



Ethics in Grant Management Part 2

Addressing Equity in Ethical Conduct
of Federal Grant Programs Administration

September 2023



Purpose

April session: Explained how grantees can incorporate Ethical Conduct for better Ethical Management of Federal Grant Programs

Today's session: Examine equity and supporting equitable approaches to ensure a stronger/more ethical management of Federal Grant Programs. An equitable approach supports better Ethical Management of Federal Grant Programs, such as through procedural fairness and decision-making transparency.

Purpose

This presentation:

- Provides an overview of some key equity elements related to ethical management of the Community Development Block Grant program.
- Raises awareness, clarifies its importance, and starts conversations.
- It does not provide in-depth training on any individual requirement or practice.
- It does not cover all possible equity elements and ethical practice areas
- For most topic areas, links or regulatory citations are provided to enable further reference and study.

“Grantees should apply an equity lens to ensure that their program is intentionally built to advance equity for protected classes, vulnerable populations, and underserved communities.”

“How does the [grantee] assess and promote social equity and what more could be done?”

Source: Nat’l Academy of Public Administration
blog

Dual Approach

Compliance

- Know the rules
- Document compliance

Builds trust and transparency in the system for an Equitable Approach

Philosophy

- Commit to ethical and equitable approaches
- Apply to all actions

Equity vs Equality

- Equity recognizes that each person has different circumstances and allocates the exact resources and opportunities needed to reach an equal outcome.
- Equality means each individual or group of people is given the same resources or opportunities

Definition of Equity

Sec. 2. Definitions. For purposes of this order:

(a) The term “**equity**” means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.

*White House Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
January 20, 2021*



Definition of Underserved Communities

Sec. 2. Definitions. For purposes of this order:

(b) The term “**underserved communities**” refers to populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life, as exemplified by the list in the preceding definition of “equity.”

*White House Executive Order
January 20, 2021*



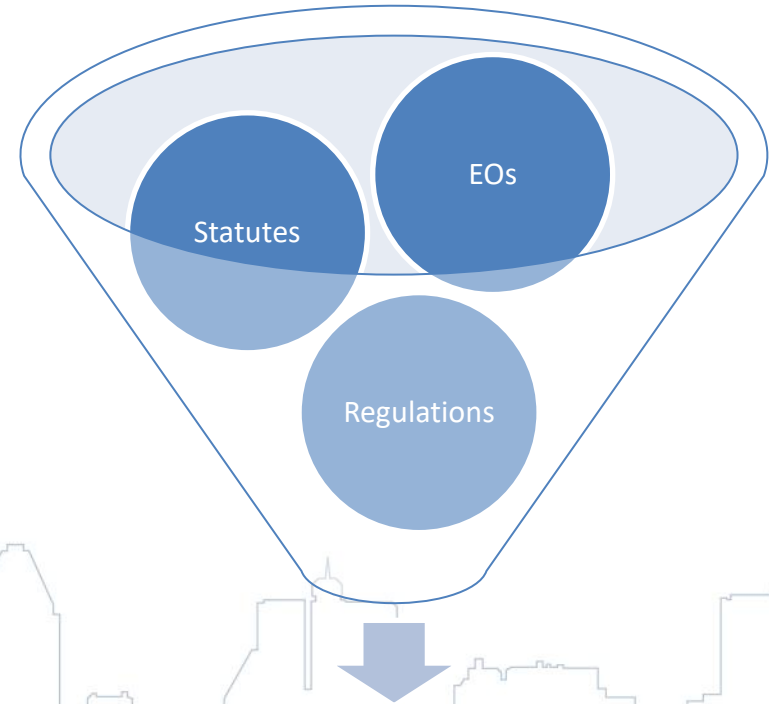
When do grantees struggle to address equity consistent with an ethical approach?

- Increases in workload w/o increase in resources
- Change in leadership
- Lacking knowledge of requirements
- Overwhelmed by requirements
- Limited financial resources and funds to distribute
- Limited time and pressing deadlines, leaving little time to change processes (and approaches in general)
- Turnover limiting transfer of institutional knowledge, previous processes, and networks (relationships)
- Limited bandwidth to expand outreach
- Lack of knowledge of resources available for guidance and brainstorming
- Lack of consideration or solicitation of community feedback on a program's equity.



Topics

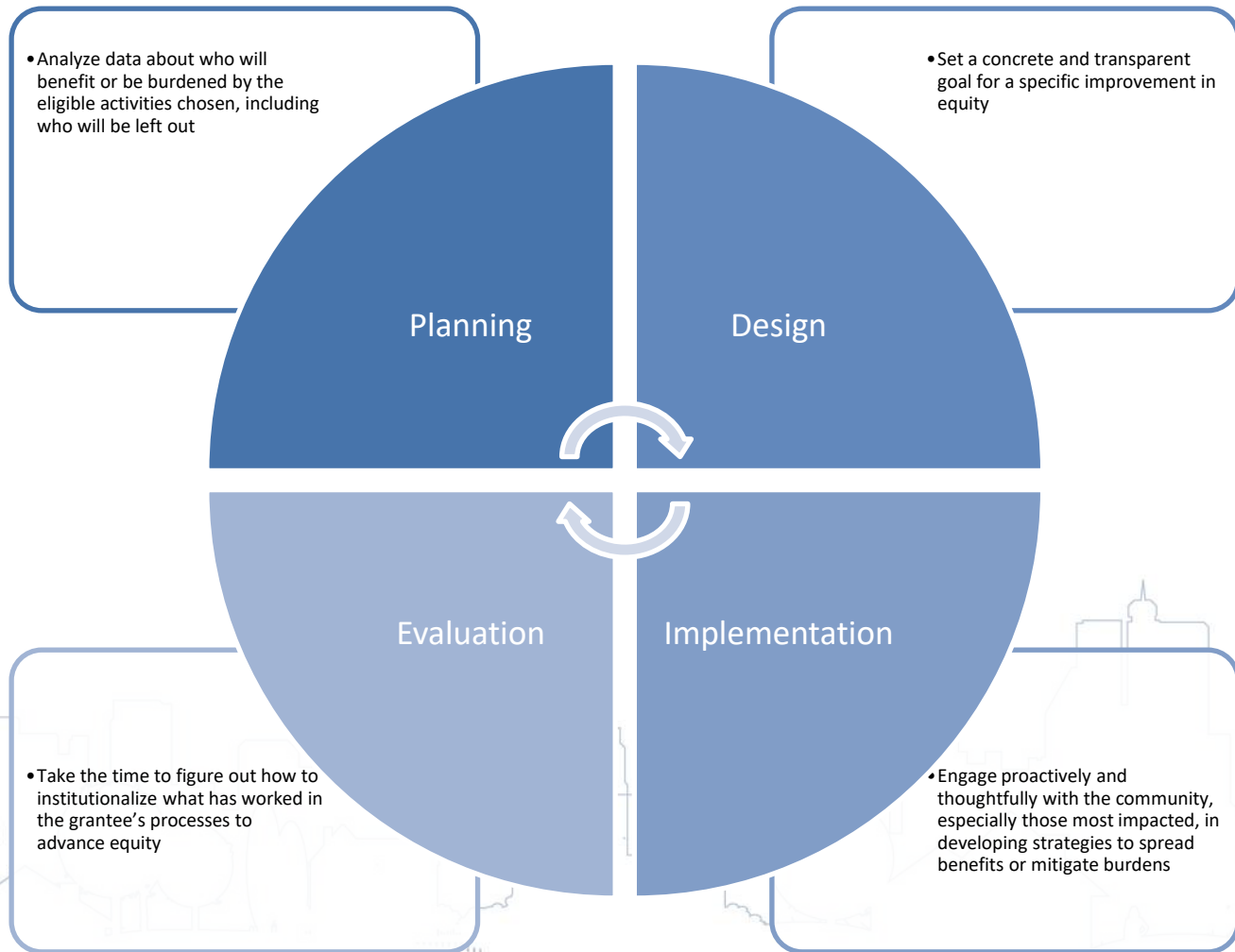
- Considerations in the Grant cycle
- Conflict of interest
- Anti-nepotism
- Citizen complaints
- Privacy v. transparency
- Required audits
- Internal audits
- Discrimination
- Inclusion
- ADA
- Section 3
- LEP
- AFFH
- VAWA
- 504/508
- Justice40
- EO on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- EO on Revitalizing Our Nation's Commitment to Environmental Justice for All



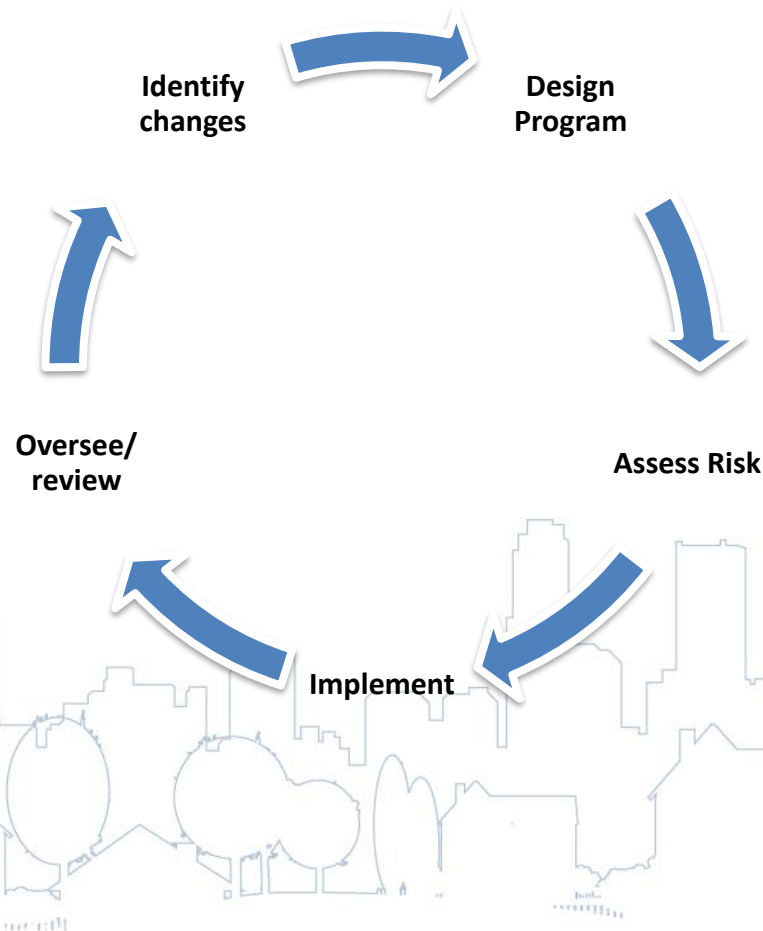
An Ethical and Equitable Approach to Grants Management



Apply an Equity Lens to the CDBG Grant Lifecycle



Opportunities in the ConPlan cycle to improve equitable outcomes



- ConPlan cycle offers an opportunity to review activities for equity/efficiency/effectiveness
 - Did the activity or program design get results?
 - Are the right people benefitting from the program?
 - What worked? What didn't work?
- Internal controls can be adjusted based on risk to ensure the right balance of oversight and efficiency

Program Planning: Update SOPs

When creating or updating policies and procedures and considering citizen complaints, consider how to further fair and equitable program administration

Build the regulatory requirements into plain English SOPs, monitoring checklists, staff training, and subrecipient agreements/
training

Program Design: Clarify the Beneficiaries

24 CFR 570.208 Entitlement

(a) Activities benefiting low- and moderate-income persons. Activities meeting the criteria in paragraph (a) (1), (2), (3), or (4) of this section as applicable, will be considered to benefit low and moderate income persons unless there is substantial evidence to the contrary.

In assessing any such evidence, the full range of direct effects of the assisted activity will be considered.

(The recipient shall appropriately ensure that activities that meet these criteria do not benefit moderate income persons to the exclusion of low income persons.)

Program Design: Clarify the Beneficiaries

24 CFR 570.483 States

(b) Activities benefiting low and moderate income persons. An activity will be considered to address the objective of benefiting low and moderate income persons if it meets one of the criteria in paragraph (b) of this section, unless there is substantial evidence to the contrary. In assessing any such evidence, the full range of direct effects of the assisted activity will be considered. The activities, when taken as a whole, must not benefit moderate income persons to the exclusion of low income persons:

Program Implementation: Use SOPs

Simple, clear, standard operating procedures (SOPs) to minimize bias and exclusionary choices in staff decision-making and procurement actions.

Use SOPs including checklists to ensure each activity is checked prior to funding and at regular intervals for ongoing activities.

For example, in each activity file, involve multiple people for review of checklists/SOPs. Review annually and at funding execution/payment.



Program Implementation: Daily Oversight

Subpart K – Other Program Requirements

- 24 CFR 570.600
- § 570.601 Public Law 88–352 and Public Law 90–284; affirmatively furthering fair housing; Executive Order 11063.
- § 570.602 Section 109 of the Act.
- § 570.614 Architectural Barriers Act and the Americans with Disabilities Act.



Program Implementation: Pay attention to how engagement is conducted

- Advancing equity is achieved when grantees proactively reach out to and include all community members
- Prioritize their needs in planning and program implementation

Those with disabilities

Older adults

Families with young children

People with limited English proficiency

People of color

Other vulnerabilities

Program Evaluation and Reporting: Daily Oversight

Oversight for daily operations

- § 200.113 Mandatory disclosures. *The non-Federal entity or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that have received a Federal award including the term and condition outlined in appendix XII to this part are required to report certain civil, criminal, or administrative proceedings to SAM (currently FAPIIS). Failure to make required disclosures can result in any of the remedies described in § 200.339. (See also 2 CFR part 180, 31 U.S.C. 3321, and 41 U.S.C. 2313.)*



Guard Against Conflicts of Interest

Conflict of Interest – General COI – 570.489(h)

- *Identify covered persons, prohibited conflicts, exception thresholds and processes for UGLGs. [State has authority to issue UGLG exceptions.]*
- *Conflicts affecting state agency personnel go to HUD.*
- *A model for UGLG COI in entitlement program at 2 CFR 200.317 and 200.318 and 24 CFR 570.611*

Ethical considerations:

- A conflicted person may make choices less advantageous to the government and those we represent
- Conflicts (and perceived conflicts) undermine trust that programs are being carried out in a fair and impartial manner
- This is an example of a rules + culture = stronger ethical implementation.

Provide information and attract eligible persons

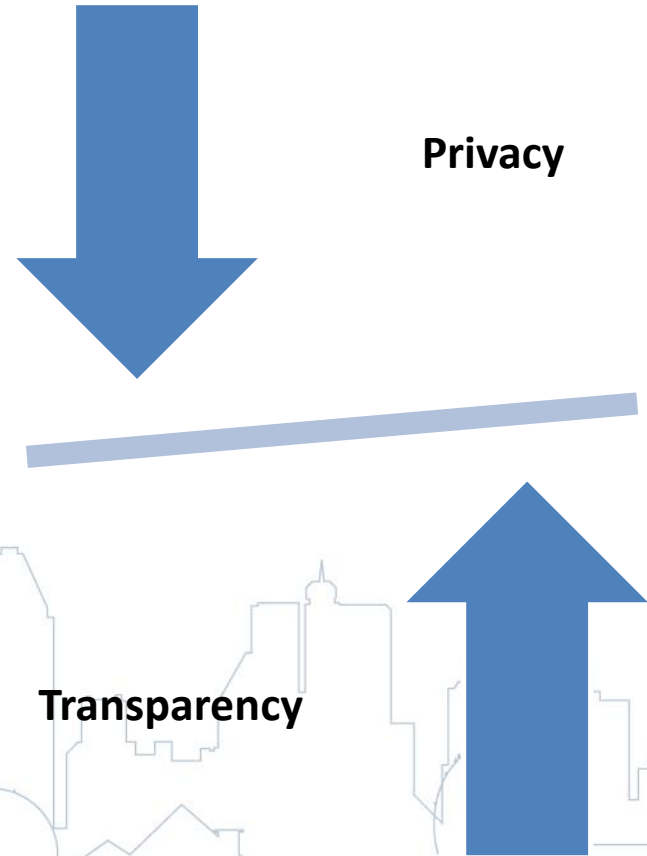
Affirmative marketing consists of actions to provide information and otherwise attract eligible persons to available housing without regard to race, color, national origin, sex, religion, familial status (persons with children under 18 years of age, including pregnant women), or disability.

Example: The AFHMP helps owners/agents (respondents) effectively market the availability of housing opportunities to individuals of both minority and non-minority groups that are least likely to apply for occupancy.



Balance privacy + transparency

- Balance potentially competing ethics-linked requirements:
 - Keep covered Privacy Act information private
 - Avoid revealing info w/o consent when it should be protected
 - Keep decisions transparent and equitable
 - Keep the public informed and pay attention to citizen complaints
 - Pay attention to complaints
 - Consider the request and attempt to meet it
 - Examine dismissed complaints due to potential bias
- Best practice: bolster your citizen participation plan with a community engagement or communications strategy



Use complaints and experts

- Follow up citizen complaints promptly
 - Include a citizen complaint contact on your CDBG website, action plans, and performance reports
 - Pro tip: Contact should be separate from the CD Administrator or a separate office/agency
 - Log complaints, response and follow-up actions
 - Review annually for patterns of bias or exclusion and add review findings to your program risk assessment
- Talk to experts
 - Go to Inspector General sessions at HUD all-grantee meetings.
 - Consult with State and local audit officials
 - HUD has numerous resources, including SMEs



Embrace outreach and reporting

- Section 3 offers an opportunity to recipients of certain HUD financial assistance, to the greatest extent possible, provide training, employment, contracting and other economic opportunities to low- and very low-income persons, especially recipients of government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons.
- Initiate both a qualitative and quantitative perspective during the planning and design phase of your program.



Expand and rethink communications; Include add'l languages & medium

- EO 13166, signed on August 11, 2000, directs all federal agencies, including the Department of Housing and Urban Development (HUD), to work to ensure that programs receiving federal financial assistance provide meaningful access to Limited English Proficiency (LEP) persons.
- Pursuant to EO 13166, the meaningful access requirement of the Title VI regulations and the four-factor analysis set forth in the Department of Justice (DOJ) LEP Guidance apply to the programs and activities of federal agencies, including HUD.
- In addition, EO 13166 requires federal agencies to issue LEP Guidance to assist their federally assisted recipients in providing such meaningful access to their programs. This Guidance must be consistent with the DOJ Guidance. On December 19, 2003, HUD published such proposed Guidance.

Prioritize robust analysis of protected groups

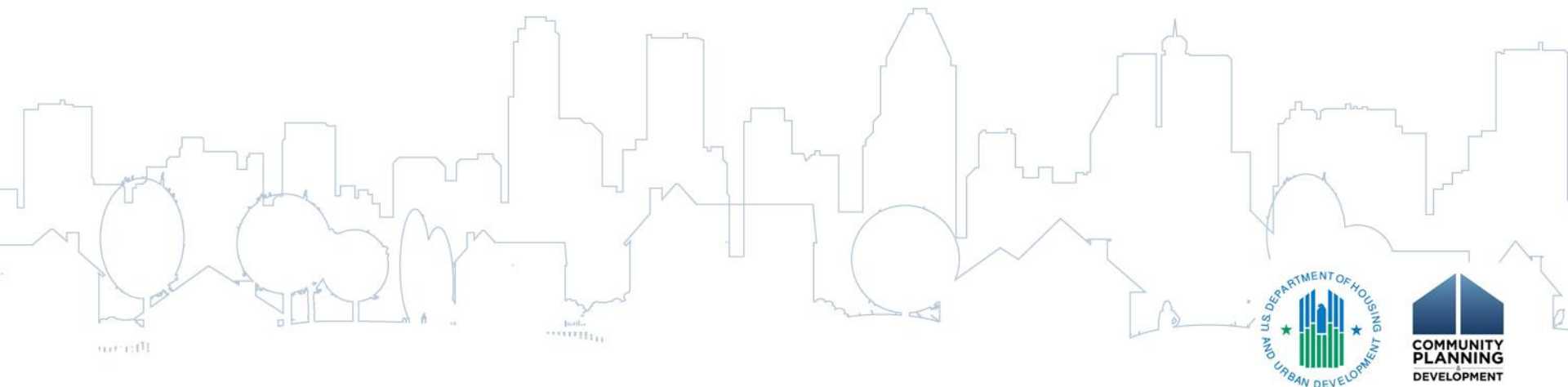
Title VIII of the Civil Rights Act of 1968, known as the Fair Housing Act, requires HUD and recipients of federal funds from HUD to affirmatively further the policies and purposes of the Fair Housing Act, also known as “affirmatively further fair housing” or “**AFFH**.” The obligation to affirmatively further fair housing requires recipients of HUD funds to take meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.

Generally, in administering programs and activities relating to housing and community development, the federal government, HUD, and its recipients must:

- Determine who lacks access to opportunity and address any inequity among protected class groups
- Promote integration and reduce segregation
- Transform racially or ethnically concentrated areas of poverty into areas of opportunity

Do not discriminate based on protected classes

Second CDBG cert in the statute: (2) the grant will be conducted and administered in conformity with the Civil Rights Act of 1964 [42 U.S.C. 2000a et seq.] and the Fair Housing Act [42 U.S.C. 3601 et seq.], and the grantee will affirmatively further fair housing



Be fair and equitable

Section 109 of the Act requires that no person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance made available pursuant to the Act.

Section 109 also directs that the prohibitions against discrimination on the basis of age under the Age Discrimination Act.



Be fair and equitable

- **Section 504** details the prohibitions against discrimination on the basis of disability and applies to programs or activities receiving Federal financial assistance under Title I programs. [24 CFR 570.601, 570.602] (24 CFR Part 8)
 - New Construction
 - Alterations to facilities
 - Existing non-housing facilities
 - Historic Preservation
 - Employment



Be fair and equitable

- **American Disabilities Act (ADA, 28 CFR Parts 35, 36)**
 - Title I prohibits discrimination in employment based upon disability.
 - Title II prohibits discrimination based on disability by State and local governments.
 - Title III prohibits discrimination based upon disability in places of public accommodation (businesses and non-profit agencies that serve the public) and “commercial” facilities (other businesses).



Be fair and equitable

- **Architectural Barriers Act (ABA, 24 CFR Parts 40, 41)** in connection with recipients' non-housing program
 - Certain buildings financed with Federal funds must be designed, constructed, or altered in accordance with standards that ensure accessibility for persons with physical disabilities.
- Buildings built to meet the requirements of Section 504 and the ADA will conform to the requirements of the ABA.

Do not hesitate to contact your local FO or local FHEO office with concerns or questions.



Protect vulnerable groups

For example, the **Violence Against Women Act (VAWA)** is a federal law that, in part, provides housing protections for people applying for or living in units subsidized by the federal government and who have experienced domestic violence, dating violence, sexual assault, or stalking, to help keep them safe and reduce their likelihood of experiencing homelessness.

Scale training opportunities

- Best practice is to extend a code of conduct to entire program, including recipient and subrecipient selection and management.
- Regular code of conduct training is an effective deterrent
- Equity and ethics training sets organization culture
- Teaching all employees to show ethical and equitable leadership can result in program improvements and innovation as they try to find better ways to serve the public.



Exercise: Consider your ConPlan

- What is your process to tap into your local networks?
- How do you build a community advisory team?
- What does iteration look like in practice vs theory?
- How do you reach hard-to-reach community groups?
- What is the perception of your Consolidated Planning Process by protected groups? What are the citizen complaints?
- Are there metrics to indicate openness, transparency, and engagement of citizens?

