

VI. Non-discrimination and Equal Opportunity

DCED grantees must make every effort to avoid discrimination and provide equal opportunities in the administration and implementation of programs and services that are federally funded as well as any employment opportunities. Grantees must pass these same requirements on to their sub-grantees, third party contractors, and sub-contractors through agreements and/or contracts. Grantees, sub-grantees, third party contractors, and their sub-contractors are required to comply with the non-discrimination, equal opportunity and affirmative action requirements through two approaches when taking actions in *employment and program delivery*:

1. Non-discrimination and equal opportunity:

This requirement prohibits *current and future* discriminatory actions and practices.

2. Affirmative Action:

This requirement addresses the effects of *past* discrimination by ensuring actions that remedy and overcome the effects.

The specific steps grantees must take to achieve equal opportunity and affirmative action goals:

- Establishing non-discrimination policies;
- Developing affirmative action plans; and
- Completing a Section 504 plan and related requirements to address disability concerns described below.

Congress and the Commonwealth have established civil rights laws to ensure that these requirements are met. The specific laws and their applicability are discussed below. This section concludes with references to necessary recordkeeping and reporting. Full details on the procedures, reports, templates, and forms can be found on DCED's website and in the appendices to this section of the Manual.

A. Regulatory Basis

As discussed throughout this manual, grantees, sub-grantees, third party contractors and subcontractors must assure that all DCED-funded activities are conducted in a manner that will not cause discrimination

on the following bases: race, color, national origin, religion, sex, disability, familial status, age, ancestry or use of guide or support animals because of the blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals. This section describes in more detail the laws that provide these protections in the context of equal opportunity and affirmative action.

Equal Employment Opportunity and Program Administration

Title VI of the Civil Rights Act of 1964 and its regulations at 24 CFR Part I prohibits discrimination on the bases of race, color, or national origin in all federally assisted programs. Further, grantees are required to take affirmative action to overcome the effects of past discrimination in the administration of the DCED-federally funded programs.

Affirmative Action means promoting equal employment and income development opportunities by gaining support from all administrative levels in establishing practical action plans, maintaining continual evaluation, and retaining focus and progress toward stated goals. An Affirmative Action Program endeavors to realistically reinforce the concept that all segments of our society have an opportunity to participate in public service on a competitive basis and advance in accordance with their capabilities.

The U.S. Equal Employment Opportunity Commission (EEOC) was established by Title VII of the Civil Rights Act of 1964 to assist in the protection of United States employees from discrimination. Employment discrimination entails areas such as firing, hiring, promotions, transfer or wage practices and it is also illegal to discriminate in advertising, referral of job applicants, or classification.

Equal employment opportunity was further enhanced through Executive Order 11246, which prohibits entities that receive federal funding from discriminating against employees based on race, sex, creed, religion, color, or national origin. Along with those five protected classes, more recent statutes have listed other traits as "protected classes," including the following:

- The Age Discrimination Act of 1975 prohibits discrimination on the basis of age in programs and activities receiving federal financial assistance. The Act, which applies to all ages, permits the use of certain age distinctions and factors other than age that meet the Act's requirements.
- Section 504 of the Rehabilitation Act of 1973 prohibits recipients of federal funds from denying persons with disabilities employment opportunities, including hiring, promotion, training, and fringe benefits, for which they are otherwise entitled or qualified.

- The Architectural Barriers Act of 1968 requires certain buildings and facilities that are designed, constructed, or altered with certain federal dollars, or leased by federal agencies, after September 1969, to comply with accessibility design standards.
- The Genetic Information Nondiscrimination Act of 2008 forbids discrimination because of family history and genetic information. (For example, a person cannot be discriminated against because of a family history of and predisposition to developing a disease.)
- The Vietnam Era Veterans Readjustment Assistance Act of 1974 forbids discrimination on the grounds of a worker's military history, including any effects that the battlefield might have had on the worker's psyche.

The Executive Order also requires entities that receive federal funds to implement affirmative action plans to increase the participation of minorities and women in the workplace. Pursuant to federal regulations, affirmative action plans must consist of an equal opportunity policy statement, an analysis of the current work force, identification of problem areas, the establishment of goals and timetables for increasing employment opportunities, specific action-oriented programs to address problem areas, support for community action programs, and the establishment of an internal audit and reporting system.

Section 3

DCED grantees should be aware of the employment and training requirements under Section 3 of the Housing and Urban Development Act of 1968, as amended, (Section 3) and its regulations at 24 CFR Part 135 that apply to their hiring and the hiring of their contractors and subcontractors. For more information on these requirements see Section V of this Manual. DCED grantees also need to note that Section 3 hiring pertains to their own hiring of staff in total and not just those hired to administer any of the federally funded programs. Grantees should have Section 3 requirements in their hiring practices and procedures and maintain documentation of all job openings and hiring for the program year. This should be done in concurrence with the documentation needed for the Equal Employment Opportunity Commission described below. DCED will require this information with the bi-annual Equal Employment Opportunity reporting and will request supporting documentation during the remote monitoring.

Section 504 – Protecting Persons with Disabilities in Program Delivery

As noted earlier in this Manual, Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) includes seven protected classes. One of them is disability. As part of the effort to ensure fair housing choice to disabled persons, the law is supplemented by the provisions of Section 504 of the Rehabilitation Act of 1973. Section 504 explicitly prohibits discrimination against individuals with disabilities in programs that receive federal funds. It provides that “no qualified individual with a disability should, only by reason of his or her disability, 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.” HUD’s Section 504 implementing regulations at 24 CFR Part 8 apply to the *operation* of all programs and activities receiving HUD assistance, and, therefore, apply to administrative actions, such as employment, beneficiary selection and provision of services within CDBG, CDBG-DR, HOME, and ESG.

Note that HUD has developed resources for jurisdictions on ensuring compliance with Section 504 requirements and has a website dedicated to such guidance.

(See:https://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/sect504)

Title IX of the Education Amendments Act of 1972

Title IX of the Education Amendments Act of 1972 (Title IX) prohibits discrimination on the basis of sex in education programs or activities that receive federal financial assistance. For example, a program can not prohibit a particular sex from applying for or participating in benefits offered by the program. Some exceptions to the Title IX requirements apply for historically sex based organizations such as the YM/WCA, Girls Scouts, and Boy Scouts.

Pennsylvania Law

Further, under state law, the Pennsylvania Human Relations Act prohibits discrimination in employment, housing, and public accommodation opportunities because of race, color, familial status, religious creed, ancestry, handicap or disability, age, sex, national origin, the use of a guide or support animal because of the blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals.

B. Minimum Requirements

The minimum requirements are covered in relation to three areas: non-discrimination policies in employment; affirmative action plans; and accommodations for persons with disabilities.

Establishing Non-discrimination Policies

Grantees must have adopted and regularly follow non-discrimination policies that respect equal protection provisions of the law in both their employment practices and in HUD-funded program delivery. Elements of these requirements include those provided below.

- In addition to federal law requirements, grantees must comply with applicable state and local laws governing nondiscrimination in employment in every location in which they have facilities. This policy applies to all terms and conditions of employment, including recruiting, hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, compensation and training.
- Grantees must expressly prohibit any form of workplace harassment based on race, color, religion, gender, sexual orientation, gender identity or expression, national origin, age, genetic information, disability, or veteran status. Improper interference with the ability of grantees' employees to perform their job duties may result in discipline up to and including discharge.

ACTION ALERT



Comply with non discrimination policies

Developing Affirmative Action Plans for Grantees and Addressing Past Discrimination

Grantees must develop an Affirmative Action Plan that establishes criteria that will include any instance of past discrimination as a factor to be considered when planning, selecting, and implementing their programs, funded projects, and activities; give priority consideration to activities specifically designed to overcome the effects of past discriminatory actions; and facilitate

participation by persons of a particular race, color, national origin, sex, or handicapped status. Documentation of Affirmative Action measures taken to overcome prior discrimination, if found by HUD or EEOC, must be retained in grantee files and will be requested during remote monitoring.

ACTION ALERT



Addresses *past* discrimination by ensuring actions that remedy and overcome the effects

Understanding what is included in the definition of “Disability”

The law provides that grantees must give protections to “individuals with handicaps.” This includes persons with mobility impairments as well as less obvious impairments that substantially limit one or more life activities such as caring for one’s self, hearing, seeing, walking, breathing, performing manual tasks, speaking, working, or learning. Also protected are those who have a record of such handicaps, and those who are “regarded as having” such disabilities. Physical and mental impairments are defined as follows:

- **Physical Impairments:** A physical impairment is any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of twelve body systems. They are the neurological, musculoskeletal, respiratory (including the speech organs), cardiovascular, reproductive, digestive, genitourinary, hemi (blood), lymphatic and endocrine systems; special sense organs, and skin. Some examples of physical impairments that meet this definition are cerebral palsy, autism, blindness, epilepsy, muscular dystrophy, heart disease, diabetes, and cancer.
- **Mental Impairments:** A mental impairment is any mental or psychological disorder. Such disorders would include mental retardation, organic brain syndrome, emotional or mental illness, specific learning disabilities, drug addiction, and alcoholism.

A person who “has a record of” of being disabled may be one who has a history of being disabled or one who was misclassified as having a mental or physical impairment that limited one or more life activities. An example of this would be one who, as a child, was misdiagnosed as being mentally

retarded when the problem was dyslexia or perhaps a person with a mild, correctable hearing loss who was misclassified as learning disabled and who, therefore, did not receive proper medical treatment.

Note that there are limitations to the application of these definitions. For example, with respect to employment, the term does not include the following persons:

- An alcoholic or drug abuser whose current use of alcohol or drugs prevent the person from performing the duties of the job in question;
- A substance abuser whose impairment would pose a direct threat to property or to the safety of others;
- A person who has a currently contagious disease or infection that would constitute a direct threat to the health of others; or
- A person, who has a currently contagious disease, is unable to perform his or her duties.

Grantees will assess their compliance with the requirements that they not discriminate against person with disabilities through the creation of a **Section 504 Plan** and the related documentation that accompanies the plan. This Section 504 Plan is described in greater detail below under “Documenting Compliance.”

ACTION ALERT



Complete a Section 504 Plan to address disability concerns explained above

Making Reasonable Accommodation for Disabilities

In the employment context, a reasonable accommodation is assistance or changes to a position or workplace that will enable an employee to do his or her job despite having a disability. Employers are required to provide reasonable accommodations to qualified employees with disabilities, unless doing so would pose an undue hardship.

In the housing context and service delivery context, providers are required to make reasonable accommodations for persons with disabilities when there is an identifiable relationship, or

connection, between the requested accommodation and the individual’s disability. Some examples may include:

- Assigning a parking space for a person with a mobility impairment.
- Assigning a lower mailbox for a person who uses a wheelchair.
- Permitting an assistance animal in a “no pets building for a person who is deaf, blind, has seizures, or has a mental disability.”
- Publishing a notice that accommodations can be made upon request to make public meetings accessible when the meeting location would otherwise be inaccessible. For example, meetings generally held in a meeting room on a second floor should be moved to another location upon request or video conferencing with the main location may be provided. The public should be made aware that requests are accepted.

A flow chart for assessing reasonable accommodations decisions is included in the Section 504 Plan Guidance for Grantees at **Appendix 1**.

Ensuring that Activities Are Accessible for Person with Disabilities

When utilizing federal funds, programs and activities must be made accessible to persons with disabilities. Programs and activities include all the operations of (1) a state or local government receiving or distributing federal funds; (2) educational institutions receiving federal aid; (3) entire corporations or other organizations that receive assistance or that primarily provide education, health care, housing and other related services; and (4) the entire facility, though geographically separate, belonging to an organization receiving federal funds.

To illustrate this requirement, consider these examples:

- If the borough of Handy, PA uses CDBG funds to rehabilitate a borough-owned community center in a low/moderate neighborhood, not only will the center and all the services offered there need to be made accessible to handicapped citizens, but the Borough Hall, the public library, the personnel office, and the Borough’s other services, programs, and activities must be reviewed for accessibility.

- Shade, Inc. receives a CDBG loan to expand its manufacturing operation that produces oversized widgets – a popular novelty item. Shade, Inc.'s headquarters across town should also be reviewed for handicapped accessibility. It is geographically separate from the site where CDBG funds are used, but it is part of the same organization that received federal assistance.

Further, certain categories of activities have special considerations as noted below.

Non-Housing Activities

A person with disabilities who is otherwise qualified to participate in a grantee's program and activity or use publicly-owned facilities of the municipality should not be denied the benefit of participation in those activity or programs because the buildings or structures that house them are inaccessible. Facilities, programs, and activity must be designed so that persons with disabilities can generally participate in all activities that are federally funded.

Housing Activities

Multifamily Units

New multifamily housing projects should be designed and built to be readily accessible to and usable by persons with disabilities. Further, at least five percent (5%) of the total dwelling units or at least one unit in a multifamily housing project must be made accessible to individuals who have impaired mobility. Another two percent (2%) or at least one unit must be made accessible or adaptable for those who have hearing and vision impairments. In this case accessibility means that the unit is on an accessible route and is either already accessible or adaptable. Accessible routes are those with pathways that are designed to provide access for individuals with disabilities, including those using wheelchairs or mobility devices.

When substantial alternation is made to an existing housing project with at least fifteen (15) units and the cost is at least seventy-five percent (75%) of the facility's replacement cost, then at least five percent (5%) or at least one- of the units must be allocated on an accessible or adaptable route and be made accessible or adaptable. Another two percent (2%) or at least one unit must be made accessible or adaptable to persons who have hearing or vision impairments. When other alterations are made to existing rental or rehabilitated for resale housing units, the units should be made accessible to the maximum extent feasible. This is

also the case when common areas are altered or when a single space in a dwelling unit is altered. The grantee should continue to create accessible units as rental units are rehabilitated until at least five percent (5%) of the units in the project have been made accessible or adaptable.

In determining whether facilities meet federal accessibility requirements, grantees should turn to the Uniform Federal Accessibility Standards (UFAS). These standards include, among other things, acceptable door widths, lavatory heights, and ramp dimensions.

If the recipient can make programmatic changes that enhance the accessibility of its housing program to disabled persons, those changes should be identified and implemented. For instance, a property may have ample units that are accessible for mobility-impaired residents, but the application procedure is not readily accessible to vision-impaired applicants. In this case, administrative changes will suffice. However, when the only remedy is to make structural changes then grantees must prepare a transition plan itemizing the changes. Transition plans are described in more detail below. Input from interested citizens, especially persons with disabilities, should be included.

Rental Rehabilitation

Rental Rehabilitation Programs must give priority to the selection of projects that will result in dwelling units being made readily accessible to person with disabilities. Specific regulations governing this general requirement can be found in 24 CFR Part 511. DCED may give priority in its competitively funded programs such as CDBG, HOME or ESG to applications that address the accessibility needs of its residents that rent.

Housing Certifications and Vouchers

Section 8 Existing Housing Certificate Programs or housing voucher programs must take several steps to comply with HUD's accessibility requirements. Recipients should (1) include in their marketing efforts methods for reaching eligible individuals with disabilities; (2) encourage participation by owners of accessible units; (3) when appropriate, provide current listings of available accessible units to those who receive vouchers or certificates; (4) consider the problems of locating accessible housing when faced with requests for extension from handicapped voucher or certificate holders ;and (5) when necessary (and subject to 24 CFR

Part 882), request exceptions to the fair market rents to allow Section 8 certificate holders to rent accessible units.

New and Rehabilitated Homeownership Opportunities

Any housing units newly constructed or rehabilitated for sale to buyers using federal assistance must be made accessible upon the request of a prospective buyer. Any required housing alterations must adhere to the UFAS standards, and the cost of changes become the buyer's responsibility. The cost may be added to the mortgage amount, except that the added cost must not raise either the sales price or the mortgage amount beyond established limits.

Homeownership Rehabilitation Programs

Homeownership rehabilitation programs (i.e. programs that rehabilitate homes for sale to buyers) must give priority to the selection of projects that will result in dwelling units being made readily accessible to persons with disabilities.

Historic Properties

Generally, historic properties must be made accessible when they are altered with federal dollars, unless accessibility would substantially impair the "significant historic features" of the property or result in undue financial and administrative burdens. Grantees should discuss any type of program that falls into this category with DCED's representative with the State Historic Preservation Office before submitting the activity for funding.

C. Documenting Compliance

Non-discrimination in Employment Postings

Grantees are required to display and are required to ensure that their contractors display Equal Employment Opportunity posters at the job site. These posters may be obtained from the Department of Labor. Further, grantees must post notices stating their own policy against discrimination in conspicuous places available to applicants for employment with the grantee and to existing employees of the grantees. DCED will perform a visual inspection for compliance of this requirement during on-site review. All solicitations or advertisements for employees must state that all qualified applicants will receive consideration for employment without regard to race, color, national origin,

religion, or sex. Copies of solicitations should be maintained in grantee files for submission during remote monitoring.

Equal Opportunity

Under Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, all State and local governments that have *15 or more employees* are required to keep records and to make such reports to the EEOC through the filing of Report EEO-4 on a biennial basis.

Because the EEO-4 is not filed every year, jurisdictions must maintain documentation that will allow them to complete the report. Jurisdictions with over 100 employees must submit the EEO-4 report every two years to the Equal Employment Opportunity Commission. Jurisdictions with between 100 employees and 15 employees must maintain the documentation in the event they are selected to complete the survey by the EEOC. (Detail on the reporting requirements is included later in this section.) This information includes race and sex data on all employees and annual salaries separated by job category for all employees. DCED requests the supporting documentation for its remote monitoring.

Certifications

Each contractor and/or subcontractor is required to sign a certification of compliance with the provisions of Executive Order 11246 and its implementing regulations when receiving the awarded contract.

Section 504 Plan and Related Documentation

DCED grantees receiving federal financial assistance, are required to develop a Section 504 Plan. A Section 504 Plan Template for this plan is included at Appendix 1. A Section 504 Plan includes the requirement that grantees conduct a self-evaluation. This includes an evaluation of the grantee and

Steps for Complying with Section 504

1. Develop Section 504 Plan
2. Complete Master Self-Evaluation
3. Complete yearly Project Self-Evaluation
4. Complete Transition Plans, if necessary.
5. For grantees with greater than 15 employees:
 - Develop and publish Grievance Procedures
 - Appoint a Section 504 Officer and publish a public notice of the appointment and grievance procedures.

their practices (Master Plan Self-Evaluation) and an evaluation of activities to be carried out each year (Project Self-Evaluations). The Section 504 plan must also address the development of transition plans for those situations in which structural changes are needed to make facilities, programs, and/or activities accessible.

The Master Plan Self-evaluation, and the transition plans if necessary, once completed and brought into compliance remain in effect until such a time as changes in location or processes trigger the need for another self-evaluation. However, a self- evaluation and the transition plans, if necessary, are required yearly for every new project of the grantee.

Self-Evaluation

DCED grantees must consult with interested citizens about plans to study the accessibility of facilities, programs, and/or activities. Grantees will involve those with disabilities, relatives of persons with disabilities, and advocacy groups representing persons with disabilities. This involvement helps to ensure that the self-evaluation is conducted from the view point of persons with disabilities, and therefore, more accurately reflects their needs.

In some small jurisdictions, officials may have difficulty locating persons with disabilities or citizens interested in helping with the self-evaluation. If local help with the evaluation is not available, grantees should consider seeking guidance from state or national organizations representing the interests of persons with disabilities. Organizations offering technical assistance and/or information relative to the needs of persons with disabilities include the local Centers for Independent Living; National Organization on Disabilities in Washington DC; the National Easter Seal Society, which has numerous state and local affiliates; and the National Mental Health Association in Alexandria, VA. This is a very small sample of organizations that exist primarily to serve the interests of persons with disabilities.

The self-evaluation should include a review of the grantee's facilities, administrative practices, and employment practices of the municipality as well as the annual projects and activities funded through federal grants. If grantees use the facilities of other municipalities or organizations to conduct programs and activities funded with federal funds, then those facilities, administrative practices and employment practices are subject to self-evaluation as well.

Appendix 1 provides additional checklists and guidance for completing the required self-evaluation.

Self-Evaluation Considerations: “In Whole or In Part”

With the help of interested parties, grantees should evaluate their policies and practices to determine whether, in whole or in part, they meet the requirements of the law. An example is provided to illustrate this analysis:

The city of Bitbank, PA received federal funds from DCED. The personnel office in Bitbank was built so that persons with mobility-impairments have easy access. The city’s personnel department has invited telephone calls from person interested in a word processor position. Bob Dial is a word processing whiz who finished at the top of his class, But Bob is hearing-impaired. Bitbank has no telecommunications devised for the deaf (TDD), and Bob is unable to respond to the job advertisement before the published deadline. So, while the personnel office is physically accessible to mobility-impaired persons, the city’s personnel recruitment activities must be modified if Bitbank is to extend equal access to the job opportunities to all handicapped individuals. A thorough evaluation of all the city’s policies and practices would have reveals that employment practices were accessible “in part” but needed improvement.

Modification of Policies and Practices Based on Self-Evaluation Findings

When the self-evaluation determines that policies and practices impact negatively upon the disabled, the grantee will modify the appropriate policy or practice so that the problem is eliminated through a Transition Plan.

In the case of the city of Bitbank above, the personnel recruitment procedure could take the following (or similar) steps to improve accessibility (1) install a TDD device and advertise the telephone number; (2) use the radio advertisement to reach persons who are vision impaired; (3) allow sufficient time for in-person applications; (4) distribute job advertisements to local advocacy groups who will notify their clients. In addition to these steps, the personnel offices may want to consider that some persons who are mentally impaired may be capable of performing certain duties well yet are unable to properly complete an employment application form. This obstacle can be overcome with minor changes in practice, but the

outcome could be very important to a person who is working toward greater self-sufficiency. The personnel application could be substituted for the more traditional written application. Questions could be limited to those directly related to the applicant's ability to perform the job in question.

Developing Transition Plans

When a grantee's facilities, programs, and/or activities cannot be made accessible by making administrative changes, structural changes will be necessary. A transition plan outlining those changes will be necessary. A transition plan outlining those changes will be developed. The plan should identify the steps required to complete the structural modifications. Interested citizens, especially persons with disabilities should be recruited to help develop the plan. The follow tasks must be completed:

- Identify the physical obstacles that limit the program's accessibility to persons with disabilities;
- Describe in detail the method to be used in making the facilities in question accessible;
- Set forth the schedule of tasks, identifying those actions to be taken within the first year;
- Identify the official responsible for implementing the plan (Section 504 Officer), if applicable; and
- Identify those who assisted the grantee in preparing the transition plan.

Appendix 1 includes a Transition Plan checklists and additional instruction.

Appointing a Section 504 Officer

Grantees with fifteen (15) or more employees are required to designate a Section 504 Officer to oversee compliance efforts of the grantee. Grantees must publish a notice of appointment of

Summary of Section 504 Documentation Requirements

Grantees should retain the following documents in their files to demonstrate Section 504 compliance:

- Public Notices of both Public Hearings and projects being proposed.
- Public Notice for any Modifications to Activities, if applicable
- Written and Published Grievance Procedure, if applicable
- Copies of citizen complaints or grievances on discrimination and agency's written response
- Master Section 504 Self-Evaluation including Transitional Plan, if applicable
- Project Section 504 Self-Evaluation including Transitional Plan if applicable.

the Section 504 Officer and retain documentation of such notification. **Appendix 2** includes Section 504 Officer and Grievance Advertisement Template. The Section 504 Officer must have a thorough working knowledge of federal accessibility requirements. The Section 504 Officer will take the lead in evaluating the grantee's facilities, program and practices, and in drafting any transition plans, as needed. All the accompanying administrative detail should be monitored or carried out by the compliance officer, and the officer is responsible for keeping the grantee on target with the timelines of any transition plans.

Establishing Grievance Procedures

Grantees with fifteen (15) or more employees are required to develop and publish grievance procedures that provide for timely resolution of discrimination complaints that are lodged against the grantee and that pertain to the accessibility of the grantee's policies and practices. These procedures must be published through a public notice and evidence of such publication must be retained in the grantee's files. **Appendix 2** includes Section 504 Officer and Grievance Advertisement Template.

Complaint Resolution

Grantees must retain copies of any citizen complaints or grievances on discrimination along with the agency's written response and any actions taken to resolve them. DCED will review all complaints and the grantee's resolution during the remote monitoring for FHEO.

Further, any person who believes that he or she has been discriminated against or any representative of such a person may file a confidential complaint with HUD's Office of Fair Housing and Equal Opportunity in Washington DC. The written complaint must be filed within 180 days of the alleged discriminatory act unless good cause can be shown for the delay. The complaint must show the name and address of the offending party, along with the details of the events leading to the charge of discrimination.

HUD's civil rights officials review the case for acceptance, rejection, or referral to another federal agency. The grantee is notified of the complaint and is given a chance to respond in writing. HUD officials then attempt to resolve each complaint informally. When this is not workable, an investigation is conducted, resulting in either a dismissal of the complaint or a letter of findings against

the grantee (notification of noncompliance). Within ten (10) days of a notification of noncompliance, the grantee may volunteer to comply with the regulation. Otherwise, compliance may be effected by the suspension or termination of, or refusal to grant or continue federal financial assistance.

These drastic measures must go through several channels: (1) the grantee is notified of its failure to comply; (2) a finding of noncompliance is formally recorded after the grantee has been given the opportunity for a hearing; (3) the Secretary of the HUD approves the action; and (4) the Secretary files a report with the committees of the House and Senate having legislative jurisdiction over the program or activity involved within thirty (30) days.

D. Reporting

Employment and Affirmative Action

Under Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, all State and local governments that have *15 or more employees* are required to keep records and to make such reports to the EEOC through the filing of Report EEO-4.

The EEO-4 must be filed every odd-numbered year by (1) all States; (2) all other political jurisdictions which have 101 or more employees; and (3) a sample of those political jurisdictions which have 15-100 employees. The sample is rotated biennially, so that none of the smaller jurisdictions will be required to file in consecutive survey years, but all will be required to file in their turn. Sampled jurisdictions will be informed by receipt of the

Equal Employment Opportunity Reporting

Reporting requirements differ depending the number of staff employed by a grantee, as noted below. However, all grantees are required to maintain the statistics related to race, sex, job categories, and salaries that will allow them to complete the reports when requested. DCED will monitor to ensure proper recordkeeping.

- **101 or more employees:**
 - EEO-4 filed every odd-numbered year.
 - EEO-4 copy sent to DCED by September 1st of every odd year.

- **15-100 employees:**
 - EEO-4 filed as requested based on EEOC samples.
 - EEO-4 copy sent to DCED by September 1st of every odd year

- **Less than 15 employees:**
 - DCED-CMT-169 filed annually to DCED by September 1st of every odd year

forms that they have been selected to report in a particular survey year. Therefore, as described earlier, jurisdictions must maintain documentation that will allow them to complete the survey in years in which they are selected. This information includes race and sex data on all employees and annual salaries separated by job category for all employees. DCED requires submission of a copy of the EEO-4 form by September 1st of each odd year of all jurisdictions with 15 or more employees. DCED includes this information in its remote monitoring and will ensure that grantees maintain documentation to complete the EEO-4, as required.

For jurisdictions with *less than fifteen (15) employees*, DCED requires that they complete the form DCED - CMT-169, which includes the same kind of information as the EEO-4 Survey. **Appendix 3** includes a copy of DCED-CMT-169.

Additionally, if there were any new hires during this period of reporting on the latest EEO-4 or CMT-169, grantees will need to submit one of the job advertisements and job description. Grantees will also need to submit their hiring policies.

Grantees should also refer to Section V of this manual on Section 3 compliance for employment by the grantee.

Section 504

Grantees are expected to report on their Section 504 compliance efforts as requested by DCED. The records listed in the Documenting Compliance section are required submissions when requested by DCED remote monitoring at no more than three year intervals.

E. Appendices

1. Section 504 Plan Guidance for Grantees (includes Reasonable Accommodations Flowchart, Section 504 Plan Template, and Checklists for Self-Evaluations and Transition Plans)
2. Section 504 Officer and Grievance Advertisement Template
3. DCED-CMT-169