



NATIONAL LOW INCOME
HOUSING COALITION

Affirmatively Furthering Fair Housing Summary of the New Regulation

2015 *Housing Matters!* Conference Housing Action Illinois

Bloomington, Illinois

November 6, 2015

Ed Gramlich

National Low Income Housing Coalition

INTRODUCTION



- Fair Housing Act of 1968 prohibits housing discrimination on the basis of race, color, religion, sex, familial status, national origin, or disability – “protected classes” or “protected characteristics”.
- Act also requires jurisdictions and public housing agencies (PHAs) receiving federal funds for housing and urban development to affirmatively further fair housing (AFFH), to take steps to actively overcome historic patterns of segregation and to promote fair housing choice.

INTRODUCTION *(continued)*



- Rule published on July 16, 2015.
- Rule calls any city, county, state, or PHA receiving federal housing and community development funds a “program participant”.
- Rule adds to the existing regulations that generally apply to almost all HUD programs, 24 CFR Part 5, Subpart A.
- Rule also modifies portions of other regulations, such as the Consolidated Plan (ConPlan).

INTRODUCTION *(continued)*



- Most program participants will not be required to use new AFFH system until 2019.
- First up, CDBG jurisdictions receiving \$500,000 or more in Fiscal Year 2015 that are also required to have a new 5-year ConPlan on or after January 1, 2017 must submit initial AFH 270 calendar days before new ConPlan is due. 22 such jurisdictions.
- Timing of rest on slide 55.
- Until program participant is required to submit an AFH, it must continue to follow the current Analysis of Impediments (AI) process.

WHY NEED THE AFFH RULE?



- AFFH has been law since 1968; however, no meaningful regulations providing program participants with guidance on how to comply.
- Program participants merely certified (pledged) that they will affirmatively furthering fair housing.
- That just means:
 - Completing an analysis of impediments (AI) to fair housing choice,
 - Taking appropriate actions to overcome the effects of impediments, and
 - Keeping records of those actions.

WHY NEED THE AFFH RULE? (continued)



Many limitations of the current AI system:

- No clarity about what an impediment is;
- No clarity about what an appropriate action is;
- AI not linked to ConPlan or PHA 5-Year PHA Plan;
- AI not submitted to HUD for review;
- No prescribed schedule for renewing AI, (many not updated in a timely fashion);
- Public participation not required when drafting AI.

HOW THE NEW AFFH SYSTEM DIFFERS



- Assessment of Fair Housing (AFH) replaces AI, providing standardized framework.
- HUD will provide data about jurisdiction and region. Data must be considered when assessing fair housing.
- HUD will receive, review, and decide whether to accept AFH
- Fair housing goals and priorities in AFH will be tied to ConPlans and PHA Plans.
- Public participation is required when developing AFH.
- AFH must be submitted every five years, in synch with a new ConPlan or PHA Plan.

DEFINING AFFIRMATIVELY FURTHERING



“Affirmatively furthering fair housing means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.”

(continues)

[24 CFR 5.152]

DEFINING AFFIRMATIVELY FURTHERING

(continued)



“Specifically it means taking meaningful actions that:

- Address significant disparities in housing needs and in access to community opportunity.
- Replacing segregated living patterns with truly integrated and balanced living patterns.
- Transforming racially and ethnically concentrated areas of poverty into areas of opportunity.
- Fostering and maintaining compliance with civil rights and fair housing laws.”

[24 CFR 5.152]

DEFINING AFFIRMATIVELY FURTHERING

(continued)



What are “meaningful actions”?

“significant actions that are designed and can be reasonably expected to achieve a material positive change that affirmatively furthers fair housing by, for example, increasing fair housing choice or decreasing disparities in access to opportunity.”

DEFINING AFFIRMATIVELY FURTHERING

(continued)



What does it mean to “certify”?

Means that program participants will:

- Take meaningful actions to further goals in the AFH, *and*
- Not take any action materially inconsistent with its obligation to affirmatively further fair housing.
- PHAs must also address fair housing issues and contributing factors in their programs.

[24 CFR 91.225(a)(1) for localities & 91.325(a)(1) for states]

[24 CFR 903.7(o) (1) for PHAs]

SOME DEFINITIONS

Fair Housing Choice

- Means people have enough information about realistic housing options to live where they choose without unlawful discrimination and other barriers.
- For people with disabilities, also means accessible housing in the most integrated setting appropriate to the person's needs, including disability-related services needed to live in the housing.

SOME DEFINITIONS (continued)



Fair Housing “Issue”

A condition that restricts choice or access to opportunity, including (formal definitions on next two pages):

1. Local or regional segregation, or lack of integration.
2. Racial or ethnic concentrations of poverty.
3. Significant disparities in access to opportunity.
4. Disproportionate housing needs based on “protected classes” of race, color, national origin, religion, sex, familial status, or disability.

SOME DEFINITIONS (continued)



Integration means there is not a high concentration of people of a particular protected class in an area, such as a census tract or neighborhood, compared to the broader geographic area.

Segregation means there is a high concentration of people of a particular protected class in an area.

SOME DEFINITIONS (continued)



Racially or Ethnically Concentrated Area of Poverty, R/ECAP, means a geographic area with significant concentrations of poverty and minority populations. Rule does not define “significant”.

Significant disparities in access to opportunities means substantial and measurable differences in access to education, transportation, economic, and other important opportunities in a community, based on protected class related to housing.

SOME DEFINITIONS (continued)



Disproportionate housing need:

A significant disparity in the proportion of a protected class experiencing a category of housing need, compared to the proportion of other relevant groups or the total population experiencing that category of housing need in the area.

Categories of housing need include:

- Cost burden and severe cost burden (paying more than 30% and 50% of income, respectively, for rent/mortgage and utility costs);
- Overcrowded housing (more than one person per room); and,
- Substandard housing conditions.

SOME DEFINITIONS (continued)



Fair Housing “Contributing Factor”

A factor that creates, contributes to, perpetuates, or increases the severity of one or more fair housing “issues”.

[24 CFR 5.152]

Draft Assessment Tool gives 39 examples, including:

- Displacement due to economic pressures
- Community opposition
- Lack of public investment in neighborhoods
- Source of income discrimination

ASSESSMENT TOOL



HUD forms or templates that must be used to conduct and submit an AFH.

[24 CFR 5.152]

- Is a series of questions to help program participants identify:
 - racially and ethnically concentrated areas of poverty,
 - patterns of integration and segregation,
 - disparities in access to opportunity, and
 - disproportionate housing needs.
- Assessment Tool gives more detailed definitions of these than the rule does.

ASSESSMENT TOOL (continued)



HUD states the Assessment Tool questions are intended to enable program participants to:

- perform meaningful assessments of fair housing issues and contributing factors, and
- set meaningful fair housing goals and priorities.

The Assessment Tool provides more detailed examples of fair housing issues and contributing factors.

THE ASSESSMENT OF FAIR HOUSING (AFH)



An Assessment of Fair Housing (AFH) means:

- Analyzing fair housing data,
- Assessing housing “issues” and “contributing factors”, *and*
- Identifying fair housing priorities and goals,
- All of which are sent to HUD using the Assessment Tool.

THE ASSESSMENT OF FAIR HOUSING (AFH)

(continued)



Purpose of the AFH is to identify goals to affirmatively further fair housing and to inform fair housing strategies in the ConPlan, Annual ConPlan Action Plan, PHA Plan, and other community plans regarding transportation, education, or the environment.

[24 CFR 5.154(d)]

AFH CONTENT



Assessment of fair housing (AFH) must:

1. Analyze data and other information, including:

- HUD-provided data;
- Other local data; and,
- Local knowledge, including information gained from community participation.

[24 CFR 5.154(d)(2)]

continues

AFH CONTENT (continued)



Analyze data and other information, *continued*

The purpose of this analysis is to identify, across protected classes, within the jurisdiction and region, the “fair housing issues” of:

- Integration and segregation patterns and trends;
- Racially or ethnically concentrated areas of poverty;
- Significant disparities in access to opportunity; and,
- Disproportionate housing needs.

AFH CONTENT (continued)



2. Assess fair housing issues

Use Assessment Tool and data analysis of step #1 to identify “contributing factors” for:

- segregation;
- racially or ethnically concentrated areas of poverty;
- disparities in access to opportunity; and,
- disproportionate housing needs.

[24 CFR 5.154(d)(3)]

3. Identify fair housing priorities and goals

Based on identified “fair housing issues” and “contributing factors” of steps #1 and #2, AFH must:

- Identify and discuss fair housing issues;
- Identify significant contributing factors, assign a priority to them and justify the priorities; and,
- Set goals for overcoming effects of prioritized contributing factors.

continues

[24 CFR 5.154(d)(4)]

AFH CONTENT (continued)



For each goal, AFH must:

- Identify one or more contributing factors the goal is designed to address;
- Describe how goal relates to overcoming contributing factor(s) and related fair housing issue(s); and,
- Identify metrics and milestones for determining what fair housing results will be achieved.

[24 CFR 5.154(d)(4)]

4. Summarize Public Participation

AFH must have a summary of:

- Public participation process and efforts to broaden participation in its development;
- Public comments received in writing and/or orally at public hearings; and,
- Comments not accepted, and the reasons why.

5. Review Progress

After the first AFH, each AFH after must summarize:

- Progress in meeting goals and related metrics and milestones of the previous AFH, *and*
- Identify any barriers that prevented achieving those goals.

AFH LINKS TO CONPLAN or PHA PLAN



The AFH is to be incorporated into ConPlans and PHA Plans in a manner that connects housing and community development policy and investments with meaningful actions that affirmatively further fair housing.

[24 CFR 5.150]

ConPlan or PHA Plan strategies and actions must affirmatively further fair housing.

[24 CFR 5.154(d)(5)]

AFH LINKS TO CONPLAN or PHA PLAN

(continued)



Strategies and actions to implement fair housing goals and priorities in AFH must be included in program participant's 5-Year ConPlan, Annual ConPlan Action Plan, or PHA Plan.

However, AFH does not have to include strategies and actions.

[24 CFR 5.154(d)(5)]

If program participant does not have HUD-accepted AFH HUD will not approve its ConPlan or PHA Plan.

[24 CFR 5.162(d)]

AFH LINKS TO CONPLAN or PHA PLAN

(continued)



Strategies and actions may include:

- Enhancing mobility;
- Encouraging development of new affordable housing in areas of opportunity;
- Encouraging community revitalization through place-based strategies; and,
- Preserving existing affordable housing.

[24 CFR 5.154(d)(5)]

AFH LINKS TO CONPLAN or PHA PLAN

(continued)



Activities to affirmatively further fair housing include:

- Developing affordable housing in areas of high opportunity;
- Removing barriers to developing affordable housing in areas of high opportunity;
- Revitalizing or stabilizing neighborhoods through targeted investments;
- Preserving or rehabilitating existing affordable housing;
- Promoting greater housing choice within or outside of areas of concentrated poverty;
- Promoting greater access to areas of high opportunity; and,
- Improving community assets, such as quality schools, employment, and transportation.

AFH LINKS TO CONPLAN or PHA PLAN

(continued)



Strategic Plan part of ConPlan must describe how ConPlan priorities and specific objectives will affirmatively further fair housing by having strategies and actions consistent with goals and “other elements” in AHF.

[24 CFR 91.215(a)(5) for localities, 91.315(a)(5) for states]

Annual Action Plans submitted between 5-Year ConPlans must describe actions program participant plans to take during upcoming year to address fair housing goals.

[24 CFR 91.215(k)(1) for localities, 91.320(j)(1) for states]

HUD REVIEWS AFH



AFH submitted to HUD for review and “acceptance”.

- HUD may not to “accept” AFH (or a part of it) if it is:
 - “Inconsistent” with fair housing or civil rights laws:
 - Analysis of fair housing issues, fair housing contributing factors, goals, or priorities in AFH would result in policies or practices that would discriminate.
 - AFH does not identify policies or practices as fair housing contributing factors even though they result in excluding protected class people from areas of opportunity.

or

[24 CFR 5.162(a)(1)&(b)(1)]

HUD REVIEWS AFH (continued)



- HUD may not to “accept” AFH (or a part of it) if it is:
 - “Substantially incomplete”, for example:
 - AFH developed without community participation or consultation with other entities.
 - AFH fails to satisfy a required element of the regulation, for example:
 - AFH with priorities or goals materially inconsistent with data and other evidence.
 - AFH with priorities or goals not designed to overcome effects of contributing factors and related fair housing issues. [24 CFR 5.162(a)(1)&(b)(1)]

HUD REVIEWS AFH (continued)



- AFH considered “accepted” within 60 calendar days.

[24 CFR 5.162(a)(1)&(b)(1)]

- “Acceptance” does not mean a program participant is meeting obligation to affirmatively further fair housing; means that for purposes of administering HUD funds (such as CDBG), program participant has provided elements required in an AFH.

[24 CFR 5.162(a)(2)]

HUD REVIEWS AFH (continued)



If HUD does not “accept” an AFH, HUD must provide specific reasons and describe actions that must be taken to gain “acceptance”.

- Program participant has 45 days to revise and resubmit an AFH.
- Revised AFH considered “accepted” after 30 calendar days, unless HUD does not “accept” the revised version.

PUBLIC PARTICIPATION



Program participants must give the public reasonable opportunities to be involved in developing AFH and in incorporating it into ConPlan, PHA Plan, and other planning documents.

[24 CFR 5.158(a)]

Public participation provisions of ConPlan and PHA Plan regulations must be followed in developing AFH.

[24 CFR 5.158(a)]

AFFH rule amended ConPlan public participation regulations to include AFH.

PUBLIC PARTICIPATION (continued)



Program participants “should” use communications means designed to reach broadest audience. For example:

- Publishing summary of each document in one or more newspapers;
- Making copies of each document available on program participant’s official website;
- Making copies of each document available at libraries, government offices, and public places.

PUBLIC PARTICIPATION (continued)



Encouraging Public Participation in Developing the AFH (1)

- Must provide for and ***encourage*** residents to participate in developing AFH and any revisions.

[24 CFR 91.105(a)(2)(i) for localities & 91.115(a)(2)(i) for states]

- Must encourage participation by Continuum of Care, local and regional institutions, and other organizations (including community-based organizations) in developing and implementing AFH.

[24 CFR 91.105(a)(2)(ii) for localities & 91.115(a)(2)(ii) for states]

continues

PUBLIC PARTICIPATION (continued)



Encouraging Public Participation in Developing the AFH (2)

- Must encourage participation by public housing residents, Resident Advisory Boards (RABs), resident councils, and other low income residents of a revitalization area where a development is located, regarding developing and implementing AFH.

[24 CFR 91.105(a)(2)(iii) for localities only]

- Must describe procedures for assessing residents' language needs, including any need for translating notices and other vital documents. Must take reasonable steps to provide language assistance to ensure meaningful access to participation by people with limited English proficiency.

[24 CFR 91.105(a)(4) for localities & 91.115(a)(4) for states]

PUBLIC PARTICIPATION (continued)



Make Data, Proposed and Final AFH, and Records Available to the Public ⁽¹⁾

- Must make available to public as soon as practical [*but*] “after the start of the public participation process”, HUD-provided data and any supplemental information jurisdiction intends to use in preparing AFH.

[24 CFR 91.105(b)(1)(i) for localities & 91.115(b)(1)(i) for states]

PUBLIC PARTICIPATION (continued)



Make Data, Proposed and Final AFH, and Records Available to the Public (2)

- Publish proposed AFH in a manner that gives the public reasonable opportunity to examine it and comment.
 - Public participation plan must indicate how proposed AFH will be published.
 - Publishing may be met by:
 - Summarizing AFH in newspapers. Summary must include list of places where copies of entire AFH may be examined.
 - Making copies available on official website, and at libraries, government offices, other public places.
- Must provide reasonable number of free copies to those who request it.

[24 CFR 91.105(b)(2) for localities & 91.115(b)(2) for states]

PUBLIC PARTICIPATION (continued)



Make Data, Proposed and Final AFH, and Records Available to the Public (3)

- HUD-accepted AFH and any revisions must be available to the public, including in forms accessible to people with disabilities when requested.

[24 CFR 91.105(g) for localities & 91.115(f) for states]

- Public must be able to have reasonable and timely access to records relating to AFH from last five years.

[24 CFR 91.105(h) for localities & 91.115(g) for states]

PUBLIC PARTICIPATION (continued)



Public Review and Comment During Development of AFH and ConPlan ⁽¹⁾

- Must have at least one public hearing when developing AFH. [24 CFR 91.105(b)(3) for localities only]
- Must have at least one public hearing before proposed AFH published for comment, to obtain public comments about AFH-related data and affirmatively furthering fair housing in jurisdiction's housing and community development programs.

[24 CFR 91.105(e)(1)(iii) for localities & 91.115(b)(3) for states]

PUBLIC PARTICIPATION (continued)



Public Review and Comment During Development of AHF and ConPlan (2)

- Must provide the public at least 30 days to comment on the proposed AFH.

[24 CFR 91.105(b)(4) for localities & 91.115(b)(4) for states]

- Must consider public comments submitted in writing, or orally at public hearings, when preparing final AFH.
 - Summary of comments must be attached to final AFH.
 - Explanation of reasons for not accepting comments must be attached to final AFH.

[24 CFR 91.105(b)(5) for localities & 91.115(b)(5) for states]

PUBLIC PARTICIPATION (continued)



Public Review and Comment During Development of AHF and ConPlan (3)

- Must have at least one public hearing before proposed ConPlan is published for comment to obtain public comments about proposed ConPlan's strategies and actions for affirmatively furthering fair housing.

[24 CFR 91.105(e)(1)(i)&(ii) for localities & 91.115(b)(3) for states]

- Must respond to written complaints from the public about AFH or any revisions to it. Response must be in writing, be meaningful, and be provided in 15 working days.

[24 CFR 91.105(j) for localities & 91.115(h) for states]

PUBLIC PARTICIPATION (continued)



More Public Participation Features of ConPlan Regs

- Jurisdictions must take appropriate actions to encourage participation by people of color, people who do not speak english, and disabled people.
- Localities must encourage participation by residents of public and assisted housing.

[24 CFR 91.105(a)(2) for localities & 24 CFR 91.115(a)(2) for states]

- Access to information must be reasonable and timely.

For local jurisdictions (not states) the public must have "reasonable and timely" access to local meetings (Advisory Committee meetings, City Council subcommittee meetings).

[24 CFR 91.105(f)&(h) for localities & 24 CFR 91.115(f) for states]

PUBLIC PARTICIPATION (continued)



More Public Participation Features of ConPlan Regs (2)

- Must be "adequate" public notice of and access to upcoming hearings.
 - Publishing small print notices in the newspaper a few days before hearing is not adequate notice.
 - Two weeks' notice is adequate.
 - Hearings must be held at times convenient for people who are likely to be affected.
 - Hearings must be held in places easy for lower income people to get to.

[24 CFR 91.105(e)(2)&(3) for localities & 24 CFR 91.115(b)(3) for states]

CONSULTATION



When preparing AFH and then ConPlan, jurisdictions required to consult with community and regionally-based (or state-based) organizations, including ⁽¹⁾:

- Organizations that represent protected class members;
- Organizations that enforce fair housing laws (including Fair Housing Assistance Program, FHAP, orgs);
- Fair housing organizations and nonprofits receiving funding under Fair Housing Initiative Program (FHIP);
- Other public and private fair housing service agencies;

CONSULTATION (continued)



When preparing AFH and then ConPlan, jurisdictions required to consult with community and regionally-based (or state-based) organizations, including (2):

- Adjacent governments, including agencies with metro-wide planning and transportation responsibilities, particularly for problems that go beyond a single jurisdiction;
- Entities previously listed in ConPlan regulations, such as public and private agencies that provide assisted housing, health services, and social services.
- Public housing agencies (PHAs), not only about the AFH, but also about proposed strategies and actions for affirmatively furthering fair housing in ConPlan.

CONSULTATION (continued)



Consultation:

- Must be with any organizations that have relevant knowledge or data to inform AFH, and that are independent and representative.

[24 CFR 91.100(e)(2) for localities]

- “Should” occur with organizations that have capacity to engage with data informing the AFH, and are independent and representative.

[24 CFR 91.110(a)(2) for states]

- Must occur at various points in fair housing planning process, at least when developing AFH and ConPlan.
- Must seek input about how AFH goals inform ConPlan priorities and objectives.

[24 CFR 91.100(e)(3) for localities & 91.110(a)(2) for states]

HUD ENCOURAGES REGIONAL AFH



HUD encourages program participants to collaborate to submit a joint AFH or a regional AFH.

- Joint AFH involves two or more program participants submitting single AFH.
- Regional AFH involves at least two program participants that must submit ConPlan.
- Program participants do not have to be adjacent; they may cross state lines if in same Core Based Statistical Area.
- One must be designated the lead entity.
- Each is accountable for the analysis and any joint goals and priorities.
- Each program participant must include their individual analysis, goals, and priorities in collaborative AFH, and are accountable for them.

HUD ENCOURAGES REGIONAL AFH

(continued)



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

[24 CFR 5.156(e)]

- Collaborating program participants must have a plan for public participation that includes residents and others in each of the jurisdictions.

[24 CFR 5.156(d)]

WHEN IS AFH DUE?



- Most program participants will not be required to use new AFFH system until 2019.
- Until program participant is required to submit an AFH, it must continue to follow the current AI process, the Analysis of Impediments to fair housing choice process.

[24 CFR 5.151 & 5.160(a)(3)]

- There are five categories of due dates for initial AFH.
- First AFH must be submitted to HUD 270 calendar days before start of program participant's program year in which a new 5-year ConPlan is due.

[24 CFR 5.160(a)(1)]

WHEN IS AFH DUE? (continued)



- CDBG jurisdictions receiving \$500,000 or more in FY2015 that are also required to have new 5-year ConPlan on or after January 1, 2017 must submit initial AFH 270 calendar days before new ConPlan is due. 22 such jurisdictions.
- CDBG jurisdictions receiving \$500,000 or less in FY2015 that are also required to have new 5-year ConPlan on or after January 1, 2018 must submit initial AFH 270 calendar days before new ConPlan is due.
- States required to have new 5-year ConPlan on or after January 1, 2018 must submit initial AFH 270 calendar days before new ConPlan is due. Six states start then.

WHEN IS AFH DUE? (continued)



- Public Housing Agencies (PHAs) with more than 550 public housing units and vouchers, combined, (“non-qualified PHAs”) must submit AFH 270 calendar days before new 5-Year PHA Plan is due on or after January 1, 2018.
- PHAs with fewer than 550 public housing units and vouchers, combined, (“qualified PHAs”) must submit AFH 270 calendar days before new 5-Year PHA Plan is due on or after January 1, 2019.

[24 CFR 5.160(a)(1)]

WHEN IS AFH DUE? (continued)



- After first AFH, all program participants must submit new AFH 195 calendar days before the start of first year of their next 5-year ConPlan or 5-Year PHA Plan.

[24 CFR 5.160(b)]

- All program participants must submit AFH at least every five years.

[24 CFR 5.160(d)]

REVISING THE AFH



AFH must be revised if there is “material change”, change that affects information AFH is based on so that the analysis, fair housing contributing factors, or priorities and goals do not reflect current situation.

Examples:

- Presidentially declared disaster;
- Major demographic changes;
- New significant contributing factors; or,
- Significant civil rights findings.

HUD may require revision if it detects significant change.

REVISING THE AFH (continued)



- Jurisdiction’s ConPlan-required “Citizen Participation Plan” and PHA’s definition of a significant amendment must specify criteria to be used for determining when significant revisions to AFH are appropriate.

[24 CFR 5.164(a)(2)], [24 CFR 91.105(c)(1)(ii) for localities & 91.110(c)(1)(ii) for states]
[24 CFR 903.7(r)(2)(ii) for PHAs]

- When there are revisions to AFH:
 - ConPlan and PHA Plan public or resident participation regs for substantial/significant amendments must be followed.
 - Completed revisions must be made public and submitted to HUD following the ConPlan or PHA Plan regulations.

[24 CFR 5.164(c)], [24 CFR 91.105(c)(1)(ii) for localities & 91.115(c)(1)(ii) for states]

REVISING THE AFH (continued)



- Revised AFH might not require entirely new AFH.
 - Only needs to focus on the material change and any new fair housing issues and contributing factors.
 - Must include appropriate adjustments to the analysis, assessments, priorities, or goals.

[24 CFR 5.164(a)(3)]

- Revised AFH must be submitted within 12 months of onset of the material change.
- For Presidentially declared disasters, revised AFH due two years after date disaster declared.

[24 CFR 5.164(b)(1)]

RECORDKEEPING



ConPlan participants and PHAs preparing their own AFHs must have and keep records, including:

- Information that formed development of AFH.
- Records showing compliance with community participation and consultation requirements, including:
names of organizations involved in developing AFH, written public comments, summaries or transcripts of public meetings or hearings, public notices, other correspondence, distribution lists, surveys, interviews, etc.
- Records showing actions taken to affirmatively further fair housing.

RECORDKEEPING (continued)



- Records must be made available to HUD.

[24 CFR 5.168]

AFFH rule does not state that records are to also be made available to the public.

- However, ConPlan regulations require ConPlan jurisdictions to provide the public with reasonable and timely access to information and records relating to jurisdiction's AFH.

[24 CFR 91.105(h) for localities, 91.115(g) for states]

FOCUS ON PUBLIC HOUSING AGENCIES



PHA must certify it will affirmatively further fair housing. This means PHA will:

- Take meaningful actions to further goals in AFH;
- Take no action materially inconsistent with its obligation to affirmatively further fair housing; and
- Address fair housing issues and contributing factors.

[24 CFR 903.7(o)(1)]

FOCUS ON PUBLIC HOUSING AGENCIES (continued)



PHA is obligated to affirmatively further fair housing in its operating policies, procedures, and capital activities.

- PHA's admission and occupancy policies for public housing and vouchers must comply with PHA's plans to affirmatively further fair housing.

[24 CFR 903.15(d)]

- PHA's policies should be designed to reduce concentration of tenants by race, national origin, disability.
 - Any affirmative steps or incentives PHA plans to take must be stated in admission policy.
 - PHA policies should include affirmative steps to overcome effects of discrimination and effects of conditions that resulted in limiting participation because of race, national origin, disability, or other protected class.
 - Examples of affirmative steps on next page.

[24 CFR 903.15(d)(2)]

FOCUS ON PUBLIC HOUSING AGENCIES (continued)



- Affirmative steps may include:
 - Marketing
 - Tenant selection and assignment policies that lead to desegregation;
 - Providing additional supportive services and amenities (for example, supportive services that enable someone with a disability to transfer from an institutional setting into the community);
 - Coordinating with agencies serving people with disabilities to provide additional community-based housing opportunities; or,
 - Connecting people with disabilities to supportive services to enable them to transfer from an institutional setting into the community.

FOCUS ON PUBLIC HOUSING AGENCIES (continued)



HUD may challenge a certification if a PHA:

- Fails to meet requirements in AFFH regulations;
- Fails to take meaningful actions to further goals of its AFH;
- or,
- Takes action materially inconsistent with affirmatively further fair housing.

[24 CFR 903.15(d)(3)(ii)]

FOCUS ON PUBLIC HOUSING AGENCIES (continued)



PHA's certification is in compliance if it meets requirements of previous page and it:

- Examines its programs;
- Identifies fair housing issues and contributing factors in those programs;
- Specifies actions and strategies designed to address contributing factors, housing issues, and goals in AFH;
- Works with local governments to implement local governments' efforts to affirmatively further fair housing that require PHA's involvement;
- Operates its programs in a manner consistent with local jurisdictions' ConPlans.

FOCUS ON PUBLIC HOUSING AGENCIES (continued)



Three ways PHA can meet its obligation to affirmatively furthering fair housing obligation:

1. PHA may work with local or state government in preparing AFH.

If PHA serves residents of two or more jurisdictions, PHA may choose jurisdiction most closely aligned to its PHA Plan activities.

[24 CFR 903.15(a)(1)]

2. PHA may work with one or more other PHAs in planning, resident participation, and preparation of AFH. One of the PHAs must be designated the lead agency.

[24 CFR 903.15(a)(2)]

3. A PHA may conduct its own AFH.

[24 CFR 903.15(a)(3)]

MORE AFFH INFORMATION



- NLIHC has additional materials about affirmatively furthering fair housing on its webpage at <http://nlihc.org/issues/affh>
- See NLIHC's annual Advocates' Guide at <http://nlihc.org/library/guides>
- HUD's AFFH webpage at <https://www.hudexchange.info/programs/affh>
- HUDUser webpage at http://www.huduser.gov/portal/affht_pt.html#affh

BECOME AN NLIHC MEMBER



- Members are essential in helping NLIHC advocate on behalf of low income people in need of safe and affordable housing.
- Membership is open to individuals, organizations, corporations, and government agencies.
- Join NLIHC at <http://nlihc.org/membership>
- Contact outreach@nlihc.org or call 202.662.1530, ask to speak to your Housing Advocacy Organizer.

CONTACT ME



Ed Gramlich **National Low Income Housing Coalition**

ed@nlihc.org

202.662.1530 x 314

www.nlihc.org