



Housing Assistance Council

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March 24, 2018

Office of the Assistant Secretary for Civil Rights
U.S. Department of Agriculture
Jamie L. Whitten Building
Room 507-W
1400 Independence Ave., SW
Washington, DC 20250

Re: Improving Civil Rights
FR Doc. 2018-05051
Regulations.gov Docket ID USDA_FRDOC_0001-1808

Dear Madam or Sir:

The Housing Assistance Council (HAC) appreciates the opportunity to comment on the proposed changes to civil rights functions at the U.S. Department of Agriculture (USDA). A nonprofit organization, HAC has been helping local organizations build affordable homes in rural America since 1971. USDA Rural Development (and its predecessor agency) has been a steadfast partner throughout HAC's history.

HAC's comments encourage USDA to stay focused on protecting the civil rights of its customers and staff, and providing information about how the proposed changes were identified as necessary. It is not clear from the Notice that the proposed changes would enable USDA to continue to improve its civil rights compliance or generate efficiencies in operations.

Timing

HAC notes that Naomi Earp was nominated to be USDA Assistant Secretary for Civil Rights on February 13, 2018. Yet, the Senate Agriculture Committee has not scheduled a hearing on her nomination. This request for comments was published on March 13 with comments due on March 25, a Sunday less than two weeks after publication. HAC is not aware of any reason for this realignment to take place without Ms. Earp's involvement, or for the public comment period to be curtailed, and USDA's notice provides none.

Specific Concerns

In addition to its desire to better understand the reasoning for the proposed changes and their timing, HAC notes concerns about some specific parts of the proposal.

- The notice proposes to eliminate a number of positions without explaining why the department's total civil rights resources exceed its need. To the contrary, it indicates that need has not yet been determined: it asks USDA's mission areas to provide a list of all civil rights positions on-board in order to determine staffing needs. HAC suggests that needs should be determined first, before

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eliminations are proposed. Also, existing positions are not necessarily proof of the level of need. The department should instead consider backlogs in complaints and other work, demands by stakeholders, and the like.

- USDA proposes to eliminate the Policy Division of the Office of the Assistant Secretary for Civil Rights (OASCR) because it “is no longer necessary in an era of decreased regulations.” HAC sincerely hopes that the department does not intend to decrease regulations related to compliance with civil rights statutes. Not only is USDA legally obligated to comply with civil rights laws, but it also has a moral obligation to address past wrongs. Even if the department may have more civil rights regulations than necessary. Yet, that determination has not yet been made, nor have unnecessary regulations been changed. According to the Department’s logic, elimination of the Policy Division at this time would be premature.
- According to the notice, OASCR’s Compliance Division will be responsible for “compliance reporting to oversight entities” – a necessary but not proactive function – and “limited regulatory and policy review.” Coupled with elimination of the Policy Division, describing OASCR’s review of regulations and policy as “limited” raises concerns. Again, given the department’s civil rights history, active vigilance is needed.
- USDA proposes to eliminate the Deputy Assistant Secretary position and assign its functions to the Associate Assistant Secretary. There is no explanation as to whether these positions were redundant or how one person can effectively undertake both jobs.
- OASCR would be put in charge of all departmental civil rights activities, centralizing control under a political appointee. Compliance with civil rights laws, however, should not be politicized.

HAC requests that USDA take additional time to consider changes in its civil rights staffing and functions. This could allow Ms. Earp to be involved after her confirmation, could allow USDA to collect information about its actual need for civil rights staff throughout the department, and would enable USDA to explain its reasoning to concerned stakeholders.

Thank you for considering these comments.

Sincerely,

/s/ David Lipsetz

David Lipsetz
Executive Director

DL/lrs