in the area to promote housing development and increase minority and female participation.
12. Assist local housing developers in developing outreach programs to attract minorities and females.
13. Review zoning ordinances and comprehensive plans to ensure that they promote de-concentration of assisted housing units.
14. Create a local housing authority.
15. Publicly advertise the city as a "fair housing city."
16. Adopt a code enforcement ordinance that will compel landlords to keep their units in safe and sanitary condition.

8.6.6 LGBTQ Rule

On February 3, 2012, HUD published a final rule in the Federal Register entitled *“Equal Access to Housing in HUD Programs regardless of Sexual Orientation or Gender Identity,”* which became effective March 5, 2012. This rule is to ensure that HUD programs, including the CDBG-DR program are open to eligible individuals regardless of sexual orientation or gender identity. Subsequently, on September 21, 2016 HUD published a final rule entitled *“Equal Access in Accordance with an Individual’s Gender Identity in Community Planning and Development Programs.”* This rule, effective October 21, 2016, will ensure that all individuals have equal access to many of HUD’s core shelter programs in accordance with their gender identity. HUD’s new rule will require a grantee, subrecipient, or provider to establish, amend, or maintain program admissions, occupancy, and operating policies and procedures (including policies and procedures to protect individuals’ privacy and security) so that equal access is provided to individuals based on their gender identify. HUD has provided a document (Exhibit 7B) that subrecipients can publicly post to inform clients and staff of the equal access requirements. Therefore, a lesbian, gay, bisexual, transgender, queer/questioning (LGBTQ) person’s experience with sexual orientation or gender identity in housing discrimination will be covered by the Fair Housing Act.

Examples:

1. A gay man is evicted because his landlord believes he will infect other tenants with HIV/AIDS. That situation may constitute illegal disability discrimination under the Fair Housing Act because the man is perceived to have a disability, HIV/AIDS.
2. A property manager refuses to rent an apartment to a prospective tenant who is transgender. If the housing denial is because of the prospective tenant’s non-conformity with gender stereotypes, it may constitute illegal discrimination on the basis of sex under the Fair Housing Act.

Oregon State Requirement Note: Oregon is one of several states that already bans sexual orientation housing discrimination and gender identity/expression housing discrimination. If a person has experienced (or is about to experience) housing discrimination, they should contact the regulating state agency to file a complaint. The regulating state agency is the Oregon Bureau of Labor & Industries, and their contract number is 971-673-0792.

Additionally, if a person has experienced (or is about to experience) housing discrimination, they can contact HUD's Office of Fair Housing and Equal Opportunity for help at 800-877-0246. You may also file a housing discrimination complaint online at the following link: portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/online-

[complaint](#). HUD will thoroughly review the allegation to determine if the claims are jurisdictional under the Fair Housing Act.

8.7 Language Access Plan (LAP)/Limited English Proficiency (LEP)

8.7.1 Language Access Plan Requirements

OHCS and subrecipients are required to ensure meaningful access to agency services, programs, and activities for persons who have LEP. From intake to closeout, subrecipients must identify property owners or beneficiaries who have difficulty speaking or reading English and ensure that services are available to them in accordance with OHCS requirements.

In order to determine if language assistance is required by subrecipients of federal funds through OHCS, all subrecipients are required to follow the measures outlined below:

1. Conduct the four-factor analysis prior to advertising for application public hearing.
2. If the four-factor analysis reveals there are 1,000 or more LEP persons, or 5% or more LEP persons in the eligible population in the jurisdiction or among current beneficiaries, the applicant will provide appropriate language assistance by:
 - a. Translating all vital documents
 - b. Posting notices of application public hearings in areas frequented by LEP persons of the threshold population(s) in the language(s) spoken
 - c. Providing translation services at public hearings, if requested to do so by LEP persons
3. If the four-factor analysis reveals there are less than 50 LEP persons but 5% or more LEP persons in the eligible population in the jurisdiction or among current beneficiaries, the applicant will provide appropriate language assistance by:
 - a. Posting notices of application public hearings in areas frequented by LEP persons of the threshold population(s) in the language(s) spoken
 - b. Providing translation services at public hearings, if requested to do so by LEP persons

4. If the four-factor analysis reveals there are less than 50 LEP persons and fewer than 5% LEP persons in the eligible population in the jurisdiction or among current beneficiaries, the applicant will provide appropriate language assistance by providing translation services at public hearings, if requested to do so by LEP persons.

If an LAP is required, the subrecipient's LAP will include certifications that the LAP has been developed, adopted, and will be implemented for all CDBG-DR-funded projects. The subrecipient's LAP will include an identification of all LEP populations exceeding 1,000 or 5% of total jurisdiction population, whichever is less, the identification of materials to be made available to LEP persons, the means by which the materials will be made available to LEP persons, and the identification of any other translation services that may be necessary. Subrecipients will be monitored for implementation of their LAPs.

All agencies receiving federal funds through OHCS will report annually on services provided to LEP persons. Agencies will review their respective plans each year to evaluate their effectiveness and to make any needed changes. OHCS will assist agencies in finding appropriate translation resources, and disseminate translated federal program notices, brochures, posters, and other documents. OHCS will monitor the delivery of any required language assistance on an ongoing basis. OHCS will review the LAP, evaluate the effectiveness of its implementation, and update the LAP, on an annual basis, in order to ensure continued responsiveness to community needs. The LAP evaluation will consist of:

1. Revision of the LAP, as necessary, by monitoring changes in demographics and services provided, updating available resources and tools, modifying methods of implementation, and addressing any issues of concerns.
2. Analysis of language assistance usage, including the number of language service requests, surveying the languages most frequently encountered, identifying the primary modes of communication, and costs associated with services rendered.
3. Assessment of response to requests by LEP individuals and subrecipients regarding the delivery of language assistance services.

8.7.2 LEP Requirements

LEP persons are individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English. Subrecipients must take steps to provide meaningful access to federally funded programs for all LEP persons. Subrecipients should establish and adopt a plan, determining if there is a need for LEP services within the community and, if applicable, how appropriate language assistance will be given.

Program activities that should be made accessible to LEP persons include:

1. Public notices and hearings regarding applications for grant funding, amendments to project activities, and completion of grant-funded projects
2. Publications regarding environmental reviews, civil rights, and other program requirements
3. Other program documents as needed

To determine the local need for LEP services, subrecipients may use the American FactFinder (<https://data.census.gov/cedsci/>).

- Type in the federally funded project’s location (e.g., city or county name) and select “go.”
- Then, on the left side of the screen, choose “Origins and Language,” then “Selected Social Characteristics” (DP02).
- Next, scroll to “Language Spoken at Home” and review the number or percentage of “Speaks English less than very well” under the subcategories of Spanish, Other Indo-European languages, and Other languages.

The table below sets forth safe harbors for written translations.

Size of Language Group	Requirement
1,000 or more in the eligible population in the market area or among current beneficiaries	Translated vital documents
More than 5% of the eligible population or beneficiaries and more than 50 in number	Translated vital documents
More than 5% of the eligible population or beneficiaries and 50 or less in number	Translated written notice of right to receive free oral interpretation of documents
5% or less of the eligible population or beneficiaries and less than 1,000 in number	No written translation required
1,000 or more in the eligible population in the market area or among current beneficiaries	Translated vital documents

8.8 Civil Rights Compliance Documentation

Subrecipients are required to document compliance with the key regulations and requirements of civil rights, fair housing, Section 3, and equal opportunity laws at the beginning of the program and continue to be diligent and consistent in implementing their civil rights responsibilities.

8.8.1 Documentation Required at Project Start-up

Prior to releasing any funds, the OHCS must receive the following documentation at project start up:

1. Appointment of civil rights officer
2. Appointment of Section 3 coordinator
3. Citizen Participation Plan including complaint and grievance procedures (Note: the Consolidated Notice for the CDBG-DR funds requires that complaints receive a response within 15 days)
4. Non-discrimination/EEO Policy
5. Policy and notice of non-discrimination on basis of handicapped status. Subrecipient may combine this policy with their Non-discrimination/EEO policy
6. Excessive Force Policy
7. Section 3 Policy
8. Section 504 Self-Evaluation Review
9. Section 504 Grievance Procedures
10. Civil Rights Resolution regarding Citizen Participation, Section 3, Excessive Force, Section 504 Policy and Grievance Procedures, and Fair Housing Policy
11. Public notices regarding civil rights (see [Section 6.2](#))
12. Fair housing activity documentation

8.8.2 Ongoing Compliance Documentation

During the course of the grant period, subrecipient must ensure that all CDBG-DR funded activities are conducted in a manner that ensures equal opportunity and access to all persons in accordance with civil rights, equal opportunity, and affirmative action laws, regulations, and requirements.

1. Fair housing: Document efforts to affirmatively further fair housing.
2. Section 3 Business Participation: Document efforts to solicit Section 3 businesses and maintain data concerning the number and dollar amount of contract awarded to locally owned businesses.
3. Minority Business Participation: Document efforts to solicit minority and women-owned businesses and maintain data concerning the number and dollar amount of contracts awarded to minority businesses.
4. Maintain records of any monitoring trips to project site and any findings as well as copies of contractor's certifications and monthly utilization reports documenting contractor compliance.
5. Maintain records of program applicants as well as direct and indirect beneficiaries including race, color, sex, national origin, age and handicap status.
6. Record race, head of household, age, and income data of persons affected by displacement and/or relocation, if applicable.
7. Human resources documents regarding employment should be on file including training handbooks, policy and procedure manuals, resolutions, and ordinances regarding civil rights requirements.
8. Maintain documentation related to any complaints received and action taken to notify OHCS or HUD, if applicable.

8.9 Fraud, Waste, and Abuse of Government Funds

Complaints regarding fraud, waste, or abuse of government funds should be forwarded to:

U.S. Department of Housing and Urban Development Office of Inspector General Fraud Hotline (phone: 1-800-347-3735 or email: hotline@hudoig.gov)