

U.S. Commission on Civil Rights
Public Briefing on Civil Rights Implications of the Federal Use of Facial
Recognition Technology
Written Testimony of the Department of Housing and Urban Development
April 8, 2024

The Department of Housing and Urban Development (HUD) welcomes this opportunity to submit testimony for the record for the U.S. Commission on Civil Rights public briefing titled “Civil Rights Implications of the Federal Use of Facial Recognition Technology.”

HUD’s mission is to create strong, sustainable, inclusive communities and quality affordable homes for all. HUD is working to strengthen the housing market to bolster the economy and protect consumers, meet the need for quality, affordable rental homes, utilize housing as a platform for improving quality of life, build inclusive and sustainable communities free from discrimination, and transform the way HUD does business.

In carrying out its mission, HUD does not utilize and has not developed any Facial Recognition Technology (FRT). HUD has no regulations explicitly governing the use of FRT by program participants. The Department requires program participants to use all funds in accordance with Federal, state, and local laws as well as HUD guidelines and regulations including civil rights requirements.

One area in which the use of FRT by HUD program participants has received attention is in public housing. HUD administers Federal aid to local Public Housing Authorities (PHA) that manage public housing for low-income residents at rents they can afford. PHAs are responsible for the management and operation of their local public housing program. The ongoing functions of PHAs in managing their public housing programs include assuring compliance with leases, setting other charges (e.g., security deposit, excess utility consumption, and damages to unit), performing periodic reexaminations of a family’s income at least once every 12 months, transferring families from one unit to another, repairing or renovating a dwelling, terminating leases when necessary, and maintaining the development in a decent, safe, and sanitary condition.

HUD does not require specific policies on FRT for PHAs and does not keep a list of PHAs that elect to use FRT. HUD’s funds can be used to make investments that will provide decent, safe, and sanitary housing for residents. HUD also provides more specific grant funds such as the Emergency Safety and Security Grant

(ESSG) program, which provides funding for capital needs related to safety and security. When HUD allocates funds via a Notice of Funding Opportunity (NOFO), HUD has the authority to limit the use of those funds. In April 2023, HUD limited the use of eligible expenses under the ESSG program to make FRT a non-eligible use for ESSG. HUD is exploring similar restrictions for other grant programs through its NOFO template or individually for relevant grant programs.

In accordance with HUD regulations, PHAs set their own policies and make purchases based on individual needs for their PHA and residents. For the public housing program alone, there are over 2,700 PHAs nationwide. If a PHA elects to purchase FRT with federal funds, the PHA can set its own policies and procedures for its use of FRT, as it would with any other purchase with federal funds in accordance with Federal, state, and local laws as well as HUD guidelines and regulations including civil rights requirements. Except as specified above, HUD does not preclude surveillance equipment from being purchased by PHAs with HUD grant monies, which PHAs may choose to purchase to bolster security. Further, PHAs do not share with HUD any of their surveillance or FRT data or records.

Where surveillance equipment including FRT is an eligible purchase, HUD has urged PHAs that “surveillance should only be used to identify activities that pose a threat to residents’ safety.” Principal Deputy Assistant Secretary Richard Monocchio wrote to PHA executive directors on September 22, 2023, on the use of surveillance technology, which includes but is not limited to FRT, and advised PHAs to “find the right balance between addressing security concerns and respecting residents’ right to privacy.”

If a PHA misuses grant funds in violation of Federal, state, and local laws or HUD guidelines and regulations, HUD can issue the PHA a corrective action (opportunity to cure) with a 30-, 60-, 90-, or 120-day deadline to comply. In the event the deadline passes and the PHA is still non-compliant, HUD can issue the PHA an enforcement action with sanctions determined by HUD.

HUD is implementing President Biden’s Executive Order 14110, Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence, which was issued on October 30, 2023. In accordance with this Executive Order, HUD established an Artificial Intelligence (AI) Governance Board to coordinate and govern AI issues through relevant senior leaders from across the Department. HUD also participated in the Department of Justice’s Interagency Convening on Advancing Equity and Civil Rights under Executive Order 14110. These efforts, as well as

others with Federal partners and stakeholders, will inform HUD's policies and procedures on AI and surveillance issues including FRT.

On March 7, 2024, HUD provided the Commission with documents in response to a request for documents from the Commission and answers to the Commission's interrogatories. Thank you again for the opportunity to provide this written testimony in support of the Commission's public briefing.