



November 25, 2014

Regulations Division
Office of the General Counsel
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0500

Docket No.: FR-5173-N-02 – Affirmatively Furthering Fair Housing Assessment Tool: Solicitation of Comment – 60-Day Notice under the Paperwork Reduction Act of 1995

To Whom It May Concern:

On behalf of Enterprise Community Partners (Enterprise), I appreciate the opportunity to provide feedback on HUD's Affirmatively Furthering Fair Housing (AFFH) Assessment Tool. Enterprise is a national nonprofit organization whose mission is to create opportunity for low-and moderate-income people through affordable housing in diverse, thriving communities. We work to achieve this by introducing solutions through cross-sector public-private partnerships with financial institutions, governments, community organizations and other partners that share our vision. Since 1982, Enterprise has raised and invested \$16 billion to help finance nearly 320,000 affordable homes across the United States.

Last year, Enterprise submitted a joint comment letter on the proposed AFFH rule with the Local Initiatives Support Corporation (LISC) and the National Housing Trust. We called for a balanced approach to fair housing by supporting both revitalization of affordable housing in areas of concentrated poverty and new affordable housing in high-opportunity areas. Our letter strongly recommends "providing guidance to jurisdictions to take on a both/and approach rather than a restrictive either/or approach." While the Assessment Tool acknowledges the importance of both efforts, we recommend that the tool include more questions on community-driven revitalization efforts and housing preservation strategies that counteract the displacement that occurs as a result of gentrification. Community development corporations (CDCs), community housing development organizations (CHDOs), and other neighborhood-based community organizations should be given the chance to describe their positive efforts for community revitalization that create greater opportunity within their own communities.

Enterprise strongly supports HUD's goal of creating greater opportunity for all Americans to have access to decent, safe and affordable housing in strong and healthy communities. We are equally supportive of HUD's efforts to create a more meaningful process to affirmatively further fair housing. We welcome the opportunity to review the Assessment Tool and provide general and specific comments regarding the tool in addition to the questions posted by HUD in the notice.

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General Comments

Publication of the Assessment Tool is a positive step forward in implementation of the proposed AFFH rule. We look forward to the development of a web-based system to guide participants through the data and required analysis. However, in its current form, it is difficult to gauge the time and staff capacity needed to successfully utilize the Assessment Tool. While HUD has provided questions, sample data and sample maps, the lack of a working template makes it difficult to truly assess the burden or efficacy of the tool or provide a complete and fair assessment of what is being requested by HUD. The 200 hour estimate for completion of the Assessment Tool is likely too low based on our review of the tool, but more information is needed to suggest a more accurate estimate.

As the Assessment Tool is designed for use by formula grant participants and public housing authorities (PHAs), other grantees such as states or regions must still wait for their own version of the tool. Because of the potentially significant added workload to the grantees, Enterprise is pleased that HUD is encouraging joint submissions, not only because it reduces the administrative burden of local jurisdictions and PHAs but also because many fair housing challenges cross jurisdictional lines.

Overall, we recommend that the Assessment Tool provide more clarity about what is minimally expected by grantees and PHAs in order to submit a successful Assessment of Fair Housing (AFH). While we agree with the proposed rule's intent to broaden the conversation regarding fair housing and opportunity, this should be considered an aspirational and long-term goal. While some communities may have the resources and the political will to make meaningful progress towards truly furthering fair housing, others may have staffing and resource constraints that will limit how much they can accomplish in a given timeframe. For this reason, Enterprise recommends that HUD consider including clear minimum requirements with additional guidance on best practices for those willing and able to manage a more transformative AFH.

Specific Detailed Comments

Community Participation Process

We recommend that the community participation process include a sub-section with a list of stakeholder groups engaged in revitalization and housing preservation. The Assessment Tool would also benefit from more questions that acknowledge positive place-based revitalization efforts by asking residents about their neighborhood preference and allowing users to describe efforts by neighborhood-based CDCs.

HUD should provide guidance on the number of minimum public participation meetings required, as well as suggestions to make the process a meaningful and fruitful conversation. Guidance should also encourage the use of web-based community participation tools already used widely by urban planners to engage citizens in new ways. Websites such as Mindmixer and IdeaScale and other outreach tools have increased community participation beyond the usual minimum requirements

related to print newspapers and in-person meetings. However, a balance should be struck between what is minimally required and what is best practice.

Guidance should also be provided on the types of organizations that program participants should consult in the preparation of the AFH plan, such as community-based organizations, CDCs, CHDOs, transportation advocacy groups, public health advocates, affordable housing developers and other related stakeholders. A table with an extensive drop-down list of the potential types of groups should be included in this section. This drop-down list could be used multiple times to populate a table that includes the specific name, address, and contact for each organization. Guidance should be provided on suggested stakeholder groups for each section, particularly to assist grantees and PHAs with limited knowledge or experience with some of the questions asked by the Assessment Tool.

Analysis

Demographic Summary

While the Assessment Tool provides tabular demographic data for jurisdictions and the region, some ready-made bar chart or graph templates that better illustrate data provided by HUD would be helpful as discussion aides and for presentations.

Segregation/Integration and R/ECAPs

Although this is a long-used tool that was part of the Analysis of Impediments (AI), further guidance should be provided on how to interpret the Dissimilarity Index. New grantees and staff may be unfamiliar with this data set and may require some assistance and training on how to interpret this data. Segregation and R/ECAP maps may be simple to create, but the analysis is likely to require outside expertise from fair housing groups or demographers to understand how to analyze which areas are vulnerable to segregation and why. Grantees will be asked to explain how levels of segregation have changed over time and to compare segregation trends over a ten-year period. However, segregation trends may best be observed over several decades. Understanding and reporting on the complex nature of this social phenomenon may require some advanced training for staff.

Geographic Analysis

An exhaustive list (in the form of a drop down menu) of factors that may be considered as determinants of segregation should be provided with guidance on data sets or information on how each data point can be obtained. For example, how would a community seek data for “patterns of community opposition” or find evidence of real estate steering? Again, more guidance and training may be required to help grantees and PHAs conduct more in-depth research. Minimum standards and guidance on researching these questions will improve this section.

Local Data

The proposed rule and Assessment Tool allow respective jurisdictions and grantees to use local data through a “reasonable” amount of searching that are available at little or no cost. However, reasonable is not well-defined, nor are there any examples of the types of local data sources (e.g. tax assessments, crime data, graduation rate) that grantees should use for this effort. A minimum

threshold should be established for these efforts so that grantees understand the expectation of the work required to complete a proper AFH.

Local Knowledge

The Assessment Tool should include a clearer explanation and explicit examples of local knowledge. The term is vaguely defined in the notice and the proposed rule, and might include major efforts currently being undertaken by a local government or agency, including Rental Assistance Demonstration (RAD) conversions, Choice Neighborhood initiatives, major redevelopment plans, housing preservation efforts or legislation. We believe local community-based efforts should also be included, such as housing advocacy campaigns, transit-oriented development, other highly-targeted efforts around food, health or transportation, and any other efforts that improve the outcomes of lower-income residents. Again, another table with examples, along with a minimum standard, could help ensure that grantees understand what constitutes success.

Mapping

Sample maps are provided for review in the notice, but it is not clear how these maps can be manipulated and used for the AFH. HUD should consider map composition when providing maps as part of the Assessment Tool. Because the AFH is likely to be presented on an 8 ½ by 11 inch document, care should be given to the scale, spacing, lettering and other considerations to create maps that are legible and properly illustrate their intended goal. For example, dot density maps of subsidized housing for a large jurisdiction or a joint submission will be blurred if produced at a small scale. Another example (Map 5) provides the location of public housing and other HUD-subsidized units with race/ethnicity dot density map with R/ECAPs, distinguishing categories of publicly-supported housing by color. This may be too much information for one map. Consider separate maps for each R/ECAP area as well as maps for each category of subsidized housing in addition to a summary map. Easily created maps that preparers can manipulate would be ideal.

Without understanding the limits of the mapping software that may be provided, preparers will be unable to determine what kinds of maps can be created. AFH preparers should be able to select census tracts or neighborhoods to create larger scale maps when necessary and conversely provide smaller scale maps for illustrating R/ECAP areas within a city or region. Data should be provided in a format that GIS departments can upload to create larger maps for discussion. This would allow local governments with GIS to use other data layers to create richer maps that incorporate the local data, as requested by HUD.

Publicly Supported Housing and Mobility Policies

Several questions in the tool ask how admission preferences or public support affect housing patterns, but the questions should also ask about local and state laws and regulations that may influence the population and demographic patterns of subsidized housing. Preparers should have the opportunity to discuss the limitations on their ability to affect change as a result of state and local policies regarding subsidized housing and mobility policies.

Disproportionate Housing Needs

While HUD provides high-quality data from the Worst-Case Housing Needs report, the tool should make a better connection between national and local data. Table 13 provides a table for the number of units for four categories of publicly-subsidized housing (not including the Low-Income Housing Tax Credit). The question in this section of the tool asks preparers to determine whether the supply achieves an appropriate balance from a fair housing perspective and asks jurisdictions to explain why this is the case. However, there seems to be no opportunity to acknowledge the implications and impact of limited and reduced federal resources or reduced state and local budgets.

Low-Income Housing Tax Credit (Housing Credit)

Because uniform, national-level data is not available for Housing Credit projects, grantees will not have this data set available in the Assessment Tool. However, program participants are expected to seek available local data and local knowledge to assess the Housing Credit portfolio within a jurisdiction. HUD should work to correct this issue or acknowledge the variation in data collection across states. Besides the question on data collection (also raised under the *Local Data* section), the Assessment Tool also has a number of leading questions that portray the Housing Credit program in a negative light. Communities and PHAs are asked to explain state policies and practices beyond their control and states are not able to answer how they chose priorities that may differ from fair housing goals, but may be equally valid in balancing the need between access to “high-opportunity” neighborhoods, revitalization and preservation.

Disparities in Access to Community Assets

HUD should be more explicit in questions related to community assets. Because there are complex factors regarding the existence and location of community assets, HUD should clearly explain what it expects of grantees in the development of this section. The level of detail could vary widely depending on the individual AFH preparers. Full needs assessments and studies are usually conducted on just one of these categories alone. A minimum sample of community assets (libraries, grocery stores, retail, schools, etc.) with accompanying questions should be outlined in this section.

Questions regarding access to jobs and transportation should also be placed in a larger community context of transportation equity. Access may be determined through data on car ownership rates, the availability, frequency and reliability of public transportation, and how well the local public transportation system connects with job centers. However, HUD should clearly state the minimum standard asked of AFH preparers on larger questions that are usually asked in other community or transportation planning processes.

Exposure to Adverse Community Factors

HUD should more clearly define which environmental hazards must be considered. Environmental justice can cover Superfund sites, location of noxious factories and plants, and the siting of community facilities such as landfills and bus repair depots, among many others. Some health hazards such as asthma and mold are not regulated by the federal government, but have significant health implications for children and adults. To aid AFH preparers through this section, a minimum list of hazards to research and map should be listed.

Persons with Disabilities

Although the tool asks important questions regarding housing for the disabled, including availability and accessibility, these questions should be placed in the context of need, taking into account that there are federal requirements for providing such housing. Several questions in the tool regarding mobility and housing policy practices can only be answered by specific agencies and stakeholder groups, rather than by disabled persons as suggested in the tool. Guidance should be explicit as to the type of stakeholders that the responsible AFH jurisdiction should seek out to answer certain questions.

Fair Housing Goals and Priorities

The template for this final section of the AFH is well designed. Allowing for fair housing determinants and other priorities that pre-populate into a summary table for each fair housing category is helpful for AFH preparers. Preparers are asked to determine one or more goals with a metric and milestone for each category. Enterprise supports the decision not to require specific actions and funding decisions. The Goals and Priorities section is meant to elicit strategies for addressing fair housing determinants and issues in related HUD documents, such as the Consolidated Plan and PHA plan, where more specificity will be required. Enterprise is cognizant of the burden already required from data collection and public participation requirements, and we are concerned that requiring overly detailed actions and funding decisions will lengthen the process and may not yield the anticipated results. By focusing on overall strategies instead of details, it will encourage grantees and PHAs to connect the AFH to other key strategic planning documents and remain flexible.

Questions Asked in the Notice

1. Can program participants complete the Assessment Tool independently (i.e. without assistance from consulting firms or outside contractors)?

Given some of the questions asked in the Tool, it is difficult to imagine that grantees and PHAs will be able to knowledgeably answer many of the questions without some training and some guidance from consultants. More sophisticated grantees with larger staff, a GIS department, and strong local organizations will have a better chance of success.

2. What kind of additional instructions would be helpful for program participants in completing the Assessment Tool?

Grantees and PHAs may need more help and guidance in determining which local data sources are appropriate to help inform the assessment. Areas for suggested guidance are listed throughout the comment letter.

3. What costs may be associated with collecting and analyzing the available local data and local knowledge necessary to complete the Assessment Tool?

Without knowing specific examples of local data sources, it is difficult to determine what the costs associated with collecting and analyzing local data. For example, is the data locally available? Does the locality need to expend staff resources to collect and analyze the data, or is this already available in-house? It is doubtful that smaller grantees, with populations of 50,000 to 100,000, will have the staff resources to collect new data.

4. Do program participants expect to use federal funds to complete the Assessment Tool?

Most grantees and PHAs will use federal funds, if available, to complete the Assessment Tool. Despite the dwindling federal resources, many grantees will be reticent to use local funds to complete the Assessment Tool.

5. What strategies can program participants use to reduce any burden associated with completing the AFH, including low-cost or no-cost strategies for obtaining available local data and local knowledge?

We recommend that HUD work with think-tanks and national organizations to solicit ideas and best practices to obtain local data. Large cities and urban counties may already have the staff resources and funding to undertake such work. For medium and smaller communities, HUD can assist by gathering best practices from national and local practitioners to improve the AFH over time. In the meantime, HUD should exempt communities from local data collection requirements at this time.

6. How do program participants envision joint participation in completing this template?

HUD should speed up its implementation of the Assessment Tool for states and regions. As mentioned previously, many of the issues regarding concentration of poverty and racial segregation go beyond one jurisdiction or one PHA. Initial AFHs may fall short of the mark because of this very issue. HUD should consider how to roll out the tool for regions as soon as possible and consider incentives for communities who undertake this endeavor on a regional basis. Joint participation will also save grantees time and resources by allowing them to pool resources and funding.

Thank you again for the opportunity to comment on the Assessment Tool. If you have any questions regarding these comments, please contact me or Manuel Ochoa, senior analyst and project director, at (202) 407-8715.

Sincerely,



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Enterprise Community Partners