

# **A New Assessment Process to Affirmatively Further Fair Housing**

## **Purpose of This Document**

This document outlines the Department of Housing and Urban Development's (HUD) proposed strategy to refine and improve the process currently known as the Analysis of Impediments to Fair Housing Choice (AI), which HUD grant recipients must undertake in keeping with their obligation to 'affirmatively further fair housing' (AFFH).<sup>1</sup> HUD seeks public comment on this proposed approach and will incorporate all ideas that effectively enhance the spirit and requirements of the Fair Housing Act. While HUD drafted this proposal principally for HUD program participants, including states, local governments, and public housing agencies, HUD hopes that a broader audience of civil rights advocates, affordable housing developers, community development organizations, academics, housing development agencies, and other members of the public interested in fair housing in their communities will provide input. The goal of the proposed rule is to address concerns raised by the Government Accountability Office (GAO) and stakeholders about the current AI process in order to better equip communities to fulfill their fair housing obligations and plan in a manner that promotes fair housing choice.

## **Background: Why is HUD Updating Its Affirmatively Furthering Fair Housing Process?**

AFFH is a legal requirement that federal grantees further the purposes of the Fair Housing Act. For too many people, housing choices can be constrained through housing discrimination, the operation of housing markets, investment choices by holders of capital, the history and geography of regions, and patterns of development and the built environment. These factors and others can result in segregation, racially concentrated areas poverty, and unequal access to vital community assets that can shape life outcomes. HUD aims to improve on the current regulatory structure by providing communities with robust data and a framework for assessment that will help them to identify where fair housing challenges and opportunities exist. HUD designed the structure in the proposed rule to provide grantees more explicit direction about what HUD expects from grantees when they assess fair housing conditions and the standards that HUD will use in determining compliance with the regulation. While HUD will provide better guidance on the scope of the required assessment and link that assessment into housing and community development planning, it is local decision makers who will ultimately identify their fair housing goals and the appropriate actions they will take.

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<sup>1</sup> See Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3608 and Executive Order 12892. This obligation has been in the Fair Housing Act since 1968.

HUD is specifically looking to address shortcomings under the current regulatory scheme for AFFH that it has recognized, along with the GAO, grantees, and outside advocacy groups. These include:

- **Need for Clearer Guidance, Standards, and Oversight.** The AI is generally defined in the Fair Housing Planning Guide, but the parameters for the analysis are not clear enough, HUD provides no data, and the standards of review are not transparent.
- **No Integration into Planning Processes.** The current AI has no regulatory expiration and fair housing strategies are not explicitly required in the Consolidated Planning or public housing planning process, meaning that there is limited synchronization with the housing and community planning process and investment plans.

The proposed AFFH rule therefore has several aims:

- Increase transparency by ensuring a robust public process for assessing fair housing planning and explicitly linking this input to public investment plans (e.g., Consolidated Plans, PHA Plans, and Capital Fund Plans).
- Improve compliance by equipping grantees with a clear framework and mandating early HUD review of assessments of fair housing so that program participants will have greater security that they have met planning standards from the outset.
- Reduce data collection costs and make analysis easier by providing consistent national data and tools to assist in interpreting that data.
- Synchronize the assessment process with the investment planning process by requiring regular updates to assessments of fair housing that are linked to the consolidated and PHA planning cycles, linking fair housing goals to strategies, actions, and reporting on outcomes.

### **A New Approach, A New Partnership**

In order to aid in the development of robust community planning informed by fair housing, HUD proposes to provide states and local jurisdictions that receive direct Community Development Block Grant (CDBG) funding and public housing agencies (PHAs) with a clear definition of what it means to affirmatively further fair housing, a standardized assessment process with supporting data, and guidance and technical assistance.

The updated approach to AFFH sets out four clear fair housing goals for all communities to ensure greater opportunities to for all Americans:

- 1) Reduce segregation, and build on the nation's increasing racial, geographic and economic diversity.
- 2) Eliminate racially and ethnically concentrated areas of poverty.

- 3) Reduce disparities in access to important community assets such as quality schools, job centers, and transit.
- 4) Narrow gaps that leave families with children, people with disabilities, and people of different races, colors, and national origins with more severe housing problems, aka., disproportionate housing needs.

Under the proposed rule, the AI would be replaced by a new Assessment of Fair Housing (AFH), and the chart below summarizes the proposed AFH structure. The proposed structure for the AFH contemplates four basic steps. To begin the process of crafting the AFH, HUD would provide jurisdictions and PHAs with data on the core goals. HUD would also provide data on disproportionate housing needs as well as outstanding discrimination findings. The jurisdiction or PHA would use this data, through a HUD-provided template, to analyze fair housing issues in the community and identify goals that would inform the investment planning process. At each point, the process of developing the AFH would include engagement with the public and key stakeholders to inform conclusions with local issues and concerns. The final product would be refined based upon review and support by HUD, and then incorporated into housing and community development plans.

<b>Part One: Data Delivery</b>	HUD would provide each grantee with the data necessary to be able to assess fair housing issues in its community.
<b>Part Two: Local Analysis</b>	Using the HUD data and available local measures and input, each jurisdiction or PHA would analyze its fair housing issues and provide a complete AFH to HUD, including fair housing goals.
<b>Part Three: Review &amp; Response</b>	HUD would review each AFH within 60 days of submission and either accept the AFH based on a completeness review standard, or explain why the AFH is incomplete and what the participant must do to have it accepted.
<b>Part Four: Incorporation into Planning and Subsequent Action</b>	The AFFH goals identified in the AFH would be used to inform the strategies and actions of the Consolidated Plan, the Annual Action Plan, the PHA Plan, and the Capital Fund Plan.

### What Would the New Assessment of Fair Housing Look Like?

The AFH that would result from this process would contain three parts:

- 1. The Executive Summary:** an overview of the jurisdiction's AFH public process; the fair housing issues; the fair housing infrastructure and capacity in the community plus any findings; and the fair housing goals and priorities.
- 2. The Analysis:** a discussion of the local demographic profile; the state of neighborhood segregation and integration; the prevalence of racially/ethnically concentrated areas of poverty; neighborhood disparities in access to community assets by protected classes; and housing needs across protected classes.
- 3. Fair Housing Priorities and Goals:** a summary of the leading fair housing challenges and opportunities in the community and the prioritized goals for progress.

### **The AFH Analysis: A Closer Look**

Each jurisdiction or PHA would be asked to take a look at a series of fair housing issues in order to establish a basic view of where the community stands and to help outline effective goals and strategies for healthy neighborhood and regional development.

The analysis would fall into **five major categories** and would be aided by maps and data provided by HUD (local data may also be used when appropriate and helpful):

- 1. Demographics.** The analysis would start with the make-up of the community across a number of characteristics HUD would outline. This step is important because it establishes the foundation for all of the analysis that follows.
- 2. Segregation and Integration.** The analysis would examine patterns of integration and segregation across the region. This is essential because in order to affirmatively further fair housing, a jurisdiction must identify actions that increase fair housing choice. Research has consistently shown the negative social and economic impacts of segregation and, similarly, has found that integrated neighborhoods are often stronger and more resilient.
- 3. Racially/Ethnically Concentrated Areas of Poverty.** The AFH would include an analysis of racially and ethnically concentrated areas of poverty,

which is important because families who live in such neighborhoods encounter challenges and stresses that hinder their ability to reach their full potential, and such neighborhoods impose extra costs on nearby communities and the broader region.

- 4. Neighborhood Disparities in Access to Community Assets.** Having access to good schools, safe streets, quality jobs, effective public transportation, recreation and other social services helps facilitate a good quality of life and improved life outcomes. Unfortunately, research has shown that racial and ethnic minorities, individuals with disabilities, and other protected classes often have less ability to access these vital amenities. It is for this reason that the jurisdiction or PHA would be asked for a ‘disparities’ analysis.
- 5. Housing Needs Across Protected Classes.** The last section of the analysis would examine housing cost burdens, overcrowding (especially for large families), and substandard housing conditions for racial and ethnic minorities, people living with disabilities, and other protected classes.

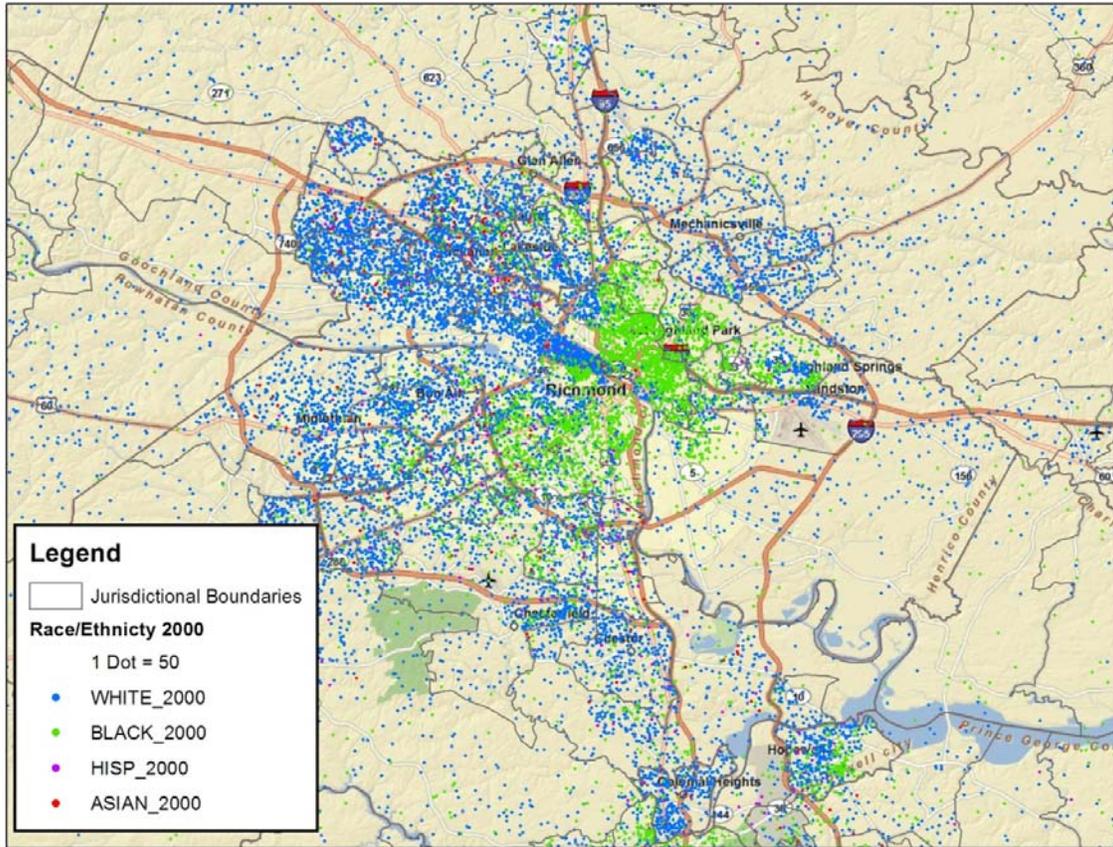
### Acting on the Analysis

Upon completing the analysis, program participants would identify the primary determinants influencing the fair housing conditions in their communities; prioritize which of these conditions to address and set out why they have chosen those priorities; and set one or more goals for mitigating or addressing their determinants. Once HUD accepts the AFH, program participants would then incorporate the AFH findings into subsequent Consolidated Plans and PHA plans and use the AFH to inform investments made under those plans.

### HUD Data Samples

As previously mentioned, HUD will provide grantees with data tools in the form of tables and maps that will form the foundation of the analysis. Examples of this data are shown below.

Geospatial data: Grantees would be able to map out a variety of data, such as this population dot density map, which would provide a visual orientation to the community.



Tabular data: HUD would also provide tabular data that would provide the numerical details necessary for effective analysis and decision-making, such as this metropolitan area demographic table.

	2010	2000	1990
<b>Total Population</b>	<b>1,258,251</b>	<b>996,512</b>	<b>865,640</b>
<b>White</b>	<b>754,328 (62%)</b>	<b>636,571 (64%)</b>	<b>590,648 (68%)</b>
<b>Black or African American</b>	<b>370,775 (30%)</b>	<b>300,457 (30%)</b>	<b>252,340 (29%)</b>
<b>Asian</b>	<b>38,940 (3%)</b>	<b>20,491 (2%)</b>	<b>11,864 (1.4%)</b>
<b>Hispanic/Latino</b>	<b>63,289 (5%)</b>	<b>25,441 (3%)</b>	<b>9,327 (1.1%)</b>

<b>Persons with disabilities*</b>	<b>140,238 (11%)</b>	<b>162,108 (18%)</b>	
<b>Households with children under 18 years</b>	<b>162,998 (33%)</b>	<b>140,975 (36%)</b>	<b>120,074 (36%)</b>
<b>Households with persons 65 and over</b>	<b>112,415 (23%)</b>	<b>79,727 (21%)</b>	<b>70,192 (21%)</b>

### **Bringing It All Together**

The new Assessment of Fair Housing is designed to move far beyond satisfying a technical reporting requirement to a new level of community planning regarding local fair housing issues. The AFH process begins with honest and inclusive community conversation and culminates in shaping the action plans that strengthen our neighborhoods and provide the strongest possible foundation for families. HUD seeks a new partnership with the communities we serve where our collective economic development and civil rights wisdom is put to work on behalf of individuals and families striving for the American Dream.