



City of Cheyenne
Section 504
CDBG

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Acknowledgements

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Terms and Acronyms

ABA – Architectural Barriers Act of 1968
ADA – American Disabilities Act of 1990
ADAAG – American Disabilities Act Accessibility Guidelines
CAPER – Consolidated Annual Performance and Evaluation Report
CDBG – Community Development Block Grant
CEO – Chief Elected Official
CFC – Commerce Finance Center
CFR – Code of Federal Regulations
CI – Community Investment and Assistance
CO – Certifying Officer
CPD – (HUD) Community Planning and Development
DHHS – Department of Health and Human Services
DOC – Department of Commerce
DOJ – United States Department of Justice
DOL – United States Department of Labor
EEOC – United States Equal Employment Opportunity Commission
EO – Executive Order
FHA – Fair Housing Act
FHEO – Fair Housing and Equal Opportunity
HCDA – Housing and Community Development Act (of 1974, as amended)
HUD – United States Department of Housing and Urban Development
LAP – Language Access Plan
NEPA – National Environmental Policy Act
ODEP – United States Department of Labor Office of Disability Employment Policy
RE – Responsible Entity
TA – Technical Assistance
TAG – (Department of Justice) Technical Assistance Guide
TDD – Telecommunications Device for the Deaf
TTY – Teletypewriter
UFAS – Uniform Federal Accessibility Standards
US – United States
WAI – Web Accessibility Initiative

Definitions

Accessible, when used with respect to the design, construction, or alteration of a facility or a portion of a facility other than an individual dwelling unit, means that the facility or portion of the facility when designed, constructed or altered, can be approached, entered, and used by individuals with physical handicaps. The phrase *accessible to and usable by* is synonymous with accessible.

Accessible, when used with respect to the design, construction, or alteration of an individual dwelling unit, means that the unit is located on an accessible route and when designed, constructed, altered or adapted can be approached, entered, and used by individuals with physical handicaps. A unit that is on an accessible route and is adaptable and otherwise in compliance with the standards set forth in § 8.32 is *accessible* within the meaning of this paragraph. When a unit in an existing facility which is being made accessible as a result of alterations is intended for use by a specific qualified individual with handicaps (e.g., a current occupant of such unit or of another unit under the control of the same recipient, or an applicant on a waiting list), the unit will be deemed accessible if it meets the requirements of applicable standards that address the particular disability or impairment of such person.

Affidavit, A Sworn statement (signed and dated) that a notice was in the newspaper.

Certifying Officer (CO) of Responsible Entity (RE), A person designated by the local government who assures the role of 'responsible federal official' and who assumes the responsibility for environmental review, decision making, and action pursuant to the National Environmental Policy Act (NEPA) and implementing regulations. CO's are the official with legal authority to represent the responsible entity in federal court. These are usually the Chief Elected Official (CEO) – Mayor.

Existing Facility, means a facility in existence on any given date, without regard to whether the facility may also be considered newly constructed or altered under this part. A federal fund recipient's building constructed before the effective date of the funding agency's Section 504 regulations is an existing facility that does not have to be fully accessible unless structural changes are necessary to ensure program access.

Facility means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other real or personal property or interest in the property.

Fundamental Alteration, means reasonable modifications in policies, practices or procedures required unless the entity can demonstrate that making such modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations involved.

Housing and Community Development, means any financial assistance provided or otherwise made available through a HUD housing or community development program through community development funds in the form of CDBG grants under Section 108 of the Housing and Community Development Act of 1974, as amended.

HUD, means the United States Department of Housing and Urban Development, which is the federal agency that awards and has authority over CDBG funding to the entitlement.

Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. For purposes of employment, this term does not include: Any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from performing the duties of the job in question, or whose employment, by reason of current alcohol or drug abuse, would constitute a direct threat to property or the safety of others; or any individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job. For purposes of other programs and activities, the term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

(a) **Physical or mental impairment** includes:

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

(2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term *physical or mental impairment* includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(b) **Major life activities** mean functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(c) **Has a record of such an impairment** means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(d) **Is regarded as having an impairment** means:

(1) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;

(2) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or

(3) Has none of the impairments defined in paragraph

(a) of this section but is treated by a recipient as having such an impairment.

Local Government/Grantee, means the grantee is a city, local government – and is the Responsible Entity (RE) for compliance requirements. Therefore, these terms may be used interchangeably in this manual and associated forms and documents.

Major Structural Alteration, Section 504 does not require a major structural alteration, one that affects or could affect the use of or access to an area of the facility containing a primary function of that business, in an existing facility unless the change is necessary to ensure program access. When major alterations are made, the alterations, as well as the path of travel and facilities serving the altered area, must to the maximum extent feasible, be accessible to people with disabilities.

Most Integrated Setting Appropriate, means programs should be made available to people with disabilities in a setting that allows interaction with nondisabled people to a maximum extent feasible. Many people with disabilities require few or no adjustments or modifications in public facilities.

Unnecessarily different treatment would be a violation of Section 504. Thus, the *most integrated setting appropriate* for many people with disabilities will be the same setting in which nondisabled people are functioning. For others, it will include changes and adjustments (as slight and few as possible) necessary to achieve effective participation.

New Construction, means Federally funded recipient facilities built after the end of the funding agency's Section 504 regulations must meet the Uniform Federal Accessibility Standards (UFAS).

Primary recipient means a person, group, organization, State or local unit of government that is authorized or required to extend Federal financial assistance to another recipient for the purpose of carrying out a program or activity.

Nondiscrimination, means no otherwise qualified individual with a disability can, solely by reason of his or her disability, be subjected to discrimination. Covered entities are required by Section 504 to ensure nondiscrimination by providing accessibility, equal opportunity, and full participation in employment, public facilities, and programs.

Reasonable Accommodation, means (a) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and (b) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

Reasonable Modification, means a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises. Reasonable modifications can include structural changes to interiors and exteriors of dwellings and to common and public use areas. A request for a reasonable modification may be made at any time during the tenancy.

Recipient means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended for any program or activity directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance. An entity or person receiving housing assistance payments from a recipient on behalf of eligible families under a housing assistance payments program or a voucher program is not a recipient or subrecipient merely by virtue of receipt of such payments.

Substantial impairment means a significant loss of the integrity of finished materials, design quality, or special character resulting from a permanent alteration.

Qualified Individual, means an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. For the purposes of this subchapter, consideration shall be given to the employer's judgement as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

Introduction

Recipients of federal funds, including entities funded in whole or in part with Community Development Block Grant (CDBG) funds must adhere to certain federal nondiscrimination requirements. This guide describes the general policies and procedures that must be followed when undertaking projects with CDBG funds to ensure compliance with the requirements of Section 504 of the Rehabilitation Act of 1973, as amended. Specifically, this guide describes applicability of Section 504 and is designed to supplement technical assistance resources.

Section 504 – 24 CFR Part 8

The Rehabilitation Act of 1973, as amended was the first major law to include civil rights protections for persons with disabilities. Section 504 of Title V of that law requires equal opportunity for persons with disabilities in federally assisted programs. In 24 CFR 8.4, Section 504 states that:

No otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving Federal funding assistance.

Application

Section 504 regulations at 24 CFR Part 8 apply to all applicants for, and recipients of federal funds, including CDBG assistance in the operation of programs or activities receiving such assistance. It also applies to any person to which federal financial assistance is extended for any program or activity directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

Under Section 504, an individual must be provided the opportunity to participate in, or benefit from, the program that is equal to that provided other citizens. The opportunity need not be identical in approach, but rather, must afford a person with a disability an equal opportunity to obtain the same result. This is commonly referred to as “program accessibility”.

The focus of Section 504, for existing facilities, is on programs, not buildings. If it is possible to ensure accessibility through alternative means, such as providing auxiliary aids, relocating programs or making home visits, structural changes are not required. Only when it is absolutely necessary to achieve program accessibility are recipients required to retrofit existing facilities, particularly since cost of doing so can be prohibitive.

All recipients must meet the specific requirements of the Section 504 regulations, including having policies and procedures that do not discriminate against and/or make reasonable accommodations to allow participation of qualified people with disabilities.

Discrimination Prohibited

Per 28 CFR 41.51 (a), any recipient of federal funds providing any aid, benefit or service, directly or through contractual licensing or other arrangement, on the basis of disability, may not:

- Deny a qualified person with a disability (as defined in 24 CFR 41.32) the opportunity to participate in or benefit from an aid, benefit, or service
- Offer a qualified person with a disability an opportunity to participate in or benefit from an aid, benefit, or service that is not equal to that afforded others
- Provide a qualified disabled person with an aid benefit, or service that is not as effective in affording equal opportunity to obtain the same results, to gain the same benefit or to reach the same level of achievement as that provided to others
- Give different or separate aid, benefits or services to persons with disabilities unless doing so is necessary for qualified disabled persons to have aid, benefits or services that are as effective as those provided to others.

Table 1. Prohibited Actions

Guarantee	Prohibition
Opportunity to participate	Denying a qualified individual with disabilities the opportunity to participate in, or benefit from, the housing, aid, benefit, or service.
Equality of benefits	Failing to afford a qualified individual with disabilities the opportunity for equal participation and benefit.
Equality of opportunity	Failing to provide a qualified individual with disabilities a program or service that affords the same opportunity to benefit as that afforded others.
No unnecessary difference or separateness	Providing different or separate housing, aid, benefits or services on the basis of disability unless providing such is necessary to provide housing or benefits that are as effective as that provided to persons without disabilities.
No assistance to entities that discriminate	Providing significant assistance to an agency, organization or person that discriminates on the basis of disability in any aspect of a federally assisted activity.
Opportunity to serve on boards	Denying a qualified individual with disabilities the opportunity to participate as a member of planning or advisory boards.
No denial of right to a dwelling	Denying a dwelling to an otherwise qualified buyer or renter because of a disability of that buyer or renter or another prospective tenant.
No discriminatory limitation of benefits	Limiting in any other manner a qualified individual with disabilities in the enjoyment of any right, privilege, advantage, or opportunity afforded to others.
Most integrated setting	Providing programs or services to qualified individuals with disabilities in settings that are unnecessarily separate, segregated or restricted.

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/504keys

Associated Regulations

Section 504 of the Rehabilitation Act of 1973 (28 CFR Part 41), as amended, compliance occurs closely with related laws such as the American with Disabilities Act (ADA) and Fair Housing Act (FHA). ADA requirements do not replace Section 504. Section 504 requirements are for recipients of federal funds, while ADA compliance is required regardless of funds. ADA also covers private employers with 15 or more workers and public accommodations. The US Equal Employment Opportunity Commission (EEOC) enforces Title I of ADA, Office of Federal Contract Compliance Programs enforces Section 503, and US Department of Justice oversees government regulations of Section 504.

Title VIII of the Civil Rights Act of 1968, as amended

Prohibits discrimination concerning the sale, rental, and financing of housing based on **race, ethnicity, religion, national origin, sex, (and as amended) handicap and family status**. The Fair Housing Act also prohibits discrimination in the housing market based on disability and imposes design and construction requirements to enhance accessibility in the built environment. In some cases, new construction of housing must meet both the Fair Housing Act and Section 504. Visitability is a design concept that enables people with disabilities to visit relatives, friends, and neighbors in their homes within a community.

Responsibilities:

Federal Responsibilities

HUD is responsible for monitoring the local and state agencies to ensure they are in compliance with documentary requirements, as well as monitoring for effectiveness of the management and oversight systems. HUD's Office of Fair Housing and Equal Opportunity (FHEO) is responsible for seeking cooperation from and providing assistance to grantees regarding compliance. FHEO may perform periodic reviews of grantees or require reports or other information to measure compliance including records of program participation by individuals with handicaps.

Grantee Responsibilities and Requirements

As summarized in Figure 1, every grantee (local government) needs to:

- 1. Conduct a Self-Evaluation Survey** *24 CFR 8.51*

Conduct any required self-evaluations of programs, services, and activities to determine if they are programmatically and physically accessible to persons with disabilities and involve persons with disabilities in these evaluations. A sample self-evaluation survey is found in Appendix A.

- 2. Designate a Section 504 Compliance Officer** *24 CFR 8.53*

At least one person at the local government level must be designated to coordinate 504 and related compliance efforts. The agency coordinator should be designated in writing and identified in any written notices.

3. Adopt a Grievance Procedure 24 CFR 8.53

A grievance procedure must also be adopted incorporating due process standards and allowing for prompt local resolution of any complaints of discrimination based on disability. A sample grievance procedure is provided in Appendix B.

Figure 1. Grantee Section 504 Responsibilities



4. Notify participants, beneficiaries, applicants and employees of their nondiscriminatory provisions 24 CFR 8.54

Publish in a newspaper of general circulation the notice “Policy of Non-Discrimination on the Basis of Disability Status”. While this requirement in 24 CFR 8.54 is for local governments with 15 or more employees, grantees can combine this notice with other nondiscrimination notifications (e.g. Fair Housing, Procurement). Grantees must retain newspaper affidavit and other evidence of compliance with the notification policy. It is recommended to have the notice placed on local radio and/or television stations to reach the visually and mobility impaired. *In addition, public notices concerning a meeting for which the target audience is the public need to have a reasonable accommodation statement that notifies the public of availability of those accommodations.*

5. Include the same language of their policy of nondiscrimination in all material used for recruitment or general information

Grantees must ensure that all members of the population with visual or hearing impairments are provided with the information necessary to understand and participate in the programs offered. Methods for ensuring participation may include qualified sign language and oral interpreters, readers or the use of taped and Braille materials.

6. Develop a Transition Plan 24 CFR 8.21

If physical changes need to be made to achieve accessibility for persons with disabilities, a transition plan must be developed. A sample transition plan can be found in Appendix D.

7. Construction Activities

Different accessibility guidelines exist for housing and non-housing facilities. See the following sections for more information. Sample facility evaluation form is found in Appendix E.

8. Provide Reasonable Accommodations 24 CFR 8.4, 8.11, 8.20, 8.21, 8.24, 8.25, 8.33

Reasonable Accommodations may be necessary for a person with a disability to use or participate in the program, service or activity; unless the recipient can demonstrate that the accommodation will result in an undue financial and administrative burden or a fundamental alteration in the nature of the program, service or activity. Samples of a reasonable accommodation process and methods are found in Appendix F and G.

9. Conduct Self Compliance Reviews

Numerous sample forms and checklists are available in Appendices G-L.

10. Maintain records and supporting documentation (24 CFR 8.55) of all CDBG funded activities for at least 5 years from grant closeout

11. Be prepared to have compliance reviews conducted by HUD and FHEO.

Grantees must maintain records by race, ethnicity, handicapped status, gender, characteristics of persons who are applicants for participants or beneficiaries of the program and services provided to the

area (*HUD Form 27061 is an example*). Records must also be kept of affirmative actions the local governments have taken to overcome effects of prior discrimination.

Public Notices

Availability of Reasonable Accommodation

Per 24 CFR 8.54, grantees need to notify participants, beneficiaries, applicants, and employees of their nondiscriminatory provisions.

Figure 2. Public Notice for Reasonable Accommodations

Persons with disabilities or who otherwise need assistance should contact (Insert Name) at (Insert Phone Number/TDD Number/TTY Number/Email Address) in advance of the hearing (or by Insert Date). Accommodations will be made for all who request assistance participating in the public hearing.

As part of Fair Housing and Section 504 compliance, grantees need to have a Telecommunications Device for the Deaf (TDD)/Teletypewriter (TTY) number in all public outreach materials to make the grant program accessible to those with speech, visual, and hearing impairments.

Limited English Proficiency

Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination based on the grounds of race, color or national origin by an entity receiving federal financial assistance. The Language Access Plan (LAP) is a tool that our grantees shall use to promote and support compliance with Title VI. Grantees need to follow their established LAP in providing translation and interpretation services to those with limited English proficiency. All public outreach material needs to include at minimum, contact information to request these services. If the print information is not already translated, the grantee needs to do the following;

If publishing, the following phrasing needs to be at the end in both English and Spanish (and any other language identified in the locality's Four Factor Analysis). The grantee should refer to their adopted Language Access Plan for further detail and requirements.

Figure 3. Public Notice for Limited English Proficiency

This information is available in Spanish or any other language upon request. Please contact (Insert Name) at (Insert Phone Number) or at (Insert physical location) for accommodations for this request.

Esta informacion esta disponible en espanol o en cualquier otro idioma bajo peticion. Por favor, pongase en contacto con (Insert Name) al (Insert Phone Number) o en (Insert physical location) de alojamiento para esta solicitud.

*Please note that the actual names, phone numbers, and physical addresses are not translated.

**Please note – per the City of Cheyenne LEP translation is not required.

Responsibilities of Persons with Disabilities

Persons with disabilities can help assure compliance with Section 504 in a variety of ways:

- Persons with disabilities are encouraged to assist in educating recipients about Section 504 and letting recipients know where they may obtain more information at HUD’s website or by contacting the nearest fair housing office.
- It is the responsibility of the person with a disability to request a reasonable accommodation if such accommodation may be necessary to allow him or her to participate in the recipient’s program, service or activity. 24 CFR 8.4, 8.11, 8.20, 8.21, 8.24. 9.25. 9/33
- Persons with disabilities, just like any other person, are expected to comply with any applicable requirements of programs, including, for example in the case of housing programs, the requirement to meet obligations of tenancy.
- Persons with disabilities who believe they have been subjected to discrimination prohibited by Section 504 should file a complaint with the Department. Any person who believes that any specific class of persons has been subjected to discrimination prohibited by Section 504 and who is a member of that class or who is the authorized representative of a member of that class may file a complaint with the Department using HUD Form 903.1 online. 24 CFR 8.26(c). To file a complaint, contact the HUD Field Office nearest you for assistance and guidance.

Accessibility

Collectively, the accessibility laws and implementing regulations (Fair Housing Act and Section 504 of the Rehabilitation Act of 1973) prohibit discrimination based on disability and establish requirements for physical accessibility in connection with federally-funded housing and non-housing activities.

Section 504 provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation in (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving Federal funding assistance. Specifically, Section 504 imposes requirements related to:

- Program accessibility
- Communications
- Accessible design and construction for certain housing activities. Review facilities accessibility requirements and sample facilities checklist (Appendix E). Existing and new facilities have different guidelines.
- Accessible design and construction for certain non-housing activities.
- Grantee self-evaluation of programs, services, and activities to ensure programmatic and physical accessibility to persons with disabilities
- Nondiscrimination in employment

Existing facilities are not required to achieve immediate accessibility, while substantial improvement and new construction need to be designed to meet accessibility standards. Grantees unsure about these standards should consult their Grant Representative.

Program Accessibility

Program accessibility is perhaps the key term to understanding Section 504. Under Section 504, federal funds recipients must ensure that their programs are accessible to qualified individuals with disabilities. Basically, this means that when “viewed in their entirety,” programs and activities offered by the recipients must be accessible – not every program or service has to be accessible.

Existing housing and non-housing programs administered by the grantee and its funded entities (e.g., sub-recipients, developers) must be accessible to persons with disabilities. Program accessibility means that a program, when viewed in its entirety, is readily accessible to and usable by persons with disabilities. This means that persons with disabilities must: (1) have an equal opportunity to participate in and benefit from the program, and (2) be offered the same range of choices and amenities as those offered to persons that do not have disabilities. Grantees ensure that their programs and services are readily accessible to and usable by persons with disabilities to the maximum extent feasible. In other words, the grantee must take steps to provide the necessary access to persons with disabilities, unless the actions would constitute an undue financial and administrative burden or require a fundamental alteration in the nature of the program.

Examples of steps to ensure program accessibility include:

- Conduct meetings and program-related marketing and other activities in accessible locations
- House program in-take offices in accessible locations
- Ensure program-related communications are accessible to persons with disabilities
- Make reasonable accommodations to persons with disabilities

What is reasonable can only be determined on a case-by-case basis; however, the following examples are often considered reasonable accommodations:

- A federally assisted housing provider has a policy of not providing assigned parking spaces. A tenant with a mobility impairment, who has difficulty walking, is provided a reasonable accommodation by being given an assigned accessible parking space in front of the entrance to his unit
- A federally assisted housing provider has a policy of requiring tenants to come to the rental office to pay their rent. A tenant with a mental disability, who is afraid to leave his/her unit, is provided a reasonable accommodation by being allowed to mail his/her rent payment.
- A federally assisted housing provider has a no pets policy. A tenant, who uses a wheelchair and has difficulty picking up items off the ground, is allowed to have an assistive animal that fetches things for him/her as a reasonable accommodation to his/her disability
- An older tenant has a stroke and begins to use a wheelchair. His/her apartment has steps at the entrance and he/she needs a ramp to enter the unit. His/her federally assisted housing provider pays for the construction of a ramp as a reasonable accommodation to the tenant’s disability.

Communication 24 CFR 8.6

Recipients and sub-recipients must ensure effective communication with handicapped or disabled persons in all activities. Communication is an important component of program accessibility. Persons with impairments to hearing, vision speech, or mobility may have special communication needs. To the maximum extent feasible, grantees must provide program information in ways to ensure that persons with these types of disabilities are able to access and enjoy the benefits of any program or activity receiving federal funds.

Grantees must furnish auxiliary aids and services, as necessary, to ensure effective communication with persons with disabilities. These may include:

For persons with hearing impairments:

- Qualified sign language interpreters
- Note takers
- Telecommunication devices for deaf persons (TDD) such as teletypewriters (TTY)
- Telephone handset amplifiers
- Assertive listening devices (devices that increase the sound in large group settings)
- Flashing lights (where aural communication is used, such as warning bells)
- Video text displays (devices that display text that is simultaneously being spoken can be used where a public-address system provides information)
- Transcription services
- Closed and open captioning

For persons with vision impairments:

- Websites that comply with Section 508
- Qualified readers
- Telecommunication Aids; (e.g. teletypewriters (TTY), telephone relay systems)
- Written materials translated into alternative formats (e.g., Braille, audio tape, large print, speaking computers, raise letter printing)
- Aural communication (Bells or other sounds used where visual cues are necessary)
- Audio description services (through a headset, a narrator describes what the visually impaired person cannot see)

Other Accommodation Tools

- Keyboard enhancements
- Telecommuting
- Special computer equipment

The grantee must ensure effective communication with persons with all types of disabilities in all activities, to the greatest extent feasible.

Telecommunications Device for the Deaf

Grantees are required to provide a Telecommunications Device for the Deaf (TDD) / Teletypewriters (TTY) phone number or an equally equivalent system must be available for the hearing impaired if the local government communicates with applicants and beneficiaries by telephone (24 CFR 8.6). A TDD is an electronic device that when installed, allows a deaf person to communicate over a standard phone system. Applicants must adopt procedures to ensure that information on all programs is accessible to all interested persons. The Wyoming Relay/Deaf Services is offered by the Wyoming Department of Workforce Services – Vocational Rehabilitation Division. The TTY to Voice number is 7-1-1 or 1-800-877-9965. Their website is www.wyomingworkforce.org/workers/vr/relay/.

Web Site Accessibility

Since ADA regulations were written in 1990, before widespread use of the web, there is no provision dealing with the Internet. However, Section 508 of the rehabilitation Act requires federal agencies to follow electronic assess standards. The Web Accessibility Initiative (WAI) provides the tips for making accessible websites at <http://www.w3.org/>.

Grantees are not required to take any actions that would result in a fundamental alteration in the nature of a program or activity or undue financial and administrative burden. Grantees finding themselves in this situation should contact their Grant Representative for additional guidance.

Accessibility in Non-Housing Activities 24 CFR 8.21

All of Section 504's nondiscrimination, program accessibility, and reasonable accommodation requirements that apply to housing facilities and programs apply equally to the operation of non-housing facilities or programs.

Non-housing programs as well as existing facilities in which they are situated must be readily accessible to and usable by persons with disabilities, in accordance with the UFAS standard. Accessibility programs will be determined once again under self-evaluation. The focus of program access is providing programs in the most integrated setting possible. Providing separate or different programs is illegal unless necessary to achieve equal opportunity. In order to make its facilities accessible, a grantee may need to:

- Relocate programs to accessible facilities or accessible portions of facilities
- Acquire or build new facilities that are accessible
- Selectively alter facilities to make them accessible to persons with mobility or sensory impairments
- Changing operating policies and procedures
- Assigning aides to assist beneficiaries
- Adding or redesigning equipment or furnishings
- Conducting home visits

Local governments are also subject to Title II of the Americans with Disabilities Act of 1990 (ADA), which prohibits discrimination against persons with disabilities. Title II requires that facilities that are newly constructed or altered by, on behalf of, or for use of a public entity, be designed and constructed in a manner that makes the facility readily accessible to and useable by persons with disabilities. Title II also

requires accessibility of newly constructed or altered streets, roads, highways, and pedestrian walkways. For more information contact your Grant Representative.

Employment Accessibility 24 CFR 8.10 – 8.13

Employment practices (including hiring, testing, physicals, and recruitment) are all subject to Section 504. Employers must make reasonable accommodations for the needs of handicapped employees. Nondiscrimination is a requirement of grantees with regard to employment and employment practices. Employment opportunities may not be denied on the basis of race, color, national origin, sex, age, religion, familial status, or disability. Section 504 defines discrimination as limiting, segregating, or adversely classifying a job applicant or employee because of that individual's disability. It is a violation to:

- Limit job duties based on presumptions about what is best for the worker or the worker's perceived abilities
- Adopt separate lines of progression for an employee with a disability because of the disability
- Deny employment because of fears about safety that are not backed up with medical or scientific evidence, or because of concerns about higher absentee rates
- Assign or reassign workers with disabilities to only one office or facility in a segregated manner
- Require employees with disabilities to use only segregated break rooms or lunchrooms

Affirmative action and equal employment opportunity policies are fundamental aspects. Steps that can be taken by grantees to prevent discrimination in employment include the following:

- Review of jurisdictional employment policies and procedures for discriminatory intent or practice and document review
- Advertise employment opportunities and/or to recruit employees for project-related positions
- Develop and maintain employment data that indicates staff composition by race, sex, handicap status and national origin

Title I ADA regulations govern Section 504 employment and state that employers may not discriminate based on disability when screening job applicants. Specifically, Section 504 has a number of general prohibitions against employment discrimination. Grantees must ensure that the following items are adhered to:

- No qualified individual with a disability shall, solely on the basis of their disability be subject to discrimination in employment under any program or activity that receives Federal assistance.
- Any grantee cannot legally limit, segregate or classify applicants or employees in any way that negatively affects their status or opportunities because of disability. Grantees may not participate in a contractual or other relationship that subjects qualified disabled applicants or employees to discrimination.
- In pre-employment and employment activities, discrimination based on a disability must not occur and reasonable accommodations must be made to the physical or mental limitations of otherwise qualified individuals unless it creates undue hardship for the grantee. HUD regulations specify that an employer is prohibited from discrimination in the following instances:
 - o Hiring, upgrading, promoting, tenure, demotion, transfer, layoffs, termination right or return from layoffs, illness and rehiring

- Rates of pay and any other forms of compensation
- Job assignments, classifications and descriptions, organizational structures, lines, progression and seniority lists
- Leaves of absence, sick leave or any other leave
- Fringe benefits available by virtue of employment
- Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities and selection for leaves of absence for training
- Employer sponsored activities, including social or recreation programs
- Any other term, condition or privilege of employment
- HUD regulations specify that an employer may not:
 - Recruit, advertise or use job application procedures in a way that discriminates against applicants with disabilities
 - Fail to reasonably accommodate the known physical or mental limitations of an otherwise qualified applicant with a disability or deny employment to such an applicant based on the need to make reasonable accommodation
 - Use qualification standards, employment tests or other selection criteria that screen out or tend to screen out individuals with disabilities, unless the standard tests or criteria are job related and consistent with business necessity
 - Fail to select and administer tests to applicants with disabilities who have impaired sensory, manual or speaking skills in a manner that ensures that the test results accurately reflect the skills, aptitudes or other factors the tests purport to measure, rather than the disability, unless the purposes of the tests are to measure sensory, manual, or speaking skills
 - In general, make pre-employment inquiries about whether an individual has a disability or about the nature or severity of such disability

Reasonable accommodations in employment are modifications on the job or in the workplace, determined on a case-by-case basis, to enable a disabled person to perform the job for which she/he is qualified is 24 CFR 8.11. Examples of such accommodations are:

- Flexible scheduling
- Job restructuring
- Transfer/reassignment
- Modification of policies
- Review sample checklists of workstations and worksites found in Appendix G

It is important for grantees to remember that the essence of Section 504 provides for equal opportunity and not the same level of achievements. Section 504 does not require the hiring or promotion of someone simply because she/he has a disability.

*The local government **must** make available a copy of any written policies and procedures used by the grantee to hire, terminate, promote or train individuals.* If no formal written hiring policies are available, the local government will need to implement a nondiscrimination policy utilizing a sample provided in Appendix C and place a copy in the file indicating that the local government will not deny employment under any federally assisted program on the basis of race, color, national origin, disability, etc.

Private employers that are recipients may be covered by both Section 504 and Title I of the ADA if they have 15 or more employees. Local government employers are covered by ADA regardless of the number of employees they have and are also covered by Section 504 if they receive any federal funds, hence the need for coordination between the two regulations.

All agencies and departments of local governments must comply with ADA regardless of whether they are federal fund recipients covered by Section 504. No local government may discriminate on the basis of disability in any of its programs or activities, including employment. Adoption of EEOC Title I rules for Section 504 provides the grantees a uniform set of standards to ensure compliance with Section 504 and the ADA. For more information regarding employment and disabilities, visit:

- US Department of Labor Office of Disability Employment Policy (ODEP)
 - o <http://www.dol.gov/odep/> (866) 633-7365 (voice), (877) 889-5627 (TTY)
- US Access Board
 - o <http://www.access-board.gov/> (800) 872-2253 (voice), (800) 993-2822 (TTY)

Self-Evaluation 24 CFR 8.51

Self-evaluation is required by both Section 504 and the Americans with Disabilities Act. Self-evaluation promotes inclusion of the programmatic and project-specific alternations that are necessary to ensure long term compliance with the requirements.

The government wide regulations do not prescribe a specific form. A sample Self-Evaluation Survey for grantee use is found in Appendix A. This checklist is designed to serve as a working guidance tool to help recipients focus on key issues that could affect the accessibility of their programs and practices. It should be emphasized, however, that this checklist is for reference purposes, and is not intended as a substitute for individual judgement or analysis of the pertinent regulations issued pursuant to Section 504. **Any information in this checklist cannot be used as a sole basis for determining compliance with Section 504.** Some questions of the survey require identification of modification to policies and practices will be undertaken or what corrective action will be taken to remedy any discrimination found. In some cases, questions will require that additional information be supplied to complete the evaluation process. Please be sure to attach the local government grievance procedure and current nondiscrimination policy (e.g. excerpts from Human Resources personnel policies). The survey itself does not need to be adopted, but the grievance procedure(s) and nondiscrimination policy(ies) do.

If a grantee has not already performed a Section 504 self-evaluation of programs, services, and activities to determine if they are programmatically and physically accessible to persons with disabilities, they must conduct such an evaluation and document all needs. If a grantee has already performed a self-evaluation, a new one is not required, unless facilities have been altered.

Grantees should also involve persons with disabilities in these evaluations. While performing the self-evaluation, a careful inspection of the following should be performed to determine if they are free from discriminatory effects and practices:

- Employment and personnel policies and practices
- Programs and activities
- Benefits and service delivery
- Contractual agreements

Self-Evaluation compliance involves:

- Evaluation of current policies and practices and analyze them to determine if they adversely affect the full participation of individuals with disabilities in its programs, activities, and services. Be mindful of the fact that a policy or practice may appear neutral on its face but may have a discriminatory effect on individuals with disabilities.
- Modify any policies and practices that are not or may not be in compliance with Section 504 or Title II and Title III of the ADA regulations. (24 CFR Part 8 and 28 CFR Parts 35, 36)
- Taking appropriate corrective steps to remedy those policies and practices that either are discriminatory or have a discriminatory effect. Develop policies and procedures by which persons with disabilities may request a modification of a physical barrier or a rule or practice that has the effect of limiting or excluding a person with a disability from the benefits of the program.
- Documentation of the self-evaluation process and activities. Keep records of the individuals and organizations consulted, areas examined, and problems identified, and document modifications and remedial steps.

An approach many grantees have used to examine service and program accessibility is to do a walk-through of the process required for participation. Analyze not only the physical path traveled, but also the administrative requirements, service delivery, eligibility criteria, and application procedures.

Transition Plan

If structural barriers have been identified during the self-evaluation process and cannot be removed with a nonstructural solution, a Transition Plan must be completed and made available for public review and comment.

The plan must address the following items:

- Identification of physical obstacles in the facilities that limit program accessibility
- Description of the method that will be used to make facilities accessible
- Specify a schedule to achieve full program compliance; and, if the plan is longer than one year, identify steps to be taken during each year
- Indicate the person responsible for implementing the plan
- Identify the person or groups with whose assistance the plan was prepared

A sample Transition Plan is provided in the Appendix D. The grantee is not necessarily required to make every part of an existing facility accessible if that is not structurally possible, but grantees must address how persons with disabilities will be assured access. The Transition Plan must involve persons with disabilities and/or representative organizations.

Recordkeeping 24 CFR 8.55

It is important for grantees to keep organized records and document their Section 504 activities. The following records must be maintained by the grantee in a separate Section 504 file for a period of five years after grant closeout. Review general CDBG recordkeeping requirements for more information:

- A copy of the Self-Evaluation Survey and associated documentation

- A copy of the Transition Plan and associated documentation
- A list of interested persons who were consulted
- A description of areas and buildings examined, and any problems identified
- A description of modifications made, and remedial steps taken to comply with the regulations
- Records of any complaints and resolution of complaints
- Records of public notifications

Grantee compliance reporting is part of the Consolidated Annual Performance and Evaluation Report (CAPER) that the City submits to HUD every year. Therefore, please ensure to maintain comprehensive documentation for reporting and monitoring and complete any reporting requirements on time.

Monitoring

The designated fair housing and equal opportunity coordinator and/or officers should review compliance requirements on an annual basis and can be monitored directly by HUD. Proper notification of a monitoring visit will be provided. However, it is important for grantees to keep all records and files in “monitoring readiness” condition at all times. Some of the areas of review to determine if grantee meets compliance with all fair housing and equal opportunity requirements and laws are:

- A check of the availability and adequacy of employment records
- Identification of programs and activities assisted through CDBG funding and assessment of program impact on protected groups
- An examination of procurement procedures and awards to assess the utilization of minority and/or female owned enterprises and businesses located in the project area or owned in substantial part by project area residents
- A review of voluntary efforts to promote fair housing
- An examination of the extent to which various protected groups have been impacted by relocation activities

Grantees are encouraged to review HUD CPD monitoring checklist.

Complaints 24 CFR 8.56

Any individual or authorized representative who believes that they have been denied opportunities or treated differently due to their race, color, national origin, sex, age, disability, religion and familial status may file a complaint. The complaint may be filed with the grantee, DOJ, or HUD FHEO under the Housing Discrimination Form 903.1. The complainant’s identity will be held in confidence unless written authorization is given. The time period for filing complaints is within 180 days of the alleged act. Grantees should have copies of this form available to the public.

Persons who believe his/her rights have been violated may file in Federal court. The remedy through court action may include the award of damages, back pay, seniority and as with any equal opportunity action, attorney fees, or injunction against the noncomplying project. It is HUD’s policy to encourage informal resolutions to matters, solicit voluntary compliance and corrective action. Noncompliance may result it:

- Administrative sanctions (e.g. investigations, loss of funding)
- Lawsuit by private party

- Monetary damages
- Termination of or refusal to grant Federal assistance

Denver Regional Office of FHEO
U.S. Department of Housing and Urban Development
Rocky Mountain Office
1670 Broadway
Denver, CO 80202
(303) 672-5151
(800) 877-7353

HUD Section 504 Enforcement

HUD expects compliance with Section 504 in two primary ways:

- Initiate a compliance review of all aspects of the recipient's program, services and activities
- Investigate complaints of discrimination filed by individuals with disabilities who allege discriminatory behavior in violation of Section 504 by a recipient

In the latter case, the HUD investigation focuses on the issues raised by the complainant but may seek to address the interests of other persons similarly situated and the public interest. While one desirable outcome of the complaint process is the complainant's satisfaction, this is not the primary goal. HUD's primary goal is to assure compliance with Section 504 by recipients of HUD assistance. Thus, while HUD will always encourage the complainant and the recipient to resolve their differences voluntarily, they may not close a case once its investigation has begun until it is determined that the recipient is in compliance with the law and that it will not discriminate against other persons with disabilities who are similarly situated. HUD will not require the complainant's consent to any voluntary agreement it reaches with the recipient although every effort will be made to protect the complainant's interests and to remedy the effects of the discrimination.

HUD Complaint Process

The following is an overview of how HUD processes complaints filed by individuals who have experienced disability discrimination under Section 504. This overview of the Section 504 complaint process contains citations to 24 CFR 8.1 – 8.58.

What is a Complaint?

A complaint is a communication alleging discrimination on the basis of disability and in some way asking for HUD's assistance in resolving the problem. It may range from a verbal communication (which is later put in writing) to a complaint submitted on either the old HUD-903 Complaint Form, or on the new HUD Housing Discrimination Information Form. The complaint should contain:

- the complainant's name and address;
- the name and address of the individual or organization (usually the recipient of federal assistance) alleged to have discriminated; and
- a description of the discriminatory actions and the date of those actions. [24 CFR 8.56(c)(5)]

The complaint may be amended fairly and reasonably at any time to clarify or amplify the allegation. [24 CFR 8.56(c)(6)]. Although a complaint will contain the name of the complainant, HUD will keep the identity of the complainant confidential unless it has written authorization from the complainant to

release it, or except as necessary to carry out the purpose of the Section 504 regulations, including the enforcement provisions. [(24 CFR 8.56(c)(2)]

When Must a Complaint be Filed?

Under Section 504, a complaint must be filed within 180 days of the alleged act of discrimination unless HUD waives this time limit for good cause shown. The complaint is deemed received on the date HUD actually receives it or, if mailed, on the date it is postmarked. [24 CFR 8.56(c)(3)]

Who May File a Complaint?

Any individual who believes he or she has been discriminated against on the basis of disability by a recipient of Federal financial assistance, his or her representative, or a member of a class of persons so situated, or the authorized representative of a member of that class. [24 CFR 8.56(c)(1)]

Who is an Individual with Disabilities?

An individual with disabilities means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. [24 CFR 8.3]

Where May a Complaint be Filed?

A complaint may be filed by mail with HUD Headquarters or with any HUD Office. [24 CFR 8.56(c)(4)] A complaint may also be filed online.

https://www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint

Notification to Parties

Within ten days of receipt, HUD will notify the complainant and the recipient that it has received the complaint. [24 CFR 8.56(d)]

Accepting the Complaint

Within twenty days of acknowledging its receipt of a complaint, HUD must determine whether it will accept, reject, or refer the complaint to another Federal agency, and must notify the parties of that decision. [24 CFR 8.56(e)(1)(i)]. To do so, HUD must determine if it has jurisdiction over the complaint.

Does HUD have Jurisdiction?

HUD considers several factors in determining if it has jurisdiction to investigate the complaint. HUD must determine if the complainant or the person he or she represents is a person the law was designed to protect. In making this determination, the Department must determine whether the individual, or the person the individual represents, is a person with a disability as defined by Section 504. The Department also must determine if the individual is "otherwise qualified" for the program or activity alleged to have discriminated. For most HUD-assisted programs, an individual must have income below a certain level in order to be eligible. In some cases, disability may also be an eligibility factor. For example, if a housing program is set up under the Department's Housing Opportunities for Persons with AIDS (HOPWA) program, and the complainant's only disability is a visual impairment, the person would not be qualified for the HOPWA project because that project is designed to meet the needs of persons with AIDS. Therefore, HUD would lack jurisdiction to process this complaint under Section 504.

Another factor HUD must consider in determining jurisdiction is whether the alleged act of discrimination occurred in a program, service or activity that receives Federal financial assistance from HUD for the period during which the act occurred. If both of these conditions are not met, HUD must

reject the complaint and notify the complainant and the recipient of that decision. For example, if a privately-owned apartment building received HUD funds only during the period from January 1989 to June 1990, and the alleged act of discrimination occurred in February 1988, HUD would lack jurisdiction.

If HUD has jurisdiction over the case, then HUD will accept the complaint for investigation.

Notification of the Parties and the Recipient's Opportunity to Respond

Once the complaint has been accepted for investigation, HUD will notify the complainant, the award official, and the recipient of its acceptance. HUD will also notify the recipient of the allegations and provide an opportunity for a written response to the allegations within thirty days of receiving the notice. (Like the complaint, the recipient's response may be amended for good cause at any time. [24 CFR 8.56(e)(1)(ii)])

Voluntary Resolution of the Issues

During its investigation of the complaint, HUD will make every effort to define all of the issues contained in the complaint. Throughout the complaint process, HUD will encourage a voluntary resolution of the matter, and will assist the parties in resolving the complaint through informal resolution or voluntary compliance. A matter may be resolved by informal means at any time. If the Department has issued a letter finding noncompliance, the Department will attempt to resolve the issues through voluntary compliance. The Department will develop a written voluntary compliance agreement and will attempt to reach a resolution that satisfies the complainant, however, the Department's primary obligation will be to ensure that any violations of Section 504 are remedied and that actions are taken to ensure that the recipient will not violate the rights of other persons under Section 504. [24 CFR 8.56(j)]

The Investigation

During the complaint investigation, the Department will request all of the information that the Department believes is necessary in order to fully investigate the issues in the complaint. The complaint investigation will involve interviews and meetings with the parties, including any witnesses or other persons identified as having some involvement in the issues of the complaint. The Department may also conduct on-site reviews of facilities that are under the recipient's oversight if these facilities are a part of the complaint. [24 CFR 8.56(d) and (e)] Once the complaint investigation is completed, the Department will compile all of its findings in a Final Investigative Report (FIR).

Preliminary Letter of Findings and Right to Request a Review

If an informal resolution of the complaint is not achieved, the Department will issue a "Preliminary Letter of Findings." This letter will contain the preliminary findings of fact, and a preliminary finding of compliance or noncompliance. If the finding is noncompliance, the Preliminary Letter of Findings will include a description of each violation and an appropriate remedy. It also explains that a copy of the Final Investigative Report will be made available upon request to the recipient. A copy of the letter should also be sent to the complainant. [24 CFR 8.56(g)] This letter will also notify both parties that they have the right to request a complete review of the letter of findings, provided that such request is submitted within 30 days of receipt of the Letter of Findings, and that the request includes a written description of supplementary information that was not considered during the investigation of the complaint. [24 CFR 8.56(h)]. The Preliminary Letter of Findings may also include a Voluntary Compliance Agreement (VCA) outlining all steps necessary, along with timelines, on the part of the recipient to remedy the identified violations and bring the recipient into compliance. If the recipient agrees to the VCA and signs it, HUD will not proceed with enforcement activities. [24 CFR 8.56(j)]

Formal Determination

If a request for review is made, it must be accompanied by a written statement of the reasons the Preliminary Letter of Findings should be modified in light of supplementary information, as explained above. [24 CFR 8.56(h)] When a request for review is received from either party, a copy of it will be sent to the other party with notice of their right to respond to the request within twenty days. [24 CFR 8.56(h)(2)] Within sixty days of the request for review, the reviewing civil rights official will issue its formal determination, either sustaining or modifying the letter of findings. This decision will constitute HUD's formal determination. [24 CFR 8.56(h)(3)]. If neither party requests a review of the Letter of Findings, the Department will issue a formal determination within 14 calendar days after the 30-day time period under which such a request may be made. The formal determination will indicate compliance or noncompliance, and HUD will send this determination to the recipient, the complainant and the award official. [24 CFR 8.56(h)(4)]

The Department wishes to emphasize that throughout the complaint process, all efforts will be made to reach a voluntary resolution of the matter. However, in cases of a determination of noncompliance, once the formal Letter of Determination has been issued, the recipient will have ten (10) calendar days in which to agree to come into voluntary compliance. If the recipient fails to meet this deadline, the Department will initiate enforcement proceedings under the procedures outlined at 24 CFR 8.57. [24 CFR 8.56(i)]

Frequently Asked Questions

These questions and answers about Section 504 are found on HUD's website at https://www.hud.gov/program_offices/fair_housing_equal_opp/disabilities/sect504faq

These questions and answers focus on the requirements of one specific law, Section 504 of the Rehabilitation Act of 1973, as amended. This law often is called simply "Section 504." Section 504 is not the only law that prohibits disability discrimination in programs receiving HUD funds or financial assistance. Other Federal laws that provide nondiscrimination on the basis of disability include the Fair Housing Act, the Americans with Disabilities Act, and the Architectural Barriers Act.

General

Question: What is Section 504?

Answer: Section 504 of the Rehabilitation Act of 1973 states: No otherwise qualified individual with a disability in the United States. . . shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, service or activity receiving federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. (29 U.S.C. 794). This means that Section 504 prohibits discrimination on the basis of disability in any program or activity that receives financial assistance from any federal agency, including the U.S. Department of Housing and Urban Development (HUD) as well as in programs conducted by federal agencies including HUD.

Question: Are there regulations that explain what needs to be done in order to comply with Section 504?

Answer: Yes. HUD's regulations for Section 504 that apply to federally assisted programs may be found in the Code of Federal Regulations at 24 CFR Part 8. There are also regulations that govern Section 504 in programs conducted by HUD which may be found at 24 CFR Part 9, however, this Web site focuses on Section 504's requirements for federally assisted programs, services and activities.

Question: Who is protected by the Law?

Answer: Persons with disabilities.

Question: How is disability defined?

Answer: An individual with a disability is any person who has a physical or mental impairment that substantially limits one or more major life activities. The term physical or mental impairment may include, but is not limited to, conditions such as visual or hearing impairment, mobility impairment, HIV infection, mental retardation, drug addiction (except current illegal use of or addiction to drugs), or mental illness. The term major life activity may include seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working. Section 504 also protects persons who have a record of such impairment or are regarded as having such an impairment.

Question: Who are recipients of federal financial assistance?

Answer: The Section 504 regulations define recipient as any State or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution organization, or other entity or any person to which federal financial assistance is extended for any program or activity directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance. 24 CFR 8.3. Thus, a HUD funded public housing authority, or a HUD funded non-profit developer of low income housing is a recipient of federal financial assistance and is subject to Section 504's requirements. However, a private landlord who accepts Section 8 tenant-based vouchers in payment for rent from a low-income individual is not a recipient of federal financial assistance. Similarly, a family that receives Community Development Block Grant (CDBG) or HOME funds for the rehabilitation of an owner-occupied unit is also not a recipient because it is the ultimate beneficiary of the funds.

Nondiscrimination

Question: What discriminatory practices does Section 504 prohibit?

Answer: Section 504 prohibits discrimination on the basis of disability in any program, service, or activity that receives federal financial assistance. This means, for example, that persons with disabilities may not be denied the opportunity to participate in a program, service, or activity; may not be required to accept a different kind or lesser program or service than what is provided to others and may not be required to participate in separate programs and services, even if separate programs and services exist. In general, with respect to housing, it means that a housing provider may not deny or refuse to sell or rent to a person with a disability, and may not impose application or qualification criteria, rental fees or sales prices, and rental or sales terms or conditions that are different than those required of or provided to persons who are not disabled. Housing providers may not require persons with disabilities to live only on certain floors, or to all live in one section of the housing. Housing providers may not refuse to make repairs and may not limit or deny someone with a disability access to recreational and other public and common use facilities, parking privileges, cleaning or janitorial services, or any services which are made available to other residents. People with disabilities may not be denied the opportunity to serve on planning or advisory boards because of their disabilities.

Question: Does Section 504 require a housing provider to accept every person with a disability who applies for the housing?

Answer: Section 504 does not require that a person with a disability be accepted without regard to eligibility requirements or his or her ability to meet standard, nondiscriminatory tenant selection and screening criteria. Rather, Section 504 requires that a person with a disability be evaluated using the same objective criteria that are applied to persons without disabilities. Applicants, with or without a disability, may be rejected if they have a record of adversely affecting others such as disturbing neighbors, destroying property, or failing to pay their rent on time. However, under Section 504, the housing provider must make sound and reasonable judgments based on objective evidence (current conduct or a history of overt acts). Subjective fears, unsubstantiated rumors, speculation and generalized suspicion do not constitute objective information that an applicant cannot meet the terms of tenancy.

Question: May a recipient refuse to rent to a person with a mental disability because he is uncomfortable with the individual?

Answer: No. Section 504, and related laws like the Fair Housing Act, make it unlawful for a housing provider to refuse to rent to a person simply because of a disability. Therefore, a housing provider may not refuse to rent to an otherwise eligible individual because of fears or concerns that may be based on myths or stereotypes about persons with mental disabilities.

Question: May a landlord charge a person who uses a wheelchair a higher security deposit because of concerns about damage to the dwelling unit?

Answer: No. A wheelchair user is no more likely than anyone else to cause damage, beyond typical wear and tear, to a dwelling unit. However, if a person who uses a wheelchair does cause damage to a unit that is beyond normal wear and tear, whether the damage is related to the wheelchair or not, that individual may be required to cover such damage out of a standard security deposit that is charged to everyone.

Question: What limits does Section 504 impose on the ability of federally assisted housing providers to require persons with disabilities to live in segregated housing, i.e., housing for elderly and/or disabled individuals.

Answer: Section 504 limits housing providers from providing, or requiring persons with disabilities to accept, housing that is different or separate, and instead, requires that housing programs be integrated and offer the same benefits as provided to persons without disabilities, with only a few limited exceptions. These exceptions are (1) when it can be demonstrated that such segregation is necessary in order to provide persons with disabilities housing that is as effective as housing that is provided to others, or (2) when authorized by a Federal statute, such as the Housing Opportunities for Persons with AIDS (HOPWA) program, or the Section 811 Supportive Housing Program for Persons With Disabilities. Even under these programs, however, there are suggested options for providing the program in an integrated setting, such as scattered site units.

Question: What must a federally assisted housing provider consider to assure that housing is provided in the most integrated setting appropriate?

Answer: One of the basic tenets of Section 504 is that programs and services be conducted in the most integrated setting appropriate. In terms of housing, this means that the housing provided to disabled individuals is not separate or unnecessarily segregated. In other words, accessible units in a single elevator building should be located throughout the building, and not just on the first floor. In projects

having multiple buildings, accessible units also should be interspersed throughout these buildings, rather than in just one or two buildings. For example, in housing serving elders and persons with disabilities, persons with mental disabilities or any other disabilities may not be segregated on any one wing, floor, or in one building.

Question: What steps must recipients take to ensure that information about their programs and services, and their communications with applicants and program participants, are accessible?

Answer: The Section 504 regulations require recipients to take steps to ensure effective communication with applicants, beneficiaries, and members of the public (24 CFR 8.6). This may include, but is not limited to, conducting outreach in a manner that will reach persons with disabilities, such as by working with State and local organizations that serve or represent persons with disabilities, and ensuring that information about their programs is disseminated in a manner that is accessible to persons with disabilities. For example, special communication systems (e.g., TTY for persons who are hearing or speech impaired, materials on tape or in Braille) can greatly increase the effectiveness of outreach and ongoing communication.

Question: How are recipients supposed to deal with the following fire emergency issues in a high-rise building: (1) If a HUD recipient cannot control where persons with disabilities live, during a fire, how do these tenants escape from a 14th floor unit? (2) If a HUD recipient cannot give out a list of where persons with disabilities live, how do rescue teams know where to go?

Answer: The recipient must permit the applicant to take responsibility for his/her own safety. Thus, an applicant with a disability may choose not to live above the ground floor because of possible inability to escape a fire. On the other hand, the applicant must be allowed to decide whether the opportunity to live in a 14th floor dwelling unit outweighs whatever safety concerns may exist. Every HUD recipient should have an emergency evacuation plan for each of its buildings. In the preparation and updating of this plan, the HUD recipient should inform residents that with the resident's consent, they will provide information to the fire department which identifies residents with special needs in case of an emergency evacuation. Applicants should be given the opportunity to decide whether they want the recipient to provide this information to the fire department. The HUD recipient may share this information with the local fire and police departments provided consent is given.

Program Accessibility

Question: What is meant by program accessibility?

Answer: Program accessibility means that a program, when viewed in its entirety, is readily accessible to and usable by persons with disabilities. It applies under Section 504 to existing housing and non-housing programs. The concept recognizes that there may be some limits to the degree to which existing housing programs can be made accessible. Thus, under the concept of program accessibility, not every single building must be accessible, or every single dwelling unit, but there must be sufficient accessibility so that persons with disabilities have an equal opportunity to participate in and benefit from the program and the same range of choices and amenities as those offered to others. However, recipients must take steps to ensure that their programs and services are readily accessible to and usable by persons with disabilities to the maximum extent feasible, which means the recipient would be required to take all steps that provide the necessary access, but which would not constitute an undue financial and administrative burden, or require a fundamental alteration in the nature of the program. Achievement of program accessibility does not exempt recipients from meeting other requirements of the Section 504 regulations, particularly the broad nondiscrimination provisions, and the requirements that dwelling units be dispersed throughout buildings and sites. Likewise, recipients whose programs involve new

construction or alterations, must meet the Section 504 regulation's requirements for those activities, as well as meeting other applicable requirements in the regulations, such as for dispersion of accessible units throughout buildings and sites.

Question: How can a recipient ensure that its existing housing or non-housing program meets the program accessibility provisions of the Section 504 regulations?

Answer: Here are some examples:

To the maximum extent feasible, distribute accessible units throughout projects and sites, and make them available in a sufficient range of sizes and amenities so as not to limit choice.

Adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with disabilities. Recipients must also take reasonable non-discriminatory steps to maximize use of such units by eligible individuals.

When an accessible unit becomes vacant, before offering the unit to an individual without a disability, offer the unit: first, to a current occupant of the project requiring the unit's accessibility features; and second, to an eligible qualified applicant on the waiting list requiring the accessibility features. When an applicant or tenant requires an accessible feature or policy modification to accommodate a disability, a federally assisted housing provider must provide the feature or policy modification unless doing so would result in a fundamental alteration in the nature of its program or an undue financial and administrative burden. See 24 CFR 8.4, 8.24, and 8.33 for further requirements and guidance.

Recipients must ensure that activities and meetings are conducted in accessible locations.

Question: When a wheelchair accessible unit becomes available should it be offered to the first applicant on the waiting list, or the first person with a disability who requires the accessible features?

Answer: HUD's Section 504 regulations at 24 CFR 8.27 require recipients to take reasonable steps to assure that information on available accessible units reaches otherwise qualified individuals with disabilities who need the features of those units. The regulations provide that whenever a unit that meets the requirements of the **Uniform Federal Accessibility Standards (UFAS)** for a mobility-impaired person becomes available for occupancy, a recipient shall first offer the unit to a qualified individual with disabilities currently residing in a non-accessible unit in the same project or comparable projects, under common control, who requires the accessible features. If there are no such persons currently residing in the recipient's projects, the recipient shall then offer the unit to the next available qualified individual with disabilities on its waiting list, provided that the person requires the accessibility features of the unit. The recipient shall skip over non-disabled applicants on the waiting list to offer the unit to the next qualified individual who requires the unit's accessibility features.

If no qualified applicant with disabilities requires the accessible features of a unit, and the recipient places a family where none of the family members have disabilities in that unit, the recipient may include language in the lease requiring this family to agree to move to a non-accessible unit as soon as one becomes available that otherwise meets the family's needs.

Federally Assisted Non-Housing Facilities

Question: How does Section 504 affect the operation of a non-housing facility or program operated by a recipient of federal financial assistance?

Answer: All of Section 504's nondiscrimination, program accessibility, and reasonable accommodation requirements that apply to housing facilities and programs apply equally to the operation of non-housing facilities or programs. (24 CFR. 8.21)

Question: What requirements does Section 504 impose on new construction or alteration of existing non-housing facilities operated by a recipient of federal financial assistance?

Answer: New non-housing facilities constructed by recipients of federal financial assistance must be designed and constructed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must, to the maximum extent feasible, be made accessible to ensure that such facilities are readily accessible to and usable by persons with disabilities. [24 CFR 8.21(a) and (b).] In addition, each existing non-housing program or facility must be operated so that, when viewed in its entirety, the program or activity is readily accessible to and usable by persons with disabilities. [24 CFR 8.21(c).] For example, a newly constructed day-care center that is provided for use by residents of a housing project, must meet the design and construction requirements of the UFAS. In addition, once the facility is completed, it would, of course, have to be operated in a non-discriminatory manner.

Reasonable Accommodation

Question: What is a reasonable accommodation under Section 504?

Answer: A reasonable accommodation is a change, adaptation or modification to a policy, program, service, or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, or perform a job. Reasonable accommodations may include, for example, those which are necessary in order for the person with a disability to use and enjoy a dwelling, including public and common use spaces. Since persons with disabilities may have special needs due to their disabilities, in some cases, simply treating them exactly the same as others may not ensure that they have an equal opportunity to use and enjoy a dwelling.

In order to show that a requested accommodation may be necessary, there must be an identifiable relationship, or nexus, between the requested accommodation and the individual's disability. As discussed in the next question and answer, what is reasonable must be determined on a case-by-case basis. However, experience has shown that the following examples are often reasonable accommodations.

A federally assisted housing provider has a policy of not providing assigned parking spaces. A tenant with a mobility impairment, who has difficulty walking, is provided a reasonable accommodation by being given an assigned accessible parking space in front of the entrance to his unit.

A federally assisted housing provider has a policy of requiring tenants to come to the rental office to pay their rent. A tenant with a mental disability, who is afraid to leave her unit, is provided a reasonable accommodation by being allowed to mail her rent payment.

A federally assisted housing provider has a no pets policy. A tenant, who uses a wheelchair and has difficulty picking up items off the ground, is allowed to have an assistive animal that fetches things for her as a reasonable accommodation to her disability.

An older tenant has a stroke and begins to use a wheelchair. Her apartment has steps at the entrance and she needs a ramp to enter the unit. Her federally assisted housing provider pays for the construction of a ramp as a reasonable accommodation to the tenant's disability.

Question: How do you determine whether a request for a certain accommodation is reasonable?

Answer: Whether a particular accommodation is reasonable depends on a variety of factors and must be decided on a case-by-case basis. The determination of whether a requested accommodation is reasonable depends on the answers to two questions. First, does the request impose an undue financial and administrative burden on the housing provider? Second, would making the accommodation require a fundamental alteration in the nature of the provider's operations? If the answer to either question is yes, the requested accommodation is not reasonable. However, even where a housing provider is not obligated to provide a particular accommodation because the particular accommodation is not reasonable, the provider is still obligated to provide other requested accommodations that do qualify as reasonable. For example:

As a result of a disability, a tenant is unable to open the dumpster provided by his housing provider for his trash. The tenant requests that the housing provider send a maintenance staff person to collect his trash from his apartment daily. Because the housing development is a small, low-budget operation and the maintenance staff are not on site daily, it is an undue financial and administrative burden for the housing provider to provide daily trash service to the tenant and the housing provider may refuse to provide the requested accommodation. However, the housing provider is obligated to provide the tenant with a requested alternative accommodation - providing either an open trash can or placing a trash can which the tenant can open in an accessible location so that the tenant can dispose of his trash.

Question: What happens if providing a requested accommodation involves some costs on the part of the federally assisted housing provider?

Answer: Section 504 requires that in making an accommodation, a federally assisted housing provider will be required to bear costs which do not amount to an undue financial and administrative burden. In application, this means that such a housing provider may be required to spend money to provide legally required reasonable accommodations.

Question: When and how should an individual request an accommodation?

Answer: An individual with a disability should request an accommodation as soon as it appears that the accommodation is needed. However, requests may be made at any time. For example, requests may be made when an individual is applying for housing, entering into a lease, or occupying housing. Individuals who become disabled during their tenancy may request accommodations, even if they were not disabled when they signed their leases.

Section 504 does not prescribe a uniform procedure for requesting a reasonable accommodation to be used with all housing providers. To request an accommodation, an individual need not mention Section 504 or use the phrase reasonable accommodation. In general, a tenant or prospective tenant should make clear to the housing provider that s/he is requesting that an exception, change, adjustment, or modification be made to a rule, policy, practice, service, building or dwelling unit because s/he has a disability. S/he should explain what type of accommodation is requested and explain the relationship between the requested accommodation and his or her disability. In order to facilitate the process and consideration of the request, tenants or prospective tenants may wish to check with a housing provider in advance to determine whether that housing provider has established any specific procedures regarding requests for reasonable accommodation. Although the Section 504 regulations do not require it, it is usually helpful that the request be made in writing, so there will be documentation that the request was actually made in the event of a later dispute.

Question: Must a federally assisted housing provider adopt formal procedures for processing requests for a reasonable accommodation?

Answer: No. Section 504 does not require that a housing provider adopt any formal procedures that an applicant for housing or a tenant must follow to request a reasonable accommodation. However, having such a procedure will probably aid both the individual in making the request and the housing provider in assessing it and responding to it in a timely fashion.

Question: Is a federally assisted housing provider obligated to provide an accommodation to a tenant or applicant if s/he has not requested it?

Answer: No. Such a housing provider is only obligated to provide an accommodation if s/he is on notice of the request. However, a person with a disability will be considered to have asked for an accommodation if s/he indicates that a change or exception to a policy, practice, or procedure or a modification would assist him or her in making more effective use of his or her housing, even if the words reasonable accommodation are not used as part of the request.

Question: What happens if a federally assisted housing provider fails to act on a request for an accommodation?

Answer: If a housing provider delays responding to a request for an accommodation, after a reasonable amount of time, that delay may be construed as a failure to provide a reasonable accommodation. A tenant or applicant may choose to seek legal assistance or file a complaint with HUD. For further information, please see the section of this Web site that describes the complaint process.

Question: When can a federally assisted housing provider insist on an alternative to the accommodation requested by a tenant?

Answer: If the housing provider believes the requested accommodation is unreasonable, the housing provider may, but is not required to, propose a substitute accommodation. In doing so, the housing provider should give primary consideration to the accommodation requested by the tenant or applicant because the individual with a disability is most familiar with his or her disability and is in the best position to determine what type of aid or service will be effective. If the housing provider suggests an alternative accommodation, the tenant may reject it if s/he feels it does not meet his or her needs.

Physical Accessibility

Question: With respect to Section 504's requirements, what is an accessible unit?

Answer: The Section 504 regulations define an accessible dwelling unit as a unit that is located on an accessible route and can be approached, entered, and used by individuals with physical disabilities. A unit that is on an accessible route and is adaptable and otherwise in compliance with the standards set forth in 24 CFR 8.32 is accessible. In addition, the Section 504 regulations impose specific accessibility requirements for new construction and alteration of housing and non-housing facilities in HUD assisted programs. Section 8.32 of the regulations states that compliance with the appropriate technical criteria in the **Uniform Federal Accessibility Standards (UFAS)**, or a standard that is equivalent to or stricter than the UFAS, is an acceptable means of meeting the technical accessibility requirements in Sections 8.21, 8.22, 8.23 and 8.25 of the Section 504 regulations.

Question: What accessibility requirements must a new federally assisted housing development meet in order to be in compliance with Section 504 requirements?

Answer: For a federally assisted new construction housing project, Section 504 requires 5% of the dwelling units, or at least one unit, whichever is greater, to meet UFAS or a standard that is equivalent

or stricter, as explained in the question and answer above this one, for persons with mobility disabilities. An additional 2% of the dwelling units, or at least one unit, whichever is greater, must be accessible for persons with hearing or visual disabilities.

Question: Are there other accessibility requirements that apply to federally funded new construction?

Answer: If a new construction project has four or more dwelling units and is built for first occupancy after March 13, 1991, it is also subject to the accessibility and adaptability requirements of the FHAct, regardless of whether it receives federal financial assistance. The FHAct's accessibility requirements are not as strict as those for Section 504 and the UFAS, however, the FHAct's accessibility requirements apply to a broader number of dwelling units. Under the FHAct's new construction requirements, if the building has an elevator, all of the dwelling units must meet the FHAct's design and construction requirements; if there is no elevator, all of the ground floor dwelling units must meet the FHAct's requirements. A unit that meets the FHAct's accessibility requirements will be one that does not have as great a degree of accessibility as a UFAS-complying unit but is one that may be easily adapted to be fully accessible without significant costs and the need to do significant structural modifications. More information on the FHAct may be obtained by going to HUD's web page for Persons with Disabilities, and specifically to the statute, the regulations implementing the Act, the Fair Housing Accessibility Guidelines, and the Supplemental Notice with Questions and Answers about the Guidelines. A Fair Housing Act Design Manual is available by calling the HUD Distribution Center at 1-800-767-7468.

Question: If a federally financed housing project is targeted for substantial alteration, what does Section 504 require in terms of accessible units?

Answer: Under Section 504, alterations are substantial if they are undertaken to a project that has 15 or more units and the cost of the alterations is 75% or more of the replacement cost of the completed facility. [See 24 CFR 8.23(a)]. The new construction provisions of 24 CFR 8.22 apply. Section 8.22 requires that a minimum of 5% of the dwelling units, or at least one unit, whichever is greater, shall be made accessible to persons with mobility disabilities and an additional 2% of the dwelling units, or at least one unit, whichever is greater, shall be made accessible to persons with hearing or visual disabilities.

Question: What does Section 504 require when a recipient undertakes alterations of existing housing facilities that do not qualify as substantial alterations?

Answer: If the project involves fewer than 15 units or the cost of alterations is less than 75% of the replacement cost of the completed facility and the recipient has not made 5% of its units in the development accessible to and usable by individuals with disabilities, then the requirements of 24 CFR 8.23(b) - Other Alterations apply. Under this section, alterations to dwelling units shall, to the maximum extent feasible, be made readily accessible to and usable by individuals with disabilities. If alterations to single elements or spaces of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, the entire unit shall be made accessible. Alteration of an entire unit is considered to be when at least all of the following individual elements are replaced:

- renovation of whole kitchens, or at least replacement of kitchen cabinets; and
- renovation of the bathroom, if at least bathtub or shower is replaced or added, or a toilet and flooring is replaces; and
- replacement of entrance door jambs.

When the entire unit is not being altered, 100% of the single elements being altered must be made accessible until 5% of the units in the development are accessible. However, the Department strongly encourages a recipient to make 5% of the units in a development readily accessible to and usable by

individuals with mobility impairments, since that will avoid the necessity of making every element altered accessible, which often may result in having partially accessible units which may be of little or no value for persons with mobility impairments. It is also more likely that the cost of making 5% of the unit's accessible up front will be less than making each and every element altered accessible. Alterations must meet the applicable sections of the UFAS which govern alterations.

Question: When recipient plans alterations, are there areas of a building which are not required to be made accessible under Section 504?

Answer: Mechanical rooms and other spaces that, because of their intended use, will not require accessibility to the public or beneficiaries or result in the employment or residence therein of individuals with physical disabilities are not required to be made accessible in projects undergoing either substantial or other alterations. [see 24 CFR 8.32 (6)]

Other Disability Civil Rights Laws Affecting Federally Assisted Housing Providers

Question: What is the Federal Fair Housing Act and what types of discrimination does it prohibit against persons with disabilities?

Answer: The Federal Fair Housing Act (FHAct), 42 U.S.C. 3601-19, prohibits discrimination in housing practices on the basis of race, color, religion, sex, national origin, familial status, and disability. (FHAct uses the term handicap, however, this document uses the term disability, which has the same legal meaning.) The Act prohibits housing providers from discriminating against persons because of their disability or the disability of anyone associated with them and from treating persons with disabilities less favorably than others because of the disability. The Act also requires housing providers to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person(s) equal opportunity to use and enjoy a dwelling. In addition, the Act requires that housing providers allow tenants to make reasonable modifications to units and common spaces in a dwelling. The Act applies to the vast majority of privately and publicly owned housing including housing subsidized by the federal government or rented through the use of Section 8 voucher assistance. HUD's regulations implementing the disability discrimination prohibitions of the Act may be found at 24 CFR 100.201-205.

Question: Is the Americans with Disabilities Act (ADA) applicable to housing, and if yes, does the ADA supersede Section 504?

Answer: In most cases, the ADA does not apply to residential housing. Title III of the ADA prohibits discrimination against persons with disabilities in commercial facilities and public accommodations. However, Title III of the ADA covers public and common use areas at housing developments when these public areas are, by their nature, open to the general public or when they are made available to the general public. For example, it covers the rental office, since, by its nature, the rental office is open to the general public. In addition, if a day care center, or a community room is made available to the general public, it would be covered by Title III. Title III applies, irrespective of whether the public and common use areas are operated by a federally assisted provider or by a private entity. However, if the community room or day care center were only open to residents of the building, Title III would not apply.

Title II of the ADA covers the activities of public entities (state and local governments). Title II requires public entities to make both new and existing housing facilities accessible to persons with disabilities. Housing covered by Title II of the ADA includes, for example, public housing authorities that meet the ADA definition of public entity, and housing operated by States or units of local government, such as housing on a State university campus.

The ADA, when it is applicable to a residential housing project, does not supersede Section 504, assuming Section 504 is also applicable. Instead, where both laws apply to a housing project, the project must be in compliance with both laws.

Question: What is the Architectural Barriers Act and what does it cover?

Answer: The Architectural Barriers Act of 1968 (ABA) (42 U.S.C. 4151-4157) requires that certain buildings financed with Federal funds must be designed, constructed, or altered in accordance with standards that ensure accessibility for persons with physical disabilities. The ABA requires that covered buildings comply with the Uniform Federal Accessibility Standards (UFAS). The ABA does not cover privately-owned housing, but covers buildings or facilities financed in whole or in part with Federal funds. The ABA applies to public housing (24 CFR 40), and to buildings and facilities constructed with CDBG funds (24 CFR 570.614). In practice, buildings built to meet the requirements of Section 504 and Title II of the ADA will conform to the requirements of the ABA.

Appendix

Appendix A: Sample Section 504 Self-Evaluation Survey

The following questions will help you complete your Self-Evaluation. The questions are organized into five areas: 1) Program Policy and Procedures; 2) Employment; 3) Effective Communication; 4) Notice of Nondiscrimination; and 5) Grievance Procedure. Mark Yes, No, or NA for each question.

Program Policy and Procedures

1. Does your entity have a written policy stating that it does not discriminate against people with disabilities? Yes No NA
2. Does your staff know and understand about your commitment not to discriminate? Yes No NA
3. Do you have a designated coordinator for the Section 504 Rehabilitation and the Americans with Disabilities Act (ADA) compliance requirements? Yes No NA
4. Have you identified the persons with disabilities and other individuals who helped in your Self-Evaluation and is their participation described? Yes No NA
5. Do you have procedures to assure that all programs, services, and activities, to include meetings, hearings, workshops, and conferences, are held in accessible locations? Yes No NA
6. Are the resource manuals that govern your programs, including laws, statutes, rules, policies, manuals, ordinances, and other guidelines available in alternate formats, or do you have the ability to provide alternate formats? Yes No NA
7. Do you have a separate or special program for individuals with disabilities? Yes No NA
8. If yes to #7, do you have written procedures to ensure that these individuals may also participate in programs available to the public? Yes No NA
9. Do you have any policies and procedures, program eligibility and admission requirements, or licensing standards that:
 - a. Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, or service? Yes No NA
 - b. Do you afford an opportunity for participation or benefit equal to that afforded others? Yes No NA
 - c. Do you provide a qualified individual with a disability with an aid, benefit, or service that is as effective in affording equal opportunity to obtain the same result, gain the same benefit, or reach the same level of achievement as that provided to others? Yes No NA
 - d. Do you provide aids, benefits, or services to individuals with disabilities as effective as those provided to others? Yes No NA
 - e. Do you assure that assistance or contract is not provided to a person or entity that discriminates based on disability? Yes No NA
 - f. Do you deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards? Yes No NA

- g. Limit the enjoyment of a qualified individual with a disability any right, privilege, advantage or opportunity enjoyed by other qualified individuals who receive your services? Yes No NA
- 10. Do you have provisions to assure that contractors understand 504/ADA requirements? Yes No NA
- 11. If you use video, audiovisual, and television equipment, do you assure that hearing-impaired persons can benefit from presentations? Yes No NA

Employment

- 1. In the following areas, do you have policies, practices, or procedures that are followed to ensure that there is no discrimination based on disabilities?
 - a. Recruiting advertisements Yes No NA
 - b. Processing of applications Yes No NA
 - c. Employment testing Yes No NA
 - d. Interviewing and orientation Yes No NA
 - e. Promotion, transfer, demotion, lay-off, or reinstatement, including changes in compensation resulting from these actions Yes No NA
 - f. Job assignments Yes No NA
 - g. Job classifications, use of vacation and sick leave, unpaid leave of absence, or compensatory time Yes No NA
 - h. Opportunities for and financial support of training opportunities, conferences, health and insurance benefits, agency-sponsored activities, including recreational or social programs Yes No NA
- 2. Do you have a process to ensure that any employment-related criteria (including minimum qualifications and testing requirements) which would adversely affect the opportunities of individuals with disabilities are related to the job and area business necessity? Yes No NA
- 3. Do you have a process for how your entity responds to a request for an accommodation in testing and interviews? Yes No NA
- 4. Do you have procedures to ensure that nondiscriminatory questions are asked in a hiring interview? Yes No NA
- 5. Do you have a process to determine if an individual with a disability is capable of performing the essential functions of a particular job, with or without a reasonable accommodation? Yes No NA
- 6. Do you have a process to determine whether a request for a reasonable accommodation on the job can be granted or would cause undue hardship? Yes No NA
- 7. Do you have policy and procedures for maintaining the confidentiality of employee medical information, voluntary self-identification of disability, and requests for accommodation? Yes No NA

8. Do you provide training or take other measures to ensure that employees and supervisors do not subject individuals with disabilities to discrimination because of insensitivity or lack of knowledge? Yes No NA
9. If you have automated electronic equipment in the workplace, can persons with disabilities use the equipment? Yes No NA
10. Do you ensure that no pre-employment inquiries are made as to whether an applicant for a position is a person with a disability? Yes No NA

Effective Communication

1. Do you have a policy or procedure to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others? Yes No NA
2. If any written materials are provided by your program or services, do you provide any of the following alternatives?
- a. Audio tape Yes No NA
 - b. Braille Yes No NA
 - c. Reader Yes No NA
 - d. Aide Yes No NA
 - e. Mailed to home Yes No NA
 - f. Large print Yes No NA
 - g. Interpreter Yes No NA
 - h. Other assistance Yes No NA
3. Do you describe the auxiliary aids and services that will be provided to individuals with a disability? Yes No NA
4. Do you describe how an individual with a disability may request assistance and express their preference for auxiliary aids and services? Yes No NA
5. Do you describe how your entity regularly advertises to the public that you will provide auxiliary aids and services for effective communication to participate in your programs and services? Yes No NA
6. Do you describe how your entity will ensure that meetings, hearings, and conferences will be accessible for individuals with communication disabilities? Yes No NA
7. Do you describe how your entity will use TDD (telecommunication device for the deaf) or the state relay system to communicate with those who have impaired hearing or speech, including training of staff? Yes No NA
8. Do you have a 911 emergency service? Yes No NA
9. If yes to #8, is there a TDD connected to this service? Yes No NA
10. If you have another form of emergency service, can people with disabilities access it? Yes No NA

- 11. Are your TDD or relay service phone numbers printed on agency brochures, notices, and letterhead, listed in telephone directories? Yes No NA
- 12. Does your entity have an 800 number? Yes No NA
- 13. If yes to #12, do you describe how the entity makes the 800-number usable by persons with hearing impairments? Yes No NA
- 14. Do you let the public use your telephone? Yes No NA
- 15. If yes to #14, is there at least one designated phone that is hearing-aid compatible? Yes No NA
- 16. If your entity determines that equally effective communication cannot be provided, do you have the following:
 - a. A statement included in your Self-Evaluation from the head of your agency or designee? Yes No NA
 - b. Reasons why the service, program, or activity would be fundamentally altered or would result in undue financial and administrative burdens? Yes No NA
 - c. A description of what other action will be taken to provide the benefits or services to the maximum extent possible? Yes No NA

Notice of Nondiscrimination

- 1. Does your Self-Evaluation include a copy of your Notice of Nondiscrimination? Yes No NA
- 2. Does your notice include the following information:
 - a. A statement that your entity does not discriminate under Section 504 or the ADA? Yes No NA
 - b. Your 504/ADA Coordinator's name, address, telephone number, and office hours? Yes No NA
 - c. A Statement that asks individuals to give at least three to five day's advance notice to request auxiliary aids or other services? Yes No NA
 - d. A statement notifying individuals about the availability of alternative formats? Yes No NA
 - e. A statement that your city/county has a grievance procedure available to resolve complaints? Yes No NA
- 3. Do your written materials contain a notice that your city/county complies with Section 504/ADA and will offer accommodations for individuals with disabilities? Yes No NA
- 4. Are you documenting methods on how you will make your notice available to the public on an ongoing basis? Yes No NA
- 5. Are you publishing your policy of non-discrimination in the newspaper once a year? Yes No NA

Grievance Procedure

- 1. Does your Self-Evaluation include a copy of your grievance procedure? Yes No NA

2. Does your plan include action steps to notify the public on an ongoing basis about your grievance procedure? Yes No NA
3. Do you have written procedures on what to do if your city/county cannot accommodate a person with a disability? Yes No NA
4. Does your grievance procedure include a statement allowing an individual to submit a grievance in alternative formats? Yes No NA
5. Does your grievance procedure include a time limit to file a grievance procedure? Yes No NA
6. Does your grievance procedure inform individuals of their right to file a complaint with a state or federal agency including the agency's addresses? Yes No NA

Appendix B: Sample Section 504 / ADA Grievance Procedure

The following grievance procedure is established to meet the requirements of Section 504 of the Rehabilitation Act (as amended) and the Americans with Disabilities Act of 1990 (ADA).

According to these laws, *(Name of the City/County)* certifies that all citizens shall have the right to submit a grievance on the basis of disability in policies or practices regarding employment, services, activities, facilities, or benefits provided by *(Name of the City/County)*.

When filing a grievance, citizens must provide detailed information to allow an investigation, including the date, location and description of the problem. The grievance must be in writing and must include the name, address, and telephone number of the complainant. ***Upon request, alternative means of filing complaints, such as personal interviews or a tape recording, will be made available for individuals with disabilities upon request.*** The complaint should be submitted by the complainant or his/her designee as soon as possible, but no later than 90 days after the alleged violation. Complaints must be signed and sent to:

504/ADA Coordinator's Name: _____

Title: _____

Address: _____

Phone Number: _____ TDD: _____ Voice: _____

Within 15 calendar days after receiving the complaint, *(Name of 504/ADA Coordinator)* will meet with the complainant to discuss the complaint and possible resolution. Within 15 calendar days after the meeting *(Name of 504/ADA Coordinator)* will respond in writing. Where appropriate, the response shall be in a format accessible to the complainant (such as large print or audio tape). The response will explain the position of *(Name of City/County)* and offer options for resolving the complaint.

If the response by *(Name of 504/ADA Coordinator)* does not satisfactorily resolve the issue, the complainant or his/her designee may appeal the decision of the 504/ADA Coordinator. Appeals must be made within 15 calendar days after receipt of the response. Appeals must be directed to the chief elected official or his or her designee.

Within 15 calendar days after receiving the appeal, the chief elected official or his or her designee will meet with the complainant to discuss the complaint and to discuss possible resolutions. Within 15 calendar days after the meeting, the chief elected official or his or her designee will provide a response in writing. Where appropriate, the response shall be in a format accessible to the complainant. The response shall be accompanied by a final resolution of the complaint. The 504/ADA Coordinator shall maintain the files and records of *(Name of the City/County)* pertaining to the complaints filed for a period of three years after the grant is closed out.

Appendix C: Sample Policy Notice of Nondiscrimination on the Basis of Disability

As required by Section 504 of the Rehabilitation Act (as amended) and the Americans with Disabilities Act (ADA), *Name of Entity* has adopted by resolution a policy regarding “Nondiscrimination on the Basis of Disability.”

Name of Entity does not discriminate on the basis of disability in the admission to, access to, or operations of programs, services or activities.

Qualified individuals who need accessible communication aids and services or other accommodations to participate in programs and activities are invited to make your needs and preferences known to the 504/ADA coordinator. Please give us at least three to five day’s advance notice so we can adequately meet your needs.

An internal grievance procedure is available to resolve complaints. Questions, concerns, or requests for additional information regarding 504/ADA should be forwarded to:

504/ADA Coordinator’s Name: _____

Title: _____

Address: _____

Phone Number: _____ TDD: _____

Days and Hours Available: _____

Upon request, this notice and other materials may be made available in alternative formats (for example, large print or audio tape) from the 504/ADA coordinator.

Policy Regarding Nondiscrimination on the Basis of Disability

A resolution of the City/County of _____, Wyoming adopting a policy of nondiscrimination on the basis of disability.

Whereas, the Congress of the United States has passed Section 504 of the Rehabilitation Act of 1973, which requires that “no otherwise qualified individual with a disability shall, solely on the basis of his or her disability, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program, services, or activities receiving federal assistance” and

Whereas, the City/County of _____ has applied for/received Federal funds and is required to comply with Section 504 of the Rehabilitation Act of 1973; and

Whereas, the failure to comply with the terms and conditions of Section 504 of the Rehabilitation Act may cause the City/County to lose its grant or eligibility for future grants;

Now, therefore, be it resolved by the Mayor/Commissioner and the Council/Commission of the City/County of _____, Wyoming the following:

Section I. It is the policy of the City/County that all programs and activities shall be accessible to, and usable by, qualified persons with disabilities, in accordance with Section 504 and the Americans with Disabilities Act (ADA).

Section II. That the City/County shall conduct a Self-Evaluation, with the assistance of a review committee involving individuals with disabilities, of its programs, policies, procedures, and facilities to determine those areas where discrimination may occur.

Section III. The City/County shall, upon completion of the Self-Evaluation plan, make revisions, modifications, or other changes so as to fully comply with the letter and intent of Section 504 and the ADA.

Section IV. Further, the City/County shall, where building modifications are required, develop and implement a Transition Plan for eliminating structural barriers in a timely manner in accordance with Section 504 and the ADA.

Citizens may contact (designated employee) at (address), (telephone number) for assistance, or to answer questions regarding this policy during the hours of _____.

Passed by City//County of _____, Wyoming.

Signed by _____ Title _____

Date _____ Attest _____

(Other entities should change the wording as appropriate to indicate who they are and how the policy was developed)

Appendix D: Sample Section 504 Transition Plan Outline

ADA/504 Transition Plan Outline	
Name of Person Completing this Form:	
Title:	Date:
Name and Address of Facility:	
Necessary structural changes (list feature(s) and how each is inaccessible):	
Applicable UFAS or ADAAG standard:	
Type of action to be taken: If no action is anticipated because it is an "Undue Burden" or is not "Readily Achievable", provide an explanation for the determination.	
Person Responsible for Overseeing Action:	
Project Date to Initiate Action:	
Project Date to Complete Action:	
Projected Cost to Complete Project:	

Appendix E: Sample Facility Review Form

A copy of the Uniform Federal Accessibility Standards Checklist can be found at:

https://www.hud.gov/program_offices/fair_housing_equal_opp/disabilities/sect504docs

Appendix F: Steps of Reasonable Accommodation Process

These steps outline the reasonable accommodation process which consists of: (1) determining a job's essential functions; (2) consulting with the individual with a disability to determine his or her abilities and limitations; (3) identifying possible accommodations in consultation with the individual; and (4) selecting the best accommodation. These steps include points made in the EEOC's discussion of the process and provide additional points to consider trying to identify a reasonable accommodation.

1. An individual requests a reasonable accommodation
2. The employer consults with the supervisor to gather relevant information and to assess whether a particular accommodation will be effective.
3. The employer and individual must communicate with each other about the request, the precise nature of the problem that is generating the request, how a disability is prompting a need for an accommodation, and alternative accommodations that may be effective in meeting the individual's needs
4. If a requestor's disability and/or need for accommodation are not obvious or already known, EEOC is entitled to ask for and receive medical information showing that the requestor has a covered disability that requires accommodation
5. Under the Rehabilitation Act, medical information obtained in connection with the reasonable accommodation process must be kept confidential
6. The time frame for processing a request (including providing accommodation, if approved) is as soon as possible but no later than **30 business days from the date the request is made**
7. All decisions regarding a request for reasonable accommodation will be communicated to an applicant or employee by use of the "Resolution of Request" form as well as orally
8. An individual dissatisfied with the resolution of a reasonable accommodation request can ask the Director of the Office of Human Resources (OHR) to reconsider that decision. An individual must request reconsideration within **10 business days** of receiving the "Resolution" form
9. In order for EEOC to ensure compliance with these Procedures and the Rehabilitation Act, the DPM will complete the "Reasonable Accommodation Information Reporting" form **within 5 business days** of issuing the decision
10. These Procedures do not limit or supplant statutory and collective bargaining protections for persons with disabilities and the remedies they provide for the denial of requests for reasonable accommodation.
11. Any employee wanting further information concerning these Procedures may contact the Disability Program Manager (DPM) via e-mail at DisabilityProgramManager. Applicants may contact the DPM at DisabilityProgramManager@eeoc.gov

Appendix G: Sample Reasonable Accommodation Checklist for Workstations and Worksites

Accommodations are sometimes referred to as “productivity enhancers”. Reasonable accommodations should not be viewed as “special treatment” and they often benefit all employees. For example, facility enhancements such as ramps, accessible restrooms, and ergonomic workstations benefit more than just employees with disabilities. Examples of reasonable accommodations include making existing facilities accessible; job restructuring; part-time or modified work schedules; acquiring or modifying equipment; changing tests, training materials, or policies; and providing qualified readers or interpreters. Here are some more examples. Many job accommodations cost very little and often involve minor changes to a work environment, schedule or work-related technologies:

- Physical changes
 - Installing a ramp or modifying a rest room
 - Modifying the layout of a workspace
- Accessible and assistive technologies
 - Ensuring computer software is accessible
 - Providing screen reader software
 - Using videophones to facilitate communications with colleagues who are deaf
- Accessible communications
 - Providing sign language interpreters or closed captioning at meetings and events
 - Making materials available in Braille or large print
- Policy enhancements
 - Modifying a policy to allow a service animal in a business setting
 - Adjusting work schedules so employees with chronic medical conditions can go to medical appointments and complete their work at alternate times or locations

These are just a few examples. Contact the [Job Accommodation Network \(JAN\)](#), an ODEP-funded technical assistance center, providing free, expert, and confidential guidance on workplace accommodations.

Appendix H: Examples of Nonstructural Ways to Make Programs Accessible

Visual Impairments

- Use large-letter signs
- Allow an individual with a visual impairment to bring a guide dog into public accommodation
- Use “talking” calculators or computers
- Raise low-hanging signs or lights
- Allow program participants to present state identification cards for check verification purposes
- Increase frequency of existing oral announcements
- Make optical magnifiers available
- Install entrance indicators such as strips of textured material near doorways, elevators, etc.
- Tape texts/menus
- Have servers or sales clerks read menus or price tags

Hearing Impairments

- Provide written notice of oral announcements
- Encourage employees without speech impairments to speak clearly and at an audible level (without shouting) and pace (not rapid-fire), and instruct employees to repeat themselves, when necessary, in a professional manner
- Provide small sound amplifiers for telephones
- Purchase teletypewriters
- Provide paper and pencils at sales counters
- Improve sight lines by replacing oval tables with round tables
- Improve acoustics by lowering volume of background music, but raising volume for announcements

Mental/Cognitive Impairments

- Use large-letter signs
- Use simple words or illustrations on signs
- Encourage employees to repeat themselves, when necessary for them to be understood, in a professional manner
- Color-code materials

Mobility Impairments

- Remove displays or other objects in path of travel
- Install a paper cup dispenser at a water fountain
- Allow customers to present state identification cards for check verification purposes
- Provide alternative services if barrier removal is not readily achievable

Tactile Impairments

- Use lazy susans, which allow people to rotate equipment without reaching
- Buy automatic electric staplers
- Attach items or equipment with Velcro

Appendix I: Sample Section 504 Compliance Schedule

Grantee Name:

Grant Number(s):

Person Preparing for/Title/Phone/Email:

Section 504 Contact Person(s)/Title/Phone/Email:

Action	Initial Completion Date (Month/Year)	Last Update (Month/Year)
Identify advocacy groups, persons, agencies, which will assist in the self-evaluation		
Preparation of a self-evaluation		
Establishment of effective communication methods and procedures		
Establishment of nondiscriminatory employment practices		
Development of transition plan and reasonable accommodations needed		
Adoption of Self-Evaluation and Transition Plan by Local Government (Attach copy of resolution if plans have previously been adopted)		
Implementation of Transition Plan Complete		
Publication of Notice of Nondiscrimination (notice must be published at least once during the grant period)		
Designation of Section 504 contact person		
Development and adoption of grievance procedure for Section 504		

Certification:

I, (Insert Name and Title of Chief Elected Official), hereby certify that the dates above represent a true and accurate indication of when Section 504 compliance steps, outlined above, have been/will be completed by (Insert Name of Local Government).

Signature

Date

Attest

Appendix J: Sample Section 504 Management Resources Checklist

Resource(s)	Notes
Section 504 Regulations	
Uniform Federal Accessibility (UFAS)	
Telecommunications Device for the Deaf (TDD)	
Directory of disability organizations	
List of local sign-language interpreters	
List of local barrier-free meeting places	
List of organizations providing specialized transportation	

Appendix K: Sample Checklist for Complying with Section 504 / ADA Administrative Requirements

The administrative tasks associated with Section 504 should have been completed soon after the various federal funding agencies issued their Section 504 regulations in the late 1970s and early 1980s. New recipients and those that have not complied fully should note that these requirements are still relevant, even though the initial effective dates are long past. Similar requirements were required for local governments under the American with Disabilities Act (ADA) of 1990. This form can be used to track compliance with ADA requirements as well. This could be attached as the top sheet of a recipient's compliance package, including self-evaluation, transition plan and other related materials.

Action	Date by Which Action Should be Completed	Yes	No	Corrective Action
Initial Notification	Initial notification that the recipient does not discriminate based on disability was published.			
Designation of Responsible Employee	A Section 504/ADA coordinator has been designated.			
Adoption of Grievance Procedure	A Grievance procedure that provides for the submission and resolution of complaints has been established.			
Self-Evaluation	A self-evaluation of programs and activities has been completed.			
Nonstructural Changes	All nonstructural changes identified in the self-evaluation have been completed.			
Transition Plan	A Transition plan outlining necessary structural changes has been completed.			
Public Notification	Recipients have taken continuing steps to notify beneficiaries and employees that they do not discriminate based on disability. All such notices are in alternative formats such as large print, Braille and audiotapes.			
Structural Changes	Structural changes identified in the transition plan have been completed.			
Retention of Files	Recipients maintained on file for five years: (1) a list of persons consulted; (2) a description of policies and practices examined; and (3) descriptions of modifications made. The self-evaluation and transition plan can include such information.			

Appendix L: Sample Grantee Self-Monitoring Questions

1. Has the grantee developed a written Self-Evaluation to assess its current efforts to comply with all applicable Section 504 requirements?
 Yes No
2. Has the Recipient adopted an ordinance or resolution that protects its applicants and employees and the applicants and employees of its contractors from discrimination?
 Yes No
3. Is there a standard process or an employee grievance procedure which discusses how complaints based on handicap accessibility are handled and documented?
 Yes No
4. Does the Recipient's most recent job announcement include a non-discrimination statement or EEO logo?
 Yes No
5. Have any discrimination complaints been filed?
 Yes No
6. Have discrimination complaints been reconciled and resolved?
 Yes No
7. Does the grantee have access to a telecommunications device for the deaf (TDD) when communicating with project beneficiaries and/or members of the general public with hearing impairments, or utilize the Wyoming Relay Services if an explanation of its purpose and the telephone number were published / posted in all public notices in conjunction with the project?
 Yes No
8. Do the grantee's personnel policies and procedures prohibit discrimination against otherwise qualified handicapped individual (not a separate policy)?
 Yes No
9. Does the grantee presently employ any handicapped individuals?
 Yes No
If Yes, how many and in what positions: _____
10. Are the grantee's public buildings and facilities (parking areas, entrances, interior doorways, bathroom fixtures, water fountains, elevators, etc.) easily accessible to the handicapped?
 Yes No
11. If not, does the recipient government have a written transition plan outlining a schedule of corrective actions that will be undertaken to make all its buildings and facilities accessible to the handicapped?
 Yes No
12. Does the transition plan specify a schedule to achieve compliance?
 Yes No
13. Are parking facilities, building entrances, routes, meeting rooms, program offices, restrooms, doorways, flood space, drinking fountains, public telephones, and common use areas accessible?
 Yes No
14. Have the special needs of the handicapped been taken into consideration in the design and construction of CDBG financed improvements?

Yes No

If not, explain:

15. For recipient governments with 15 or more employees (full or part-time) have the following actions been undertaken to meet Section 504 requirements:

a. Designated a person to coordinate local government compliance with Section 504 requirements?

Yes No

b. Adopted a grievance procedure to provide for the prompt and equitable resolution of any complaints made by handicapped individuals concerning compliance with Section 504 mandates?

Yes No

c. Notified beneficiaries, employees and the general public (posted notices, newspaper ads, office memoranda, etc.) that the grantee does not discriminate against the handicapped in its federally assisted programs and activities?

Yes No

If yes, explain: _____

16. Does the grantee have a valid reason for any deficiencies observed with respect to compliance with Section 504 handicapped requirements?

Yes No

17. Explain any finding(s) or concern(s) and specify corrective actions the grantee must take to resolve issue(s). Describe technical assistance distributed and obtained.

Yes No

Appendix M: HUD Form 903 for Complaints

HUD Form 903 can be found at:

<https://portalapps.hud.gov/FHEO903/Form903/Form903Start.action>