


U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, D.C. 20410-0001

THE SECRETARY

FEB 13 2007

MEMORANDUM FOR: Principal Staff  
FROM: Alphonso Jackson   
SUBJECT: Strengthening Field Management Through Enhancement of  
Delegations of Authority and Operating Protocols

On March 18, 2002, I signed a delegation of authority providing substantial management and operational authority to the Regional Directors (RDs) and Field Office Directors (FODs). On September 13, 2002, I signed operating protocols guiding implementation of these delegations. The delegation and the protocols provide the RDs and FODs with the ability to manage key operational and administrative functions in the field. Following the successful implementation of the delegation and protocols, I asked the RDs to review their effectiveness and report back to me with any recommendations for improvement. Pursuant to this guidance, the RDs made proposals in five areas.

The RDs and Field Policy and Management (FPM) staff have had numerous meetings throughout the Department concerning suitable language for these additional protocols, and after reviewing the proposed language, I am directing their implementation. The five protocols are outlined below and the language of each is attached. As with the original protocols, each will be preceded where necessary by a formal delegation of authority published in the *Federal Register*.

#### **I. Discipline of outstationed employees**

The existing protocols provide that each outstationed employee will have a local supervisor (RD, FOD, or a designee) who provides administrative supervision. Occasionally, employee misconduct requires local action and current authorities preclude the RD/FOD from taking it. The new protocol allows the RD/FOD to propose disciplinary action for outstationed employees under his/her administrative supervision. The deciding official for such actions will remain in the program chain. Job performance will continue to be evaluated by the program area.

This protocol calls for full implementation of the delegation calling for significant participation by the RDs/FODs in the rating of field Program Directors. The original protocols called for RDs/FODs to have 40% of the rating of select field Program Directors. Because HUD was operating under a "pass/fail" system when the original protocols were issued, this was reduced to simple input by the RDs/FODs. Now that HUD uses a five tiered performance system, it is feasible to provide for substantive participation by RDs/FODs. The new protocol calls for a mandatory cross cutting element in the performance plan of field Program Directors, and establishes the RD/FOD as the rating official on this one element. The reviewing official remains in the program area chain.

### **III. Assignment of work related to Secretarial Initiatives**

This protocol enhances the ability of RDs/FODs to fully implement Secretarial Initiatives at the regional and field office level. Although the existing protocols provide for the RD/FOD to develop and implement the management plan, in practice it has sometimes been difficult to ensure an effective office-wide effort. The new protocol explicitly authorizes the RD/FOD to assign such work to non-FPM staff, but requires coordination with the appropriate Program Director before making any assignments.

### **IV. Concurrent waiver authority for the Regional Directors**

This delegation authorizes the RD (no delegation to FODs) to initiate waivers of Handbook provisions and directives. Waiver decisions must be in writing, must specify the ground for the waiver, and must have the concurrence of the appropriate Program Director or Assistant Secretary. This language addresses concerns that arose when prior language was put through the Departmental clearance process.

### **V. Enhanced regional management of hiring and administrative funds**

The existing protocols provide for RD/FOD involvement in the management of administrative funds in the field. This revision provides for earlier involvement of the RDs/FODs in the budgeting process. With reductions to administrative funds, early involvement by the RD/FOD is more critical. This protocol also states that, to the extent practicable, hiring of field staff should be coordinated in the field. Approval to merit staff positions lies with Headquarters. However, once the decision to merit staff is made, the Program Director (or RD for FPM positions) would serve as the selecting official.

Attachment(s)

**Authority:** The Regional Director or Field Office Director may propose appropriate disciplinary action regarding improper conduct of outstationed employees.

The efficient operation the field office may require that the Regional Director or Field Office Director propose disciplinary action against outstationed employees who engage in improper conduct.

**Regional or Field Office Director:** Regional Directors and Field Office Directors are responsible for the administrative supervision of outstationed employees who have no onsite supervisor. In the event that an outstationed employee engages in improper conduct, then the Regional Director or Field Office Director may propose disciplinary action. The deciding official will be in the appropriate program office. The Regional Director or Field Office Director may take appropriate action concerning [a]n employee who poses an immediate threat to others or the agency.

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**Authority:** The Regional Directors (RDs)/Field Office Directors (FODs) will provide input on the performance ratings of Program Office Directors (PODs) within their respective offices.

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The performance standards for PODs will contain a standardized cross cutting element relating to the collaboration, cooperation, and coordination necessary to ensure the achievement of Departmental initiatives and Management Plan goals; provision of effective customer service; and, implementation of the Operating Protocols. The appropriate RD or FOD will rate this element.

The assessment of POD performance under this element will occur as follows:

**RD/FOD as Rating Official:** The co-located RD or FOD will serve as the Rating Official for the cross cutting critical element. The RD/FOD will communicate the element to the POD at the beginning of the rating period. A mid-cycle progress review will also be conducted, in consultation with the Program Rating Official. At the conclusion of the rating cycle, the RD/FOD will meet with the POD to discuss performance under the element and then communicate the rating to the Program Rating Official for inclusion in the POD's overall performance rating.

**Program Rating Official:** The Program Rating Official will rate all other critical elements for the field Program Director and will include the rating received from the RD/FOD on the cross cutting element in determining the proposed overall rating for the POD. The Program Rating Official may not change the rating proposed by the RD/FOD unless the RD/FOD agrees.

**Program Reviewing Official:** The Program Reviewing Official may consult with the RD/FOD regarding performance under the cross cutting element for both the mid-cycle review and the final rating of the POD. The Program Reviewing Official will inform the RD/FOD if the final rating on the cross cutting element is changed.

**Organizational Exceptions:** The performance rating on the cross cutting element for the Directors of the Homeownership Centers and Administrative Service Centers, Regional Counsels, and ONAP Administrators will be provided by the Assistant Deputy Secretary for Field Policy and Management based on input from the appropriate RDs.

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## SECRETARIAL INITIATIVES

**Authority:** The Regional Director may assign work related to Secretarial initiatives in the management plan to program areas for completion.

The Regional Director and Field Office Director are responsible for implementation of Secretarial initiatives. These include, but are not limited to, marketing the use of FHA mortgage products in the real estate industry, increasing minority homeownership, promoting the formation of faith-based and community partnerships, supporting interagency efforts to end chronic homelessness, advancing the America's Affordable Communities initiative and implementing HUD's Energy Plan. To provide for a coordinated office response, the Regional Director or Field Office Director is authorized to assign work on specific elements of Secretarial initiatives to program areas.

**Regional Director or Field Office Director:** The Regional Director or Field Office Director is to coordinate with the appropriate program director before making the assignment.

**Program Directors:** Program Directors will support the overall mission of the Regional Office or Field Office in helping to implement Secretarial initiatives.

**Remote Delivery:** The Regional Director or Field Office Director may include outstationed staff in these assignments.

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**Office of the Secretary**

**[Docket No. FR-     ]**

**Delegation of Authority to Regional Directors**

**AGENCY:** Office of the Secretary, Department of Housing and Urban Development

**ACTION:** Notice of Delegation of Authority to Regional Directors in the HUD Regional Offices. The delegation provides Regional Directors with concurrent authority to waive HUD Handbook provisions and directives. Currently the Regional Directors are located in Region I (Boston, MA); Region II (New York, NY); Region III (Philadelphia, PA); Region IV (Atlanta, GA); Region V (Chicago, IL); Region VI (Ft. Worth, TX); Region VII (Kansas City, KS); Region VIII (Denver, CO); Region IX (San Francisco, CA); and Region X (Seattle, WA).

**SUMMARY:** In this notice the Secretary delegates the authority to waive HUD Handbook provisions and directives to Regional Directors and announces the procedures that will govern the waiver of HUD Handbook provisions and directives. All waivers of HUD Handbook provisions and directives made in the field must be in writing and must specify the grounds for granting it. All waiver decisions by the Regional Director in the Office of Field Policy and Management must be jointly concurred in by the appropriate regional program director or Assistant Secretary. In addition, the Department will publish a Notice in the Federal Register on at least a quarterly basis, providing information on all waivers of Handbook provisions and directives, and will make available for public inspection for at least a three-year period a record of all waivers of HUD Handbook provisions and directives.

**EFFECTIVE DATE:**

**FOR FURTHER INFORMATION CONTACT:** Camille Acevedo, Office of Legislation and Regulations, Department of Housing and Urban Development, 451 7<sup>th</sup> Street, SW, Room 10282, Washington, DC, 20410, (202) 708-1793 or Mark Borum, Office of Field Policy and Management, Department of Housing and Urban Development, 451 7<sup>th</sup> Street, SW, Room 7122, Washington, DC, 20410, (202) 708-1123. (This is not a toll-free number. This number may be accessed via TTY by calling the Federal Information Relay Service at 1-800-877-8339.) Comments or questions can be submitted through the Internet to [Camille\\_E\\_Acevedo@hud.gov](mailto:Camille_E_Acevedo@hud.gov) OR [Mark\\_G\\_Borum@hud.gov](mailto:Mark_G_Borum@hud.gov).

**SUPPLEMENTARY INFORMATION:** Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235, approved December 15, 1989) added

writing, specify the grounds for the waiver, and be indexed and made available for public inspection. 42 U.S.C. § 3535(q)(4).

Pursuant to section 7(q) of the HUD Reform Act, a regulation can only be waived by the Secretary or a designated Assistant Secretary or equivalent rank. The Secretary is the ultimate repository of the authority both to issue and to waive the regulations of the Department. The Secretary may delegate each of these powers to other HUD officers. Under section 7(q) of the HUD Act, however, the Secretary may not delegate the authority to waive a regulation below the Assistant Secretary rank. Individuals serving in an "acting" capacity may exercise the authority contained in this delegation. This delegation is subject to the provisions of the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*

**DEFINITIONS:** As used in this Delegation:

*Assistant Secretary* means an Assistant Secretary of the Department under section 4(a) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(a)), or an individual of equivalent rank.

*Individual of equivalent rank* means an individual with rank equivalent to an Assistant Secretary. The term includes the following HUD officers: the General Counsel, the Inspector General, the President of the Government National Mortgage Association (GNMA), the Chief Financial Officer, and other positions appointed by the President requiring Senate confirmation.

*Regional Director* means an individual who is responsible for managing a HUD regional office.

*Directive<sup>1</sup>* means a Handbook (including a change or supplement), notice, interim notice, special directive, and any other issuance that the Department may classify as a directive.

*Handbook* means a directive that communicates information of a permanent nature (including clarification of policies, instructions, guidance, procedures, forms, and reports) for HUD staff or program participants. The permanent nature distinguishes a Handbook from other temporary HUD directives, such as notices. See paragraph 2-1A, HUD Handbook 000.2, *HUD Directives System*.

*Notice*, in the context of a directive, means a directive that is used to give HUD program participants temporary instructions involving HUD programs or to amend previous instructions until a Handbook revision or change is issued. A notice must carry an expiration date of not to exceed one year, and may be extended. See paragraph 2-1D, HUD Handbook 000.2, *HUD Directives System*.

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<sup>1</sup> By its terms, section 106 only reaches HUD "Handbooks." These are the one class of HUD directives, as defined in this Notice. In order to give section 106 the widest possible coverage, the Department has decided, as a matter of agency discretion, to subject all the Department's directives to the provisions of section 106.

may not be extended. See paragraph 2-1E., HUD Handbook 000.2, *HUD Directives System*.

*Regulation* means: any material contained in Title 24, Code of Federal Regulations; any notice published in the Federal Register announcing the availability of funds, or the criteria to be used to select recipients of the funds, under any program administered by the Department; and any other Notice published in the Federal Register that establishes program requirements pursuant to a statute that authorizes the Department to administer the program by Federal Register publication pending issuance of effective regulations amending Title 24, Code of Federal Regulations.

#### **WAIVER OF DIRECTIVES AND HANDBOOK PROVISIONS:**

*Form and Content of Waivers.* Section 7(q) within the Department of Housing and Urban Development Act, 42 U.S.C. 3535(q), provides that any waiver of a HUD Handbook or directive provision must be in writing, specify the grounds for the waiver, and be indexed and made available for public inspection.

*Waivers of Directive or Handbook Provisions that Restate or Summarize a Regulation.* Waiver of a directive or handbook provision that restates or summarizes a regulation may constitute a regulatory waiver for purposes of this Notice. The Office of General Counsel will determine whether a handbook or directive provision is to be treated as a regulatory waiver. If the handbook or directive provision is determined to be a regulatory waiver, it must comport with section 7(q) of the HUD Reform Act, which requires the signature of the Assistant Secretary or equivalent.

*All Prohibitions Against Discrimination.* All prohibitions against discrimination on the basis of race, sex, color, national origin, religion, handicap, age, or familial status, and all related affirmative obligations that are direct derivatives of regulations governing prohibitions of discrimination are considered regulatory prohibitions.

*Public Inspection of Waivers.* A record of each waiver of a HUD directive (including the grounds for granting the waiver) will be maintained in indexed form, and will be made available to the public. For more information on where and how this information may be inspected, contact Camille Acevedo, Office of Legislation and Regulations, Department of Housing and Urban Development, 451 7<sup>th</sup> Street, SW, Room 10282, Washington, DC, 20410, (202) 708-1793 or Mark Borum, Office of Field Policy and Management, Department of Housing and Urban Development, 451 7<sup>th</sup> Street, SW, Room 7122, Washington, DC, 20410, (202) 708-1123. (This is not a toll-free number.) The record will be maintained for not less than the three-year beginning on the date the waiver is granted.

*Executive Order 12612, Federalism.* The General Counsel, as the Designated Official under Section 6(a) of Executive Order 12612, *Federalism*, has determined that this delegation will not have substantial direct effects on States or their political subdivisions, or on the relationship between the Federal government and the States, or on the distribution of power and



a result, the delegation is not subject to review under the Order.

It should be noted that the actual grant of a waiver pursuant to this delegation may involve federalism implications. If this occurs, the relationship of the waiver to the Executive Order will be assessed at that time and in that context.

#### **Section A: Authority Delegated**

The Secretary delegates to each Regional Director concurrent authority within his or her respective jurisdiction, to waive directives and handbook provisions pertaining to programs in the Offices of Housing; Public and Indian Housing; Community Planning and Development; and Fair Housing and Equal Opportunity. All waivers by the Regional Directors in the Office of Field Policy and Management must be jointly concurred in by the appropriate regional field program director or Assistant Secretary.

#### **Section B: Directives, Handbooks & Provisions Excluded**

The waiver authority delegated herein does not include the authority to waive regulations, or those Department directives and handbook provisions mandated by or directly predicated on a statute, executive order or regulation, including but not limited to environmental, ethics, fair housing, civil rights enforcement and compliance, and other provisions.

The waiver authority delegated herein does not include the authority to waive provisions contained in the HUD Litigation Handbook.

#### **Section C: Authority Revoked**

Any previous delegated or redelegated authority to Regional Directors inconsistent with this delegation of authority is hereby revoked.

#### **Section D: Authority to Redelegate**

This authority may not be redelegated.

**Authority:** Section 7(q), Department of Housing and Urban Development Act (42 U.S.C. 3535(a)); Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); Federal Vacancies Reform Act of 1998 (5 U.S.C. 3345 et seq.).

Dated: \_\_\_\_\_

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Alphonso Jackson  
Secretary  
Housing and Urban Development

**Authority:** The Regional Director is responsible for the management of the administrative budget for his/her jurisdiction, e.g. training, equipment, etc. The **Regional Director is responsible for the efficient operation of his/her office and to the extent practicable, hiring for field offices that has been approved by Headquarters shall be conducted in the field.**

The Regional Director or Field Office Director is responsible for ensuring his/her office is managed efficiently and effectively.

**Regional Director or Field Office Director:** The RD or FOD has the authority to manage and administer the local operational budgets and to set priorities on allocating administrative funds provided to the regional or field offices by the ASCs. **The RD and FOD shall be involved early in the development of operational budgets for their respective offices and in decisions regarding such items as lease of space, purchase of equipment and allocation of funds.** The RD or FOD will set office-wide priorities working with Program Directors. The RD or FOD will work with the ASC to ensure maximum effective use of the limited resources for the established local priorities. Funds will be expended in accordance with Departmental guidelines. The RD/FOD will work with the ASC prior to submission of the fiscal year budget proposal to assure local goals and needs are reflected in the budget. **Approval to merit staff a position is determined at Headquarters subject to staffing levels and available funds. To the extent practicable, hiring for field offices that has been approved shall be conducted in the field in coordination with the ASC, and the Program Director or Regional Director, as appropriate, shall be the selecting official.**

**Program Directors:** PDs will work in consultation with the RD or FOD to establish office priorities. The ASC will provide technical assistance and support for the offices. The ASC will ensure that RDs and FODs are informed of the status and amounts of administrative funds for their respective regions and field offices throughout the fiscal year.

**Remote Program Delivery:** Same as above.

**Unresolved Issues:** Unresolved issues will be addressed by the relevant Regional Director.

(Language in bold are additions to existing protocol.)