



GUIDANCE ON HUD'S REVIEW OF ASSESSMENTS OF FAIR HOUSING (AFH)

The AFH is a local planning document that includes analysis of fair housing issues and identification and prioritization of significant contributing factors to better inform program participants' goal setting, establishment of priorities and strategies, and guide the meaningful actions that program participants will take to affirmatively further fair housing. HUD will consider the staff and other resources the program participant has available. The Assessment Tool will help program participants assess fair housing issues through a standardized set of questions on some of the most common fair housing issues. The HUD-provided data and the questions in the Assessment Tool were developed to allow the program participant to match the necessary data, maps and information with the questions, along with local data and local knowledge.¹

HOW HUD REVIEWS ASSESSMENTS OF FAIR HOUSING (AFHs) UNDER THE AFFH RULE

When reviewing an AFH, HUD reviewers will apply the two review standards set forth in the Affirmatively Furthering Fair Housing Final Rule (AFFH Rule) at 24 C.F.R. § 5.162. Specifically, HUD will not accept an AFH if:

- The AFH is inconsistent with fair housing or civil rights requirements. Under this standard, an AFH will not be accepted if HUD finds that the AFH, or a portion of the AFH, is inconsistent with fair housing or civil rights requirements; or
- The AFH is substantially incomplete. Under this standard, an AFH will not be accepted if HUD finds that the AFH or a portion of the AFH is substantially incomplete.

The HUD reviewer will apply both standards. The purpose of the review is to help ensure that, for fair housing planning purposes, the program participant has assessed fair housing issues, identified and prioritized significant contributing factors, and set goals that will enable the program participant to meet its obligation to affirmatively further fair housing in accordance with the AFFH Rule.

¹ Local data, as defined by the AFFH rule at 24 C.F.R. § 5.152, refers to 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 the completion of the AFH using the Assessment Tool. Local knowledge, as defined in 24 C.F.R. § 5.152, means information to be provided by program participants that relates to program participant's geographic areas of analyses and that is relevant to the program participant's AFH, is known or becomes known to program participants, and is necessary for the completion of the AFH using the Assessment Tool.

Program participants have discretion, within the requirements of the AFFH Rule, to analyze and interpret data and information, identify significant contributing factors, and set goals and priorities using the Assessment Tools provided by HUD.

While there is opportunity for certain discretion and variation in the AFHs developed by different program participants, HUD will fulfill its duty to apply the standards of review in the AFFH Rule to determine if an AFH is substantially incomplete or inconsistent with fair housing or civil rights requirements. When HUD does not accept an AFH because it is substantially incomplete, inconsistent with fair housing or civil rights requirements, or meets both standards for non-acceptance, HUD will provide program participants with direction on how to correct the deficiencies identified by HUD so the program participant will be able to achieve an accepted AFH.

This document is offered to assist program participants in understanding how HUD will conduct its review of an AFH and apply the standards established in Section 5.162 of the AFFH Rule.

HUD notes that the AFH process established by the AFFH Rule applies to a wide variety of HUD program participants, large and small, including cities, counties, towns, States, insular areas and public housing agencies (PHAs) located throughout the nation representing urban, rural, and suburban areas. The Assessment Tools program participants will use in conducting AFHs will accommodate this wide variety of program participants that have different demographic, geographic, and housing market considerations. HUD's review of AFHs will likewise take into consideration the different circumstances of individual program participants and their varying locales and available resources. As such, each AFH is necessarily unique to conditions impacting a program participant's jurisdiction and region and acceptance or non-acceptance of one AFH necessarily is not indicative of acceptance or non-acceptance of another.

If HUD does not accept an AFH based on one or both of the standards for non-acceptance, HUD will notify the program participant and identify the steps the program participant may take to address deficiencies in order to achieve an accepted AFH. A notice that an AFH or a portion of an AFH is inconsistent with fair housing or civil rights requirements is not by itself a notice of a fair housing or civil rights violation. Instead, it is an initial determination that the assessment should be revised and resubmitted to address the issues identified and explained by HUD in the notification of non-acceptance. Such guidance will help program participants have the information they need to achieve an accepted AFH. HUD is committed to providing ongoing engagement and guidance to program participants on how to fulfill their duty to affirmatively further fair housing under the AFFH Rule.

Examples of how HUD will apply both standards are provided below along with examples of potential corrective actions that HUD could request. (See *Examples of Corrective Actions that HUD will seek if an AFH Is Not Accepted.*)

PRINCIPLES WHEN APPLYING THE STANDARDS

In applying the two standards, HUD reviewers will be guided by certain general principles, which include the following:

- The purpose of the AFH is to position the program participant to meet its obligation to affirmatively further fair housing. In the case of any non-acceptance, HUD will work with each

program participant to provide the information the program participant needs so the AFH meets the requirements of the AFFH Rule so that it can be accepted by HUD.

- HUD will apply both standards to the process (*e.g.*, community participation and consultation) and the AFH content (*e.g.*, summary of community participation, analysis, identification and prioritization of contributing factors, goals);
- While both standards apply, the focus of each standard is different. The “substantially incomplete” standard will primarily focus on whether the process and content of the AFH were completed in accordance with the requirements of the AFFH Rule and the Assessment Tool. The “inconsistent with fair housing or civil rights requirements” standard will primarily focus on the extent to which the process and content of the AFH are consistent with fair housing or civil rights requirements. This standard will be applied in circumstances where something included in or omitted from the submission, that, if left unaddressed as part of the AFH process would not be compatible with fair housing or civil rights requirements.
- HUD will consider local context and the resources the program participant has available; and
- Because both standards apply to the process and content, it is possible for an AFH, or a portion of an AFH, to be substantially incomplete, inconsistent with fair housing or civil rights requirements, or both.

INCONSISTENT WITH FAIR HOUSING OR CIVIL RIGHTS REQUIREMENTS

The AFFH Rule itself provides two examples of an AFH that is inconsistent with fair housing or civil rights requirements (24 C.F.R. § 5.162(b)(1)(i)):

- HUD determines that the analysis of fair housing issues, fair housing contributing factors, goals, or priorities contained in the AFH would result in policies or practices that would operate to discriminate in violation of the Fair Housing Act or other civil rights laws;
- The AFH does not identify policies or practices as fair housing contributing factors, even though the policies and practices result in the exclusion of a protected class from areas of opportunity.

Program participants are subject to the requirements of the Fair Housing Act and other Federal civil rights statutes, regulations, and Executive Orders, including but not limited to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II and III of the Americans with Disabilities Act of 1990, and the Age Discrimination Act. Program participants that receive Community Development Block Grant (CDBG) funds are also subject to Section 109 of the Housing and Community Development Act of 1974. Fair housing or civil rights requirements are also contained in the regulations implementing these statutes and HUD program regulations, including 24 C.F.R. § 5.105, among others.

Program participants should use caution to avoid goals, strategies, or actions that operate to discriminate in violation of applicable laws, including constitutional standards – through, for example, the use of racial classifications that are not narrowly tailored to further a compelling interest. For example, an appropriate goal to address disparities in access to opportunity experienced by minority families may be the construction of affordable housing in high opportunity areas, while an inappropriate

goal would be the implementation of policies that limit occupancy of new housing to certain racial or ethnic groups. In the latter instance, HUD would find the goal to be inconsistent with fair housing or civil rights requirements.

Similarly, HUD would not accept an AFH if HUD determined that the AFH failed to identify existing policies or practices that violate fair housing or civil rights requirements. Thus, where a program participant has information that a state or local policy or practice acts as a significant contributing factor for a fair housing issue, such as segregation, and where the AFH fails to discuss the policy or practice, that AFH would not be accepted by HUD. An example of this might be where a local residency preference operates to exclude protected class groups in the surrounding area and the AFH does not discuss how this preference contributes to fair housing issues such as segregation and access to opportunity.

SUBSTANTIALLY INCOMPLETE

HUD will not accept an AFH that it finds to be substantially incomplete. The AFFH Rule itself provides two examples of an AFH that is substantially incomplete (24 C.F.R. § 5.162(b)(ii)):

- The AFH was developed without the required community participation or the required consultation;
- The AFH fails to satisfy a required element in §§ 5.150 through 5.180. Failure to satisfy a required element includes an assessment in which priorities or goals are materially inconsistent with the data or other evidence available to the program participant or in which priorities or goals are not designed to overcome the effects of contributing factors and related fair housing issues.

HUD encourages program participants to use the detailed checklist and worksheet in Appendix A, which HUD has provided to help program participants conduct an AFH in accordance with the AFFH Rule. While use of the checklist and worksheet is voluntary and should not be submitted to HUD, it can help to avoid problems that may cause an AFH to be substantially incomplete.

Deficiencies that cause an AFH to be substantially incomplete are typically easy to identify and easy to fix. Examples include:

- A section or question in the Assessment Tool has not been filled out;
- The HUD-provided data has not been used to complete a question in the Assessment Tool;
- HUD-provided data or other information that is readily available to the program participant (e.g., local data and local knowledge) is ignored while presenting contradictory information without providing appropriate justification;
- The AFH fails to include the required explanation of comments from the community participation process: 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;

- The AFH does not include a goal associated with a fair housing issue identified in the analysis and significant contributing factor(s) related to the issue, or the AFH includes a set of goals that, taken together, would not constitute a balanced approach to addressing fair housing issues.

Example of Substantially Incomplete based on Contributing Factors

HUD will find an AFH to be substantially incomplete where the AFH includes a clear finding of a fair housing issue, such as the presence of R/ECAPs, but fails to identify any contributing factors associated with that issue.

Example of Substantially Incomplete based on Goals

HUD will find an AFH to be substantially incomplete when the AFH identifies fair housing issues and related significant contributing factors but fails to establish a goal to address these. If there is a single goal established to address an identified fair housing issue and this goal is deficient, the AFH will be found substantially incomplete. However, in applying the Substantially Incomplete standard, as relevant, multiple goals will be reviewed together as a whole consistent with the “balanced approach” that HUD has articulated in the AFFH Rule and the AFFH Rule Guidebook.

ADDITIONAL INFORMATION RELATED TO HUD’S REVIEW

The Answers to Questions will depend on the Available Information

Program participants are required to respond to all questions in the Assessment Tool. However, where appropriate, a response may indicate that there is no HUD-provided data or other information readily available to answer the question. Where HUD has not provided data for a specific question in the Assessment Tool and program participants do not have local data or local knowledge that would assist in answering the question, program participants are expected to note this rather than leaving the question blank.

Information Received in Community Participation

Community participation can be a valuable source of information, and program participants are required to consider such information when they conduct their AFH. The AFH 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).

Program participants are not required to incorporate all possible information submitted or recommended to them in the community participation process, but they are required to at least summarize and describe such comments and recommendations, including the reasons for not including them. HUD is aware that many private organizations may wish to provide their own analyses which may include complex data and analysis. Program participants are not required to expend extensive staff time or funding to corroborate or verify all such information.

Review of the Analysis Section

HUD did not set numeric thresholds based on the HUD provided data in the AFFH rule. Identifying fair housing issues is highly fact-dependent and can only be accomplished by considering local context and can involve complex socioeconomic factors. In addition, specific data limitations may sometimes be present, such as margins of error and small values (for example, an index score for a particular group that represents a very small number of households). HUD also acknowledges that different agencies or observers can arrive at different interpretations or conclusions even when located in the same area.

Therefore, HUD's review of an AFH will take into account relevant facts and the overall context of local conditions and factors as well as the entire AFH submission taken together as a whole.

HUD recognizes that AFHs will not always present one clear picture with only one obvious available solution. By its very nature, the AFH is a planning document intended to help inform and guide local decision-making in addressing complex physical, social, and economic problems, including the need for safe and affordable housing, and addressing neighborhood conditions with limited budgets. By providing data and a framework for analysis, however, the AFH is intended to assist program participants in their own prioritization of how best to allocate scarce resources and design effective approaches to meet identified local needs and comply with their duty to affirmatively further fair housing. The goal is not to create difficulties for program participants, but to empower participants to fulfill their legal obligation to affirmatively further fair housing.

Local Data

HUD will not review an AFH to determine if every possible piece of relevant local data has been included. However, HUD's review of an AFH will consider whether the analysis did not take local data into consideration as required by the AFFH Rule. Program participants must use reasonable judgment in deciding what supplemental information from among the numerous sources available would be most relevant to their analysis. HUD does not expect program participants to hire statisticians or other consultants to locate and analyze all possible sources of local data. Note that, subject to the community participation, consultation, and coordination process outlined in the AFFH Rule at 24 C.F.R. § 5.158, program participants are required to consider information relevant to the jurisdiction or region submitted during the community participation process, including recommendations of other data sources for program participants to assess.

Where HUD is not providing data, program participants are to consider and utilize local data and local knowledge that is available or can be found at little or no cost. This refers to data already publicly available and reasonably easy to access. This does not refer to obscure data that may not be known or easily found, that requires an independent data or information collection effort such as a local survey or that requires extensive analytical expertise or staff effort, for instance, in manipulating data sets or developing a complex methodology for analyzing complex data that may be available. With the data that HUD provides for use with the Assessment Tool supplemented by available local data and local knowledge, HUD does not anticipate the need for any program participant to turn to outside consultants to collect data and conduct the assessment.

Review of Contributing Factors

In preparing their AFH, program participants are not required to conduct formal impact evaluation reviews to establish potential causation of the potential contributing factors that HUD has provided in the Assessment Tool or of other factors that the participant may identify on their own. Where the HUD-provided data, local data or local knowledge, including information obtained through the community

participation process provide a substantial, readily apparent basis for determining that a contributing factor has a significant impact on an identified fair housing issue then the program participant should identify such factors as contributing to fair housing issues previously found in the participant’s analysis.

Program participants may still prioritize such factors in various ways, for the purpose of goal setting, according to the requirements of the rule. As stated in the AFFH Rule, program participants must: prioritize contributing factors, giving highest priority to those factors that limit or deny fair housing choice or access to opportunity or negatively impact fair housing or civil rights compliance; justify the prioritization of contributing factors; and set priorities and goals to address the identified contributing factors and related fair housing issues. Within these requirements, program participants are provided with options for different methods of prioritizing contributing factors. (See AFFH Guidebook, page 109)

Review of Goals

An AFH must set at least one goal to overcome each fair housing issue for which there is one or more of significant contributing factor(s) related to that issue. An AFH is substantially incomplete and will not be accepted if it does not comply with this requirement.

Program participants have latitude for setting goals to take into account available resources and to prioritize potential strategies and actions that would have greater likelihood of success. HUD recognizes that there are likely insufficient funds for program participants to set realistic, achievable goal for every contributing factor, which is why the AFFH Rule directs program participants to identify significant contributing factors and to prioritize such factors. Program participants in all likelihood will not be able to address all fair housing issues and contributing factors that they may want to tackle and, therefore, prioritization will be necessary. The AFH process allows for a flexible approach that permits program participants to consider a variety of available strategies to meet a wide range of local needs and housing market conditions consistent with the duty to affirmatively further fair housing in consideration of the limited programmatic resources.

EXAMPLES OF CORRECTIVE ACTIONS THAT HUD WILL SEEK IF AN AFH IS NOT ACCEPTED

Below is a table that identifies examples of reasons that HUD will not accept an AFH, an explanation why the AFH would be substantially incomplete or inconsistent with fair housing or civil rights requirements, and the corrective action HUD will take.

Example: An AFH does not include a complete analysis of each fair housing issue.

Explanation: To the extent HUD-provided data, local data, or local knowledge is available to assess a fair housing issue, each of the fair housing issues in the Assessment Tool must be assessed (24 C.F.R. § 5.154). As such, an AFH is substantially incomplete if it fails to identify or analyze—for example—disproportionate housing needs or R/ECAPs in response to a prompt in the Assessment Tool where HUD-provided data, local data, or local knowledge is available and meets the requirements set out in 24 C.F.R. § 5.152 and the instructions to the Assessment Tool.

Corrective Action: HUD will provide guidance with regard to the requirement and notify the program participant of the availability of HUD-provided data, local data, or local knowledge.

Example: An AFH lacks a regional analysis.

Explanation: If HUD determines that the AFH lacks a regional analysis, the AFH is substantially incomplete. The AFH Rule requires, at 24 C.F.R. § 5.154, that each program participant conduct an assessment of fair housing that includes its jurisdiction and its region. In addition, the AFH Assessment Tool specifically calls for regional analyses in response to certain questions. The extent of the regional analysis provided will be based on HUD-provided data, local data, or local knowledge that is available and meets the requirements set out in 24 C.F.R. § 5.152 and the instructions to the Assessment Tool. To the extent a program participant lacks the HUD-provided data, local data, or local knowledge to conduct a regional analysis, HUD will direct the program participant, in accordance with the Assessment Tool Instructions, to note the lack of available information.

Corrective Action: HUD will direct program participants to the specific areas within the Assessment Tool where regional analysis is missing.

Example: A joint or regional AFH is missing part of the analysis with respect to one of the program participants in the collaboration.

Explanation: A joint or regional collaboration 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. (24 C.F.R. § 5.156).

Corrective Action: HUD will inform all members of the collaboration that the AFH is substantially incomplete, but the non-acceptance may only be with respect to the one program participant whose analysis is missing. In connection with a regional or joint AFH, HUD's determination to not accept the AFH with respect to one program participant does not necessarily affect the acceptance of the AFH with respect to another program participant. (24 C.F.R. § 5.160(b)).

Example: The program participant fails to employ local data and local knowledge. For example, a program participant does not provide information about a consent decree or pending fair housing enforcement matters to which it is a party.

Explanation: Local data and local knowledge must be used to complete an Assessment of Fair Housing. The AFFH Rule at 24 C.F.R. § 5.152 and the Assessment Tool include the requirements relating to the use of local data and local knowledge.

Corrective Action: HUD will advise the participant to complete the appropriate questions using local data and local knowledge. To the extent local data or local knowledge is not available, HUD will direct the program participant to note the lack of available information in accordance with the AFH Assessment Tool Instructions, rather than leaving the question blank.

Example: The community participation process was conducted in a manner that did not comply with the requirements at 24 C.R.F. § 5.158, which incorporates the relevant requirements of Parts 91 and 903, as well as Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act, or the Americans with Disabilities Act. Examples include not providing sign language interpreters at public hearings when requested by individuals who are deaf, holding a public meeting at a facility that is not accessible to a person who uses a wheelchair, or failing to take reasonable steps to provide language assistance to ensure meaningful access to community participation by non-English speaking residents of the community (e.g., providing interpretation and translation services, as appropriate, in a

community with a sizeable population of Spanish speaking residents who are limited English proficient).

Explanation: HUD will find that the AFH does not comply with requirements of the AFFH Rule. This failure to comply with the AFFH Rule relating to community participation or any other failure would make the AFH substantially incomplete. In this instance, which implicates inconsistency with Federal civil rights laws and regulations the AFH would also be inconsistent with fair housing or civil rights requirements.

For program participants subject to the AFFH Rule, conducting a community participation process that complies with these civil rights laws is a fair housing or civil rights requirement. As such, the AFH would also be inconsistent with fair housing or civil rights requirements if the program participant did not provide effective communication with individuals with disabilities, did not hold meetings at accessible locations, or did not comply with the nondiscrimination or effective communication requirements of Section 504 of the Rehabilitation Act and the Americans with Disabilities Act or the nondiscrimination or meaningful access requirements of Title VI prohibits discrimination based on race, color, and national origin and requires meaningful access for individuals with limited English proficiency. Title VI requires reasonable steps to ensure meaningful access for persons with limited English proficiency and, under these circumstances, providing a Spanish language interpreter for a sizeable population of population of limited English proficient persons would be reasonable. A failure to comply with the AFFH Rule's requirements for community participation would also make the AFH substantially incomplete.

Corrective Action: HUD will provide guidance to the participant advising as to the requirement that must be met based on the requirements or the AFFH rule, Assessment Tool, and the requirements of Section 504, the ADA, and Title VI, including HUD's guidance on Title VI's Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons.

Example: An AFH fails to identify significant contributing factors. A contributing factor is a factor that creates, contributes to, perpetuates, or increases the severity of fair housing issues. For example, an AFH that identifies an overall lack of affordable housing in the program participant's jurisdiction and region outside of R/ECAPs and other minority segregated areas. An example of this may be where a program participant's analysis of HUD-provided data, local data, and local knowledge, including information obtained through the community participation process, further indicates the severely limited supply of affordable housing options is substantially located in segregated areas in the jurisdiction. Most affordable housing, including publicly supported housing, developed in the jurisdiction and region over the last ten years is located in segregated areas, and the segregation was created by these past siting decisions. Based on local data and local knowledge, there is no reason to believe that those areas are in the process of integrating. Nonetheless, the program participant fails to identify the contributing factor of the location and type of affordable housing related to the fair housing issues of segregation and racially or ethnically concentrated areas of poverty (R/ECAPs).

Explanation: This example assumes that, based upon the information in the AFH, it is clear that this factor should have been identified. Program participants are required under the AFFH Rule to identify significant contributing factors and related fair housing issues. When HUD-provided data, local data, and local knowledge demonstrate that the location and type of affordable housing play a significant role in creating, contributing to, perpetuating, or increasing the severity of fair housing issues, the failure to recognize would cause HUD to find the AFH to be substantially incomplete. In this example, there is a lack of affordable housing options outside of segregated areas, which is a contributing factor related to the fair housing issues of segregation and R/ECAPs. Because this

deficiency will result in the contributing factor not being addressed and could limit fair housing choice, then HUD would find the AFH to be inconsistent with fair housing or civil rights requirements. Fair housing choice means that 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, and as further defined in 24 C.F.R. § 5.152.

Corrective Action: HUD will advise the program participant of the omission a significant contributing factor and require resubmission of the AFH with the appropriate analysis.

The identification of significant contributing factors is a critical component of the AFH – to assess why members of particular protected classes may experience restricted housing choice or access to opportunity, including conditions such as segregation, R/ECAPs, disparities in access to opportunity, disproportionate housing needs, or other fair housing issues. Contributing factors may be outside of the ability of the program participant to control or influence. However, such factors, if relevant to the jurisdiction and region, must still be identified. For more information on the identification of significant contributing factors, please refer to Section 5.6 of the AFFH Rule Guidebook.

Example: A program participant identifies disparities in access to opportunity as a fair housing issue, including significant contributing factors that the program participant has prioritized related to access to proficient schools and access to transportation. However, the program participant does not include a goal designed to overcome the effects of any of the contributing factors related to this fair housing issue.

Explanation: Section 5.154(d) of the AFFH Rule sets out certain requirements for the content of the AFH. Section 5.154(d)(4)(iii) requires program participants to set goals for overcoming the effects of contributing factors as prioritized in accordance with the Rule. As such, when there is “a fair housing issue, with at least one significant contributing factor, HUD would expect the AFH to include one or more goals for that fair housing issue.” As a result, HUD would find the AFH to be substantially incomplete.

Corrective Action: HUD will direct the program participant to set a goal for overcoming the fair housing issue and related contributing factor(s).

Example: A jurisdiction has highly segregated areas without access to opportunity. The jurisdiction also lacks affordable housing options in areas with access to opportunity. The program participant’s only goal to address the fair housing issue of disparities in access to opportunity is to develop additional affordable housing in areas that lack access to opportunity. The jurisdiction does not have a goal designed to increase access to opportunity in the areas where existing or newly developed affordable housing are located. The program participant also does not have a goal to provide mobility options or other expanded affordable housing options to provide access for low income households in areas with access to opportunity.

Explanation: The goals established in the AFH, when taken together, would not affirmatively further fair housing under the AFFH Rule (See definitions of Affirmatively furthering fair housing and meaningful actions at 24 C.F.R. 5.152). The absence of any goals, other than merely developing additional affordable housing in areas that lack access to opportunity fails to address the fair housing issues identified in this example. As such, HUD would find the AFH to be both substantially incomplete as well as inconsistent with fair housing or civil rights requirements (*e.g.*, the

nondiscrimination requirements of the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act). Under the AFFH Rule, program participants must set goals for overcoming the effects of contributing factors identified and prioritized by the program participant in accordance with the Rule. For each goal, a program participant must identify one or more contributing factors that the goal is designed to address, describe how the goal relates to overcoming the identified contributing factor(s) and related fair housing issue(s), and identify the metrics and milestones for determining what fair housing results will be achieved. (See 24 C.F.R. § 5.154 (d)).

Additionally, HUD stated in the AFFH Rule that, for instance, where segregation in a development or geographic area is determined to be a fair housing issue, with at least one significant contributing factor, HUD would expect the AFH to include one or more goals to reduce the segregation. (24 C.F.R. § 5.154(d)(iii)). In reviewing goals, HUD will take a number of factors into consideration, including resources. In this case, however, where the goals taken together would not increase fair housing choice or access to opportunity, the program participant is not planning to take the meaningful actions required under the AFFH Rule and the Fair Housing Act.

The goals in the AFH will inform program participants in establishing and implementing strategies and actions that shall be included in program participants' consolidated plans, Annual Action Plans, and PHA Plans (including any plans incorporated therein). (See 5.154(d)(5))

Corrective Action: HUD will provide an explanation of why the goals (or lack thereof) established in the AFH do not meet the requirements, that is they are not designed to address and overcome the identified contributing factor(s) and related fair housing issue(s), and therefore cannot be reasonably expected to achieve a material positive change that affirmatively furthers fair housing. HUD will provide guidance to the program participant to allow the development of goals regarding what could be expected to affirmatively further fair housing, through for example, neighborhood revitalization that would increase access to opportunity given the fair housing issues and significant contributing factors identified in the program participant's AFH.

HUD supports a balanced approach to affirmatively furthering fair housing. A balanced approach encourages a variety of activities that connect housing and community development policy and investment planning with meaningful actions that affirmatively further fair housing. To affirmatively further fair housing and achieve a balanced approach, the strategies undertaken should be meaningful and specific to the local and regional context and history of barriers to fair housing choice. While HUD is not prescriptive in the action that may affirmatively further fair housing, program participants are required to take meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities free from discrimination. A balanced approach may include, but is not limited to, both place-based and mobility strategies.

HUD recognizes that the rule provides program participants with certain discretion in establishing appropriate goals (*e.g.*, place-based redevelopment/new construction and mobility goals that increase access to opportunity in areas where affordable housing is currently located or result in the development of additional affordable housing in areas with access to opportunity).

As stated in the Purpose section of the AFFH Rule (5.150), a program participant's strategies and actions must affirmatively further fair housing and may include various activities, such as developing affordable housing, and removing barriers to the development of such housing, in areas of high

opportunity; strategically enhancing access to opportunity, including through: Targeted investment in neighborhood revitalization or stabilization; preservation or rehabilitation of existing affordable housing; promoting greater housing choice within or outside of areas of concentrated poverty and greater access to areas of high opportunity; and improving community assets such as quality schools, employment, and transportation.

ACCEPTANCE OF AN AFH

If HUD “accepts” an AFH, such acceptance means only that, for purposes of administering HUD funding, HUD has determined that the program participant has provided an AFH that meets the requirement elements, as set forth in Section 5.154(d) of the AFFH rule. Please note that acceptance does not mean that the program participant has complied with its obligation to affirmatively further fair housing under the Fair Housing Act, has complied with other provisions of the Fair Housing Act, or has complied with other civil rights laws and regulations.

An accepted AFH is a requirement for consolidate plan and PHA plan approval. If a program participant does not have an accepted AFH, HUD will disapprove a consolidated plan (see 24 C.F.R. § 91.500) or a PHA Plan (see 24 C.F.R. § 903.23) except where delayed submission is otherwise permitted under Sections 5.156 or 5.160 of the AFFH rule.