

V. List all civil rights compliance reviews of the applicant/recipient conducted under federal nondiscrimination laws by any federal agency within the last two years and enclose a copy of the review and any decisions, orders, or agreements based on the review. Please describe any corrective action taken. (40 C.F.R. § 7.80(c)(3))

See Attached

**United States Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity
Region VI**

**Performance Assessment Report
(Reassessment #2/Certification)**

FHAP Agency: City of Austin, Office of Civil Rights
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Assessment Purpose: To determine whether the City of Austin Office of Civil Rights (COAOCR) engages in timely, comprehensive, and thorough fair housing complaint investigation, conciliation, and enforcement activities, and therefore warrants continued certification as a participant in the Fair Housing Assistance Program. This determination is based on the COAOCR's compliance with the performance standards and requirements set forth in regulations implementing the Fair Housing Assistance Program, at 24 CFR Part 115 and the Criteria for Processing (CFP).

Performance Period: July 1, 2021 – June 30, 2022

Date of Assessment: November 28-30, 2022

On-Site X Remote _____

HUD Reviewer: Bonita Howard, Director/GTR, Program Compliance

Recommended for certification or recertification: Yes X No _____

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Introduction

On September 16, 2015, Region VI conducted an on-site performance assessment and determined COAOCR had not met Performance Standard #1. The Agency required the Agency to submit to HUD a Plan of Action no later than 30 days from the date of the Letter of Finding on how they will achieve compliance. Specifically, the Agency was required to prioritize ten (10) critically aged cases (277-1054 days old). If the Agency failed to come into compliance by the next performance assessment, the Agency may be offered a Performance Improvement Plan (PIP).

On September 23, 2016, Region VI issued a Letter of Findings to COAOCR with required corrective actions and timelines to complete the corrective actions, including to prioritize ten (10) critically aged cases (277-1054 days old). Director Gail McCant explained the difficulty of obtaining an ALJ for these cases; therefore, these cases remained open with no activity. Additionally, the Agency was required to be in compliance with Performance Standard #1 by the end of the 2017 assessment period.

On August 20-23, 2018, Region VI conducted an on-site performance assessment. Region VI determined COAOCR had not met Performance Standards #1, 4 and 5, which related to the Agency's lack of thoroughness in its investigative, case processing and enforcement activities and critically aged cases. The Department noted little to no activity on most of the cases discussed during the 2016 on-site performance assessment. The Director explained some of the cases are complex design and construction cases. Additionally, the Director explained the difficulty of obtaining an ALJ for these cases; therefore, the cases continued to remain open with no activity.

On August 27, 2018, the Department issued a Letter of Findings to COAOCR with required corrective actions and timelines to complete the corrective actions including to prioritize the critically aged cases and to obtain an ALJ for the cases.

Based on the concerns noted in the PAR, the FHAP Division was not able to forward a recertification recommendation until the corrective actions put forth by Region VI were implemented and determined to be effective in substantially improving COAOCR's performance. Additionally, Region VI was required to reassess COAOCR's performance by conducting a complete onsite performance assessment.

On March 2-4, 2020, Region VI conducted an on-site reassessment of the Agency and determined COAOCR had not met Performance Standards #1, 5 and Data Support Systems Requirements. Additionally, the Agency failed to comply with the requirements of the previous LOFs, specifically, the corrective actions for Performance Standards #1 and 5. Further, the review of the 26 conciliation agreements closed during this performance period did not contain a monitoring or record-keeping provision.

Performance Standard #1: The Agency was required to submit a Plan of Action, not later than 30 days from the date of the LOF, on how they would achieve compliance. The Agency failed to comply with this requirement. The Agency continued to have causes cases opened since 2011 in

its inventory and failed to obtain an ALJ for these cases; therefore, the cases continued to remain open with no activity.

Performance Standard #4, the COAOCR was required to adopt and implement procedures designed to address improving practical or quality monitoring requirements to ensure compliance with the terms of the conciliation agreements to correct the concerns noted in performance standard #4. While required to submit its conciliation agreements compliance monitoring procedures to Region VI by November 3, 2018, for FHEO's review and approval; the Agency did not submit the procedures until December 6, 2018.

Performance Standard #5, the COAOCR was required to adopt and implement conciliation procedures designed to address improving the quality of conciliations to ensure the Agency consistently and affirmatively seek and obtain the type of relief designed to prevent recurrences of discriminatory practices. The Agency was required to submit its procedures to HUD by November 3, 2018, for FHEO's review and approval. As of this date, the Agency failed to comply with this requirement.

During the performance period, the assigned GTR-M provided technical assistance regarding public interest, conducting investigations, interviews and HEMS entries. The GTR also provided examples of public interest and SOPs. The GTM helped with general questions.

Due to their performance, on January 21, 2021, the Agency was offered a Performance Improvement Plan (PIP). The PIP outlined the deficiencies, corrective actions needed, timelines for implementation and completion. The Agency accepted the PIP on March 1, 2021. The PIP related to the performance assessment period from July 1, 2018 through June 30, 2019. Due to unforeseen circumstances, the Agency was not able to complete the requirements of the PIP.

Due to their performance, the Agency has not been recertified since 2014. The Federal Fair Housing Act, at Section 810(f)(5) requires that "not less frequently than every five years, the Secretary shall determine whether each agency certified under this subsection continues to qualify for certification." The implementation regulation at 24 C.F.R. Section 115.208(a), states "if the Assistant Secretary affirmatively concludes that the agency's law and performance complied with the requires of this part in each of the five years of certification, the Assistant Secretary may renew the certification of the agency."

On or about February 16, 2021, Carol Johnson was selected as the Director of the Office of Civil Rights. Gail McCant assumed the manager position. On or about March 16, 2022, McCant resigned from the Agency.

Tamela Saldana is currently serving as the Acting Director and has been since July 5, 2022. Beverley Davis is currently serving as the Interim Civil Rights Manager since March 25, 2022.

Since the date of the Agency's last review, the Ordinance was amended to establish the Office of Civil Rights. The Agency did not report this amendment to the Department until the on-site performance assessment. The amendment is effective December 2, 2021. Essentially, the Agency was previously assigned to the Office of Human Resources, but the Agency is now under the

Office of Civil Rights Department. The GTR's review of the Amendment did not yield any concerns regarding the organizational structure. The Agency was reminded of its obligation to notify the FHAP Division and Region VI of any changes to its Ordinance during the planning phase. [Exhibit 3]

I. Organizational Structure and Staffing

The City of Austin Office of Civil Rights is a department within the City of Austin that was created to enforce Civil Rights and to provide leadership in new Civil Rights policy and Initiatives. The Agency previously reported to the Assistant Director of Human Resources and the Director of Human Resources within the Financial and Administrative Services Section of the city's organizational chart. [Exhibit 2]

The agency reported the COAOCR has not undergone organizational changes; however, the Agency is now under the Office of Civil Rights Department. The Agency reported personnel changes during the performance period. During the performance period, the following were the COAOCR's staff:

Name	Title/Position	Race	Gender	Date of Hire
Carol Johnson	Director	African American	Female	February 16, 2021
Tamela Saldana	Acting Director	African American	Female	July 5, 2022
Beverly Davis	Interim Civil Rights Administrator (Director)	African American	Female	March 25, 2022
Enrique Serrano III	Sr. Investigator/Enforcement Manager	Hispanic	Male	June 1, 2007
Juanita Martinez	Investigator	Hispanic	Female	September 10, 2012
Rikki Pfouts	Investigator	White	Female	October 14, 2019

***Employees who were employed during the performance period but were no longer with the Agency at the time of Assessment.**

Name	Position/Title	Race	Gender	Departure Date & Reason
Gail McCant	Manager	African American	Female	Resigned March 16, 2022
Jennifer Harless	Investigator	White	Female	Resigned October 4, 2022

Based on performance and workload, the staffing level is not adequate to produce quality complaint processing. The Agency has three (3) investigators. Two (2) investigators are assigned over 10 cases each and one (1) is assigned over 13 cases. Region VI recommends the hiring of additional staff, including a dedicated intake analyst.

Demographics of Austin:

Population – 964,177; White – 78.6%; African American – 15.7%. American Indian/Alaska Native – 1.1%; Asian – 1.8 %; Hispanic/Latino – 8.3%

II. Performance Standards

A. Performance Standard #1: Commence complaint proceedings, carry forward such proceedings, complete investigations, issue determinations, and make final administrative dispositions on time. [24 C.F.R. § 115.206(e)(1)]

The agency is consistent in initiating investigations within 30 days. According to the Agency, every attempt is made to ensure that all investigative actions are completed within 100 days of receipt of notification of the fair housing complaint. If the investigative actions are not completed within 100 days, 100-day letters outlining the reason(s) for the delay are sent.

In most cases, final administrative dispositions are made in one year. If a case goes beyond one year, all parties are notified and provided an explanation for the delay.

Final Investigative Reports are prepared for all complaints and are included in the case files as well as uploaded into the HEMS system.

With respect to cases reviewed:

Based on comparative data from the past four (4) case processing periods, the COAOCR's completed case closures continue to fluctuate.

- July 1, 2016 – June 30, 2017, 74 completed cases with an average processing time of 180 days
- July 1, 2017 – June 30, 2018, 53 completed cases with an average processing time of 152 days
- July 1, 2018 – June 30, 2019, 58 completed cases with an average processing time of 328 days
- July 1, 2019 – June 30, 2020, 33 completed cases with an average processing time of 169 days
- July 1, 2021 – June 30, 2022, 49 completed cases with an average processing time of 158 days

Compared to the FY2020 performance year, in which the COAOCR closed 33 cases, COAOCR had an increase in cases processed during this performance period. During this performance period, the Agency processed 49 cases.

Per Microstrategy, the COAOCR closed 49 cases during the performance period. The breakdown of these cases is as follows:

- 37 were closed as No Cause

- Eight (8) were closed as Conciliation
- Three (3) were closed as Withdrawal with Resolution
- One (1) was closed as Failure to Cooperate

Out of the 49 cases closed during this performance period, 12 or 24.49% were closed within the 100-day timeframe. The COAOCR's average case processing time during this performance period was 158 days.

Currently, the Agency has 21 open cases. 13 (61.9%) are over 100 days, 2 (9.5%) are over 300 days and 5 are 1668 – 4246 days.

The Agency had two (2) cases processed as non-payment:

- 06-21-1396-8, This case was based on National Origin. However, the Agency acknowledged they did not address this basis in the determination.
- 06-21-2006-8, The Agency acknowledges not all allegations were investigated and states moving forward they will ensure that investigations cover all allegations.

Aged Cases

At the time of review, the COAOCR had the following aged cases pending resolution. The Agency provided the following information/status of each case:

Case Name	HUD Case No.	Status	Case Age
Exemption 6: PII v Spring Austin BOD	Exemption 6: PII	Closed NC 02/17/2023	458
Exemption 6: PII v Courtyard HOA	Exemption 6: PII	Open: Conciliation scheduled for 2/16/23; will proceed with LOD if conciliation fails; estimated completion day 02/28/23	294
Exemption 6: PII v FBZ Town Lake Circle LP, et al.	Exemption 6: PII	Open: estimated completion by 03/15/23	267
Exemption 6: PII v. Walnut Equity LLC et al	Exemption 6: PII	Open: estimated completion by 03/15/23	232
Exemption 6: PII v. CWS Station LLC & et al	Exemption 6: PII	Open: estimated completion by 03/03/23	360
Exemption 6: PII V. OPPM Enterprises LLC	Exemption 6: PII	Open: estimated completion by 03/03/23	304
Exemption 6: PII v. TCHFC West Gate Land LLC, et al	Exemption 6: PII	Open: estimated completion by 03/03/23	256
ATC v. Sonterra Apartments Homes	Exemption 6: PII	Open	3489
Exemption 6: PII v. Michael Jennings	Exemption 6: PII	Open	4246
Austin Tenant's Council v. Verandah at Grandview Hills	Exemption 6: PII	Open – Caused in 2018; however, the CAO recommends no cause.	3825

Austin Tenant's Council v. Lodge at Stone Oak Ranch	Exemption 6: PII	Open – Caused in 2018; however, the CAO recommends no cause.	3489
Exemption 6: PII V Austin Paddock Homeowners' Association	Exemption 6: PII	Open	1668

Included in the 49 cases that were outside the 100-day timeframe were the following cases, which were part of the COAOCR's most aged cases and discussed during the 2016-2020 on-site performance assessment reviews ("PAR") and noted in the Letter of Findings ("LOF") and/or Performance Improvement Plan (PIP).

Case Name	HUD Case No.	Status	Case Age
ATC v. Sonterra Apartments Homes	Exemption 6: PII	Open conciliation efforts	3489
*Austin Tenant's Council v. The Kohler Family	Exemption 6: PII	Closed FHAP Judicial Dismissal 06/04/2021	3566
*Exemption 6: PII v. Exemption 6: PII	Exemption 6: PII	Closed FHAP Judicial Dismissal 06/04/2021	3684
Exemption 6: PII v. Exemption 6: PII	Exemption 6: PII	Open	4246
*Exemption 6: PII v. Exemption 6: PII	Exemption 6: PII	Closed FHAP Judicial Dismissal 06/04/2021	2745
Austin Tenant's Council v. Verandah at Grandview Hills	Exemption 6: PII	Open – Caused in 2018; pending CAO's decision.	3825
Austin Tenant's Council v. Lodge at Stone Oak Ranch	Exemption 6: PII	Open – Caused in 2018; pending CAO's decision.	3489
Austin Tenant's Council v. Spicewood Springs, LLC	Exemption 6: PII	No cause issued in 2019	2227
Austin Tenant's Council v. Cimarron Apartments	Exemption 6: PII	No cause issued in 2019	2227
Austin Tenant's Council v. River Crossing Apartments	Exemption 6: PII	No cause issued in 2019	2228
Austin Tenant's Council v. The Zone at East End	Exemption 6: PII	No cause issued in 2019	2004
Austin Tenant's Council v. Sunrise Bluff Apartments	Exemption 6: PII	No cause issued in 2019	1599
Exemption 6: PII V Austin Paddock Homeowners' Association	Exemption 6: PII	Open	1668

**The Region is concerned the FHAP judicial dismissals were done with no communication or attempt to communicate with the Complainants.

The most recent MicroStrategy report shows:

Case Number and Name		Case Number - FHAP	HUD Filing Date	Cause Date	100-Days-Old Date	Age
Exemption 6: PII	Exemption 6: PII	Exemption 6: PII	08/08/11	2/27/2013	11/16/11	569
Exemption 6: PII	Austin Tenants' Council, ATC v Verandah at Grandview Hills	Exemption 6: PII	10/02/12	4/23/2018	01/10/13	2,029
Exemption 6: PII	Austin Tenants' Council v. Lodge at Stone Oak Ranch	Exemption 6: PII	09/03/13	8/13/2018	12/12/13	1,805
Exemption 6: PII	ATC v. Sonterra Apartment Homes	Exemption 6: PII	09/03/13		12/12/13	3,534
Exemption 6: PII	Exemption 6: PII v Austin Paddock Homeowners' Association	Exemption 6: PII	08/29/18	1/16/2020	12/07/18	505
Exemption 6: PII	Exemption 6: PII v Post South Lamar II, LLC., et.al.	Exemption 6: PII	06/23/20	6/25/2021	10/01/20	367
Exemption 6: PII	Exemption 6: PII v SSC Austin Apartments LLC et. al.	Exemption 6: PII	10/28/21	7/22/2022	02/05/22	267
Exemption 6: PII	Exemption 6: PII v. CWS Station LLC & et al	Exemption 6: PII	03/29/22		07/07/22	405
Exemption 6: PII	Exemption 6: PII v. OPPM Enterprises LLC	Exemption 6: PII	05/24/22		09/01/22	349
Exemption 6: PII	Exemption 6: PII v FBZ Town Lake Circle LP, et al.	Exemption 6: PII	06/30/22		10/08/22	312
Exemption 6: PII	Exemption 6: PII v Housing Authority of Travis County	Exemption 6: PII	09/22/22		12/31/22	228
Exemption 6: PII	Exemption 6: PII v. TCHFC West Gate Land LLC, et al	Exemption 6: PII	07/11/22		10/19/22	301
Exemption 6: PII	Exemption 6: PII v. Walnut Equity LLC et al	Exemption 6: PII	08/04/22		11/12/22	277
Exemption 6: PII	Exemption 6: PII v. Mid America Apartments LP et al.	Exemption 6: PII	08/22/22		11/30/22	259
Exemption 6: PII	Exemption 6: PII v TMIF Park at Stone LP et al.	Exemption 6: PII	09/15/22		12/24/22	235
Exemption 6: PII	Exemption 6: PII v TCHFC West Gate Land LLC	Exemption 6: PII	09/07/22		12/16/22	243

Case Number - HUD	Case Name	Case Number - FHAP	Filing Date	Cause Date	100-Days-Old Date	Age
Exemption 6: PII	Exemption 6: PII v Northland Monterey Oaks LLC	Exemption 6: PII	11/14/22		02/22/23	175
Exemption 6: PII	Exemption 6: PII v Fenton District Valley 53 LLC, et al.	Exemption 6: PII	12/14/22		03/24/23	145
Exemption 6: PII	Exemption 6: PII v TMIF II Agave Falls LLC, dba Agave Falls Apartments	Exemption 6: PII	11/29/22		03/09/23	160
Exemption 6: PII	Exemption 6: PII v Post Riverside Country Club LLC	Exemption 6: PII	11/28/22		03/08/23	161
Exemption 6: PII	Exemption 6: PII v AG Hill Top East Riverside 1300 Property Owner LP	Exemption 6: PII	12/02/22		03/12/23	157
Exemption 6: PII	Exemption 6: PII v Mercedes Pang et al.	Exemption 6: PII	01/06/23		04/16/23	122
Exemption 6: PII	Exemption 6: PII v 26 West Apartments	Exemption 6: PII	12/12/22		03/22/23	147
Exemption 6: PII	Exemption 6: PII v BSR Lakeline Apartments LLC, et al	Exemption 6: PII	12/28/22		04/07/23	131
Exemption 6: PII	Exemption 6: PII vs MAA ALLOY et al.	Exemption 6: PII	12/28/22		04/07/23	131
Exemption 6: PII	Exemption 6: PII v ESCT Austin Housing IV Inc., et al	Exemption 6: PII	01/25/23		05/05/23	103

During the on-site assessment, the GTR learned the Agency had issued no cause determinations for five (5) cases (Exemption 6: PII) and currently conciliating one (1) (Exemption 6: PII). The Agency disclosed the closure letters had been issued to all parties.

According to the Agency, ATC filed three (3) complaints alleging that certain apartment complexes had overly restrictive occupancy policies (Exemption 6: PII). During the investigation, the Agency attempted to conciliate the complaints and at least one respondent modified its occupancy policy. However, the Agency was unable to successfully conciliate all three complaints. Following the conciliation process, the Agency caused the complaints under the disparate impact theory. Neither party made a timely election for judicial review and the Agency explored other options to secure an ALJ with fair housing law experience.

Subsequently, the review of the cases concluded the investigations lacked evidence showing that the challenged occupancy policies have the effect of excluding households with children from

the property more than households without children. For this reason, the cases were ultimately closed as no cause.

The current management staff attempted to address the PIP; however, they were not able to. The GTR-M met with the previous management staff on April 7, 2021 to discuss the requirements of the PIP. The following cases were discussed:

1. Austin Tenant's Council v. [Exemption 6: PII](#) [Exemption 6: PII](#) - The Agency clarified that the case was dismissed. However, neither the Agency nor the CAO was aware if the dismissal was with or without prejudice. The Agency provided documentation showing the Court dismissed the complainant's civil action.
2. [Exemption 6: PII](#) - The Agency confirmed the complainant gave notice of representation and filed a separate court case. The Agency is not sure if the complainant withdrew his case with the Agency. They are attempting to contact the complainant and, if so, will file a dismissal notice. On May 25, 2021, the Agency uploaded a court document in HEMS showing that complainant non-suited and dismissed his interpleaded petition. A copy was sent to the complainant on May 25, 2021.
3. [Exemption 6: PII](#) The Agency confirmed the complainant gave notice of representation and filed a separate court case. The Agency is not sure if the complainant withdrew her case with the Agency. They are attempting to contact the complainant and her attorney to determine if she will withdraw or move forward on her case. In progress, the City of Austin filed a civil action in circuit court and is pending the outcome. On September 3, 2021, the Agency advised the Judge took this case under advisement on August 12, 2021 and is willing to grant an interlocutory default judgment containing all the requested relief except the \$40,000 in compensatory damages. She believes additional evidence is necessary to support these damages, such as a hearing with testimony from [Exemption 6: PII](#) ."
4. [Exemption 6: PII](#) - The Agency explained the CAO cannot locate the charging party. The Agency was not able to provide the timeframe that the CAO had been attempting to locate the charging party. If the CAO cannot locate the charging party, the case will be administratively closed. The case remains in Circuit Court. The city will file a motion to dismiss w/o prejudice (30 Days - June 5, 2021) due to complainant's unresponsiveness. On August 20, 2021, the Agency provided documents showing that letters were sent to complainant regarding the case against the Respondent; the complainant is not named as a party in the lawsuit, but the letter was sent to protect her interest.
5. Austin Tenant's Council v. Verandah at Grandview Hills ([Exemption 6: PII](#)) – Design and Construction. The Agency provided the subject property was built in 2002. The Agency explained that the onsite assessment of the subject properties (5 & 6) and the CAO's evaluation of the case determined that the Design & Construction allegations will not be pursued; however, 804(b) Terms & Conditions will be pursued. The Agency also explained the Respondents are somewhat difficult because the Agency initially closed the

cases and HUD required them to reopen the cases. Nevertheless, they are attempting to resolve the issues via conciliation. Conciliation efforts were unsuccessful - 10 years have lapsed. The City's CAO recommends no cause.

6. ATC v Lodge at Stone Oak ([Exemption 6: PII](#)). Design and Construction. The Agency provided the subject property was built in 2000. Conciliation have been unsuccessful. The City's CAO recommends no cause.
7. [Exemption 6: PII](#) v Austin Paddock ([Exemption 6: PII](#)). The FHAP has assigned another lawyer to handle the case. The Agency has reached out to the Respondent's attorney, but the case has not been resolved.

Cause Cases

There were no Reasonable Cause findings during this performance period.

Phone/Inquiry Log

The Department reviewed the phone/inquiry log to determine if the Agency is properly vetting and/or referring callers. The call log is not comprehensive and does not contain the outcome per call. The Agency is required to create a comprehensive streamlined call log to ensure relevant information is captured during the call and the staff can keep records of the calls more efficiently. The log must show the nature of the call and if the call was accepted for processing or referred to another office or agency.

Performance standard #1 was not met.

B. Performance Standard #2: Administrative closures are utilized only in limited and appropriate circumstances. [24 CFR § 115.206(e)(2)]

During this performance period, the Agency closed one (1) case as an administrative closure, Failure to Cooperate. The case was closed appropriately. [Exemption 6: PII](#) The Region noted the failure to cooperate closure document does not show the case number or complainant's name in the jurisdiction statement. The Region also noted the Agency issued a closure document containing an analysis of prima facie elements and findings and conclusions for an administrative closure. The Agency is reminded to review and follow the criteria for processing administrative closures.

Performance standard #2 was met.

C. Performance Standard #3: During the period beginning with the filing of a complaint and ending with filing a charge or dismissal, the agency, to the extent feasible, attempts to conciliate the complaint. After the charge has been issued, the agency, to the extent feasible, continue to attempt settlement until a hearing or a judicial proceeding has begun. [24 CFR § 115.206(e)(3)]

The COAOCR's practice is to discuss conciliation with the complainant and the respondent upon commencing an investigation and during the investigation until a final determination is reached.

The COAOCR documents its conciliation efforts in the Conciliation section of HEMS. In summary, the COAOCR attempted conciliation on each complaint, to the extent feasible, and conciliation attempts were made throughout the processing of each complaint.

Performance standard No. 3 was met.

D. Performance Standard #4: The agency conducts compliance reviews for settlements, conciliation agreements, and orders resolving discriminatory housing practices. [24 CFR § 115.206(e)(4)]

By the Performance Improvement Plan dated, March 1, 2021, the COAOCR was notified of the findings and/or concerns relating to the performance assessment period from July 1, 2018 through June 30, 2019. At this time and the LOF dated August 27, 2018, the COAOCR was informed of the requirement to adopt and implement procedures designed to address improving practical or quality monitoring requirements to ensure compliance with the terms of the conciliation agreements to correct the concerns noted in performance standard # 4.

On April 4, 2021, the COAOCR submitted a draft Standard Operating Procedures (SOP) as requested by the PIP. As of this date, the Agency has not provided a copy of its final SOP. [Exhibit 6]

As indicated in its Conciliation Agreements Compliance Monitoring Procedures, COAOCR's guidance is for each investigator to monitor his/her conciliation agreement to determine compliance with the terms. According to the Agency, four (4) conciliation agreements were monitored during this performance period and determined all respondents followed the terms and conditions set forth in the conciliation agreements.

The GTR reviewed the eight (8) conciliated cases to determine whether this practice is being followed. The case files did not show documentary evidence to support the respondent in each agreement complied with the terms of the agreement; therefore, not meeting COAOCR's guidance. FHEO was able to locate some documents in the Agency's case files; however, none nor the monitoring terms are uploaded into HEMS. Of the eight (8) cases only two (2) had some documentation to demonstrate compliance with the terms of the agreements. However, of the two (2) cases, certificates of fair housing training and neutral reference letters were not in the files.

The GTR also noted the Agency's closure letters indicate conciliation agreements and withdrawal with resolutions are administrative closures. The Agency is advised to review the Criteria for Processing to discern the difference between various closures, such as administrative, settlements, etc.

The Agency is required to develop and implement a comprehensive Conciliation Agreements Compliance Monitoring Procedure, to ensure compliance with the terms of the conciliation

agreements. The procedures must include a designated location and organization for supporting documentation, specifically HEMS.

Performance standard No. 4 was not met.

E. Performance Standard #5: The agency must consistently and affirmatively seek and obtain the type of relief designed to prevent recurrences of discriminatory practices. [24 CFR § 115.206(e)(5)]

COAOCR utilizes the Conciliation process to seek relief for actual damages. Examples include seeking refunds on deposits, relocations costs and moving fees. If conciliation fails and there is a Cause finding the agency proceeds with procedures outlined in the City of Austin ordinance with the Law Department.

If a case rises to the level of violation(s) which requires civil penalties and punitive damages, COAOCR will seek guidance from the Law Department and pursue every remedy available under the Ordinance.

The COAOCR closed eight (8) cases as Conciliation and three (3) cases as Withdrawal with Resolution.

With respect to cases reviewed:

Based on the results of the eight (8) cases reviewed as conciliations, the investigator makes effort to obtain relief or compensation for the loss sustained to the satisfaction of the Complainant. Public Interest relief includes training of staff and required posting and distribution of fair housing posters, Reasonable Accommodation policies, revision of Service/Assistance Animal policies. Other relief includes conducting removal of negative rental history, cancellation of collection actions and removal of outstanding balances.

The COAOCR also sought and obtained relief that was adequate based on the issues raised by the complaint. The COAOCR sought to obtain relief, other than monetary, such as neutral references, to make the complainant whole.

The Agency reported the following case as noteworthy:

- **Exemption 6: PII** v. Naretx Enterprises LLC, et al. \$300, Document trainings added ESA statement on non-prohibition of breed.
- **Exemption 6: PII** v. SVF Northshore Austin, LP, \$4500, Posting of RA policy and provide proof of fair housing training.
- **Exemption 6: PII** v. CWS Apartment Homes, \$1900, Fair Housing training and posters.
- **Exemption 6: PII** v. Sunrise Bluff Apartments, \$308.52 Fair Housing training and RA reviewed off-site and posting RA policy in manager's office and will zero balance Complainant's account.

Exemption 6: PII

v. Exemption 6: PII 1.	Exemption 6: PII	294

Per the FY 2022 Standards of Timeliness guidelines, closures of complaints that have been investigated, which include withdrawal with resolutions, have standards of timeliness of 100-days. These cases were not closed within the 100-day timeframe.

In all one (1) case, HEMS show an investigator memo or log outlining the actions leading up to the withdrawal with a resolution missing from the case file and/or HEMS.

In one instance [Exemption 6: PII](#) the complainant's advocate discussed the terms/resolution of the withdrawal with the Agency. In another instance [Exemption 6: PII](#), the complainant's representative contacted the Agency informing them that the complainant had not received anything from the respondents for the settlement. The Agency is reminded that a withdrawal with resolution is an agreement between the parties with no involvement by the Agency.

Performance standard No. 5 was met.

F. Performance Standard #6: The agency must consistently and affirmatively seek to eliminate all prohibited practices under its fair housing law. [24 CFR § 115.206(e)(6)]

Based on the information obtained through staff interviews, the investigators seldom conducted any fair housing education and outreach. According to the Agency, education and outreach was reduced below historic levels due to the COVID Pandemic. However, outreach is being increased for the FY23 performance period.

Per the COAOCR's Director, due to the agency's limited staffing it is difficult for the investigators to dedicate some time to education and outreach efforts.

Despite the limited resources, the COAOCR conducted four (4) fair housing education and outreach events during this performance period:

- Fair Chance Hiring and Housing Workshop, August 26, 2021
- Combatting Hate Violence in the AAPI Community, September 16, 2021
- Combatting Hate Violence in the AAPI Community, October 9, 2021
- Fair Chance Hiring and Housing Workshop, October 20, 2021

Performance standard No. 6 was met.

G. Performance Standard #7: The agency must demonstrate that it receives and processes a reasonable number of complaints cognizable under both the Fair Housing Act and the agency's fair housing statute or ordinance. [24 CFR § 115.206(e)(7)]

According to the U.S. Census, 2021 ACS 1-Year Estimates Data Profile, the population for the City of Austin, Texas was an estimated 964,177. Based on this figure, the COAOCR is required to process 20 complaints.

The COAOCR processed 49 complaints, exceeding the 20 complaints threshold.

Performance standard No. 7 was met.

H. Performance Standard #8: The agency must report to HUD on the final status of all dual-filed complaints where a determination of reasonable cause was made. [24 CFR § 115.206(e)(8)]

The COAOCR reported COAOCR had no Cause findings this processing year.

Region IV addressed its concerns of the cause cases that have been open since 2011, pending litigation. The Agency explained the cases are with its Legal Office pending litigation. The cases are mentioned below indicating the most recent update:

Cases Pending Litigation

HUD Case No.	Case Name	Cause Date	Status
Exemption 6: PII	Exemption 6: PII	02/27/2013	Pending litigation – currently open; This case was caused 02/27/2013 and remains open. Per HEMs 11/30/2022, the Agency is attempting to depose Complainant so that they can move forward with the case. HEMS show no additional activity.
Exemption 6: PII	Austin Tenant's Council v.	04/23/2018	Pending COAOCR's

Exe	Verandah at Grandview Hills		legal department's decision to no cause
Exemption 6: PII	Austin Tenant's Council v. Lodge at Stone Oak Ranch	8/13/2018	Pending COAOCR's legal department's decision to no cause
Exemption 6: PII	Austin Tenant's Council v. Sonterra Apartment Homes	NA	Settlement negotiations ongoing
Exemption 6: PII	Exemption 6: PII v Post South Lamar II	06/25/2021	Currently in litigation in the process of discovery. HEMS show no activity since 07/28/21.
Exemption 6: PII	Exemption 6: PII v Austin Paddock HOA	01/16/2020	Complainant moved out of state in 2019 and does not wish to intervene in the lawsuit. CAO emailed Respondent 12/16/21 in an attempt to resolve the matter. HEMS show no activity since.
Exemption 6: PII	Exemption 6: PII v SSC Austin Apts	07/22/2022	Case filed in State District Court 09/14/22. The law department is serving the Respondents for an answer. HEMS show no activity since the charge was issued 07/22/22.

Performance standard No. 8 was met.

- I. Performance Standard #9: The agency must conform its performance to the provisions of any written agreements executed by the agency and HUD related to substantial equivalence certification, including but not limited to the interim agreement or MOU. [24 CFR § 115.206(e)(9)]**

The COAOCR continues to operate according to provisions of the Interim Certification, MOU and HUD Cooperative Agreement.

Performance standard No. 9 was met.

III. Budget and Finance Requirements [24 CFR § 115.307]

The COAOCR enforces anti-discrimination laws other than fair housing laws. The COAOCR also enforces:

- Equal Employment Opportunity/Employment Discrimination Ordinance
- Fair Chance Hiring Ordinance
- Public Accommodations Ordinance
- HIV/AIDS Ordinance
- Discrimination in Employment by City Contractors
- Federal Financial Assistance

The COAOCR certified it did not unilaterally reduce the level of financial resources committed to Fair Housing activities. Funding was based on the actual number of cases processed and as determined by HUD's cooperative agreement.

The COAOCR generates quarterly financial reports to ensure that FHAP funds are separated and are not comingled.

The COAOCR met the Budget and Finance Requirements.

IV. Reporting and Record-Keeping Requirements [24 CFR § 115.308]

The Agency maintains records that document its financial administration and performance under the FHAP. The COAOCR maintains all records of its performance under FHAP, as required at 24 CFR §115.308(a)(2). The COAOCR permits reasonable public access to its records, as required at 24 CFR §115.308(c); and the records are made available at COAOCR's office during normal working hours for public review.

The Agency permits the Secretary of HUD, the Inspector General of HUD, the Comptroller General of the United States, and any of their authorized representatives' full access to all pertinent books, accounts, reports, files, and other payments for surveys, audits, examinations, excerpts and transcripts as related to its participation in the FHAP.

The Agency maintains all files appropriately to permit audits under applicable Office of Management and Budget circulars, procurement regulations & guidelines, and the single audit requirements for state and local agencies (24 CFR §115.308(e). Further, the Agency maintains separate records that document the monthly financial spending of the Agency.

The Region recommends the Agency's casefiles are more organized to ensure property accountability of monitoring documents.

The Agency has met the Reporting and Record-keeping Requirements.

V. Testing Requirements [24 CFR § 115.311]:

The COAOCR does not conduct fair housing testing; therefore, this requirement is not applicable.

VI. Training Requirements [24 CFR § 115.306(b)]

The COAOCR adheres to training its staff per the FHAP guidance. The following individuals completed the National Fair Housing Training Academy's (NFHTA) core curriculum, consisting of five (5) weeks of investigator training.

- Enrique Serrano, Senior Investigator: Completion date: July 17, 2009
- Juanita Martinez, Housing Investigator: Completion date: July 14, 2017
- Rikki Pfouts, Investigator – the Agency did not explain why Investigator Pfouts has not attended training considering the training is virtual and of no cost to the Agency.

The COAOCR did not send its staff to various HUD-approved and/or HUD-sponsored fair housing training throughout the performance period. The Agency asserts staff did not attend training due to the COVID Pandemic. However, numerous training sessions were offered virtually by NFHTA and other fair housing vendors.

The Agency did not meet the training requirements.

VII. Data Support Systems Requirement [24 CFR § 115.307(a)(3)]

The COAOCR uses the Department's official complaint data information system known as HEMS. The COAOCR had minor data entry issues during this performance period.

The Agency is reminded to upload the final conciliation agreement into HEMS, as required. Of the eight (8) conciliation agreements, two (2) did not have uploaded final conciliation agreements.

- [Exemption 6: PII](#) The final conciliation agreement not in HEMS.
- [Exemption 6: PII](#) HEMs shows two (2) entries as the final conciliation agreement; however, one entry is an unsigned draft and the other entry is only the signature page of the agreement.

The Agency is also required to combine and upload the final conciliation agreement as one (1) document. In [Exemption 6: PII](#), the Agency inputted three (3) separate entries as the final conciliation agreement. The review of each entry shows the same document but different signature pages (parties). Combining the agreement and uploading as one (1) document will ensure all pages are accounted for and the agreement is complete.

Lastly, the Agency is required to input the monitoring provisions and upload the monitoring documents into HEMS as required.

The Agency has not met the Data Support Systems requirements.

VIII. Changes Limiting Effectiveness of Agency's Law: [24 CFR § 115.211]

The COAOCR reported the Ordinance was amended was December 2021 to establish the Office of Civil rights. The Agency did not advise the Department of this change prior or during the action. [Exhibit 3] This change has no impact on the Agency's requirements to enforce their Fair Housing Law.

Subpoenas: During the on-site assessment, the GTR learned the Agency cannot request or issue subpoenas. The Agency is required to submit a copy of its most recent fair housing law to the FHAP Division for review. Per 24 CFR § 115.211 (a) (3) The Assistant Secretary may conduct a review to determine if the amendment, adoption or interpretation limits the effectiveness of the agency's fair housing law. If the review indicates that the agency's law no longer meets the criteria identified in § 115.204, the Assistant Secretary will so notify the agency in writing.

The Agency has not met the Changes Limiting Effectiveness of Agency's Law Requirements.

IX. Civil Rights Requirements (24 CFR §115.309):

Each agency must comply with civil rights laws that prohibit discrimination by recipients of federal financial assistance, including Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and the standards of Section 3 of the Housing and Urban Development Act of 1968.

During the performance period, there were no allegations of violations of any civil rights laws that prohibit discrimination by recipients of federal financial assistance filed against the COAOCR.

The COAOCR has access to an Interpreter services line in addition to city staff who are proficient in various languages, including Spanish.

Concerning accommodating people with disabilities, the COAOCR assists these individuals based on the individual's needs. For instance, if American Sign Language (ASL) services are needed, then COAOCR will accommodate this need by providing an ASL Interpreter.

The Agency has met the civil rights requirements.

X. Subcontracting Requirement (24 CFR §115.309):

Each agency that subcontracts to a public or private organization any activity for which it receives FHAP funds must ensure in writing that the organization is: Complying with all relevant civil rights laws, including but not limited to Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, Section 508 of the Rehabilitation Act, and the standards of Section 3 of the Housing and Urban Development

Act of 1968; affirmatively furthering fair housing; and not debarred, suspended, or in any way excluded from covered transactions by any federal debarment or agency.

There is no evidence that the COAOCR subcontracts any of its work.

XI. FHAP and the First Amendment (24 CFR §115.310):

Agencies must not use FHAP funds to investigate or prosecute any activity that may be protected by the First Amendment of the United States Constitution.

The COAOCR did not use funding made available under the FHAP grant to investigate or prosecute any activity that may be protected by the First Amendment of the United States Constitution.

XII. Summary of Performance/Corrective Actions

The Agency did not meet Performance Standard #1. The Agency continues to have difficulty monitoring conciliation agreements and inputting data into HEMs. As a result, the Agency did not meet Performance Standard #4 and the Data Support Systems Requirement. Additionally, the Agency did not meet the Training Requirement and Changes Limiting Effectiveness of Agency's Law.

It is noted that the Agency has cause cases and aged cases open since 2011. Due to unforeseen circumstances (management changes), the Agency was not able to meet the requirements of the PIP, dated March 1, 2021. Due to its performance, the Region will re-issue the PIP.

XIII. Conclusion and Recommendations

The deficiencies noted by the Department during this performance period can be corrected with additional training and technical assistance. The GTR-M will meet with the investigators bi-monthly, instead of the standing monthly meetings, to conduct FHAP case status meetings to address any pending questions or issues.

Based on the foregoing, Region VI recommends the COAOCR continue as a participant in the Fair Housing Assistance Program.

XIV. Exhibits

Exhibit 1 –Response to Notification Letter

Exhibit 2 - Organizational Chart

Exhibit 3 - Ordinance

Exhibit 4 –Cases Pending in State/Federal Court

Exhibit 5 – Inquiry/Call Log

Exhibit 6 - Draft SOP

XV. Signature Page

City of Austin Office of Civil Rights

Performance Assessment Review Date: November 28-30, 2022

FY 2021-2022

**Bonita Howard, Director, Program Compliance
FHEO Government Technical Representative (GTR)**

Date

**Christina Lewis, Regional Director
FHEO, Region VI**

Date



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Fort Worth Regional Office of FHEO, Region VI
307 W. 7th Street, Suite 1000
Ft. Worth, TX 76102
Phone 1-888-560-8913 Fax (817) 978-5876
www.hud.gov

May 10, 2023

VIA EMAIL

Tamela Saldana, Acting Director
City of Austin Office of Civil Rights
1050 East 11th Street, Suite 200
Austin, TX 78702

Dear Tamela Saldana,

Subject: Fair Housing Assistance Program
Performance Improvement Plan

This letter serves to notify you that the City of Austin Office of Civil Rights ("COAOCR") has failed to meet the required Performance Standards enumerated at 24 C.F.R. Part 115. Accordingly, the Department will place your agency on a Performance Improvement Plan ("PIP") for an initial 180-day period to bring its performance into compliance with regulatory requirements.

COAOCR was certified as a substantially equivalent agency on June 18, 1996. On September 16, 2003, COAOCR entered into a Memorandum of Understanding with HUD for five years to conduct fair housing activities and was extended over the years through addendums. The most recent Addendum was executed on January 27, 2015, renewing and extending certification until January 27, 2020.

The Office of Fair Housing and Equal Opportunity ("FHEO") has expressed its concerns to COAOCR both verbally and in writing, regarding its obligation to bring its performance into compliance with the performance standards outlined in the MOU.

On August 20-23, 2018, the Department conducted an on-site performance assessment. The Department determined COAOCR failed to meet Performance Standards #1, 4, and 5. Based on the Agency's underperformance, the Government Technical Representative ("GTR") issued a Letter of Finding ("LOF"), dated August 27, 2018, and instructed COAOCR to implement corrective actions with deadlines to achieve compliance.

By memorandum dated December 20, 2019, the FHAP Division expressed its concern about COAOCR's underperformance, as indicated in the LOF, and needed COAOCR to implement corrective actions and demonstrate improved performance before recommending recertification. The FHAP Division was concerned with COAOCR's inability to fulfill its most important and basic obligations under the FHAP program. Specifically, conducting thorough,

professional, and timely investigations and conciliating cases with full and effective individual and public interest relief. Also, the FHAP division voiced concern over the average case processing time (353 days in 2019 from 186 days in 2018). Due to these concerns, the FHAP Division required a reassessment of EE/FHO.

On March 2-4, 2020, the Department conducted a reassessment of the Agency and determined COAOCR had not met Performance Standards #1, 5, and Data Support Systems Requirement. Also, the COAOCR failed to comply with submitting a Plan of Action, as indicated in the LOF, addressing how COAOCR would achieve compliance with Performance Standard #1. Further, the COAOCR failed to address the Performance Standard #5 concerns brought forth in the LOF. Specifically, to adopt and implement conciliation procedures designed to address improving the quality of conciliations to ensure the agency consistently and affirmatively seek and obtain the type of relief designed to prevent recurrences of discriminatory practices.

On March 4, 2021, the Agency accepted a Performance Improvement Plan due to its underperformance. However, due to the departure of two managers, the Agency did not complete the requirements of the PIP.

On November 28-30, 2022 the Department conducted an on-site performance assessment. The Department determined COAOCR did not meet Performance Standards #1, and #4. Additionally, COAOCR did not meet the Training Requirements, Data Support Systems Requirement and Changes Limiting Effectiveness of Agency's Law.

Due to the performance of the Agency, the Department will monitor the COAOCR's performance over the next six (6) months to ensure the COAOCR implements the corrective actions stipulated in the LOF.

For the duration of the PIP, the FHEO Government Technical Monitor ("GTM") shall monitor the COAOCR to ensure it addresses all concerns and its performance is at an acceptable level as defined under the Memorandum of Understanding ("MOU"). The GTM will provide technical assistance to COAOCR as determined by the GTM, as needed, and/or when requested by EE/FHO.

If COAOCR fails to implement the corrective actions, the Department may extend the timeline of the PIP for good cause at its discretion. The Department may also propose the suspension of COAOCR's certification as a substantially equivalent agency by providing the specific reasons for the suspension in writing and giving the Agency thirty (30) days to respond according to 24 C.F.R. § 115.210(b)(1).

Attached for your review and action is the PIP, which outlines the deficiencies, corrective actions needed, timelines for implementation and completion. Please note the reporting requirements in the PIP. Please review, sign and indicate if you accept or reject the PIP. Please return the PIP not later than May 15, 2023.

The Department is committed to the COAOCR's successful administration of the FHAP program and will continue to provide technical assistance to ensure compliance with the performance standards and the PIP. The Department looks forward to working with your Agency to resolve these findings and fulfill the requirements of the PIP.

Please contact Bonita Howard, Director, Program Compliance Branch at (202) 655-1391, should you have any questions regarding the contents of this letter.

Sincerely,

Christina Lewis, Regional Director
Fort Worth Regional Office of
Fair Housing and Equal Opportunity
Region VI

**United States Department of Housing and Urban Development (“Department”)
Office of Fair Housing and Equal Opportunity (“FHEO”)
Region VI**

Performance Improvement Plan (“PIP”)
for
The City of Austin Office of Civil Rights

Performance Deficiencies,
Required Corrective Actions and Timetables

DEFICIENCIES: Failure to conform its performance to the provisions of any written agreements executed by the agency and HUD related to substantial equivalence certification, including, but not limited to the interim agreement or MOU. [24 C.F.R. § 115.206(e)(9)]

On November 28-30, 2022, the Department conducted a re-assessment of the City of Austin Office of Civil Rights (“COAOCR”) and determined that the Agency’s performance has not met the performance requirements of a substantially equivalent agency. Specifically, the Agency had not met Performance Standards #1 and 4. Additionally, the Agency did not meet the Training Requirement, Data Support System Requirement and Changes Limiting Effectiveness of Agency’s Law.

Performance Standard #1: Commence complaint proceedings, carry forward such proceedings, complete investigations, issue determinations, and make final administrative dispositions in a timely manner. [24 C.F.R. § 115.206(e)(1)]

Deficiency: Quality of investigations: timeliness of investigations, aged cases.

Corrective Action 1: The Agency must develop and implement standard operating procedures to ensure cases are timely processed and that each case is processed per the Cooperative Agreement, Criteria for Processing, Statement of Work, Criteria for Processing, and implementing regulations.

Corrective Action 2: The Agency shall meet with the Government Technical Monitor (“GTM”) and participate in any scheduled training and/or technical assistance visits relating to this performance standard.

Corrective Action 3: The Agency must develop and implement a written plan of action to address and complete its following 26 aged cases, as identified in the Performance Assessment Report (“PAR”):

Case Number and Name		Case Number - FHAP	HUD Filing Date	Cause Date	100-Days-Old Date	Age
Exemption 6: PII	Exemption 6: PII	Exemption 6: PII	08/08/11	2/27/2013	11/16/11	569
Exemption 6: PII	Austin Tenants' Council, ATC v Verandah at Grandview Hills	Exemption 6: PII	10/02/12	4/23/2018	01/10/13	2,029
Exemption 6: PII	Austin Tenants' Council v. Lodge at Stone Oak Ranch	Exemption 6: PII	09/03/13	8/13/2018	12/12/13	1,805
Exemption 6: PII	ATC v. Sonterra Apartment Homes	Exemption 6: PII	09/03/13		12/12/13	3,534
Exemption 6: PII	Exemption 6: PII v Austin Paddock Homeowners' Association	Exemption 6: PII	08/29/18	1/16/2020	12/07/18	505
Exemption 6: PII	Exemption 6: PII v Post South Lamar II, LLC., et.al.	Exemption 6: PII	06/23/20	6/25/2021	10/01/20	367
Exemption 6: PII	Exemption 6: PII v SSC Austin Apartments LLC et. al.	Exemption 6: PII	10/28/21	7/22/2022	02/05/22	267
Exemption 6: PII	Exemption 6: PII v. CWS Station LLC & et al	Exemption 6: PII	03/29/22		07/07/22	405
Exemption 6: F	Exemption 6: PII V. OPPM Enterprises LLC	Exemption 6: PII	05/24/22		09/01/22	349
Exemption 6: PII	Exemption 6: PII v FBZ Town Lake Circle LP, et al.	Exemption 6: PII	06/30/22		10/08/22	312
Exemption 6: PII	Exemption 6: PII v Housing Authority of Travis County	Exemption 6: PII	09/22/22		12/31/22	228
Exemption 6: PII	Exemption 6: PII v. TCHFC West Gate Land LLC, et al	Exemption 6: PII	07/11/22		10/19/22	301

Case Number - HUD	Case Name	Case Number - FHAP	Filing Date	Cause Date	100-Days-Old Date	Age
Exemption 6: PII	Exemption 6: PII v. Walnut Equity LLC et al	Exemption 6: PII	08/04/22		11/12/22	277
Exemption 6: PII	Exemption 6: PII v. Mid America Apartments LP et al.	Exemption 6: PII	08/22/22		11/30/22	259
Exemption 6: PII	Exemption 6: PII v. TMIF Park at Stone LP et al.	Exemption 6: PII	09/15/22		12/24/22	235
Exemption 6: F	Exemption 6: PII v. TCHFC West Gate Land LLC	Exemption 6: PII	09/07/22		12/16/22	243
Exemption 6: PII	Exemption 6: PII v. Northland Monterey Oaks LLC	Exemption 6: PII	11/14/22		02/22/23	175
Exemption 6: PII	Exemption 6: PII v. Fenton District Valley 53 LLC, et al.	Exemption 6: PII	12/14/22		03/24/23	145
Exemption 6: PII	Exemption 6: PII v. TMIF II Agave Falls LLC, dba Agave Falls Apartments	Exemption 6: PII	11/29/22		03/09/23	160
Exemption 6: PII	Exemption 6: PII v. Post Riverside Country Club LLC	Exemption 6: PII	11/28/22		03/08/23	161
Exemption 6: PII	Exemption 6: PII v. AG Hill Top East Riverside 1300 Property Owner LP	Exemption 6: PII	12/02/22		03/12/23	157
Exemption 6: PII	Exemption 6: PII v. Mercedes Pang et al.	Exemption 6: PII	01/06/23		04/16/23	122
Exemption 6: PII	Exemption 6: PII v 26 West Apartments	Exemption 6: PII	12/12/22		03/22/23	147
Exemption 6: PII	Exemption 6: PII v. BSR Lakeline Apartments LLC, et	Exemption 6: PII	12/28/22		04/07/23	131

Case Number - HUD	Case Name	Case Number - FHAP	Filing Date	Cause Date	100-Days-Old Date	Age
Exemption 6: PII	Exemption 6: PII vs MAA ALLOY et al.	Exemption 6: PII	12/28/22		04/07/23	131
Exemption 6: PII	Exemption 6: PII v. ESCT Austin Housing IV Inc., et al	Exemption 6: PII	01/25/23		05/05/23	103

Timeline: The Agency will submit its standard operating procedures to the GTM for review and approval 45 days from the effective date of the PIP. (Corrective Action 1)

The Agency will schedule a meeting with the GTM no later than June 1, 2023. The GTM will have the discretion of choosing the agenda for this meeting. Any follow-up scheduled training and/or technical assistance to address this performance standard will be determined and scheduled by the GTM as needed. (Corrective Action 2)

The Agency will submit its written plan of action 30 days after the effective date of this PIP. The Agency will provide a progress report detailing the progress of each identified aged and cause case, as listed above, to the GTM every month thereafter and as requested by the GTM for the duration of the PIP. (Corrective Action 3)

Criteria: **Performance Standard #4 (24 CFR § 115.206(e)(4)): The agency conducts compliance reviews for settlements, conciliation agreements, and orders resolving discriminatory housing practices.**

Findings: The Agency was not diligent in the monitoring of conciliation agreements (“agreement”). The agreements failed to show practical or quality monitoring requirements to help ensure the respondents’ compliance with the terms of the agreement.

The agency did not conduct adequate compliance reviews of its conciliated agreements, as eight (8) case files that were reviewed onsite did not contain any tangible proof of compliance with the terms of the agreements.

Corrective Actions: The Agency is required to schedule monthly technical assistance sessions with the assigned GTR-M not later than June 1, 2023. (Corrective Action 1)

The Agency is required to schedule training date(s): Monitoring Procedures with the assigned GTR-M not later than June 1, 2023. (Corrective Action 2)

The Agency must develop and implement procedures for conducting compliance reviews to ensure compliance with the terms of the conciliation agreements and provide a copy to the assigned GTR-M by July 1, 2023, for FHEO's approval. (Corrective Action 3)

The Agency must be in compliance with this performance standard by November 1, 2023.

Training Requirements [24 CFR § 115.306(b)]

Deficiency: The COAOCR did not send its staff to various HUD-approved and/or HUD-sponsored fair housing training throughout the performance period.

Corrective Action: The COAOCR fair housing staff must attend fair housing training throughout the FY23 and FY24 (July 1, 2022 – June 30, 2023; July 1, 2023 – June 30, 2024) PAR performance periods.

Timeline: The COAOCR must coordinate this training with its assigned GTR at least 45 days before the scheduled training. The training must be relevant to the deficiencies noted in the PAR and the PIP.

Data Support Systems Requirements [24 C.F.R. § 115.307(a)(3)]

Deficiency: A review of COAOCR's HEMS data entries indicated the COAOCR consistently entered data in the incorrect sections of HEMS. COAOCR had minor data entry issues during this performance period. The Agency is reminded to upload the final conciliation agreement into HEMS, as required.

Corrective Action: The COAOCR must improve its performance in this area by entering all case information within the appropriate sections of HEMS, including:

1. The Agency is required to combine and upload the final conciliation agreement as one (1) document. Combining the agreement and uploading as one (1) document will ensure all pages are accounted for and the agreement is complete.
2. The Agency is required to input the monitoring provisions and upload the monitoring documents into HEMS as required.

Timeline: The Agency must provide assurances to the Department that they are in

compliance by November 1, 2023. The GTM will randomly access HEMS and review pending COAOCR cases during the PIP period to ensure COAOCR is complying with this requirement.

Changes Limiting Effectiveness of Agency's Law: [24 CFR § 115.211

Deficiency: The COAOCR reported the Ordinance was amended was December 2021 to establish the Office of Civil rights. The Agency did not advise the Department of this change prior or during the action. This change has no impact on the Agency's requirements to enforce their Fair Housing Law.

The Agency cannot request or issue subpoenas.

Corrective Action: The Agency is required to submit a copy of its most recent fair housing law to the FHAP Division for review. Per 24 CFR § 115.211 (a) (3) The Assistant Secretary may conduct a review to determine if the amendment, adoption or interpretation limits the effectiveness of the agency's fair housing law. If the review indicates that the agency's law no longer meets the criteria identified in § 115.204, the Assistant Secretary will so notify the agency in writing.

Timeline: The Agency must submit a copy of its most recent fair housing law to the Grant Officer and GTR by June 1, 2023.

ADDITIONAL REQUIRED CORRECTIVE ACTIONS: Per 24 C.F.R. § 115.210(a)(2), COAOCR must develop the following corrective actions and submit them for the Department's approval:

1. The COAOCR must provide a monthly report on the status of all dual-filed complaints where a determination of reasonable cause was concluded. This report will be submitted to the assigned GTR and GTM effective 15 days after the executed date of the PIP.
2. The Department requires a bi-monthly on-site or virtual technical assistance session with the assigned GTM to address any HEMS issues, case concerns, investigative issues, etc. effective in June 2023.
3. The COAOCR will provide the assigned GTR and GTM with an end-of-month report explaining the progress made to comply with the PIP. The initial report will be submitted 30 days after receipt of the PIP Notification Letter and every end-of-month afterward during the duration of the PIP. The Department has the discretion to request this report at any reasonable time to determine compliance/progress.

ADVISORY COMMENTS:

Contact Bonita Howard at 202-655-1391 or bonita.howard@hud.gov for guidance and/or assistance relating to concerns in the PAR or PIP.

TIMETABLE: COAOCR shall complete the corrective actions identified above within 180 days from the executed date of this PIP. (The executed/effective date of this PIP is the date of the Region VI Director or her designee's signature). The Department has the discretion to extend this PIP beyond the 180-day timeframe if warranted. The GTM shall monitor COAOCR to ensure the agency has addressed the concerns and is performing at an acceptable level. The GTM will provide Technical Assistance to COAOCR as identified in this PIP, as needed, and when requested by COAOCR.

REPORTS: Importantly, the Agency must still comply with all nine performance standards and other requirements outlined in 24 C.F.R. Part 115 by the end of the regular performance period.

The reports are to be mailed to the following address and can be emailed in place of hard copies:

Christina Lewis, Regional Director
Office of Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban Development
1301 Fannin, Suite 2200
Houston, TX 77002
Christina.Lewis@hud.gov

Submit courtesy copies of reports to:

Bonita Howard, Director
Program Compliance
Office of Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban Development
307 W. 7th Street, Suite 1000
Fort Worth, Texas 76102
bonita.howard@hud.gov

Destin Germany, GTM
Equal Opportunity Specialist
Office of Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban Development
U.S. Department of Housing and Urban Development
307 W. 7th Street, Suite 1000
Fort Worth, Texas 76102
destin.germany@hud.gov

CONSEQUENCE OF NON-COMPLIANCE:

If the COAOCR fails to implement the corrective actions required in the PIP, the Department may extend the PIP beyond six months, or the Department may suspend the Agency's certification as a substantially equivalent Agency by providing specific reasons for the suspension in writing and giving the Agency thirty (30) days to respond, according to 24 C.F.R. § 115.210(b)(1).

The Department may take other appropriate sanctions, as required by law, against the COAOCR if it fails to implement the corrective actions.

The corrective actions outlined in this PIP are not all-inclusive. The Agency should implement other innovative procedures to bring its performance into compliance with 24 C.F.R. Part 115.

Acceptance/Rejection of the Performance Improvement Plan:

The Agency accepts the Performance Improvement Plan. _____

The Agency rejects the Performance Improvement Plan. _____

Signed:

Tamela Saldana
Director, Acting
City of Austin Office of Civil Rights

Date

Christina Lewis
FHEO Regional Director
Region VI

Date_