

HOW TO USE HUD'S AFFIRMATIVELY FURTHERING FAIR HOUSING (AFH) TOOL

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Proposed Legislation

Sec.2. NULLIFICATION OF RULES AND NOTICES

a) **Final Rule** – The final rule of the Department of Housing and Urban Development entitled “Affirmatively Furthering Fair Housing”, published in the Federal Register on July 16, 2015 (80 Fed.Reg.42272; Docket No. FR-5137-F-04), and any successor rule that is substantially similar to such final rule shall no force or effect.

b) **Notice** – The notice of the Department of Housing and Urban Development relating to the AFFH Assessment Tool, published in the Federal Register on December 31, 2015...and any successor notice or rule substantially similar to such notice shall have no force or effect.

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Proposed Legislation

- H.R. 482, introduced 1/12/17, sent to Financial Services Committee
- S. 103, introduced 1/11/17, sent to Banking Committee
- Monitor <https://www.congress.gov/> for updates

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Proposed Legislation

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Proposed Legislation

Sec.3. PROHIBITION ON USE OF FEDERAL FUNDS.

Notwithstanding any other provision of law, no Federal funds may be used to design, build, maintain, utilize, or provide access to a Federal database of geospatial information on community racial disparities or disparities in access to affordable housing.

Sec.3. FEDERALISM CONSULTATION & REPORT.

- a) In General – The Secretary of HUD shall jointly consult with State officials, local government officials, and officials of public housing agencies to develop recommendations, consistent with applicable rulings of the Supreme Court of the U.S., to further the purposes and policies of the Fair Housing Act.

Learning Objectives

- Understand the purpose of AFFH
- Understand the key requirements of the Final AFFH rule
- Understand areas and subjects to be addressed in completing the **Affirmative Fair Housing (AFH) tool** for public housing programs
- Determine applicable submission dates
- Understand what criteria HUD will use in approving or denying AFH submissions

Assessment of Fair Housing (AFH)

- Assessment of Fair Housing (AFH) means the analysis undertaken pursuant to §5.154 that includes:
 - *An analysis of fair housing data,*
 - *An assessment of fair housing issues and contributing factors, and*
 - *An identification of fair housing priorities and goals.*
- The AFH is conducted and submitted to HUD using the Assessment Tool.
 - <https://egis.hud.gov/affht>

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Purpose of AFFH

- Provide for better fair housing planning and address in a meaningful way issues raised in the analysis process.
- The AFFH requires that you identify real and potential segregation of any protected class and develop meaningful actions to alleviate or reduce such segregation.
- Protected classes include:
 - ◇ Race
 - ◇ Color
 - ◇ Religion
 - ◇ National Origin
 - ◇ Familial Status
 - ◇ Sex
 - ◇ Disability
 - ◇ Age

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Addressing Key Fair Housing Issues

- Improve integrated living patterns and overcome historic patterns of segregation
- Transform racially, ethnically, and disability concentrated areas of poverty into areas with greater access to opportunity
- Reduce disparities in access to opportunity experienced by each protected classes.
- Respond to disproportionate housing needs experienced by different protected classes.

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AFFH Final Rule Highlights

- Program participants must:
 - *Engage the community, including those who might not normally participate, in fair housing planning and adhere to community participation requirements (24 CFR 5.158).*
 - *Assisted housing residents*
 - *Advocacy groups and representatives of each protected class*
 - *The community as a whole*
 - *City, State and local laws, policies and procedures*
 - *PHA policies and procedures*

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Community Participation, Consultation and Coordination

- Program participants should employ communications means designed to reach the broadest audience.
- Such communications may be met by:
 - *Publishing a summary of each document in one or more newspapers of general circulation, and*
 - *Making copies of each document available on the Internet, on the program participant's official government Web site, at libraries, government offices, and public places.*
- Ensure that all aspects of community participation are conducted in accordance with all fair housing laws.

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Information Received in Community Participation

- The AFH tool entries must include:
 - *a concise summary of the community participation process,*
 - *public comments, and efforts made to broaden community participation in the development of the AFH;*
 - *a summary of the comments, views, and recommendations, received in writing, or orally at public hearings, during the community participation process; and*
 - *a summary of any comments, views, and recommendations not accepted by the program participant and the reasons for non-acceptance. 24 C.F.R. § 5.154(d)(6).*

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Incorporation of Comments into AFH

- PHAs are not required to incorporate all possible information submitted or recommended to them in the community participation process.
- PHAs are required to at least summarize and describe such comments and recommendations, including the reasons for not including them.
- PHAs are not required to expend extensive staff time or funding to corroborate or verify all information provided by private organization who include their own complex data and analysis.

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AFFH Final Rule Highlights

- It requires you use an assessment tool providing data to analyze fair housing issues and contributing factors in the region.
- Participants must set goals and milestones for meeting those goals.
- The PHA must take meaningful actions that will further fair housing and not take actions that are inconsistent with goals set.
- The AFFH requires a look back to ensure that goals are adjusted as actions occur.

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AFH Steps

- Step 1:** Provision of Data and AFH Assessment Tool
- HUD provides each program participant with data and an AFH assessment tool to use in assessing fair housing issues in its community.
 - HUD will also provide technical assistance to aid program participants in submitting its AFH.

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AFH Steps

Step 2: Analysis

- Using the HUD data, local data and local knowledge, the required community participation process, and the assessment tool, each program participant prepares and submits a complete AFH to HUD, including fair housing goals.

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AFH Steps

Step 3: Review and Response

- HUD has 60 days after receipt of the AFH to determine whether the program participant has met the requirements for providing its analysis, assessment, and goal setting.
- The AFH is deemed accepted after 60 days unless HUD provides the program participant written notification of why the AFH was not accepted and guidance on how the AFH should be revised in order to be accepted.
- HUD will not accept an AFH if HUD finds that an AFH or a portion of the AFH is inconsistent with fair housing or civil rights requirements or is substantially incomplete.

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AFH Steps

Step 4: Incorporate into PHA Planning Processes and Action

- The goals identified in the AFH must be incorporated into the strategies and actions of:
 - Consolidated Plan,
 - The Annual Action Plan,
 - The PHA Plan, and
 - The Capital Fund Plan.

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Analysis

- The analysis would fall into **five major categories**:
 - **Demographics.**
 - The analysis starts with the make-up of the community across a number of defined characteristics. This establishes the foundation for all of the analysis that follows.
 - **Segregation and Integration.**
 - The analysis examines patterns of integration and segregation across the region. In order to affirmatively further fair housing, a jurisdiction must identify actions that increase fair housing choice.
 - **Racially/Ethnically Concentrated Areas of Poverty.**
 - The AFH includes an analysis of racially and ethnically concentrated areas of poverty.

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Analysis (continued)

- **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. Research has shown that racial and ethnic minorities, individuals with disabilities, and other protected classes often have less ability to access these vital amenities.
- **Housing Needs Across Protected Classes.**
 - The last section of the analysis examines 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.

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Acting on the Analysis

- Upon completing the analysis, the PHA will:
 - 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.

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AFH Process

- The AFH may be conducted and submitted by:
 - **Individual Participants:** Each program participant conducts and submits an AFH alone.
 - **Joint Participants:** Two or more program participants conduct and submit a single AFH.
 - **Regionally Collaborating Participants:** Two or more program participants, where at least two are consolidated plan program participants, conduct and submit an AFH.
- PHAs are encouraged to collaborate, combining resources and addressing fair housing issues from a broader perspective.
 - This collaboration would submit either a joint AFH or a regional AFH.

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AFH Process

- When working with other program participants, PHAs are encouraged to enter into Memorandums of Understanding (MOUs) to clearly define:
 - The functions,
 - The level of member participation,
 - The method of dispute resolution, and
 - Decision-making process of the program participants in the creation of the AFH.

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Withdrawal from a Joint or Regional Collaboration

- A program participant that, for any reason, decides to withdraw from a previously arranged collaborative AFH must promptly notify HUD.
- HUD will work with the agencies to determine if a new submission date is needed for the withdrawing participant or the remaining participants.
- If a new submission date is needed, HUD will establish a date that is as close as feasible to the originally intended submission date and is no later than the original joint or regional submission date unless good cause for an extension is shown.

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Joint & Regional Community Participation

- Collaborating program participants must have a plan for community participation that includes residents and other interested members of the public, in the jurisdictions of **each** collaborating participant - not just those of the lead entity.
- The community participation process must be conducted in a manner sufficient for each PHA to certify that it is satisfying the notice and comment requirements in 24 CFR part 903.
- A material change that requires any collaborating program participant to revise its AFH will trigger a requirement to revise the joint or regional AFH.

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Joint & Regional Community Participation

- A joint or regional AFH does not relieve each collaborating program participant from its obligation to analyze and address local and regional fair housing issues and contributing factors that affect housing choice, and to set priorities and goals for its geographic area to overcome the effects of contributing factors and related fair housing issues.

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**DEFINITIONS &
MEANINGS OF TERMS
USED FOR
COMPLETING THE
AFH PLAN**

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Assessment of Fair Housing (AFH)

- **AFH** refers to analyses undertaken that includes:
 - *an analysis of fair housing data,*
 - *an assessment of FH issues and contributing factors,*
 - *an identification of fair housing priorities and goals,*
and
 - *a submission HUD using the Assessment Tool.*

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Assessment Tool

- **Assessment Tool** refers collectively to any forms or templates and the accompanying instructions provided by HUD that program participants must use to conduct and submit an AFH.

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Community Participation

- **Community participation** includes:
 - *a solicitation of views and recommendations from members of the community and other interested parties,*
 - *a consideration of the views and recommendations received, and*
 - *a process for incorporating such views and recommendations into decisions and outcomes.*
- Community participation **is required** in the developing the AFH.

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- **HUD-provided data**
 - HUD-provided metrics, statistics, and other quantified information required to be used with the Assessment Tool.
 - HUD-provided data will be provided to program participants and posted on HUD's website for availability to all of the public.
- **Local data**
 - Metrics, statistics, and other quantified information, subject to a determination of statistical validity by HUD, relevant to the program participant's geographic areas of analysis, that:
 - Can be found through a reasonable amount of search,
 - Are readily available at little or no cost, and
 - Are necessary for completing the AFH using the Assessment Tool.

Contributing Factors

- **Fair housing contributing factor** means a factor that creates, contributes to, perpetuates, or increases the severity of one or more fair housing issues.
- Goals in an AFH are designed to overcome one or more contributing factors and related fair housing issues.

Disability

- **Disability**
 - A physical or mental impairment that substantially limits one or more major life activities of such individual;
 - A record of such an impairment; or
 - Being regarded as having such an impairment.
- The term "disability" is consistent with the definition under section 504 of the Rehabilitation Act of 1973, as amended by the ADA Amendments Act of 2008.

Disproportionate Housing Needs

- Refers to a condition in which there are significant disparities between the proportion of members of a protected class **when compared** to members of any other relevant groups or the total population experiencing that same need in the geographic area.
 - *Categories of housing need include such factors as:*
 - cost burden,
 - severe cost burden,
 - overcrowding, and
 - substandard housing conditions.

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Fair Housing Choice

- Individuals and families have the information, opportunity, and options to live where they choose without unlawful discrimination and other barriers related to race, color, religion, sex, familial status, national origin, or disability. It encompasses:
 - **Actual Choice** - *the existence of realistic housing options;*
 - **Protected Choice** - *housing that can be accessed without discrimination; and*
 - **Enabled Choice** - *realistic access to sufficient information regarding options so that any choice is informed.*
 - *For persons with disabilities, it includes **access** to accessible housing and related services in the most integrated setting appropriate to an individual's needs.*

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Fair Housing Issue

- A condition that restricts fair housing choice or access to opportunity, and includes such conditions as:
 - *Ongoing segregation or lack of integration,*
 - *Racially or ethnically concentrated areas of poverty,*
 - *Significant disparities in access to opportunity,*
 - *Disproportionate housing needs, and*
 - *Evidence of discrimination or violations of civil rights law or regulations related to housing.*

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Fair Housing Enforcement and Fair Housing Outreach Capacity

- The ability of a jurisdiction, and organizations located in the jurisdiction, to
 - *Accept complaints of violations of fair housing laws,*
 - *Investigate such complaints,*
 - *Obtain remedies,*
 - *Engage in fair housing testing, and*
 - *Educate community members about fair housing laws and rights.*

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Geographic Area

- A jurisdiction, region, State, Core-Based Statistical Area (CBSA), or another applicable area (e.g., census tract, neighborhood, Zip code, block group, housing development, or portion thereof) relevant to the analysis required to complete the assessment of fair housing.

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Jurisdiction and CBSA

- **PHA Jurisdiction** means the service area of the PHA.
- **CBSA** stands for Core-Based Statistical Area
 - *A Core Based Statistical Area is a U.S. geographic area defined by the Office of Management and Budget (OMB) that centers on an urban center of at least 10,000 people and adjacent areas that are socioeconomically tied to the urban center by commuting.*
 - *Regionally collaborating program participants should be in the same CBSA*

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Housing Programs Serving Specified Populations

- HUD and Federal housing programs, such as
 - HUD's *Supportive Housing for the Elderly*,
 - *Supportive Housing for Persons with Disabilities*,
 - *Homeless assistance programs under the McKinney-Vento Homeless Assistance Act*, and
 - *Designated housing for elderly and disabled families, under section 7 of the United States Housing Act of 1937*, that:
 - Serves specific identified populations; and
 - Complies with FH and Federal civil rights statutes and regulations.

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Integration

- A condition, within the program participant's geographic area of analysis, as guided by the Assessment Tool, in which there **is not** a high concentration of persons of a particular race, color, religion, sex, familial status, national origin, or having a disability or a particular type of disability when compared to a broader geographic area.
- For individuals with disabilities, integration also means that such individuals are able to access housing and services in the most integrated setting appropriate to the individual's needs.

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Local Knowledge

- Information provided by the PHA that:
 - *Relates to the participant's geographic areas of analysis and that is relevant to the program participant's AFH,*
 - *Is known or becomes known to the program participant, and*
 - *Is necessary for the completion of the AFH using the Assessment Tool.*
- Examples of local knowledge include:
 - *Local laws and policies,*
 - *Common neighborhood names and borders, and*
 - *Information about the housing market and housing stock.*
 - *Information obtained through the community participation process.*

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Meaningful Actions

- **Significant actions** that are designed and can be reasonably expected to achieve a material positive change that affirmatively furthers fair housing by increasing fair housing choice or decreasing disparities in access to opportunity.

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Protected Characteristics & Protected Class

- **Protected characteristics** are race, color, religion, sex, familial status, national origin, having a disability, and having a type of disability.
- **Protected class** means a group of persons who have the same protected characteristic; e.g., a group of persons who are of the same race are a protected class. Similarly, a person who has a mobility disability is a member of the protected class of persons with disabilities and a member of the protected class of persons with mobility disabilities.

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Qualified Public Housing Agency

- A PHA for which the sum of:
 - *Public housing dwelling units, and the number of vouchers under section 8(o) of the United States Housing Act of 1937 administered by the PHA is **550 or fewer**; and*
 - *That **is not designated** under section 6(j)(2) as a troubled PHA, and **does not** have a failing score under the Section 8 Management Assessment Program (SEMAP) during the prior 12 months.*

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- R/ECAPS – Racially or Ethnically Concentrated Areas of Poverty
 - A geographic area with significant concentrations of poverty and minority populations.
- Significant Disparities in Access to Opportunity
 - Substantial and measurable differences in access to educational, transportation, economic, and other important opportunities in a community, based on protected class related to housing.

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Segregation

- A condition, in which there is a ***high concentration*** of persons of a particular race, color, religion, sex, familial status, national origin, or having a disability or a type of disability in a particular geographic area when compared to a broader geographic area.
- For persons with disabilities, segregation includes a condition in which the housing or services are not in the ***most integrated*** setting appropriate to an individual's needs.

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CONTRIBUTING FACTORS

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Housing Problems

- **Housing Cost Burden** means:
 - *paying more than 30% of income for monthly housing costs including utilities,*
 - *overcrowding,*
 - *lacking a complete kitchen, or*
 - *lacking plumbing.*
- **Severe Housing Problems** refer to:
 - *severe housing cost burden,*
 - *overcrowding,*
 - *lacking a complete kitchen, or*
 - *lacking plumbing.*

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Access to Opportunities

- In reference to “**disparities in access to opportunities**”, access encompasses consideration of infrastructure or policies related to where a person lives that impact an individual’s ability to benefit from an opportunity, such as:
 - *available transportation to a job,*
 - *school enrollment policies,*
 - *program eligibility criteria, or*
 - *local labor laws.*

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Access to Publicly Supported Housing for Persons with Disabilities

- Physical access for individuals with different types of disabilities, including such things as:
 - *ramps and other accessibility features for individuals with mobility impairments,*
 - *visual alarms and signals for individuals who are deaf or hard of hearing, and*
 - *audio signals, accessible signage, and other accessibility features for individuals who are blind or have low vision*

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Access to Publicly Supported Housing for Persons with Disabilities

- Provision of auxiliary aids and services to provide effective communication for individuals who are deaf or hard of hearing, are blind or have low vision, or individuals who have speech impairments.
- Programmatic access, which could include application procedures, waitlist procedures, transfer procedures and reasonable accommodation procedures.

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Financial Services

- Refers to economic services provided by a range of quality organizations that manage money, including credit unions, banks, credit card companies, and insurance companies.
 - *Includes access to credit financing for mortgages, home equity, and home repair loans.*
 - *Includes physical access to services - often dictated by the location - as well as the ability to obtain credit, insurance or other key financial services.*

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Financial Services (continued)

- *Includes equitable treatment in receiving financial services, including equal provision of information and equal access to mortgage modifications.*
- Financial services do not include predatory lending including predatory foreclosure practices, storefront check cashing, payday loan services, and similar services.

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Policies and Procedures

- Marketing and advertising of vacancies
- Maintaining or terminating occupancy
- Admissions preferences (e.g. residency preference, preferences for local workforce, etc.)
- Application, admissions, and waitlist policies (e.g. in-person application requirements, rules regarding applicant acceptance or rejection of units, waitlist time limitations, first come first serve, waitlist maintenance, etc.)
- Credit and criminal record policies

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Policies and Procedures (continued)

- Designations of housing developments (or portions of developments) for the elderly and/or persons with disabilities
- Domestic Violence
- Eviction policies and procedures.
- Policies for processing reasonable accommodation & modification requests
- Income thresholds for new admissions or for continued eligibility.
- Occupancy limits.

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Deteriorated & Abandoned Properties

- Residential and commercial properties unoccupied by an owner or a tenant, which are in disrepair, unsafe, or in arrears on real property taxes.
 - *May be signs of a community's distress and disinvestment and are often associated with crime, increased risk to health and welfare, plunging decreasing property values, and municipal costs.*

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Deteriorated & Abandoned Properties (continued)

- *The presence of multiple unused or abandoned properties in a particular neighborhood may have resulted from mortgage or property tax foreclosures.*
- *The presence of such properties can raise serious health and safety concerns and may also affect the ability of homeowners with protected characteristics to access opportunity through the accumulation of home equity.*
- *Demolition without strategic revitalization and investment can result in further deterioration of already damaged neighborhoods.*

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Access for Persons with Disabilities to Proficient Schools

- Some school facilities may not be accessible or may only be partially accessible to individuals with different types of disabilities.
 - *A fully accessible building is compliant with all ADA/504 requirements and has no barriers to entry for persons with mobility impairments.*

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Access for Persons with Disabilities to Proficient Schools

- *A partially accessible building allows for persons with mobility impairments to enter and exit the building, access all relevant programs, and have use of at least one restroom, but the entire building is not accessible and parents and students with disabilities may not access areas of the facility to the same extent as individuals without disabilities.*
- *In some instances school policies steer individuals with certain types of disabilities to certain facilities or certain programs or certain programs do not accommodate the disability-related needs of certain students.*

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Access to Transportation for Persons With Disabilities

- Access includes:
 - *Physical accessibility,*
 - *Physical proximity,*
 - *Policies,*
 - *Cost,*
 - *Safety,*
 - *Reliability*
 - *Accessible bus stops,*
 - *Ability to make audio announcements for persons who are blind or have low vision, and*
 - *Denial of access to persons with service animals.*
- Absence of or clustering of accessible transportation and other transportation barriers may limit the housing choice of individuals with disabilities.

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Availability, Type, Frequency, & Reliability of Public Transportation

- **Availability** includes geographic proximity, cost, safety and accessibility, as well as whether the transportation connects individuals to places they need to go such as jobs, schools, retail establishments, and healthcare.
- **Type refers** to method of transportation, such as bus or rail.
- **Frequency** refers to the interval at which transportation runs.
- **Reliability** includes such factors as how often trips are late or delayed, the frequency of outages, and whether the transportation functions in inclement weather.

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Community Opposition

- Opposition often referred to as **"Not in my Backyard,"** or **NIMBY-ism.**
 - *This opposition is often expressed in protests, challenges to land-use requests or zoning waivers or variances, lobbying of decision-making bodies, or even harassment and intimidation.*
 - *Community opposition can be based on:*
 - *Factual concerns (concerns are concrete and not speculative, based on rational, demonstrable evidence, focused on measurable impact on a neighborhood) or*
 - *Biases (concerns are focused on stereotypes, prejudice, and anxiety about the new residents or the units in which they will live).*

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Displacement of Residents Due to Economic Pressures

- **Displacement** refers to a resident's undesired departure from a place where an individual has been living.
- **Economic Pressures** include, but are not limited to, rising rents, rising property taxes related to home prices, rehabilitation of existing structures, demolition of subsidized housing, loss of affordability restrictions, and public and private investments in neighborhoods.
 - Such pressures can lead to loss of existing affordable housing in areas experiencing rapid economic growth and a resulting loss of access to opportunity assets for lower income families that previously lived there.
 - Where displacement disproportionately affects persons with certain protected characteristic, the displacement of residents due to economic pressures may exacerbate patterns of residential segregation.

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Impediments to Mobility

- Impediments to mobility refers to barriers faced by families when attempting to move to an area of their choice, especially integrated neighborhoods and areas of opportunity.
- Factors impeding mobility, include:
 - Lack of quality mobility counseling.
 - Jurisdictional fragmentation among multiple providers of publicly supported housing that serve single metropolitan areas and PHA jurisdictional limitations.
 - Lack of a consolidated waitlist for all assisted housing available in the metropolitan area.
 - Lack of source of income protection or discrimination based on source of income.

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Impediments to Portability

- Challenges that make it difficult for PHAs to coordinate program operations with other PHAs in order to maximize HCV mobility at the regional level. These impediments may include:
 - Administrative issues in coordinating portability moves.
 - Porting families from one locality to another can pose logistical challenges for both the sending and receiving PHAs.
 - Poor communication procedures and contacts between PHAs can create impediments to families porting outside the service area.
 - Low FMRs and payment standards in costly rental markets can prohibit mobility and portability.
 - Issues like delays in HQS inspection by the receiving PHA that can inhibit portability moves.

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Inaccessible Public or Private Infrastructure

- Many public buildings, sidewalks, pedestrian crossings, or other infrastructure components are inaccessible to individuals with disabilities.
 - *Inaccessibility is often manifest by the lack of curb cuts, lack of ramps, and the lack of audible pedestrian signals.*
 - *ADA and related civil rights laws do not apply everywhere and/or may be inadequately enforced.*
 - *Inaccessible government facilities and services may pose a barrier to fair housing choice for individuals with disabilities by limiting access to important community assets such as public meetings, social services, libraries, and recreational facilities.*
 - *Note that the concept of accessibility includes both physical access (including to websites and other forms of communication) as well as policies and procedures.*

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Lack of Access to Opportunity Due to High Housing Costs

- High costs can have a negative effect on families with children who need multiple bedrooms and individuals with disabilities who need accessible housing or housing located close to accessible transportation.
- Strategies may be needed to overcome barriers imposed by housing costs. Strategies may include:
 - *Small Area fair market rents (FMRs),*
 - *Exception payment standards,*
 - *Siting of Project-Based Vouchers,*
 - *Buying down affordability of rental housing using HOME or LIHTC,*
 - *Inclusionary zoning (including when combined with ongoing affordability at voucher payment standards or acceptance of vouchers), and*
 - *Use of LIHTC for new construction of affordable housing opportunities.*

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Lack of Affordable, Accessible Housing in a Range of Unit Sizes

- **Affordable** means that a low or moderate income family can afford to rent or buy a decent-quality dwelling without spending more than 30% of its income.
- **Accessible** Housing refers to housing that accords individuals with disabilities equal opportunity to use and enjoy a dwelling. Characteristics that may affect accessibility may include:
 - *Physical accessibility of units and public and common use areas of housing,*

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Lack of Affordable, Accessible Housing in a Range of Unit Sizes

- *Application procedures, such as first come first serve waitlists,*
- *Inaccessible websites or other technology,*
- *Denial of access to individuals with assistance animals, or*
- *Lack of information about affordable accessible housing.*
- *Clustering of affordable, accessible housing with a range of unit sizes may also limit fair housing choice for individuals with disabilities.*

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Lack of Affordable In-Home or Community-Based Supportive Services

- Refers to medical and other supportive services available for targeted populations, such as individuals with mental illnesses, cognitive or developmental disabilities, and/or physical disabilities in their own home or community (as opposed to in institutional settings).
 - *Includes services for personal care, assistance with housekeeping, transportation, in-home meal service, integrated adult day services and other services such as medical, social, education, transportation, housing, nutritional, therapeutic, behavioral, psychiatric, nursing, personal care, and respite.*
 - *Also includes assistance with activities of daily living such as bathing, dressing, eating, and using the toilet, shopping, managing money or medications, and various household management activities, such as doing laundry.*

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Lack of Affordable In-Home or Community-Based Supportive Services

- Public entities must provide services to individuals with disabilities in community settings rather than institutions when:
 - *such services are appropriate to the needs of the individual;*
 - *the affected persons do not oppose community-based treatment; and*
 - *community-based services can be reasonably accommodated, taking into account the resources available to the public entity and the needs of others who are receiving disability-related services from the entity.*

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Lack of Affordable In-Home or Community-Based Supportive Services

- Assessing the cost and availability of these services is also an important consideration.
- The outreach of government entities around the availability of community supports to persons with disabilities in institutions may impact these individuals' knowledge of such supports and their ability to transition to community-based settings.

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Lack of Affordable, Integrated Housing for Individuals Who Need Supportive Services

- **Integrated housing** is housing where individuals with disabilities can live and interact with persons without disabilities to the fullest extent possible.
- **Supportive services** means medical and other voluntary supportive services available for targeted populations groups, such as individuals with mental illnesses and **intellectual or physical disabilities**, in their own home or community (as opposed to institutional settings).
- Services may include personal care, assistance with housekeeping, transportation, in-home meal service, integrated adult day services, assistance with activities of daily living such as bathing, dressing, and using the toilet, shopping, managing money or medications, and various household management activities, such as doing laundry.

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Lack of Assistance for Transitioning from Institutional Settings to Integrated Housing

- The integration mandate of the ADA and Olmstead v. L.C. compels states to offer community-based health care services and long-term services and supports for individuals with disabilities who can live successfully in housing with access to those services and supports.
 - States (including PHAs) must find housing that enables them to assist individuals with disabilities to transition out of institutions and other segregated settings into the most integrated setting appropriate to their needs.

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Lack of Assistance for Transitioning from Institutional Settings to Integrated Housing

- Policies that **perpetuate segregation** may include:
 - Inadequate community-based services;
 - Reimbursement and other policies that make needed services unavailable to support individuals with disabilities in mainstream housing;
 - Conditioning access to housing on willingness to receive supportive services;
 - Incentivizing the development or rehabilitation of segregated settings.

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Lack of Assistance for Transitioning from Institutional Settings to Integrated Housing

- Policies or practices that **promote** community integration may include:
 - Administration of long-term State or locally-funded tenant-based rental assistance programs;
 - Applying for funds under the Section 811 Project Rental Assistance Demonstration;
 - Implementing special population preferences in housing programs;

77

Lack of Assistance for Transitioning from Institutional Settings to Integrated Housing

- Incentivizing the development of integrated supportive housing through the LIHTC program;
- Ordinances banning housing discrimination on the basis of source of income;
- Coordination between housing and disability services agencies;
- Increasing the availability of accessible public transportation.

78

Lack of Community Revitalization Strategies

- **Community Revitalization Strategies** refers to realistic planned activities to improve the quality of life in areas that:
 - Lack public and private investment, services and amenities,
 - Have significant deteriorated and abandoned properties, or
 - Other indicators of community distress.
- **Revitalization** can include activities such as:
 - Improving housing,
 - Attracting private investment,
 - Creating jobs, and expanding educational opportunities or
 - Providing links to other community assets.

79

Lack of Community Revitalization Strategies

- **Strategies** may include such actions as:
 - Rehabilitating housing;
 - Offering economic incentives for housing developers, businesses (for commercial and employment opportunities), bankers, and other interested entities that assist in the revitalization effort; and
 - Securing financial resources (public, for-profit, and nonprofit) from sources inside and outside the jurisdiction to fund housing improvements, community facilities and services, and business opportunities in neighborhoods in need of revitalization.
- When a community is being revitalized, the preservation of affordable housing units can be a strategy to promote integration.

80

Lack of Job Training Programs

- Lack of job training programs hinders employment opportunities in a community, and contributes to income and locational based segregation by denying access to opportunity.
- The existence of job training programs can create strong, stable, and diverse communities.

81

Lack of Local Private Fair Housing Outreach and Enforcement

- Refers to outreach and enforcement actions by private individuals and organizations, including such actions as:
 - *fair housing education,*
 - *conducting testing,*
 - *bringing lawsuits, and*
 - *arranging and implementing settlement agreements.*

82

Lack of Local Private Fair Housing Outreach and Enforcement

- Lack of private enforcement may be the result of a lack of resources or a lack of awareness about rights, which can lead to under-reporting of discrimination, failure to take advantage of legal remedies, and the continuation of discriminatory practices.
- Activities to raise awareness may include training for housing industry representatives & organizations, education and outreach activities geared to the general public, advocacy campaigns, fair housing testing and enforcement.

83

Lack of Local or Regional Cooperation

- **Local or regional cooperation** refers to formal networks or coalitions of organizations, people, and entities working together to plan for local or regional development.
- Cooperation in local or regional planning can be a useful approach to coordinate responses to identified fair housing issues and contributing factors.
- Fair housing issues and contributing factors not only cross multiple sectors, such as housing, transportation, education and commercial and economic development but **also** multiple geographic regions.
- When there are local or regional patterns in segregation or R/ECAP, access to opportunity, disproportionate housing needs, or the concentration of affordable housing, there may be a lack of local or regional cooperation and fair housing choice may be restricted.

84

Lack of Local Public Fair Housing Enforcement

- **Local Public Fair Housing Enforcement** refers to enforcement actions by State and local agencies or non-profits charged with enforcing fair housing laws, including testing, lawsuits, settlements, and fair housing audits.
- A lack of enforcement may be assessed by reference to the nature, extent, and disposition of housing discrimination complaints filed in the service area.

85

Lack of Meaningful Language Access

- Individuals with limited English proficiency (LEP) includes anyone “who does not speak English as their primary language and who has a limited ability to read, write, speak, or understand English...”
 - (HUD LEP Guidance, 6872 Fed. Reg. 273244) (Jan. 22, 2007).
- **Lack** of meaningful language access poses barriers to LEP individuals seeking publicly supported housing.
- **PHAs must be** in compliance with language access requirements to ensure that all individuals have access to information regarding affordable housing.

86

Lack of Public and Private Investment in Specific Neighborhoods, Including Services & Amenities

- **Public Investment** refers to the money government spends on housing and community development, including
 - public facilities,
 - infrastructure, and
 - services, **such as** sanitation, water, streets, schools, emergency services, social services, and parks and transportation.
- Disparities in the provision of municipal and state services and amenities have an impact on housing choice and the quality of communities.

87

Lack of Public and Private Investment in Specific Neighborhoods, Including Services & Amenities

- Private Investment refers to investment by non-governmental entities, such as corporations, financial institutions, individuals, philanthropies, and non-profits, in housing & community infrastructure.
 - Private investment can be used as a tool to advance fair housing, through strategies such as **targeted investment**, mixed-use developments, and public-private partnerships.
 - Private investments may include, but are not limited to: housing construction or rehabilitation; investment in **businesses that create jobs and increase access to amenities** such as grocery stores, pharmacies, and banks, the creation of recreational facilities and providing social services.

88

Lack of Resources for Fair Housing Agencies and Organizations

- Refers to insufficient resources for public or private organizations to conduct fair housing activities, such as, testing, enforcement, coordination, advocacy, and awareness-raising.
- Fair housing testing refers to the use of individuals who, without any bona fide intent to rent or purchase a home, apartment, or other dwelling, pose as prospective buyers or renters of real estate for the purpose of gathering information, which may indicate whether a housing provider is complying with fair housing laws.
- **Resources** can be either public or private funding or other resources.
 - Consider coordination mechanisms between different enforcement actors.

89

Lack of State or Local FH Laws

- Consider laws that are comparable or “substantially equivalent” to the Fair Housing Act or other relevant federal laws affecting fair housing laws, as well as those that include additional protections. Examples of state and local laws affecting fair housing include:
 - legislation banning source of income discrimination,
 - protections for individuals based on sexual orientation, age, survivors of domestic violence, or other characteristics,
 - mandates to construct affordable housing, and site selection policies.
- Also consider changes to existing State or local fair housing laws, including the proposed repeal or dilution of such legislation.

90

Land Use and Zoning Laws

- Generally refers to State or local government regulations of the use of land and buildings.
- Zoning and land use laws affect housing choice by determining where housing is built, what type of housing is built, who can live in that housing, and the cost and accessibility of the housing. Examples include:
 - *Limits on multi-unit developments, which may include outright bans or indirect limits such as height limits and minimum parking requirements.*

81

Land Use and Zoning Laws

- *Occupancy restrictions, which regulate how many persons may occupy a property and, sometimes, the relationship between those persons.*
- *Lack of inclusionary zoning practices that mandate or incentivize the creation of affordable units.*
- *Requirements for special use permits for all multifamily properties or multifamily properties serving individuals with disabilities.*
- *Restriction of services to persons experiencing homelessness, such as transitional shelters, day shelters, or soup kitchens.*

82

Laws, Policies, Regulatory Barriers to Providing Housing and Supportive Services for Persons With Disabilities

- Some local governments require special use permits or place restrictions on housing and supportive services for persons with disabilities or groups of unrelated persons living together.
- The Fair Housing Act makes it unlawful:
 - *To utilize land use policies or actions that treat groups of persons with disabilities less favorably than groups of persons without disabilities,*
 - *To take action against, or deny a permit, for a home because of the disability of individuals who live or would live there, or*
 - *To refuse to make reasonable accommodations in land use and zoning policies and procedures where such accommodations may be necessary to afford persons or groups of persons with disabilities an equal opportunity to use and enjoy housing.*

83

Local Restrictions or Requirements for Landlords Renting to Voucher Holders

- Some service areas require additional inspections, licenses, permits, paperwork, etc. for landlords hoping to rent to voucher holders.
- Some service areas also maintain stricter regulations on Section 8 landlords than market rate landlords or place restrictions on the number of vouchers that can be used in a given area.

94

Location of Accessible Housing

- For purposes of this assessment, accessible housing refers to housing opportunities in which individuals with disabilities have equal opportunity to use and enjoy a dwelling.
- Characteristics that affect accessibility may include:
 - *Physical accessibility of units and public and common use areas of housing.*
 - *As application procedures, such as first come first serve waitlists,*
 - *Inaccessible websites or other technology,*
 - *Denial of access to individuals with assistance animals, or*
 - *Lack of information about affordable accessible housing.*
- State and local laws differ regarding accessibility requirements.
 - *An approximation that may be useful in this assessment is that buildings built before 1992 tend not to be accessible.*

95

Location of Employers

- The geographic relationship of job centers and large employers to housing, and the linkages between the two (including, in particular, public transportation) are important components of fair housing choice.
- Include consideration of:
 - *The type of jobs available,*
 - *Variety of jobs available,*
 - *Job training opportunities,*
 - *Benefits, and*
 - *Other key aspects that affect job access.*

96

Location of Environmental Health Hazards

- When environmental health hazards are concentrated in particular areas, neighborhood health and safety may be compromised and patterns of segregation entrenched.
- Environmental issues affecting health can include:
 - Access to safe and clean drinking water,
 - Soil contamination, excessive air pollution, and
 - Indoor health hazards (lead based paint, radon, mold, asbestos).
- Relevant factors to consider include:
 - The type and number of hazards,
 - The degree of concentration or dispersion (including in older housing stock), and
 - Health effects such as asthma, cancer clusters, obesity, etc.

97

Location of Proficient Schools and School Assignment Policies

- Quality of schools is often a major factor in deciding where to live and school quality is also a key component of economic mobility.
- Relevant factors to consider include:
 - Whether proficient schools are clustered in a portion of the service area or region,
 - Range of housing opportunities close to proficient schools, and
 - Whether the PHA or local government has policies that enable students to attend a school of choice regardless of place of residence.

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Location of Proficient Schools and School Assignment Policies

- Policies to consider include, but are not limited to:
 - inter-district transfer programs,
 - limits on how many students from other areas a particular school will accept, and
 - enrollment lotteries that do not provide access for the majority of children.

99

Location & Type of affordable Housing

- Location of affordable housing can limit choice, especially if the housing is located in segregated areas, or areas that lack access to opportunity.
- Type of housing (whether the housing primarily serves families with children, elderly, or persons with disabilities) can also limit housing choice.
- Location and type of affordable housing can be impacted by the location of HCV households, which may have payment standards that are too low, the failure of PHAs to provide sufficient landlord outreach, or other reasons.

100

Nuisance Laws

- Nuisance ordinances (disorderly house ordinances or crime free ordinances) label a property as a nuisance when there are a number of calls for police or alleged nuisance conduct that can include assault, harassment, stalking, disorderly conduct, and many other kinds of behavior.
 - *May apply regardless of whether a resident was a victim of the nuisance activity.*

101

Nuisance Laws

- *Can negatively impact crime victims by endangering their housing security and housing choice by creating barriers through evictions and/or threats to evict, as well as penalties for property owners based on the number of times police are called.*
- *Can limit housing opportunities for renters if housing providers assume that the renter will be victims of crime or domestic violence.*
- *An eviction record for nuisance conduct makes it difficult for tenants to secure replacement housing and an eviction can exacerbate and increase a crime victim's risk of homelessness.*

102

Occupancy Codes & Restrictions

- Refers to State and local laws, ordinances, and regulations that regulate who may occupy a property and, sometimes, the relationship between those persons.
- Occupancy codes and restrictions include, but are not limited to:
 - "persons per square foot" standards.
 - "bedrooms per persons" standards.
 - Restrictions on number of unrelated individuals.
 - Restrictions on occupancy to one family in single family housing along with a restricted definition of "family."
 - Restrictions that directly or indirectly affect occupancy based on national origin, religion, or other protected characteristic.
 - Restrictions on where voucher holders can live.

103

Policies Related to Payment Standards, FMR, and Rent Subsidies

- A PHA's policies regarding the use of exception payment standards and small area FMRs may affect the extent to which HCV-assisted households can find housing in different neighborhoods with varying rents.
 - HUD FMRs and payment standards set by PHAs may limit mobility for some HCV-assisted households in some markets or to some areas within markets.

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Policies Related to Payment Standards FMR, and Rent Subsidies

- Exception payment standards allow for a higher payment standard amount for a designated part or parts of an FMR area.
 - Exception payment standards exceed the PHA's basic range, and are determined in accordance with section 982.503(c).
 - HUD approval is required for exception payment standards.
 - PHAs may propose using Small area FMRs, which vary by zip code, in the determination of potential exception payment standards.

105

Quality of Affordable Housing Information Programs

- **Affordable housing information** programs refers to the provision of information to potential tenants and organizations that serve potential tenants, including the maintenance, updating, and distribution of the information.
- This information includes:
 - *Pro-active outreach to widen the pool of participating rental housing providers,*
 - *Listings of affordable housing opportunities or local landlords who accept housing choice vouchers;*
 - *Mobility counseling programs; and*
 - *Community outreach to potential beneficiaries.*
- The quality of such information relates to how comprehensive and up-to-date the information is.

106

Siting Selection Policies, Practices and Decisions for Publicly Supported Housing

- **Siting Selection** refers to the placement of new publicly supported housing developments.
 - *Placement of new housing refers to new construction or acquisition with rehabilitation of previously unsubsidized housing.*
- State and local policies, practices, and decisions can significantly affect the location of new publicly supported housing by influencing:
 - *local funding approval processes,*
 - *zoning and land use laws,*
 - *local approval of LIHTC applications, and*
 - *donations of land and other municipal contributions.*

107

Source of Income Discrimination

- **Source of income discrimination** refers to the refusal to accept tenants based on type of income.
- The elimination of source of income discrimination and the acceptance of payment for housing, regardless of source or type of income, increases fair housing choice and access to opportunity.
- Other efforts to increase fair housing choice could include outreach and actions to increase participation in the Housing Choice Voucher program. Examples of these outreach and actions may include,
 - *Demonstrating effective business or administrative processes, such as expediting inspections or*
 - *Use of innovative practices such as repair funds or security deposit assistance.*

108

State or Local Laws, Policies, or Practices that Discourage Individuals with Disabilities from Being Placed in or Living in Apartments, Family Homes, and Other Integrated Settings

- Such laws, policies, or practices may include:
 - *Medical assistance or social service programs that require individuals to reside in institutional or other segregated settings in order to receive services,*
 - *Lack of supportive services or affordable, accessible housing,*
 - *A lack of access to transportation, education, or*
 - *Jobs that would enable persons with disabilities to live in integrated, community-based settings.*

109

Unresolved Violations of Fair Housing or Civil Rights Law

- Unresolved violations of fair housing and civil rights laws include determinations or adjudications of a violation or relevant laws that have not been settled or remedied.
- This includes:
 - *Determinations of housing discrimination by an agency, court, or administrative law judge;*
 - *Findings of noncompliance by HUD or state or local agencies; and*
 - *Noncompliance with fair housing settlement agreements.*

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SUBMISSION OF AFH PLANS AND HUD'S REVIEW PROCESS

111

Submission Deadlines

- For non-qualified PHAs, the PHA's fiscal year that begins on or after January 1, 2018 for which a new 5-year plan is due.
- For qualified PHAs, the PHA's fiscal year that begins on or after January 1, 2019 for which a new 5-year plan is due.

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Submission Deadlines

- For joint or regional program participants, the submission must be based on the designated lead entity's program year start date or fiscal year beginning date.
 - *Within 12 months after the date of AFH acceptance, **each collaborating program participant that has a program year start date or fiscal year beginning date earlier than the designated lead entity** must make appropriate revisions to its PHA Plan to incorporate strategies and proposed actions consistent with the fair housing goals, issues, and other elements identified in the joint AFH or regional AFH.*

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Review by HUD

- HUD will review within 60 days of submission.
- HUD will deny approval of a submission if:
 - *The assessment is developed without required community participation, or*
 - *It fails to satisfy a required element in which goals are materially inconsistent with the data and other evidence.*
- If data shows something that the PHA does not address, the submission may be viewed as incomplete.

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Actions When Not Accepted

- HUD may disapprove a plan, including a MTW plan.
- HUD provides notification of nonacceptance.
- HUD will specify why it is not accepted.
- HUD will provide guidance on how the AFH should be revised in order to be accepted.
- The PHA will have at least 45 days to make corrections and resubmit.
- The AFH will be deemed accepted 60 calendar days after resubmission if not disapproved again.
- Disapproval of the plan may affect funding.

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Thank You!

For any class questions or follow-up,
please contact,

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