



# Implementation Manual

## Chapter 11–Civil Rights Requirements

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**TEXAS GENERAL LAND OFFICE**

# Community Development and Revitalization Department

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The GLO-CDR Implementation Manual provides guidance for CDBG-DR and CDBG-MIT subrecipients and should not be construed as exhaustive instructions.

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# CHAPTER 11—CIVIL RIGHTS REQUIREMENTS

## 11.1 Introduction

Subrecipients are required to comply with the requirements of Title 1 Housing and Community Development Act, to include Title VI (Civil Rights Act) and Title VIII (Fair Housing Act). This chapter presents summaries of the key regulations and requirements of civil rights, fair housing, Section 3, and equal opportunity laws applicable to the administration and implementation of CDBG-DR and CDBG-MIT funds. Additionally, HUD’s website includes a CDBG-DR Toolkit Resources Summary that provides a snapshot of applicable regulations by program (see [Resources](#)—Resource 11.1 at the end of this chapter for the link).

CDBG-DR and/or CDBG-MIT subrecipient must demonstrate no person is being denied benefit, excluded, or subjected to discrimination under any program funded in whole or in part by federal funds. Program participation must not be based on:

- Race,
- National Origin,
- Religion,
- Color,
- Sex,
- Age,
- Disability (mental and physical), or
- Familiar Status

## 11.2 Civil Rights Requirements—Laws and Statutes

Civil Rights laws applicable to CDBG-DR and CDBG-MIT programs which subrecipient 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	No person shall be excluded from participation, denied program benefits, or subjected to discrimination based on: <ul style="list-style-type: none"><li>• Race</li><li>• Color</li><li>• National Origin</li></ul>
Title VIII of the Civil Rights Acts of 1968, as amended (Fair Housing Act)	Prohibits discrimination in housing based on: <ul style="list-style-type: none"><li>• Race</li><li>• Color</li><li>• Religion</li><li>• Sex</li><li>• National Origin</li><li>• Age</li></ul>

	<ul style="list-style-type: none"> <li>• Familiar status</li> <li>• Disability (physical and/or mental)</li> </ul>
Section 3 of the Housing and Urban Development Act of 1968, as amended	<p>To the greatest extent possible, provide training, employment, contracting, and other economic opportunities to:</p> <ul style="list-style-type: none"> <li>• Low and very low-income persons; and</li> <li>• That provide economic; opportunities to low and very low-income persons</li> </ul>
Section 504 of the Rehabilitation Act of 1973, as amended and Section 508	<p>504 - requires agencies to provide individuals with disabilities an equal opportunity to participate in their programs and benefit from their services</p> <p>508- requires Federal agencies to ensure that persons with disabilities (both employees and members of the public) have comparable access to and use of electronic information technology</p>
The Age Discrimination Act of 1975, as amended	No person shall be excluded from participation, denied program benefits or subjected to discrimination based on age.
Executive Order 13166	Improving access to services for persons with Limited English Proficiency.
Equal Access to Housing in HUD programs § 5.105 (a)(2) (i-ii)	Ensures that housing across HUD programs is open to all eligible individuals and families regardless of actual or perceived sexual orientation, gender identity, or marital status.
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.

**11.3 Strategies and Procedures**

CDBG-DR and CDBG-MIT subrecipients must assure all CDBG-DR and/or CDBG-MIT 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. Subrecipient must also have written policies in place to promote fair and equal access to housing and employment opportunities for Section 3 residents, minority, and female-owned businesses. Documentation must be available to ensure Historically Underutilized

Businesses (HUBs) are informed of contract opportunities whenever they are a potential resource. This section presents strategies and procedures for documenting and complying with these regulations.

### 11.3.1 Preparation of Plans and Policies Regarding Civil Rights

A critical element of civil rights compliance is preparing plans and strategies for inclusion of all persons, followed by documentation that the subrecipient completed the actions described in the plans. The following are required:

- Equal Opportunity (EO)/Non-discrimination: subrecipient policy manuals/handbooks must include statement that they are an Equal Opportunity Employer in job postings, applications, and in all contracts greater than \$10,000.
- Section 3 Economic Opportunity policy: adopt a policy based on the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended and make available to the public. Subrecipient should review GLO-CDR's Section 3 Policy posted on the GLO's Section 3 Resources page (see [Resources](#)—Resource 11.2) for best practices in developing a Section 3 Plan.
- Excessive Force: adopt a policy limiting the use of excessive force during non-violent civil rights demonstration and pass a resolution prohibiting Excessive Force.
- Participation by HUB's, Minority, Small Business, and Women-owned Businesses: take all necessary steps to affirmatively assure HUBs, small and minority businesses, women's business enterprises, and labor surplus firms are notified of bidding opportunities and utilized whenever possible.
- Section 504 of the Rehabilitation Act of 1974: if the subrecipient employs 15 or more people, adopt a policy against discrimination based on disability, adopt written grievance procedures concerning Section 504, and pass a resolution (See 24 CFR 8.53). Establish procedures for providing auxiliary aids to allow individuals with disabilities to obtain information concerning the existence and location of CDBG accessible services, activities, and facilities.
- Affirmatively Furthering Fair Housing (AFFH): subrecipient must conduct at least one Fair Housing activity each year of the grant period and maintain documentation of the activity. (See [Resources](#)—Resource 11.6)
- Limited English Proficiency (LEP) Standards: establish a plan for determining if there is a need for LEP services and, if applicable, how appropriate language assistance will be given. Refer to [Census Bureau Data](#) to determine the need for LEP services. For written translation guidance, determine whether the size of the language group requires the translation of key documents such as Citizen Participation notices and/or other notices (see [Section 11.6](#)). [Welcome to LEP.gov](#) has resources available for guidance.

### 11.3.2 Designate a Civil Rights Officer (CRO)

The CRO serves as the subrecipient's Section 504 Coordinator, Equal Opportunity Officer, and Fair Housing Officer. subrecipient must submit the CRO designation information to GLO-CDR, including both the name and title of designated officer, using the Appointment of Civil Rights Officer form.

**Best Practice:** CRO should be a local staff member.

### 11.3.3 Develop Citizen Participation Plan and Procedures

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:

- Prepare and adopt an Outreach and 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; and
- Develop grievance procedures. The written complaint procedures shall also provide for a timely written response to complaints and grievances, within 14 working days where practicable.

GLO-CDR's Citizen Participation Plan ([Citizen Participation Plans / Language Access Plans | Texas General Land Office](#)) is available to view on the agency website (see [Disaster Recovery | Texas General Land Office](#) and [Resources](#)—Resource 11.3 at the end of this chapter). For a detailed discussion of Citizen Participation Requirements, contact your GLO Grant Manager.

Concerned citizens can file a complaint or appeal a decision to the Texas General Land Office Community Development and Revitalization department. An outline of the GLO-CDR's complaint process can be found at the link in [Resources](#)—Resource 11.4.

### Fraud, Waste, or Abuse of Government Funds

Complaints regarding fraud, waste, or abuse of government funds should be forwarded to the U.S. Department of Housing and Urban Development Office of Inspector General Fraud Hotline (phone: 1-800-347-3735 or email: [hotline@hudoi.gov](mailto:hotline@hudoi.gov)). See link in [Resources](#)—Resource 11.5 at the end of this chapter.

### 11.3.4 Publish Citizen Participation and Civil Rights Notices

Subrecipients must publish notices regarding Citizen Participation, Complaint Procedures, Section 504, AFFH and all rights and responsibilities associated with federal grant funding received.

Initial Civil Rights notices should be provided to GLO-CDR at project start-up once the executed Subrecipient Contract with the GLO is received.

The subrecipient must publicize in one of three ways:

- Newspaper advertisement\* (documented with tear sheet/full-page advertisement/photocopy with publisher's identification and date/publisher's affidavit).
- 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); or
- 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).

- \* Newspaper notices are considered valid if published within two years prior to the Subrecipient Contract? start date. This means that published notices can be used for multiple CDBG-DR and/or CDBG-MIT projects with contract periods that occur consecutively.

## 11.4 Developing and Implementing a Fair Housing Program

Subrecipients must agree to administer all programs and activities related to housing and community development in a manner that affirmatively furthers fair housing and conforms with the Fair Housing Act Title VIII

### 11.4.1 Fair Housing / AFFH Review for Housing Programs

For the purpose of expediting project reviews and authorizing use of funds for CDBG-DR and/or CDBG-MIT housing programs, the GLO-CDR has established a series of elements and information for subrecipient to provide which reflects an understanding of the community and supports approval of a project.

- Demographic information by census tract which includes prevailing population characteristics relating poverty level, income, ethnicity, race, household sizes, age group data, and other relevant factors;
- Crime rates for the immediate and surrounding geographic areas;
- Identification of key community features, both positive and negative, including distance to each and public transportation time if applicable; and
  - Positive features: large employment centers/opportunities, schools, grocery stores, health care facilities, public transportation, libraries, recreational areas, childcare, and other community centers;
  - Negative features: unsightly facilities, industrial sites, health hazards, retail/business density, low-income housing, etc.;
- Identification of economic trends in the area including pending or approved government projects or bonds.

### 11.4.2 Fair Housing Activities Requirement

Subrecipients must develop and maintain records of efforts taken to assure fair housing. Subrecipients must conduct at least one Fair Housing activity each year of the grant period and maintain documentation of the activity. The documentation must be available during GLO-CDR monitoring visits and identify the type of Fair Housing activity that was or will be conducted (community seminar, brochure distribution, etc.), the target audience (the general public, real estate brokers etc.), and the category of Fair Housing information provided.

Ideas for Meeting the Fair Housing Activities Requirement:

- Conduct a community-wide housing analysis to determine impediments to fair housing and implement actions to eliminate these impediments;
- Municipalities can pass a fair housing ordinance and if possible, include a penalty clause. Publicize the ordinance in a (e.g., newspaper advertisement or fliers enclosed in utility bills). Subrecipient should consult with their attorney or contact the applicable



- trade association (e.g. Texas Municipal League) for a sample fair housing ordinance;
- Counties can adopt written fair housing policies and procedures that are equivalent to a fair housing ordinance and publicize them in a newspaper advertisement). Subrecipient should consult with their attorney or contact the applicable trade association (e.g. Texas Association of Counties) for a sample fair housing policy;
- Sponsor or fund fair housing counseling/referral services for owners and renters;
- Develop a written local complaint and monitoring process and notify the public of its existence through newspaper advertisements or notices in utility statements;
- Promote housing opportunities outside historically minority and/or low and moderate-income neighborhoods;
- Designate April or any other month as "Fair Housing Month" by Proclamation or Resolution along with another sponsoring activity. (An additional fair housing activity must take place if this activity is chosen. See note below.);
- Utilize local businesses and banking institutions to promote fair housing by displaying fair housing posters;
- Announce the subrecipient's support of fair housing by means of newspaper advertisements, marquis displays, or public service announcements;
- Conduct free training workshops on fair housing laws to homebuyers, rental property owners, and tenant organizations;
- Sponsor a poster contest or essay writing contest at local schools to educate and promote fair housing;
- Review local zoning laws and procedures to determine whether they contribute to, or detract from, fair housing choice; and/or
- Find ways to inform builders and architects as early as possible in the project design phase, but certainly no later than the issuance of a building permit, of the need to comply with the accessibility requirements of the Fair Housing Act.

**Note:** National Fair Housing Month is April of each year in recognition of April 11, 1968, when this law was enacted. However, subrecipients may designate any month as Fair Housing Month at the local level. Designating April as "Fair Housing Month" by proclamation must be accompanied by sponsoring another activity such as the ones listed above to support fair housing.

### 11.4.3 Fair Housing Activities Resources

HUD's Fair Housing Website (see [Resources](#)—Resource 11.7) contains a wealth of information and tools for subrecipients to use in conducting fair housing activities. These resources include:

- A fair housing planning guide;
- Fair Housing brochures and logos;
- Fair Housing best practices;
- Contact information for fair housing advocacy organizations; and
- Accessibility guidelines for housing units

### 11.5 Section 504

Subrecipient must operate their CDBG-DR and/or CDBG-MIT programs in compliance with Section 504 requirements (24 CFR 8.50(a)). Section 504 of the Rehabilitation Act of 1973 prohibits

discrimination in federally assisted programs based on disability and imposes requirements to ensure that qualified individuals with disabilities have access to programs and activities that receive federal funds. Subrecipient must adhere to the following requirements.

- Complete a self-evaluation of their Section 504 compliance using the Section 504 Self-Evaluation Form and keep it on file for monitoring purposes. During the self-evaluation process, the subrecipient must consult with individuals with disabilities or organizations representing them. The self-evaluation should include an examination of policies and practices relative to the 504 regulations. Any policies or practices that do not meet the requirements for program accessibility should be modified (24 CFR 8.51);
- Ensure those with 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; and
- Maintain documentation for GLO-CDR showing the extent to which individuals with disabilities are beneficiaries of all CDBG-DR and/or CDBG-MIT programs and activities.

If the subrecipient employs fifteen or more persons, a responsible employee of the subrecipient must be designated to coordinate the subrecipient's efforts to comply with Section 504 (see [Section 11.3.2](#)). Additionally, the subrecipient must:

- Adopt grievance procedures that incorporate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited Section 504. Grievance procedures are not required for complaints from applicants for employment or from applicants for housing;
- 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, that it does not discriminate based on handicap in violation of Section 504. The notice must state, where appropriate, the subrecipient does not discriminate in admission or access to, or treatment or employment in, its federally assisted programs and activities. The notice shall also identify the designated Civil Rights Officer; and
- Maintain files 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.

Regulations require subrecipient make available a TDD or equally effective method for communicating with hearing impaired persons. Subrecipient must have a policy indicating the use of the relay system by the subrecipient and publish the telephone numbers in the newspaper and on the subrecipient website (see a GLO Grant Manager if assistance is required).

### ***Structural changes to non-housing facilities***

If structural changes to non-housing facilities are 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

which cannot be made accessible administratively (24 CFR 8.21 (4)). The transition plan must be made available for public inspection, and, at a minimum, shall:

- Identify all physical obstacles that limit the accessibility of programs and activities;
- Describe the methods that will be used to make the facilities accessible;
- Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period;
- Indicate the official responsible for implementation of the plan; and
- Identify the persons or groups with whose assistance the plan was prepared.

**Note:** New non-housing projects (designed, constructed, or altered after July 11, 1988) must be designed and constructed to be readily accessible to and usable by the protected classes with handicaps (24 CFR 8.32). Unless the subrecipient has recently acquired a facility that was constructed prior to 1988 which will house programs and services available to the public, the three-year construction period for meeting the accessibility requirement for existing facilities under this regulation will have expired.

### 11.6 Limited English Proficiency (LEP) Requirements

Limited English Proficiency (LEP) persons are individuals whose primary language is not English and who have limited abilities 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 that determines 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:**

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

To determine the local need for LEP services, subrecipients may use the [Census Bureau Data](#).

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 is required

### 11.7 Section 3 of the HUD Act of 1968 Compliance Requirements

Section 3 of the Housing and Urban Development Act of 1968, as amended, requires subrecipient to ensure that training, employment, and other economic opportunities generated by certain HUD financial assistance shall be directed, to the greatest extent feasible, and consistent with existing federal, state and local laws and regulations, to low- and very low-income persons. Section 3 regulations do not mean subrecipients or contractors are required to hire Section 3 residents or award contracts to Section 3 businesses. Subrecipients must comply with statutory requirements on procurement and competitive bidding.

Section 3 compliance is applicable when CDBG-DR assistance exceeds \$200,000 for projects that involve the construction or rehabilitation of housing or other public construction, such as street repair, sewage line repair or installation, and updates to building facades. Covered projects include:

- Housing Rehabilitation (to include reduction of lead-based paint hazards, and demolition);
- Housing Construction (to include reduction of lead-based paint hazards and demolition);
- Public Infrastructure (e.g., street repair, sewage line repair or installation, updates to building facades, etc.); and
- Public Facilities and Park Improvements.

There are no minimum thresholds for Public Housing Authorities (PHAs). The requirements of Section 3 apply to all PHAs regardless of the amount of assistance received. PHAs do not have thresholds for construction projects. Contractors hired by PHAs are required to comply with Section 3 regardless of the dollar amount of the contract.

Subrecipient and contractors may demonstrate compliance with Section 3 by meeting HUD's numeric benchmarks for labor hours, or by reporting qualitative efforts showing their attempts at

encouraging Section 3 participation. The GLO-CDR Section 3 Coordinator will examine the subrecipient's efforts and provide technical assistance as necessary.

The numeric benchmarks for 24 CFR 75 are:

- 25% of all labor hours reported for each project are performed by Section 3 workers
- 5% of all labor hours reported for each project are performed by Targeted Section 3 workers

If the subrecipient does not meet these numerical benchmarks, they must demonstrate and provide evidence of the qualitative efforts they have made to achieve them.

**Note:** Section 3 does not apply to homebuyer assistance activities (e.g. down payment assistance).

#### 11.7.1 Designate Section 3 Coordinator (Optional)

- Subrecipient should submit the Section 3 Coordinator designation information to GLO-CDR, including both the name and title of designated officer, using the "Appointment of Section 3 Coordinator"\_form located on the [Infrastructure Forms | Texas General Land Office](#) page, under the "Civil Rights Requirements" accordion.
- **Best Practice:** Section 3 Coordinator should be a local staff member.

#### 11.7.2 Section 3 Employment Goals

The subrecipient must demonstrate compliance goals with Section 3 by providing employment opportunities and job training to lower income residents. Subrecipient must apply Section 3 goals "to the greatest extent feasible".

The following steps should be implemented to demonstrate Section 3 compliance:

- Prepare and make available to the public Section 3 policies;
- Include the subrecipient's Section 3 Policy and Procedures in all construction contracts;
- Contractors and subcontractors must document efforts to comply with subrecipient's Section 3 goals.

#### 11.7.3 Section 3 Employment Efforts

The following examples can be used to ensure that employment objectives of Section 3 are met. These examples can be used to assist in reaching Section 3 residents and businesses for employment opportunities.

- Post advertisements of employment opportunities in the service area, identifying the positions, qualification requirements, and where to obtain additional information about the application process;
- Contact community organizations and resident organizations to request assistance in notifying residents of the employment positions to be filled;
- Sponsor a job informational meeting in the service area of the project;
- Conduct job interviews and job application workshops for residents of the service area;
- Arrange for a location in the service area where job applications may be collected by

- the subrecipient or contractor representative;
- Consult with state and local agencies administering Job Training Partnership Act (JTPA), probation and parole agencies, unemployment compensation programs, etc., to assist with recruiting Section 3 residents for employment;
- Advertise job opportunities through the local media, such as community television networks, newspapers of general circulation, and radio;
- Employ a job coordinator or contract with a business concern to undertake the efforts to match eligible and qualified Section 3 residents with the employment positions;
- Where there are more qualified Section 3 residents than there are positions to be filled, maintain a file of eligible qualified Section 3 residents for future employment positions;
- Contact local education institutions to provide job counseling, education, and related programs; and/or
- After selection of bidders, but prior to execution of contracts, incorporate into the contract a negotiated provision for a specific number of Section 3 residents to be trained or employed on the Section 3 project.

#### 11.7.4 Section 3 Contracting Goals

A subrecipient, contractor, or subcontractor who has not met the goals has to demonstrate why it was not feasible to meet these goals. Documentation must be maintained including what efforts were undertaken and why those goals were deemed unattainable. The following are examples of efforts which can be utilized in reaching the specified goals in employment and contracting:

##### *Contracting Guidelines*

The following examples can be used to ensure that the contracting objectives of Section 3 are met. These are examples of efforts to assist in reaching Section 3 residents and businesses for contracting opportunities and should not be considered all inclusive.

- The use of small purchase procedures such as soliciting quotations from a minimum of three (3) qualified sources (contract may not exceed the small purchase threshold). At the time of solicitation, inform the parties of the Section 3 requirements of the contract with sufficient specificity; the time within which quotations must be submitted; and the information that must be submitted. A valid attempt to obtain three quotes from qualified sources must be made and documented (see Chapter 5);
- In determining the responsibility of potential contractors, consider their past records of Section 3 compliance and their current plans for the pending contract;
- Utilize minority contractor associations and community organizations to assist in identifying Section 3 businesses who may be potential bidders;
- Advertise contracting opportunities by posting notices concerning work to be contracted in common areas of housing developments;
- Provide written notice to all known Section 3 business concerns of the contracting opportunities;
- Follow up with Section 3 businesses that have expressed interest in contracting opportunities and provide additional information;
- Coordinate pre-bid meetings at which Section 3 business concerns could be informed of the upcoming contracting opportunities;

- Provide workshops on contracting procedures and specific contract opportunities in a timely manner so that Section 3 business concerns can take advantage of upcoming contracting opportunities;
- Advise Section 3 businesses as to where they may seek assistance to overcome limitations such as inability to obtain bonding, lines of credit, financing, or insurance;
- Arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways to facilitate the participation of Section 3 businesses;
- Where appropriate, break out contract work items into economically feasible units to facilitate participation of Section 3 business concerns;
- Contact agencies administering HUD supported programs and notify these agencies of contracting opportunities;
- Advertise contracting opportunities through trade association papers and local media such as television, newspapers, and radio;
- Develop a list of eligible Section 3 business concerns; and/or
- Establish numerical goals (dollar amounts and number of awards) for contracts to Section 3 business concerns.

#### 11.7.5 Section 3 Reporting and Recordkeeping

Subrecipients are required to maintain documentation and report Labor hours and any qualitative efforts attempted to the GLO-CDR on a quarterly basis.

The following items are required to be reported to show Section 3 Compliance (24 CFR 75):

Employment
<ol style="list-style-type: none"> <li>1. Total labor hours worked during reporting period.</li> <li>2. Total labor hours worked by Section 3 workers during reporting period.</li> <li>3. Total labor hours worked by Targeted Section 3 workers during reporting period.</li> </ol>

**Note:** Section 3 does not mandate certification or evidence of a person's Section 3 status; however, the subrecipient or the contractor have the right to request documentation which will support their reporting for Section 3. An example of documentation is the receipt of public assistance, evidence of participation in a public assistance program, residency in a public housing development, evidence of a Section 8 certificate, voucher assistance, participation in JTPA, and/or receipt of welfare assistance. Documentation does not have to be proof of income.

#### 11.8 Excessive Force Policy

Subrecipient receiving CDBG-DR and/or CDBG-MIT funding must adopt an excessive force policy that prohibits the use of excessive force against non-violent civil rights demonstrations. (See also State Certification Requirements at 24 CFR 91.325(b)(6)).

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

- 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; and
- 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.

### **11.9 Equal Opportunity 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 and/or CDBG-MIT project based on race, color, religion, sex, national origin, age, or disability.

#### **Nondiscrimination, Equal Opportunity, and Affirmative Action in Employment.**

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

- Maintain employment data that indicates staff composition by race, sex, disabled status and national origin;
- Review existing personnel policies to assure compliance with nondiscrimination and equal opportunity requirements;
- Advertise locally as an equal opportunity employer;
- Publish an annual statement of nondiscrimination or include such statement in any CDBG-DR and/or CDBG-MIT program communications/publications;
- 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;
- Develop and implement a Section 3 compliance plan;
- Display Equal Opportunity posters prominently at all job sites; and
- Take affirmative action to overcome the effect of past discrimination.

#### **Nondiscrimination, Equal Employment Opportunity and Affirmative Action for Construction Contracts.**

Subrecipient 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, color, national origin, sex, age, religion, or familial status. Steps to prevent discrimination and monitor for compliance include the following:

- Advertise as an equal opportunity employer in bid solicitations;
- Include minority businesses, women's business enterprises, labor surplus area firms, and Section 3 businesses in bid solicitations whenever possible;
- Document and maintain a list of locally owned businesses that were awarded contracts;
- Include Section 3 and Equal Employment Opportunity clauses as part of bid packets and all applicable contracts;
- Inform contractors of Section 3 and equal opportunity requirements at pre-construction conference or through other means of notification;



- Require contractors to submit monthly utilization reports; and
- Monitor contractor's compliance at work site.

### **Nondiscrimination, Equal Opportunity 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 to prevent discrimination in housing include the following:

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

### **11.10 Civil Rights Compliance Documentation**

Subrecipients are required to document their compliance with the key regulations and requirements, including civil rights, fair housing, Section 3, and equal opportunity laws, at the start of the program. They are also expected to remain diligent and consistent in fulfilling their civil rights responsibilities throughout the program's duration.

#### **11.10.1 Documentation Required at Project Start Up**

Prior to releasing any funds, the GLO-CDR must receive the following Project Start Up documentation:

- Appointment of Civil Rights Officer;

- Appointment of Section 3 Coordinator (Optional);
- Citizen Participation Plan, including complaint and grievance procedures;
- Nondiscrimination/Equal Employment Opportunity Policy;
- Policy and notice of nondiscrimination on basis of handicapped status. Subrecipient may combine this policy with their Nondiscrimination/Equal Employment Opportunity policy;
- Excessive Force Policy;
- Section 3 Policy (Optional);
- Section 504 Self-Evaluation Review;
- Section 504 Grievance Procedures;
- Civil Rights Resolution regarding Citizen Participation, Section 3, Excessive Force, Section 504 Policy and Grievance Procedures, and Fair Housing Policy;
- Public Notices regarding Civil Rights (see [Section 11.3.4](#)); and
- Fair Housing activity documentation

### 11.10.2 Ongoing Compliance Documentation

During the grant period, subrecipients must assure all CDBG-DR and/or CDBG-MIT 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.

- Fair Housing: document efforts to affirmatively further fair housing;
- 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;
- 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;
- Maintain records of any monitoring trips to project site and any findings as well as copies of contractors' certifications and monthly utilization reports documenting contractor compliance;
- Maintain records of program applicants as well as direct and indirect beneficiaries including race, color, sex, national origin, age and handicap status;
- Record race, head of household, age, and income data of persons affected by displacement and/or relocation, if applicable;
- Human Resources documents regarding employment should be on file including training handbooks, policy and procedure manuals, resolutions, and ordinances regarding Civil Rights requirements; and
- Documentation related to any complaints received and action taken to notify GLO-CDR or HUD, if applicable.

### 11.11 Civil Rights Complaints

A complaint may not always refer to a violation of a civil rights law and should be reviewed as a civil rights complaint if the complainant:

- Indicates the belief that he or she has been denied opportunities, treated differently,

- etc.; and/or
- States his or her race, ethnicity, gender, status as a handicapped person, or age in the complaint.

Any person, or any specific class of persons, who believes that he or she has been subject to discrimination may file a complaint. A complaint may be filed by the complainant or a representative.

Except for complaints filed under Executive Order 11246, civil rights complaints must be referred directly to the Department of HUD, Office of Fair Housing and Equal Opportunity (FHEO) (1-800-669-9777). Section 3 of the HUD Act of 1968 complaints are required to be filed at the appropriate HUD Regional Office in which the violation occurred within 180 days from the date of the action or omission upon which the complaint is based. Complaints filed under Executive Order 11246 must be referred to the regional Office of Contract Compliance Programs, Department of Labor.

Confidentiality is mandatory. The name(s) of complainants and the name(s) of the respondent(s) must not be disclosed to any entity other than the Department of HUD. The GLO-CDR should, however, be notified that a complaint has been registered.

**Note:** Complaints of employment discrimination should be referred to:

Texas Workforce Commission, Civil Rights Division (see [Resources](#)—Resource 11.7 below for link)

Equal Employment Opportunity Commission at <http://www.EEOC.gov/> ([Resources](#)—Resource 11.8)

## 11.12 Resources

GLO-CDR has created a comprehensive website which contains necessary forms, checklists, detailed guidance documents, and additional resources to supplement this Implementation Manual. Please see <https://www.glo.texas.gov/disaster-recovery> for more information. The following resources are referenced within this chapter and will be updated as new forms and documents are developed.

Resource Number	Topic	Web Page URL	File Located Under Section / Accordion
Resource 11.1	HUD CDBG-DR Toolkit	<a href="https://www.hudexchange.info/resources/documents/CDBG-DR-Resources-Summary.pdf">https://www.hudexchange.info/resources/documents/CDBG-DR-Resources-Summary.pdf</a>	N/A
Resource 11.2	GLO-CDR Section 3 Resources	<a href="https://www.glo.texas.gov/disaster-recovery/grant-admin/infrastructure-forms">https://www.glo.texas.gov/disaster-recovery/grant-admin/infrastructure-forms</a>	Civil Rights Requirements
Resource 11.3	GLO Citizen Participation Plans	<a href="https://www.glo.texas.gov/disaster-recovery/grant-administration/citizen-participation-plans-language-access-plans">https://www.glo.texas.gov/disaster-recovery/grant-administration/citizen-participation-plans-language-access-plans</a>	N/A
Resource 11.4	GLO-CDR Complaint and Appeals Process	<a href="https://www.glo.texas.gov/disaster-recovery/filing-complaint-or-appeal">https://www.glo.texas.gov/disaster-recovery/filing-complaint-or-appeal</a>	N/A
Resource 11.5	GLO-CDR Fraud, Waste, and Abuse Process	<a href="https://www.glo.texas.gov/disaster-recovery/report-fraudwasteabuse">https://www.glo.texas.gov/disaster-recovery/report-fraudwasteabuse</a>	N/A
Resource 11.6	GLO-CDR's Affirmatively Furthering Fair Housing (AFFH) Resources	<a href="https://www.glo.texas.gov/disaster-recovery/grant-admin/affirmatively-furthering-fair-housing">https://www.glo.texas.gov/disaster-recovery/grant-admin/affirmatively-furthering-fair-housing</a>	N/A
Resource 11.7	HUD's Fair Housing Website	<a href="https://www.hud.gov/program_offices/fair_housing_equal_opp/fair_housing_and_related_law">https://www.hud.gov/program_offices/fair_housing_equal_opp/fair_housing_and_related_law</a>	N/A

<b>Resource 11.7</b>	Texas Workforce Commission Civil Rights and Discrimination Division	<a href="https://www.twc.texas.gov/programs/civil-rights/employment-discrimination">https://www.twc.texas.gov/programs/civil-rights/employment-discrimination</a>	N/A
<b>Resource 11.8</b>	Equal Employment Opportunity Commission (EEOC)	<a href="https://www.eeoc.gov/">https://www.eeoc.gov/</a>	N/A

*\*Note: Individuals have reported a better experience when using **Internet Explorer or Safari** to view files. If you are unable to open a .pdf file in your browser, please download the .pdf file by right-clicking and selecting "Save link as...", then open it with **Adobe Acrobat**. If Acrobat Reader is not installed on your computer, you can download it for free by visiting: <https://get.adobe.com/reader/>*

**Disclaimer:** The Texas General Land Office has made every effort to ensure the information contained in this document is accurate and in compliance with the most up-to-date CDBG-DR and/or CDBG-MIT federal rules and regulations, as applicable. It should be noted that the Texas General Land Office assumes no liability or responsibility for any error or omission on forms that may result from the interim period between the publication of amended and/or revised federal rules and regulations and the Texas General Land Office's standard review and update schedule. The General Land Office updates guidance documents, memos, and forms on its website at <https://www.glo.texas.gov/disaster-recovery>. It is incumbent upon the user to ensure they access the latest document version. Users should refresh their computer's browser and clear their cache regularly. The Texas General Land Office assumes no liability or responsibility for any error or omission resulting from reliance on an outdated version of a document. Please contact GLO staff directly should further clarification be needed.

**Questions:** Please direct all questions regarding your specific program or project to your assigned GLO Grant Manager. Send comments related to the GLO-CDR Implementation Manual to [ImplementationManual.glo@recovery.texas.gov](mailto:ImplementationManual.glo@recovery.texas.gov).