



# Affirmatively Furthering Fair Housing

*When a participating jurisdiction (PJ) of the HOME Program prepares its Consolidated Plan, it must certify that it will affirmatively further fair housing. This certification is an acknowledgement by the PJ that it accepts the obligation to promote fair housing when it accepts U.S. Department of Housing and Urban Development (HUD) funds. The PJ carries out this certification by implementing a series of steps that address the three components of the certification. This publication, “Affirmatively Furthering Fair Housing,” describes the meaning of the certification and provides guidance on (a) preparing an Analysis of Impediments, (b) taking appropriate actions to overcome the effects of impediments to fair housing choice in the jurisdiction that are identified in the analysis, and (c) maintaining records.<sup>1</sup> This publication also explains how a PJ can use HOME funds to support general fair housing efforts.*

*This publication is part of the series “Fair Housing for HOME Program Participants.” The purpose of the series is to provide technical assistance to HOME PJs and their housing partners on the fair housing laws and regulations that apply to HOME Program activities. Specifically, the series reviews the applicable Federal fair housing laws and regulations, illustrates best practices in promoting fair housing, and highlights PJ responsibilities for ensuring compliance with fair housing requirements. For purposes of this publication, the PJ’s “housing partners” include all persons and entities who use HOME Program funds, including, but not limited to, the PJ and its recipients, state recipients, contractors, subcontractors, developers (including community housing development organizations), owners, and management agents.*

## Certification to Affirmatively Further Fair Housing: Fair Housing Planning

As a condition of receiving HOME and other HUD formula-based funding, a participating jurisdiction must submit a Consolidated Plan that analyzes the jurisdiction’s housing market conditions, assesses the housing needs of its lower-income families and other groups within the eligible population, describes a strategy for addressing the identified needs, and articulates an action plan for investing Federal affordable housing dollars. As a part of this plan, which is subject to HUD approval, a PJ certifies that it will affirmatively further fair housing. In order to affirmatively further fair housing, the PJ is required to:

- Conduct an analysis to identify impediments to fair housing choice within the jurisdiction (an “Analysis of Impediments,” or “AI”);

- Take appropriate actions to overcome the effects of any impediments identified through that analysis; and
- Maintain records reflecting the analysis and actions in this regard.<sup>2</sup>

PJs are not required to submit their analyses to HUD, but they must conduct and maintain them. In the event HUD receives a complaint, it will require submission of an AI, or it may request its submission as part of monitoring. If HUD believes that a jurisdiction has provided an inaccurate certification as part of its Consolidated Plan, it must notify the PJ that it believes the certification to be inaccurate and provide the PJ an opportunity to provide supporting evidence to demonstrate its accuracy. HUD may reject a certification if, after inspecting the jurisdiction’s documentation supporting the certification and providing the jurisdiction notice and opportunity to comment, HUD determines the certification to be inaccurate. Rejection of the certification provides the basis for HUD to disapprove the jurisdiction’s Consolidated Plan.

<sup>1</sup> These three activities are often referred to as “fair housing planning.”

<sup>2</sup> See 24 CFR 91.225, 91.325 and 91.425 for the Consolidated Plan requirements related to affirmatively furthering fair housing certifications for local governments, states, and consortia respectively.



## The Analysis of Impediments

In its simplest form, an Analysis of Impediments addresses the question: “Do all residents and potential residents of this jurisdiction have equal access to housing regardless of their race, color, religion, sex, national origin, disability, or familial status? If not, why not?”

HUD has defined “impediments to fair housing choice” to include specific actions as well as the lack of action(s), as follows:

- Any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status, or national origin which restrict housing choices or the availability of housing choices; and
- Any actions, omissions, or decisions which have the *effect* of restricting housing choices or the availability of housing choices on the basis of race, color, religion, sex, disability, familial status, or national origin.

*The Fair Housing Planning Guide*, published by HUD in 1996,<sup>3</sup> provides comprehensive guidance on how to develop an AI and a plan to overcome the identified impediments. This section summarizes some of the most relevant information from that guide. The complete guide is available online at HUD’s Fair Housing and Equal Opportunity Library at [www.hud.gov/offices/fheo/images/fhpg.pdf](http://www.hud.gov/offices/fheo/images/fhpg.pdf).

### Preparing the Analysis of Impediments

The AI is an analysis of a wide range of actions, existing conditions, and policies that affect housing choice, in both the public and private housing sectors and markets, and non-housing issues that affect housing choice and opportunity. It is not restricted to the design and operation of HUD-funded programs within a PJ’s jurisdiction. The analysis should involve:

- A comprehensive review of a state or local jurisdiction’s laws, regulations, and administrative policies, procedures, and practices; and, for local jurisdictions, those of the state to which the jurisdiction belongs;
- An assessment of how these laws, regulations, policies, and procedures effect the location, availability, and accessibility of housing in the jurisdiction;
- An assessment of conditions, both private and public, affecting fair housing choice for all protected classes;
- An assessment of the availability of affordable, accessible housing in a range of unit sizes; and
- An analysis of whether or not the PJ has sufficient, accurate, and current information and data to understand and document all of its fair housing impediments.

PJs have considerable discretion in determining the process by which they will develop an AI, what is included in the AI, how they define fair housing and its impediments, and what actions they will undertake to overcome the effects of those impediments. To prepare a comprehensive analysis, HUD recommends that PJs undertake this effort, and make these decisions, in a thoughtful and intentional way.

#### *When Must the AI Be Prepared?*

HUD requires each new PJ to conduct an AI. There is no requirement regarding the timing of updates to the AI. In general, a PJ should update its AI on an as-needed basis. When a PJ is developing a new complete Consolidated Plan (required every three to five years), it examines its housing needs, including any demographic changes in the jurisdiction. This, or other changes in the jurisdiction, may result in a need to make revisions to the AI. Generally, if the original analysis is thorough, these revisions should be able to be accomplished by addenda to the original document.

#### *Who Should Undertake the AI?*

PJs can use their own staff or contract the work to a third party to complete the AI. Since developing an AI and taking actions to overcome the effects of impediments are ongoing responsibilities, developing in-house expertise has advantages in the long run. If, however, the PJ does not have staff with time and/or expertise in fair housing issues, securing a competent third party to undertake the AI might make sense.

PJs should establish an inclusive process to help avoid the perception of bias, particularly when securing an industry group or advocacy group to undertake the writing of the AI. The perspectives of the public sector, affected industry professionals, and members of each protected class must be considered during the development of the AI if a PJ wants the AI to be, and be perceived as, fair and unbiased.

#### *What is Included in the AI?*

The impediments to fair housing choice can include a wide range of actions, existing conditions, and policies that affect housing choice, in both the public and private housing sectors and markets, and non-housing issues that affect housing choice and opportunity. For instance, pervasive discrimination in the housing market and insurance industry are unlawful actions that clearly constitute impediments to housing choice. In addition, while economic and transportation issues may not appear to be directly related, they frequently do impact

<sup>3</sup> U.S. Department of Housing and Urban Development. *Fair Housing Planning Guide*. Third reprint. HUD-1582B-FHEO. March, 1996.



housing choice. Likewise, in some jurisdictions, residents with limited English proficiency based on their national origin might experience difficulty accessing the housing market. PJs might choose to include this in their AIs.

PJs will find that the parties involved in the AI process may disagree about what constitutes an impediment to fair housing choice. For instance, while most people agree that unlawful acts of discrimination in the housing market are an impediment to fair housing, there might not be agreement about whether general attitudes and perceptions about others are an impediment. The PJ determines how those differences of opinion will be handled in the context of the AI.

In preparing the AI, there may be areas where a PJ has limited information, such as the rate of discriminatory practices in the mortgage lending market. The AI should note these areas of deficiency, and the PJ should consider steps to obtain more information so it is able to fully understand the impediments to fair housing choice in the jurisdiction.

#### *What Kind of Process Should the PJ Undertake?*

From a practical perspective, PJs should make decisions about

who undertakes the AI, how it is undertaken, and what the AI will include in anticipation of the need to take actions to overcome these impediments. PJs should consider a process that is as inclusive as possible to bolster support for the resulting action plan. PJs might also consider staffing the AI, so that those who will be responsible for implementing the subsequent actions are able to develop the expertise they will need to address the identified impediments.

#### **Elements of the Analysis of Impediments**

PJs must make a good faith effort to review and document their fair housing needs. This analysis should include data about the housing needs of each of the protected classes. For many communities, existing data can be used effectively and obtaining new data may not be necessary.

It is useful to start the AI process by looking closely at the PJ's Consolidated Plan, since it requires the presentation of specific data that might help the PJ understand its fair housing needs. Exhibit 1 provides a list of data elements that are required in the Consolidated Plan that should be helpful in the AI development.

#### Exhibit 1

#### **Consolidated Plan Elements to Consider in the Development of the AI**

The housing and homeless needs assessment of the Consolidated Plan must include:

-  An estimate of the number and type of families in need of housing assistance for persons with disabilities;
-  A description of the extent to which any racial or ethnic group and persons with disabilities have disproportionately greater need in comparison to the needs of that category as a whole, and an assessment of that specific need; and
-  An estimate of the number of persons with special needs who are not homeless, and a description of their supportive housing needs.

The housing market analysis of the Consolidated Plan must include:

-  A definition of "area of minority concentration" and locations identified by narrative or map;
-  A description of the condition, cost of housing, and the housing stock available to serve persons with disabilities; and
-  A description of the special needs facilities and services available in the jurisdiction.

The Strategic Plan must include:

-  Supportive housing needs of special needs populations in the jurisdiction.

The Action Plan must include:

-  A description of the geographic distribution of the housing assistance for the program year, including whether or not funds will be provided in areas of minority concentration; and
-  Activities that will be undertaken to address special needs of persons identified in Strategic Plan.



Each PJ can determine the types of data that must be collected and included in the AI; HUD does not prescribe these elements. In general, a comprehensive AI would include a review of the following:

- Demographic data regarding the jurisdiction's population and housing. Most of this data is included in U.S. Census data provided to the PJ by HUD for preparation and completion of the Consolidated Plan.
- Home Mortgage Disclosure Act reports to illustrate mortgage and rehabilitation lending patterns by race and ethnic group.
- Availability of accessible housing stock for residents with disabilities.
- Findings resulting from complaints and fair housing litigation in the jurisdiction.
  - In some jurisdictions, there are several types of agencies that investigate fair housing complaints, such as a local fair housing organization, a state or local human relations commission, or the HUD field office. Effort should be made to understand the data generated by all such entities.
  - PJs are cautioned to interpret complaints data with care. A large number of complaints that result in findings of discrimination might readily be interpreted to mean that the jurisdiction has a problem with discrimination in the housing market. However, a lack of complaints might be explained by a number of different factors, such as: (1) the jurisdiction may lack an investigative entity; (2) the general public may be unaware of its fair housing rights or available recourse; or (3) members of the protected classes may lack confidence in the investigative entity. Any of these conditions might be considered an impediment to fair housing choice.
- Results of any fair housing testing activity in the jurisdiction, if any are available. Because discriminatory behavior in the housing market is often very subtle, testing is one of the most reliable means of determining the extent and type of discrimination that occurs in the housing market.
- Occupancy requirements that might unlawfully limit group homes for persons with disabilities or families with children.
- Geographic patterns related to the use of Housing Choice Vouchers and the siting of assisted housing.
- Efforts to assist and serve persons who have limited proficiency in the English language to function more effectively in the housing market and assert their rights under civil rights laws such as the Fair Housing Act.

In many jurisdictions there is a distinct correlation between fair housing and affordable housing because the jurisdiction's low-income population is disproportionately represented by

members of the protected classes, particularly by racial and ethnic minorities, large families, and persons with disabilities. The information in the Consolidated Plan regarding the barriers to affordable housing may be particularly significant to the AI. While there may be overlap, however, the provision of affordable housing in and of itself does not necessarily remedy a lack of fair housing choice, nor is the lack of affordable housing typically the *sole* impediment to fair housing choice. Any affordable housing strategy developed by the PJ should be reviewed from the perspective of promoting fair housing prior to implementation.

Exhibit 2 provides a list of issues that a comprehensive AI would address, although not all of these elements are required.

## Taking Actions to Overcome the Effects of Impediments

Once the impediments to fair housing choice are identified in the AI, PJs must take actions to overcome the effects of these impediments. To meet this requirement, HUD *strongly* recommends that PJs develop a plan of action that is derived from the specific issues identified in the AI. Many communities will find that there are far more impediments to fair housing than they are able to address in a single year. Similarly, there are many, many possible activities they could undertake to support and promote fair housing. A plan of action, with a defined fair housing objective, will make the task of establishing priorities, taking actions, and evaluating results far easier for PJs.

A thorough plan of action will specify what actions will be taken to overcome the impediments identified in the AI, what resources are available to undertake each activity, who will undertake each activity, and the timeframe for each action. By developing a plan in a thoughtful way, the PJ will have a tool by which it can (a) measure the success of its actions to overcome the effects of the impediments identified in the AI; and (b) identify new impediments as they are recognized as problems. Ideally, the plan would include a methodology for ongoing review to measure progress.

A PJ should undertake actions to overcome the effects of the impediments it identifies, whether or not the PJ itself may have caused or contributed to them. In fact, PJs should consider all actions it might take to overcome impediments that might have been caused by actions, omissions, decisions, or lack thereof by the public and the private sector. HUD does not hold PJs accountable for the impediments themselves, but it will hold PJs accountable for what actions they choose to undertake to lessen or eliminate the effects of the impediments.



## Exhibit 2

**Sample Elements of a Comprehensive Analysis of Impediments****Introduction and Executive Summary of the Analysis**

-  Statement of the purpose of the AI;
-  Description of the process undertaken to develop the AI, including who led the process, the participants involved, the methodology used, and the funding source(s); and
-  Conclusions of the AI, including the impediments found, and a summary of the actions planned to address these impediments.

**Background Data about the Jurisdiction**

-  Demographic data, including population by race, ethnicity, and limited English proficiency; income; and employment;
-  Housing market profile, including rent profile, homeownership profile, residential development activity, affordable housing needs, housing costs, vacancy rates, public housing, availability of accessible housing, and level of accessibility;
-  Maps showing areas of minority concentration, location of assisted housing, and concentrations of low- and very low-income residents; and
-  Other relevant data, such as employment or transportation data that might affect fair housing choice.

**Evaluation of Jurisdiction's Current Fair Housing Status**

-  Description of information gathered about discriminatory behaviors in the jurisdiction, including information about fair housing complaints; compliance reviews where HUD has issued a charge or made a finding of discrimination; and fair housing discrimination suits filed by the Department of Justice or private plaintiffs;
-  Assessment of current public and private fair housing programs and activities in jurisdiction;
-  Explanation of reasons for any trends or patterns identified in the review of data, including discussion of fair housing issues facing each of the protected classes in real estate and real estate related transactions (sale and rental of housing, appraisal, insurance, and lending activities); and
-  Discussion of other fair housing concerns or problems.

**Identification of Impediments to Fair Housing Choice**

-  Impediments in the public sector
  - Description and analysis of zoning, site selection, and property tax policies and practices;
  - Description of building codes and analysis of how they impact accessibility;
  - Review and analysis of neighborhood revitalization strategies and relationships to the delivery of municipal and other services;
  - Analysis of the impact of (1) tenant selection issues by the local public housing authority and other assisted or insured housing providers, and (2) the sale of subsidized housing and possible displacement; and
  - Where there has been a determination of unlawful segregation or other housing discrimination by a court or by HUD, an analysis of the actions that can be taken by the recipient to help remedy the discriminatory or segregated condition.
-  Impediments in the private sector
  - Description and analysis of policies and practices related to real estate transactions, including appraisals, insurance, and lending activities.
-  Impediments in the public and private sectors
  - Fair housing enforcement in the public and private sectors;
  - Informational programs by the public and private sectors; and
  - Visitability in housing.

**Conclusions and Recommendations**



PJs also should choose action items that correlate to, and directly impact, the impediments identified in the AI. For example, a fair housing month poster contest would be an inappropriate and insufficient action to overcome the effects of pervasive discrimination in the housing market. PJs may want to use one or more of the following strategies to guide their decisions in choosing actions to undertake. These options are not necessarily compatible.

- **Target high visibility action items.** Identify the issues that are most visible to the general public or to a targeted group within the housing industry, and address those first to raise awareness about the fair housing impediments.
- **Target high impact action items.** Identify the most problematic issues, and those that will have the greatest impact on the fair housing environment. These will not always be the most politically feasible options.
- **Build support.** Tackle issues that have wide support from the diverse constituencies involved in the fair housing arena. By tackling some of the less controversial action items first, a PJ can develop relationships with affected parties, create a successful track record, and position itself to move on to more controversial action items.

Regardless of which strategy the PJ undertakes, it will be helpful to:

- **Establish priorities and develop a realistic time-frame for action.** Delineate several steps to address impediments identified in the AI and prioritize those steps for immediate action and others to be undertaken at a later date.
- **Commit sufficient resources and involve others.** As with all else, adequate staff time and funding will be important considerations. PJs should, wherever possible, involve the private and nonprofit sectors.

## Common Impediments to Fair Housing and Appropriate Actions

The same impediments to fair housing choice are evident to greater or lesser degrees in many jurisdictions. Below are some examples of common impediments PJs find and steps to consider when determining what actions to undertake.

### Impediments

Impediments are defined in the *Fair Housing Planning Guide*<sup>4</sup> as “Any actions, omissions, or decisions taken because of race,

color, religion, sex, disability, familial status, or national origin which restrict housing choices or the availability of housing choices, or which have the effect of restricting housing choices or the availability of housing choices on the basis of race, color, religion, sex, disability, familial status, or national origin.” These might include:

- Discrimination based on racial or ethnic background in sales and rental housing markets;
- Lending discrimination or lack of information about lending practices;
- Insurance and appraisal policies that reinforce segregated housing patterns or lack of information about insurance and appraisal policies;
- Discrimination against families with children;
- Discrimination against persons with disabilities;
- Insufficient multi-lingual marketing efforts targeted to those who have limited English proficiency;
- Zoning requirements limiting use or size of group homes, without exceptions for persons with disabilities; and
- Resistance by neighbors to development of housing for persons with disabilities (Not In My Back Yard).

Existing conditions can effectively limit housing choices as well and thereby also constitute impediments to fair housing.

Some common examples include:

- Geographic concentration of racial and ethnic minorities;
- Geographic concentration of low- and very low-income persons, and of assisted housing;
- Lack of large rental units to accommodate families with children;
- Lack of public transportation in suburban areas that serves to limit access of households without automobiles from residential opportunities in those areas. For some regions, these households may be primarily minority households. This type of problem can be exacerbated by the fact that, in many regions, employment opportunities are also expanding in suburban areas.
- Insufficient number of curb cuts in the jurisdiction to make housing accessible to those with mobility impairments; and
- Lack of accessible housing in the existing housing inventory of the jurisdiction.

### Appropriate Actions

There are many appropriate actions that a PJ can take to overcome the effects of impediments identified in the AI. The

<sup>4</sup> U.S. Department of Housing and Urban Development. *Fair Housing Planning Guide*. Third reprint. HUD-1582B-FHEO. March, 1996. Available online at [www.hud.gov/offices/fheo/images/fhpg.pdf](http://www.hud.gov/offices/fheo/images/fhpg.pdf).



following list provides some common examples:

- Select sites (or provide an incentive for developers to select sites) for affordable housing that increase opportunities outside existing areas of minority and ethnic concentration.
- Use testing in the housing market to uncover unlawful discrimination. Testing can uncover many different types and forms of discrimination, such as:
  - Outright denial of any available housing when housing is, in fact, available;
  - Acts of racial, ethnic, or religious steering;
  - Denial of reasonable modifications for persons with disabilities;
  - Differential rental or security deposit requirements for families with children; and
  - Unreasonable unit-size or unit-configuration occupancy requirements.
- Increase or standardize testing procedures used to determine discrimination against all protected classes. Where there are no private fair housing agencies, or state or local governmental agencies that conduct testing, a PJ might create a system for uncovering housing discrimination and referring complaints. Taking and publicizing legal action and settling discrimination cases generally prove to be strong deterrents to unlawful behavior.
- Modify land use requirements to facilitate development of group homes. Typical modifications might include addressing the number of unrelated persons who can reside in one household; the number of group homes that can be operated in certain residential areas; and special accommodations or special use provisions for group housing.
- Use Federal funds for affordable housing to increase the supply of accessible units and large rental units for families with children.
- Adopt design standards that embrace the principles of universal design and visitability. These concepts are discussed in detail in the companion publication *Fair Housing for HOME Program Participants: Promoting Fair and Accessible Housing Opportunities in HOME Projects*.
- Promote the importance of exercising fair housing choice to all members of the public, particularly members of the protected classes.
- Educate professionals in the housing and related industries whose members have the greatest impact on fair housing, such as:
  - Real estate professionals, to ensure they fully understand their requirements and liabilities under the fair housing laws.
  - Providers of homeowner insurance, to ensure their underwriting standards do not discriminate against certain neighborhoods. For example, in some

regions, racial and ethnic minorities tend to reside in older neighborhoods. Policies that limit the availability of insurance to older neighborhoods might have a disparate impact on these protected classes.

- Members of the appraisal industry, to ensure that they are certified and that professional appraisal standards expressly prohibit consideration of the racial or ethnic composition of a neighborhood on value estimates.
- Educate the public on fair housing issues.
- Develop partnerships with other organizations that have a common goal of reducing discrimination in housing. Partnerships can help reduce duplication of effort, stretch small budgets, and help ensure the consistency of efforts to overcome fair housing impediments.

## Record-keeping

The PJ is required to maintain records that demonstrate that it has met its obligation to affirmatively further fair housing, as certified in its Consolidated Plan. To meet this requirement, the PJ must, *at a minimum*, maintain in its files:

- A copy of its AI; and
- Records that show the PJ has taken actions to overcome the effects of impediments identified in the AI.

In addition, HUD recommends that PJs maintain the following information:

- A copy of its fair housing action plan, if developed;
- A description of the process undertaken to carry out the AI, and a summary or transcript of all public meetings, hearings, and citizen comments or other public input;
- A summary report of all activities related to the AI, including: a summary of the AI, a list of the actions taken in the previous program year, and an analysis of the impact of those actions on eliminating discrimination and providing for fair housing choice; and
- Studies evaluating the effectiveness of the actions, if undertaken.

The PJ is required to report annually on these efforts as part of its Comprehensive Annual Performance and Evaluation Report (CAPER) to HUD on its Consolidated Plan.

## Using HOME Funds to Affirmatively Further Fair Housing

HOME Program administrative funds can be used to support (a) a wide range of activities that are designed to affirmatively further fair housing, in accordance with the PJ's certification



in its Consolidated Plan; and (b) any of the costs of complying with the other Federal requirements applicable to the HOME Program, including promoting fair housing. This means that HOME funds may be used for undertaking the AI and its related plan of action, or for the implementation of *any* of the recommended action items articulated in the plan, even if they are neither directly related to HOME-assisted housing, nor do they address HOME-specific “deficiencies.”

Funds used for fair housing activities are subject to the cap on administrative funds. This means that no more than ten percent of the PJ’s annual HOME Program allocation plus ten percent of the program income deposited in the local HOME Program account during the program year may be used for reasonable administrative and planning costs, including those funds used for fair housing-related activities.

The *Fair Housing and the HOME Program Participant* series explores specific obligations of the PJ to (a) pass fair housing requirements on to its housing partners, and (b) to monitor compliance. Costs related to educating housing partners and monitoring these obligations are eligible administrative costs as well.

Some fair housing-related costs may be eligible project soft costs when the fair housing activities are directly associated with the financing or development of new construction, rehabilitation, or acquisition of housing assisted with HOME Program funds. To be an eligible project cost, the activities must be for providing information services in relation to a specific HOME-funded project. This might include (a) providing fair housing information, (b) counseling homeowners or tenants who (will) occupy HOME-assisted housing, or (c) conducting affirmative marketing or outreach for specific HOME-funded project(s), as required by 24 CFR 92.351.

## Conclusion

Every HOME PJ is required to certify in its Consolidated Plan that it will affirmatively further fair housing. This means that it will:

- Conduct an analysis of impediments to fair housing choice within the jurisdiction;
- Take appropriate actions to overcome the effects of any impediments identified through that analysis; and
- Maintain records reflecting the analysis and actions.

The PJ has the discretion to determine who conducts the AI, how it is conducted, what it will include, and what actions that it will take to overcome the effects of the impediments identified. This publication reviewed the choices PJs face in

carrying out this obligation to affirmatively further fair housing, and provided recommendations for actions that might address typical impediments to fair housing choice.

## Additional Resources

*Consolidated Submissions for Community Planning and Development Programs*, 24 CFR Part 91, available online at [www.archives.gov/federal\\_register/index.html](http://www.archives.gov/federal_register/index.html). This regulation contains the requirement that PJs certify that they will affirmatively further fair housing.

U.S. Department of Housing and Urban Development. *Consolidated Plan: Questions and Answers*. July 2004. Available online at [www.hud.gov/offices/cpd/about/conplan](http://www.hud.gov/offices/cpd/about/conplan).

HUD. *Fair Housing Planning Guide*. Third reprint. HUD-1582B-FHEO. March, 1996. Available online at [www.hud.gov/offices/fheo/images/fhpg.pdf](http://www.hud.gov/offices/fheo/images/fhpg.pdf).

HUD. Memorandum from Assistant Secretary for CPD Cardell Cooper and Assistant Secretary for FHEO Eva Plaza. Available online at <http://www.hud.gov/offices/fheo/library/AFFHnotice.pdf>. This Memorandum provides guidance on affirmatively furthering fair housing and the accessibility requirements of the Fair Housing Act.

HUD. Memorandum from General Deputy Assistant Secretary for CPD Nelson Bregon and Assistant Secretary for FHEO Carolyn Peoples. Available online at [www.hud.gov/offices/fheo/library/finaljointletter.pdf](http://www.hud.gov/offices/fheo/library/finaljointletter.pdf). This Memorandum discusses how to conduct an analysis of impediments to fair housing choice. It supersedes previous guidance issued by Assistant Secretaries Cooper and Plaza on February 14, 2000.

## About the Series: Fair Housing for HOME Program Participants

The *Fair Housing for HOME Program Participants* series is designed to help PJs and their housing partners understand and comply with Federal fair housing laws and regulations in the implementation of their HOME Program activities. In general, these laws:

- Prohibit discrimination in housing and housing-related transactions by PJs and their housing partners;
- Require PJs to affirmatively further fair housing;
- Prescribe design and construction standards to ensure equal access to housing by persons with disabilities;



- Promote the use of minorities and women, and minority and women business enterprises in Federally funded contracting opportunities;
- Encourage the creation of employment opportunities for low-income residents of neighborhoods where HOME Program activities are undertaken; and
- Require the implementation of affirmative marketing strategies and outreach to those segments of the populations identified as least likely to apply for the housing without such outreach.

The *Fair Housing for HOME Program Participants* series contains the following publications:

- *Fair Housing for HOME Program Participants: Understanding the Basics*. This publication identifies the protected classes, describes the nondiscrimination provisions of the fair housing laws, and defines prohibited discriminatory actions. In addition, it briefly discusses issues related to affirmatively furthering fair housing and the provision of housing for persons with disabilities. (These topics are explored in detail in subsequent publications of this series). All subsequent publications are based on the assumption that the reader is familiar with the fundamental requirements outlined in this publication.
- *Fair Housing for HOME Program Participants: Affirmatively Furthering Fair Housing* describes a PJ's obligation to affirmatively further fair housing and reviews eligible uses of HOME Program funds to promote fair housing.
- *Fair Housing for HOME Program Participants: Creating Economic Opportunity* reviews the requirements designed to create economic opportunities for minorities and women, minority and women business enterprises, and low- and very low-income residents living in HOME project areas.
- *Fair Housing for HOME Program Participants: Promoting Fair and Accessible Housing Opportunities in HOME Projects* describes the applicability of fair housing laws to rental and homeownership housing development, new construction, and rehabilitation. This publication provides guidance on site and neighborhood standards, record-keeping, and design and construction requirements to ensure accessibility.
- *Fair Housing for HOME Program Participants: Tenant-Based Rental Assistance* discusses tenant selection criteria and procedures and reasonable accommodations and modifications under the Fair Housing Act and program accessibility under Section 504.

The *Fair Housing for HOME Program Participants* series will help managers, program staff, and procurement staff of the PJ and its housing partners. These entities must comply with fair housing requirements when administering programs and developing projects to be funded by the HOME Program.

The *Fair Housing for HOME Program Participants* series focuses on Federal fair housing laws related to housing development and management that are implemented and monitored by HUD. It provides guidance on how PJs and their housing partners can comply with (1) the nondiscrimination mandates of the civil rights laws (focusing primarily on the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973), and Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990; and (2) the affirmatively furthering fair housing mandate of Section 808(e)(5) of the Fair Housing Act. The HOME Program is also subject to Title VI of the Civil Rights Act of 1964 and its implementing regulations at 24 CFR Part 1, which prohibit recipients of Federal assistance from discriminating on the basis of race, color, and national origin.

The series does not provide guidance on state and local fair housing requirements, which may differ from Federal laws. PJs and their housing partners that are unfamiliar with state and local requirements can identify resources through the National Fair Housing Advocate OnLine agency finder at [www.fairhousing.com](http://www.fairhousing.com). Likewise, the series does not provide guidance on the Americans with Disabilities Act of 1990 (ADA) requirements, which are administered by the Department of Justice (DOJ). State and local governments are subject to ADA requirements. PJs can get more information about their obligations from the DOJ website at [www.usdoj.gov/crt/ada/adahom1.htm](http://www.usdoj.gov/crt/ada/adahom1.htm).

Readers that have specific questions about interpretation of civil rights or fair housing laws are encouraged to seek the advice of legal counsel.

## HOME Model Program Guides

*Fair Housing for HOME Program Participants* is a HOME model program guide published by HUD's Office of Affordable Housing Programs. The HOME model program guides provide technical assistance to jurisdictions that are implementing HOME Program activities. Additional copies of any of the publications in the *Fair Housing for HOME Program Participants* series, as well as other HOME model program guides, can be obtained from Community Connections Information Center at 1-800-998-9999. For a list of available model program guides, visit the HOME Program web site at [www.hud.gov/offices/cpd/affordablehousing/library/modelguides/index.cfm](http://www.hud.gov/offices/cpd/affordablehousing/library/modelguides/index.cfm).

For more information about the HOME Program, visit [www.hud.gov/offices/cpd/affordablehousing/programs/home/index.cfm](http://www.hud.gov/offices/cpd/affordablehousing/programs/home/index.cfm).





