

From: Roger Clegg <rclegg@ceousa.org>
Sent: Monday, June 11, 2012 11:59 AM
To: !FHFA REG-COMMENTS
Subject: Comment on today's Federal Register notice

Importance: High

June 11, 2012

Dear Mr. Pollard,

We have a question and comment with regard to today's Federal Register notice (June 11, 2012, 77 FR 34263, Vol. 77, No. 112) re "Proposed Rules // FEDERAL HOUSING FINANCE AGENCY // 12 CFR Part 1282 // RIN 2590-AA49 // 2012-2014 Enterprise Housing Goals."

The notice several times uses the term "minority." Assuming that this refers to racial and ethnic minorities, by what statutory authority is this racial and ethnic classification being used? If there is no statutory requirement for this classification to be used, then we respectfully request that it not be used.

It is generally illegal for the government to use classifications based on race or ethnicity. See *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 227 (1995) ("all racial classifications ... must be analyzed by a reviewing court under strict scrutiny"). See also Title VI of the 1964 Civil Rights Act, 42 U.S.C. 2000d (prohibiting discrimination on the basis of race, color, and national origin in federally funded programs). Indeed, such classifications and favoritism are "presumptively invalid" (see *Personnel Administrator v. Feeney*, 442 U.S. 256 (1979)).

Thank you very much for your attention to our concerns. We look forward to your response.

Sincerely,

Roger Clegg
President and General Counsel
Center for Equal Opportunity
703/442-0066