



UNITED STATES  
DEPARTMENT OF  
AGRICULTURE

RURAL  
DEVELOPMENT

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Texas AN 568 (1901-E)

SUBJECT: Form RD 400-8 - Civil Rights Compliance Reviews

TO: Program Directors  
Rural Development Managers  
Community Development Specialists  
USDA Rural Development, Texas

**PURPOSE/INTENDED OUTCOME:**

As per RD Instruction 1901-E, 1902.204 (c) (5), Civil Rights Compliance Requirements, the State Director will insure that all compliance review reports are complete. To meet this requirement, copies of compliance review reports will be provided to the State Civil Rights Manager (SCRM) **within 30 days of the review**. Compliance reviews on Multi-Family Housing (MFH) projects will be routed through the MFH section.

**COMPARISON WITH PREVIOUS AN:**

No other Texas AN has been issued on this subject.

**IMPLEMENTATION RESPONSIBILITIES:**

In an effort to improve workflow and eliminate barriers in reporting requirements, the following policy will be implemented regarding the use of Form RD 400-8, "Compliance Review" for applicable USDA Rural Development Programs.

Compliance Review Officers will provide the SCRM a copy of the RD Form 400-8, with all supporting documentation and, when applicable, a copy of the letter to the recipient notifying them of the outcome of the compliance reviews.

Compliance Review Officers will notify the recipient of the compliance review findings **within 10 days** following the completion of the compliance review. In cases of non-compliance, the letter shall identify the issues of non compliance, any facts/information collected and analyzed in relation to the review, findings, and any actions that must be taken to remedy the findings of non-compliance. Recipients should be given 30 days to bring the facility/complex into compliance voluntarily.

EXPIRATION DATE:  
July 31, 2003

FILING INSTRUCTIONS:  
Following RD Instruction 1901-E

**USDA Rural Development is an Equal Opportunity Lender, Provider and Employer.  
Complaints of discrimination should be sent to USDA, Director, Office of Civil Rights, Washington  
D.C. 20250-9410.**

The SCRM will report those recipients who do not bring the facility/complex into compliance within 30 days to the National Office Civil Rights staff.

The following information is being provided to assist you in preparing for and completing compliance reviews:

RD Form 400-8 must be fully completed for each applicable area of the program/recipient being reviewed.

**INITIAL COMPLIANCE REVIEWS:**

Rural Utilities Service (RUS) loans require a pre-award review conducted before loan or grant closing or before construction begins, whichever occurs first. All other loans require the compliance review to be completed within the first year of closing.

**SUBSEQUENT COMPLIANCE REVIEWS:**

RUS loans that have had at least 2 compliance reviews done after loan closing where no discriminatory practices are indicated may be reviewed at 6-year intervals. All other loan/grant programs require subsequent compliance reviews at 3-year intervals.

A minimum of five community contacts must be made or the review is not considered complete. Contacts can be made by letter, phone or in person. If there is an Affirmative Fair Housing Marketing Plan (AFMPH) for the facility, the community contacts listed on the form should be contacted.

Supporting documentation for the Multi Family Housing (MFH) compliance reviews are:

- (a) tenant interviews
- (b) copies of most recent newspapers ads, brochures, flyers, etc. obtained from the AFMPH review
- (c) any other relevant documentation
- (d) a copy of the 2000 census used, and
- (e) copy of letter to borrower noting non-compliance issues and timeframes for corrections.

All other program compliance reviews need documentation to substantiate the findings, such as public outreach (ads, newsletters) and a copy of the 2000 census used, attached to the RD Form 400-8.

All USDA Rural Development financed programs including Rural Business-Cooperative Service (RBS), Rural Business Enterprise Grants (RBEG), Intermediary Relending Programs (IRP), and Rural Business Opportunity Grants (RBOG) are required to maintain gender and race/ethnic data for users, participants, tenants, patients, employees, etc. Recipients are responsible for informing the agency, at time of application, as to the method of data collection, (i.e. if they will use the census data for the community being served, or, if the project is mandatory hookup, they will use an application/permit process). It is the USDA Rural Development employees'

responsibility to advise them of this requirement during the application process and make sure that a data collection system is in place. If the recipient has an application or use permit process, the application must include the paragraph to collect gender and race/ethnic data at the end of the form after the signature and date block. The correct wording is as follows:

**"The following information is requested by the Federal Government in order to monitor compliance with Federal laws prohibiting discrimination against applicants seeking to participate in this program. You are not required to furnish this information, but are encouraged to do so. This information will not be used in evaluating your application or to discriminate against you in any way. However, if you choose not to furnish it, we are required to note the race/national origin of the individual applicants on the basis of visual observation or surname"**

**Ethnicity: Hispanic or Latino** \_\_\_\_\_  
**Not Hispanic or Latino** \_\_\_\_\_

**Race: (Mark one or more)**  
**White** \_\_\_\_\_ **Black or African American** \_\_\_\_\_  
**American Indian/Alaska Native** \_\_\_\_\_ **Asian** \_\_\_\_\_  
**Native Hawaiian or Other Pacific Islander** \_\_\_\_\_

**Gender: Male** \_\_\_\_\_ **Female** \_\_\_\_\_

These are the most current designations received from the Office of Management and Budget and are the ones that must be used. Applications must have the data collection in this order and wording. The National Office is revising all other forms. Further information regarding the current designations may be found in the Federal Register Notice, Volume 62, No. 210, dated October 30, 1997.

All recipients are required to have accessible facilities and services or reasonable accommodations in place. For example, this includes where water and sewer bills are paid, complaints involving the program are made, and public meeting facilities. If a TDD/TTY system is used, that number should be listed every time the project number is given such as on their letterhead and public information dissemination. The Texas Relay Number is not required to be on their letterhead or where public information is disseminated. Also, all printed material, including letterhead used, describing the program or facility must include a non-discrimination statement.

For recipients providing housing, including nursing homes:

**The Fair Housing logo or statement must be used.**

For all other recipients:

**"In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability (Not all prohibited bases apply to all programs.)"**

If the material is too small, the following statement will be used:

**"This institution is an equal opportunity provider."**

Attachment A of this AN provides guidance for determining when a borrower or recipient should be considered in non-compliance under Title VI of the Civil Rights Act of 1964. A borrower or recipient may also be considered in non-compliance due to a technical violation. Attachment A states examples of technical violations and non-compliance. Also included is clarification of non-compliance as applicable to Section 504 of the Rehabilitation Act of 1973. All staff should be familiar with these terms in the implementation of our programs.

Any questions regarding Civil Rights of program delivery should be directed to Esther Gonzalez, SCRM, in the State Office.

/s/ Bryan Daniel

BRYAN DANIEL  
State Director

Attachment

## **TITLE VI & COMPLIANCE REVIEWS**

Non-compliance occurs when evidence is found that programs are not being offered to all persons on an equal opportunity basis. Examples of non-compliance with Title VI include:

- Evidence that indicates little or no minority participation in the project.
- Indications that services or other benefits offered by recipient - are of a different quality for minorities than services and benefits provided for non-minorities.
- No annual advertising for MFH complex. Availability of services offered is advertised only through word of mouth. The “And Justice for All” poster is not posted. The wording or pictures in advertising implies that the facility is for one special class of people.
- Recipient not keeping racial or ethnic data on members, tenants, users or other beneficiaries of the facility.
- The participant is not keeping a waiting list by date and time, with the race/ethnic designation of applicants.
- Emergency calls from minority community to fire stations or ambulance services may take longer in responding to the minority community than the non-minority community.
- Community contacts reveal that minorities are not aware that the facility is Federally financed and open to all regardless of race, color, or national origin.

A recipient or beneficiary may be found in non-compliance due to a technical violation. Examples of technical violations include no advertising, inappropriate or improper advertising, not keeping racial or ethnic data, not designating by race on a waiting list.

Whenever there is non-compliance there is the potential for discrimination. If non-compliance in a project or facility is found, it should be noted on the Compliance Review, and plans by the borrower/recipient as to how they intend to bring the program into compliance should be indicated. When the changes have been made, the borrower/recipient may then be found to be in compliance.

### **Section 504 Rehabilitation Act of 1973 and Compliance Reviews**

- Non-compliance occurs when accessibility issues are being ignored.
- Borrower refuses to make a reasonable accommodation for a person with a disability.

If a facility has completed a self-evaluation and is current with a realistic transition plan, the facility is considered to be in compliance. The transition plan must have planned dates of completion (generally within a year). During the next visit, if the item was not completed, then the facility is in non-compliance (even if the planned completion date is changed to a future date).