

AFFH: FAQ for Program Participants

Q: What is an Assessment of Fair Housing (AFH)?

A: Affirmatively Furthering Fair Housing (AFFH) is a legal requirement that federal agencies and their grantees further the purposes of the Fair Housing Act. This obligation has been in the Fair Housing Act since 1968 (for further information see Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3608 and Executive Order 12892). The [AFFH final rule](#) provides an effective planning approach to aid program participants in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination. A “program participant” is any entity required to submit an AFH as identified below in answer to the question: Who must conduct an AFH?

The AFH refers to the analysis undertaken pursuant to 24 C.F.R. § 5.154 of the AFFH Rule that includes an analysis of fair housing data, an assessment of fair housing issues and contributing factors, and an identification of fair housing priorities and goals, and is conducted and submitted to HUD using the [Assessment Tool](#). The AFH must also be conducted in accordance with the requirements for consultation and community participation, outlined at 24 C.F.R. 5.158. The AFH will replace the current Analysis of Impediments (AI) process. The AFH may be conducted and submitted by: 1) an individual program participant (individual AFH); 2) two or more program participants (joint AFH); or 3) two or more program participants, at least two of which are Consolidated Plan program participants (regional AFH).

Q: How does the Assessment of Fair Housing (AFH) compare to the Analysis of Impediments (AI)?

A: Perhaps most notably, the AFH is a standardized form that program participants will use to conduct their analysis and submit to HUD for review and acceptance. Program participants will also be provided with data and tools to inform the analysis. Guided by the [Assessment Tool](#), program participants will analyze the fair housing issues specific to their jurisdiction and region, and set priorities and goals that will be used to establish strategies and actions in subsequent planning processes.

While the full regulatory requirements for the new AFH process are available at 24 CFR Part 5, a few key requirements include:

- While the AI consisted of program participants providing certification that they will conduct an AI that was subject to monitoring by HUD, under the AFFH Rule, program participants will have to submit an AFH to HUD no less than every 5 years.

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- HUD will provide an Assessment Tool template, accompanied by data and mapping tools, to complete the AFH.
- The AFH will be deemed accepted after 60 calendar days after the date that HUD receives the AFH, unless on or before that date HUD provides the program participant with notification that HUD does not accept the AFH.
- Having an accepted AFH is a precondition to Consolidated Plan or Public Housing Agency (PHA) Plan approval.
- The AFH is subject to the same community participation requirements applicable to the Consolidated Plan or PHA Plan, and that community participation process must occur during the development of the program participant's AFH.
- Consolidated Plans, Annual Action Plans, and PHA Plans must include strategies and actions to affirmatively further fair housing consistent with the goals and priorities in the AFH.

Q: Who must conduct an AFH?

A: The following program participants must conduct an AFH:

1. Jurisdictions and Insular Areas that are required to submit Consolidated Plans for the following programs:
 - The Community Development Block Grant (CDBG) programs
 - The Emergency Solutions Grants (ESG) program
 - The HOME Investment Partnerships (HOME) program
 - The Housing Opportunities for Persons With AIDS (HOPWA) program; and
2. Public housing agencies (PHAs) receiving assistance under Sections 8 or 9 of the United States Housing Act of 1937.

Q: When does a program participant have to submit their first AFH under the Rule?

A: The due date for an AFH is based on each program participant's three-to-five-year Consolidated Plan cycle or five-year PHA Plan cycle. HUD is providing additional time for program participants that received less than \$500,000 in CDBG funds in FY2015, States, insular areas, and qualified PHAs to begin the new AFH process.

- For local governments that received over \$500,000 in CDBG funds in FY2015 (including any HOME consortium with a member who received over \$500,000 in CDBG funds in FY 2015), the first AFH will be due 270 days prior to the program year that begins on or after January 1, 2017 for which a new Consolidated Plan is due, as provided in 24 CFR 91.15(b)(2). Based on the Assessment Tool’s publication date of December 31, 2015, no AFH will be due before October 4, 2016. For any program participant that would otherwise have an earlier submission deadline under 24 C.F.R § 5.160(a)(1)(i), its deadline is now extended to October 4, 2016 pursuant to 24 C.F.R § 5.160(a)(1)(ii). However, a program participant may submit their AFH at any time prior to the due date and are encouraged to do so.
- For (1) all States and Insular Areas, and (2) any local governments that received less than \$500,000 in CDBG funds in FY2015 (including any HOME consortium with a member who received less than \$500,000 in FY2015) the first AFH will be due 270 days prior to the program year that begins on or after January 1, 2018 for which a new Consolidated Plan is due, as provided in 24 CFR 91.15(b)(2).
- For PHAs (other than qualified PHAs) the first AFH will be due 270 days prior to the fiscal year that begins on or after January 1, 2018 for which a new 5-year plan is due.
- For qualified PHAs the first AFH will be due 270 days prior to the fiscal year that begins on or after January 1, 2019 for which a new 5-year plan is due. The timeline below provides examples of deadlines for each type of program participant listed above:

**For:
Local Governments that Received More than \$500k in FY2015 CDBG**

If the next program year for which a new Consolidated Plan is due is:	Jan. 1, 2017	April 1, 2017	July 1, 2017	Oct. 1, 2017	Jan. 1, 2018	April 1, 2018	July 1, 2018	Oct. 1, 2018
Your first AFH will be due*	Oct. 4, 2016	Oct. 4, 2016	Oct. 4, 2016	Jan 4, 2017	April 6, 2017	July 5, 2017	Oct. 4, 2017	Jan. 4, 2018

**For:
States, Insular Areas
Local Governments that Received Less than \$500k in FY2015 CDBG
Non-qualified PHAs**

If the next program year (Con Plan program participants) or fiscal year (PHAs) for which a new Consolidated Plan or PHA Plan is due is:	Jan. 1, 2018	April 1, 2018	July 1, 2018	Oct. 1, 2018	Jan. 1, 2019	April 1, 2019	July 1, 2019	Oct. 1, 2019
Your first AFH will be due**	April 6, 2017	July 5, 2017	Oct. 4, 2017	Jan. 4, 2018	April 6, 2018	July 5, 2018	Oct. 4, 2018	Jan. 4, 2019

**For:
Qualified PHAs**

If the next fiscal year for which a new 5-year PHA Plan is due is:	Jan. 1, 2019	April 1, 2019	July 1, 2019	Oct. 1, 2019	Jan. 1, 2019	April 1, 2019	July 1, 2019	Oct. 1, 2019
Your first AFH will be due**	April 6, 2018	July 5, 2018	Oct. 4, 2018	Jan. 4, 2019	April 6, 2019	July 5, 2019	Oct. 4, 2019	Jan. 4, 2020

*Based on the Assessment Tool's publication date of December 31, 2015, no AFH will be due before October 4, 2016. For any program participant that would otherwise have an earlier submission deadline under 24 C.F.R. § 5.160(a)(1)(i), its deadline is now extended to October 4, 2016 pursuant to 24 C.F.R. § 5.160(a)(1)(ii).

**Note that HUD will provide program participants at least 9 months from the publication of a final Assessment Tool to submit an AFH, so these deadlines may be extended as appropriate.

Q: What is the AFH Assessment Tool, who is required to use it, and where can I find it?

A: The [Assessment Tool](#), which is defined by the regulation at 24 C.F.R. § 5.152, refers collectively to the required forms, templates, and instructions provided by HUD that program participants must use to conduct and submit an AFH pursuant to 24 C.F.R. § 5.154. The Assessment Tool released on December 31, 2015, is for use by local governments, and for program participants wishing to conduct a joint or regional AFH. The Assessment Tool consists of a series of questions and instructions designed to enable program participants to identify contributing factors and related fair housing issues, including, among other things, patterns of integration and segregation, racially or

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ethnically concentrated areas of poverty, disparities in access to opportunity, and disproportionate housing needs.

HUD will separately publish AFH Assessment Tools for States and Insular Areas and for PHAs that choose to conduct individual AFHs, joint or regional AFHs where the State or Insular Area is the lead, or where multiple PHAs conduct a joint AFH. Each of these publications will be announced in the Federal Register and will undergo a 60-day and subsequent 30-day comment period in accordance with the Paperwork Reduction Act. HUD will continue to update information related to the Federal Register notices and these Assessment Tools on the [HUD Exchange web page](#).

Q: What is the AFFH Rule Guidebook?

A: The [AFFH Rule Guidebook](#) provides guidance on the AFFH rule and how to complete an AFH, as well as the linkage between an AFH and other planning processes and plans required as a condition for participating in HUD programs. The AFFH Rule Guidebook includes an optional checklist and worksheet, as an appendix, which program participants may find useful as they complete an AFH. Please note that program participants should not submit this checklist and worksheet to HUD.

Q: What is the User Interface and how do I access it?

A: The User Interface provides a secure, online portal for program participants to complete and submit an AFH, and work collaboratively with other program participants. The User Interface will link to certain data and maps from the [Data and Mapping Tool](#) that program participants will use to complete the AFH. Note that program participants must supplement the HUD-provided data with local data and local knowledge, including local data and local knowledge obtained through community participation, to complete an informed assessment.

The User Interface is currently only available to program participants that have an AFH due in 2016, and any other program participants they choose to partner with to submit a joint or regional AFH. All other program participants will have access to the system in time to begin planning to conduct their AFH and will receive further instructions regarding access in Spring 2016.

Q: What is the AFFH Data and Mapping Tool and what is it for?

A: The [Data and Mapping Tool](#) is a web-based application available to program participants and the public.

The AFFH [Data and Mapping Tool](#) includes maps and tables that show patterns of segregation and integration, racially or ethnically concentrated areas of poverty, disparities in access to opportunity, and disproportionate housing needs, among others.

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These maps and tables are a resource for program participants and the community at large to examine fair housing issues in their communities and regions. Note that program participants must supplement the HUD-provided data with local data and local knowledge, including local data and local knowledge obtained through community participation, to complete an informed assessment.

Q: When is local data and local knowledge required as part of the AFH?

A: Although HUD will provide nationally available data to program participants, the regulations recognize the value of local data and knowledge. Local data is defined in the Final Rule at 24 C.F.R. § 5.152, and refers to metrics, statistics, and other quantified information, subject to a determination of statistical validity by HUD, that are relevant to program participants' geographic areas of analyses, can be found through a reasonable amount of searching, are readily available at little or no cost, and are necessary for the completion of the AFH using the Assessment Tool. Examples of local data include relevant demographic data or program-related data maintained by program participants, another public agency, or another entity that are readily available and easily accessible to program participants at little or no cost.

Local knowledge is defined in the AFFH Rule at 24 C.F.R. § 5.152, and means information to be provided by program participants that relates to program participants' geographic areas of analyses and that is relevant to program participants' AFH, is known or becomes known to program participants, and is necessary for the completion of the AFH using the Assessment Tool. Examples of local knowledge include laws and policies, common neighborhood names and borders, and information about the housing market and housing stock. HUD does not expect program participants to review every possible source to search out local knowledge. However, local knowledge includes information obtained through the community participation process. Program participants are required to consider the information received during the community participation process as they conduct an AFH using the Assessment Tool.

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.

Q: Where can I find additional information?

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A: Detailed instructions on how to complete the AFH accompany each area of analysis within the Assessment Tool. The [AFFH Rule Guidebook](#) provides additional clarity, examples, and context. Further information and training resources are available on HUDEXchange, which is updated on an ongoing basis as new materials are produced. HUDEXchange also has an Ask A Question feature for submitting any remaining questions to HUD. HUD is committed to the success of program participants and will continue to provide training and technical assistance to entities as they prepare to submit their AFH. The HUDEXchange can be accessed at <https://www.hudexchange.info/programs/affh/>.

Q: As a Consolidated Plan program participant, why should I do a Regional or Collaborative AFH?

A: Consolidated Plan program participants are strongly encouraged to work with PHAs and neighboring jurisdictions to conduct and submit an AFH. Not only do many fair housing issues cross jurisdictional boundaries, but all Consolidated Plan program participants will be required to conduct a regional analysis whether or not they choose work with regional partners. Working regionally may help program participants ensure that their goals are consistent and collaborative, thereby making their goals more likely to be effective. Furthermore, there may be cost savings and less duplication of effort by working with partners. The rule provides flexibility to encourage such collaborations, including the alignment of planning processes. HUD will provide additional guidance and technical assistance to help program participants form these types of partnerships.

Q: What steps has HUD taken to reduce burden for program participants?

A: The obligation to affirmatively further fair housing is a legal duty, but HUD made considerable effort to reduce burdens associated with the AFH process and will provide additional assistance to help program participants conduct and submit their AFHs. These efforts include:

- HUD has created a model for cooperation where PHAs, local governments, and/or States and Insular Areas can work with each other in conducting and submitting an AFH. Participating with another program participant greatly reduces the burden on any one individual program participant and could provide a more robust analysis.
- HUD is delaying implementation and allowing program participants to move their submission dates to align with other submissions, creating flexibility that will reduce burden and timing concerns.

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- HUD is providing data for program participants to use in conducting the AFH, thus reducing the need for program participants to obtain that data from third party sources.
- HUD is providing an Assessment Tool that program participants will use in conducting the Assessment of Fair Housing (AFH), which includes instructions that guide program participants through the required analyses, reducing the need for program participants to use third-party consultants.
- HUD will provide guidance, targeted technical assistance, and training to assist program participants in developing their AFH submissions.

Q: As a PHA, how do I fulfill my obligation to conduct the AFH? How do I determine which AFH is applicable for our submission?

A: PHAs may complete an AFH in the following ways:

- PHAs may work with the entity (local government, State, or Insular Area) with whom they certify consistency with the Consolidated Plan (“certifying entity”). This is highly encouraged, as it will reduce the burden of conducting and submitting an AFH.
- PHAs may work with other PHAs to conduct and submit an AFH.
- PHAs may conduct and submit the AFH alone. Depending on how a PHA chooses to submit, a different AFH Assessment Tool may be required for submission. For example, if a PHA chooses to submit with either its certifying entity or some combination of its certifying entity and other PHAs, it will submit using the AFH Assessment Tool for joint participants, which was released on December 31, 2015. If a PHA chooses to submit with other PHAs or alone, it will submit a PHA-only AFH Assessment Tool. A separate PHA template will be developed and published for notice and comment in accordance with the Paperwork Reduction Act, allowing for public feedback on the Assessment Tools.

Q: Is HUD abandoning community revitalization and emphasizing disinvestment in areas of a community where residents are exposed to segregation or racially or ethnically concentrated areas of poverty?

A: The duty to affirmatively further fair housing does not dictate or preclude particular investments or strategies as a matter of law. Under HUD’s rule, program participants will identify fair housing issues and contributing factors, 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), and propose

goals to address them. Program participants have latitude, if they so choose, to prioritize their goals and strategies in the local decision making process based on the information, data and analysis in the AFH.

HUD's rule recognizes the role of place-based strategies, including economic development to improve conditions in high poverty neighborhoods, as well as preservation of the existing affordable housing stock, including HUD-assisted housing, to help respond to the overwhelming need for affordable housing. Examples of such strategies include investments that will improve conditions and thereby reduce disparities in access to opportunity between impacted neighborhoods and the rest of the city or efforts to maintain and preserve the existing affordable rental housing stock, including HUD assisted housing, to address a jurisdiction's fair housing issues. Preservation activities such as the Rental Assistance Demonstration (RAD) or the Choice Neighborhoods Initiative may be a part of such a strategy.

There could be issues, however, with strategies that rely solely on investment in areas with high racial or ethnic concentrations of low-income residents to the exclusion of providing access to affordable housing outside of those areas. For example, in areas with a history of segregation, if a program participant has the ability to create opportunities outside of the segregated, low-income areas but declines to do so in favor of place-based strategies, there could be a legitimate claim that HUD and its program participants were acting to preclude a choice of neighborhoods to historically segregated groups, as well as failing to affirmatively further fair housing as required by the Fair Housing Act.

A balanced approach would include, as appropriate, the removal of barriers that prevent people from accessing housing in areas of opportunity, the development of affordable housing in such areas, effective housing mobility programs and/or concerted housing preservation and community revitalization efforts, where any such actions are designed to achieve fair housing outcomes such as reducing disproportionate housing needs, transforming RCAPs/ECAPs by addressing the combined effects of segregation coupled with poverty, increasing integration, and increasing access to opportunity, such as high performing schools, transportation, and jobs.

In addition, place-based and mobility strategies need not be mutually exclusive; for instance, a regional AFH could conclude that additional affordable housing is needed in higher opportunity areas and thus new construction should be incentivized in those places. At the same time, while such efforts are being implemented, preserving the existing affordable rental stock can also still be a priority based on the fair housing issues identified in the AFH, which may include the disproportionate housing needs analysis in the AFH or the need to avoid displacement of assisted residents from areas that may be experiencing economic improvement. Program participants have latitude to adjust their goals, priorities, and strategies in the local decision making process based on the

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information, data and analysis in the AFH, so long as the goals, priorities, strategies, and actions affirmatively further fair housing.