



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

CERTIFIED MAIL – RETURN RECEIPT REQUESTED AND EMAIL

April 5, 2019

Michelle M. Wilson, MBA
Executive Director
Florida Commission on Human Relations
4075 Esplanade Way, Room 110
Tallahassee, FL 32399

Dear Ms. Wilson:

SUBJECT: Suspension from the Fair Housing Assistance Program

The purpose of this letter is to inform you that the Florida Commission on Human Relations (FCHR) is suspended from participation in the Fair Housing Assistance Program (FHAP). This suspension is effective April 11, 2019 and shall last for 90 days, ending on July 11, 2019.

During the period of suspension, HUD, as required by 24 C.F.R. §115.210(b)(3), will not refer complaints to FCHR, nor will HUD accept cases from FCHR for dual-filing. As a result, the agency must advise complainants of their right to either file their complaints with FCHR or directly with HUD. The agency will be paid for cases dual-filed as of April 11, 2019 and completed during the suspension which meet the quality and timeliness standards outlined in the FY 2019 Criteria for Processing.

Specific Reasons for Suspension

FCHR was placed on a Performance Improvement Plan (PIP) for an initial 90-day period effective June 1, 2018 – August 31, 2018. An additional 60-day extension was granted with a new ending date of October 31, 2018. On November 6 – 7, 2018, a follow-up performance assessment was conducted to determine whether FCHR met the required benchmarks to satisfy the PIP. During the onsite, the agency was still found to be failing. A detailed analysis of the agency's performance under the PIP is outlined in the enclosed post-PIP Performance Assessment Report.

This suspension is the direct result of the agency's failure to adequately address the deficiencies discussed below in a manner that will lead to long-term success. Indeed, while the agency achieved progress on reducing its backlog of inquiries and aged cases, it was able to do so only because of the intake moratorium in effect since July 1, 2017, and the enforcement moratorium in effect between November 15, 2017 and April 30, 2018. The fundamental challenges facing the FCHR have not yet been addressed.

HUD's mission is to create strong, sustainable, inclusive communities and quality, affordable homes for all.

I. Staffing and Workload Management

Based on an analysis of FCHR's workload, the recommended level of staff for FCHR is eight permanent investigators and four permanent intake analysts. The agency hired six OPS (temporary) staff persons between April 4, 2018 and June 8, 2018. However, five separated voluntarily or involuntarily from the agency before the end of the PIP performance period. In early November of 2018, the agency hired five replacement investigative and intake staff, bringing the total of non-management level staff members to 10: six investigators and four intake analysts. Four investigators were considered permanent with the remaining six staff considered temporary and without any benefits or certainty of continued employment. Earlier this year, one of the experienced intake staff left shortly after being promoted from temporary to permanent without giving a reason for his departure. Consequently, the current non-management level staff consists of six investigators and three intake analysts. Four investigators are considered permanent with the remaining staff considered temporary.

Currently, the three experienced investigators are each carrying an inventory of more than 60 cases. The three new investigators, with training, may be able take on at least 20 cases each from the three experienced investigators, thus making the caseload of the latter more manageable. However, even if all six investigators were to remain with the agency, the agency's staffing situation is not sustainable. For example, if all open cases were divided equally among the investigators, this would still have them carrying a load of 37 cases each, which is almost double the HUD recommended caseload.

Absent fundamental changes in the management and administration of the organization, history indicates that the agency will continue to fall behind, and the situation that led to the 2018 PIP will reoccur, with intake and enforcement moratoriums continuing to be necessary. High staff turnover and the inability of the agency to hire staff when it needs to are fundamental problems that have not been but need to be addressed.

II. Quality Management and Case Processing

A. Inquiries:

The PIP required that the agency assess all inquiries received after May 3, 2018 for jurisdiction and upload all relevant information into HEMS within 30 days of receipt of a signed complaint or legally acceptable substitute. A recent FHAP Processed Inquiries report revealed that out of the 38 inquiries with initial contact dates between November 1, 2018 – March 4, 2019, the agency closed or converted 24 (63%), or an average of six per month, of which 14 (58%) were closed or converted within 30 days. The remaining 10 inquiries ranged in ages from 32 – 98 days old at closure or conversion.

For the period between January 1, 2019 and March 4, 2019 alone, FCHR closed or converted a total of 13 inquiries, or an average of 6.5 a month, of which four (31%) were closed or converted within 30 days. The remaining nine inquiries

ranged in ages from 32 – 98 days at closure or conversion. This means that 69% of inquiries processed over the last two months were not processed timely. As of March 5, 2019, the agency had an inventory of 14 open inquiries of which seven (50%) were under 30 days old and the remaining were up to 98 days old.

B. Cases:

At the time of the November 6-7, 2018 onsite, the agency had a total of 198 open cases, of which 93 (47%) were over 100 days old, with two (2%) of those critically aged over 300 days. As of March 5, 2019, the agency had a total of 223 open cases, of which 159 (71%) were over 100 days old, with 13 (8%) of those critically aged over 300 days. Thus, the agency's case backlog continued to increase rather than decrease during the four months following the hiring of three investigators.

Between January 1, 2019 and March 4, 2019, the agency closed 43 cases, an average of 21.5 a month with six investigators. Of those cases closed, 38 (88%) were aged, with 15 (39%) of those critically aged over 300 days.

The guidelines and the PIP require that the agency utilize administrative closures only in "limited and appropriate circumstances" [24 C.F.R. §115.206(e)(2)]. However, 40% of cases closed since January 1, 2019 were closed administratively. Moreover, a random sampling of significantly aged cases that were closed as a failure to cooperate showed enough information to issue a no cause determination.

Cases Closed Between 1/1 – 3/4/2019	
No cause	18
Administrative Closure	17
Withdrawal with Resolution	5
Charge/cause	2
Conciliations	1
TOTAL	43

III. Conciliation and Public Interest Requirements

The PIP required the agency to ensure that public interest relief was not limited to training in such cases where the established facts suggested more robust relief would be necessary to protect impacted individuals beyond the Complainant. Though the agency has implemented the use of a revised Conciliation Agreement, its staff are still not engaging in effective conciliations. For example, the agency has developed a pattern of requiring the donation of \$100 or slightly more to a fair housing organization of the Respondent's choice which is not meaningful and effective relief. This problem may in part be due to the fact that FCHR are using conciliators without fair housing experience or training to handle their conciliations and the actual fair housing investigators have no input or oversight. The agency has elected to take the conciliation of its cases out of the fair housing division, at

least in part, due to the large caseload of the investigators. Though this is understandable, the result is not acceptable and reinforces the need for a more sustainable hiring system.

IV. Budget and Finance Requirements

Due to the agency not using the FHAP funds for the purpose that HUD approved (e. g., salaries), \$176,686 in administrative cost (AC) funds have gone unspent and remain in its operating trust fund. This resulted from the Florida State Legislature prohibiting the agency from using the operating trust fund to pay for salaries but instead requiring it to use the general revenue fund. The funds were more than adequate to support the addition of much needed permanent intake and investigative staff.

The agency was given the opportunity to provide a revised plan for use of the funds; however, it was not possible since the financial books had been closed on the two impacted fiscal years and there could be no reallocation of expenditures. As a result, the agency is still required to return the unspent AC funds in the amount of \$176,686 to the United States Treasury. Following are the procedures for the agency to use to document and return funds:

- A. Make a check payable to the U. S. Department of Housing and Urban Development in the amount of \$176,686. Make sure to note the following grant numbers on the check. The grant numbers are the Instrument Numbers reflected on the specific HUD-1044 that awarded the funds to the agency. Also, include a brief cover letter regarding the returned funding with a copy to the Regional Director, your Government Technical Representative and Government Technical Monitor.

Grant Number	Amount of Awarded AC Funds	Unused Amount to Return
FF204K154020	\$100,704.00	\$48,695.00
FF204K164020	\$137,321.00	\$127,991.00
TOTALS	\$238,025.00	\$176,686.00

- B. The check and correspondence must be sent to the HUD lockbox at the following address:

US Bank
 HUD-FAD Collections Ft Worth
 PO Box 6200-05
 Portland, OR 97228-6200

Conclusion

For the reasons set forth above and detailed in the enclosed post-PIP Performance Assessment Report, HUD is suspending FCHR's participation in the Fair Housing Assistance Program, effective for a 90-day period beginning April 11, 2019 until July 11, 2019. In accordance with 24 C.F.R. §115.210(6), prior to the end of the suspension, HUD will conduct a performance assessment of the agency to determine whether it is in compliance with all of the substantial

equivalency certification criteria set forth in 24 C.F.R. part 115. If it is determined that the agency has not corrected the deficiencies, the Assistant Secretary may propose to withdraw the agency's certification in accordance with 24 C.F.R. §115.210(c).

Pursuant to 24 C.F.R. §115.210(b)(1), FCHR has 30 days from the date of this letter to respond to this notification of suspension. If you have any questions, please contact Dita McCarthy, Government Technical Monitor (GTM) at (202) 236-7871 or aphrodite.t.mccarthy@hud.gov, Vicki Ray, FHIP/FHAP Branch Chief/Government Technical Representative (GTR) at (678) 732-2446 or vicki.a.ray@hud.gov, or myself at (678) 732-2905 or carlos.osegueda@hud.gov.

Sincerely,



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

Enclosures

cc:

Tony Jenkins, Board of Commissioners Chair
c/o Florida Blue
610 Crescent Executive Court, #600
Lake Mary, Florida 32746

Copies distributed internally to HUD:

David Enzel, Deputy Assistant Secretary for Enforcement and Programs
Joseph Pelletier, Director, Fair Housing Assistance Program