

Frequently Asked Questions (FAQs)

Federal Register Notice: Extension of Deadline for Submission of Assessment of Fair Housing for Consolidated Plan Participants

This document provides answers to frequently asked questions about the 60-Day Federal Register Notice that HUD published on January 5, 2018 (83 Fed. Reg. 683): [Extension of Deadline for Submission of Assessment of Fair Housing for Consolidated Plan Participants](#).¹

Note: The Federal Register Notice published on January 5, 2018 (83 Fed. Reg. 683) will be referred to as “Notice.” The [Affirmatively Furthering Fair Housing Final Rule](#)² will be referred to as “AFFH Final Rule.” The U.S. Department of Housing and Urban Development will be referred to as “HUD.”

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¹ <https://www.gpo.gov/fdsys/pkg/FR-2018-01-05/pdf/2018-00106.pdf>

² <https://www.hudexchange.info/resources/documents/AFFH-Final-Rule.pdf>

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General FAQs

Q1: Who does the Notice impact?

The Notice directly impacts all local governments that are required to submit a Consolidated Plan to HUD.

Q2: Does HUD intend to change the AFFH Final Rule?

HUD does not intend to change the AFFH Final Rule. This Notice also does not change any local government’s statutory requirement to affirmatively further fair housing under the Fair Housing Act.

Q3: Why is HUD extending the deadline for submission of the Assessment of Fair Housing for Consolidated Plan Participants, and what will HUD do between now and 2020?

To date, 49 Assessments of Fair Housing (AFHs) have been submitted to HUD using the new format established by the AFFH Final Rule and the Assessment of Fair Housing Tool for Local Governments. HUD's analysis of these AFHs shows that more than one third (35%) of all AFH submissions were non-accepted by HUD on first submission.

HUD's analysis identified several reasons that merit a delay of AFH submission deadlines, including program participants' need for additional technical assistance. HUD determined that many program participants struggled to meet the regulatory requirements of the AFFH rule, such as developing goals that could be reasonably expected to result in meaningful actions to overcome the effects of contributing factors and related fair housing issues. Further, program participants struggled to develop metrics and milestones that would measure their progress as they affirmatively furthering fair housing. HUD determined that program participants' frequent misunderstanding of how to set clear goals, metrics, and milestones that addressed their identified contributing factors and related fair housing issues often resulted in non-accepted AFHs.

HUD will evaluate the quality of the new format established by the AFFH Final Rule and the technical assistance that is being provided to local governments. HUD intends to use this deadline extension to revise the Assessment of Fair Housing Tool for Local Governments to be more intuitive, reduce burden on HUD program participants in completing their assessments, and improve the ability of HUD program participants to develop goals that affirmatively further fair housing. Finally, HUD also believes it can use this time to improve the AFFH Data and Mapping Tool (AFFH-T)³ and the AFH Assessment Tool User Interface (AFFH-UI)⁴ to better support program participants.

Q4: What impact does this Notice have on Public Housing Agencies (PHAs), States, and Insular Areas?

PHAs, States, and Insular Areas are not currently required to submit an AFH, but must continue to comply with existing obligations to affirmatively further fair housing.

PHAs should refer to the [FAQs for Public Housing Agencies](#) for more information. States and Insular Areas should refer to the [FAQs for States and Insular Areas](#) for more information. As explained more fully in these sections, PHAs, States, and Insular Areas' respective obligations to submit an Assessment of Fair Housing (AFH) were not triggered before the Notice was published because HUD has not yet provided the data necessary to complete an AFH.

³ The AFFH-T is a data and mapping online application which is publicly available and for use by HUD program participants to access HUD-provided data and maps to conduct the fair housing analysis required as part of the Assessment of Fair Housing. See: <https://egis.hud.gov/affht/>

⁴ The AFFH-UI is an online secured application which is the system used by HUD program participants to submit AFHs to HUD electronically. The AFFH-UI is housed on HUD's secure system and is only available to program participants completing an AFH. See: <https://www.hudexchange.info/resource/4933/afh-assessment-tool-user-interface-ui/>

Q5: What does this mean for the future of AFFH?

HUD remains committed to affirmatively furthering fair housing and the implementation of the AFFH Final Rule. The future of AFFH will be strengthened during this deadline extension by HUD working with local governments, HUD field staff, and other partners to improve and streamline the Assessment of Fair Housing Tool. HUD intends to design improvements that reduce burden on HUD program participants, and to provide increased technical assistance and guidance resources on affirmatively furthering fair housing.

Q6: What if a program participant is interested in receiving technical assistance to comply with their AFFH obligation during the deadline extension?

HUD will continue to provide technical assistance to all program participants impacted by the AFFH Final Rule during the deadline extension period. HUD is currently working to revise the AFFH training curriculum to enhance its technical assistance delivery. All program participants required to submit affirmatively furthering fair housing planning documents may always contact their local Fair Housing and Equal Opportunity (FHEO) field office for information and assistance. HUD has designated [AFFH Field Points of Contact](#) on the HUD Exchange.⁵

Q7: What if a program participant is currently receiving technical assistance to comply with their AFFH obligation?

HUD will continue to provide technical assistance to all program participants as outlined in technical assistance work plans (as coordinated with HUD field offices and FHEO Headquarters staff).

Q8: If a program participant's next Consolidated Plan is due on or before October 31, 2020, does this mean their first AFH submission will be in 2024?

Yes. The Notice extends the AFH submission requirement for local government Consolidated Plan program participants to their **next** AFH submission date that falls **after** October 31, 2020.

Q9: May Local Governments, States, and Insular Areas continue to use the 'new' AFH terms in their completion of the Analysis of Impediments to Fair Housing Choice (AI)?

Program participants are not required to continue to use the AFH terms (e.g. contributing factors), but may choose to do so. Please see the Fair Housing Planning Guide referenced below in Q16 for more information.

Q10: How may a program participant access AFH materials that were created and/or submitted to HUD in the AFH Assessment Tool User Interface for use in their Analysis of Impediments to Fair Housing Choice (AI) or Consolidated Plan?

The AFH Assessment Tool User Interface is currently unavailable until further notice. If a program participant needs access to these materials, please contact Nathan Roth in the Office of Policy, Legislative Initiatives, and Outreach, FHEO at Nathan.S.Roth@hud.gov.

⁵ <https://www.hudexchange.info/programs/affh/affh-field-point-of-contacts/>

Q11: May comments be submitted about the Notice?

Yes. Comments may be submitted by anyone and will be utilized by HUD in its efforts to improve the reporting and planning processes for affirmatively furthering fair housing, as established by the AFFH Final Rule. Comments are encouraged to be submitted electronically through the <http://regulations.gov> website.

FAQs for Local Governments

Q12: What does this Notice mean for Local Governments who are Consolidated Plan program participants?

Local governments will not be required to submit an AFH using the current Assessment Tool, but must continue to comply with existing obligations to affirmatively further fair housing. Until the program participant is required to submit an AFH, it will continue to provide the AFFH Consolidated Plan certification 7 in accordance with the requirements that existed prior to August 17, 2015. See [24 CFR 5.160\(a\)\(3\)\(2017\)](#),⁶ [24 CFR 91.225\(a\)\(1\)\(2014\)](#).⁷

The Fair Housing Act, the AFFH Final Rule, and the above-cited certification regulations obligate program participants to affirmatively further fair housing, which means that they will conduct an Analysis of Impediments to Fair Housing Choice (AI) 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, and certify compliance.

HUD encourages Consolidated Plan program participants to use the data and mapping tool and the current AFH Assessment Tool as resources in updating their AIs. HUD also encourages program participants to collaborate to develop a regional AI, as regional collaborations provide opportunities for program participants to share resources and address fair housing issues that cross jurisdictional boundaries.

Q13: What does this Notice mean for Local Governments who have already submitted an AFH that has been accepted by HUD?

Local government program participants that have already submitted an AFH that has been accepted by HUD must continue to execute the goals of that AFH. This includes integrating the goals and priorities established in the AFH into subsequent plans for the use of HUD funds (Consolidated Plans and Annual Action Plans) consistent with the statutory requirements governing such programs. Program participants should contact their local CPD Field Office for information on how to incorporate an accepted AFH into the Consolidated Plan.

⁶ <https://www.gpo.gov/fdsys/pkg/CFR-2017-title24-vol1/pdf/CFR-2017-title24-vol1-sec5-160.pdf>

⁷ <https://www.gpo.gov/fdsys/pkg/CFR-2014-title24-vol1/pdf/CFR-2014-title24-vol1-sec91-225.pdf>

Q14: What does this Notice mean for Local Governments who have already submitted an AFH that has been non-accepted by HUD?

Local government program participants that received a non-accept decision from HUD on their AFH that were in the process of preparing to re-submit an AFH at the time of Notice publication should not submit their revised AFHs to HUD. The local government program participants must continue to comply with existing obligations to affirmatively further fair housing as described above in Q12.

Q15: What does this Notice mean for Local Governments who have submitted an AFH to HUD in which a decision has not been reached?

HUD has discontinued the review of AFHs as of publication of the Notice on January 5, 2018. These program participants have been notified by HUD that they will not receive a determination of accept, non-accept, or deemed accepted (per the guidance in the Notice). These program participants must continue to comply with existing obligations to affirmatively further fair housing as described above in Q12. The AFH submitted may be used as a resource by local governments in development of an updated AI.

Q16: Does this notice change the timing of completion of the Analysis of Impediments to Fair Housing Choice (AI)?

No. Please refer to the [Fair Housing Planning Guide](#)⁸ and associated Guidance Memoranda for timing on completion of an AI.

Q17: Can the Analysis of Impediments to Fair Housing Choice (AI) still be organized as one regional document in the AFH format?

Yes. A Regional Analysis of Impediments to Fair Housing Choice (RAI) has no required format, so the AFH format may still be used.

Q18: Is there an obligation for Local Governments to track AFFH goals in IDIS?

If a program participant had an AFH accepted or deemed accepted by HUD prior to publication of the Notice on January 5, 2018, that program participant must continue to execute and track the goals established in the AFH through the Consolidated Planning process. Contact your CPD Field Office for information on how to incorporate an accepted AFH into the Consolidated Plan. Program participants without an approved AFH prior to publication of the Notice will follow the Analysis of Impediments to Fair Housing Choice (AI) procedure outlined in the Fair Housing Planning Guide.

FAQs for Public Housing Agencies

Q19: What does this Notice mean for PHAs?

PHAs are not currently required to submit an AFH, but must continue to comply with existing obligations to affirmatively further fair housing. Until the PHA is required to submit an AFH, it will continue to examine “programs or proposed programs, identify any impediments to fair housing choice

⁸ <https://www.hud.gov/sites/documents/FHPPG.PDF>

within those programs, address those impediments in a reasonable fashion in view of the resources available and work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement and maintain records reflecting these analyses and actions." PHAs must also continue to provide the PHA Plan certification in accordance with the requirements that existed prior to August 17, 2015. See [24 CFR 903.5](#).⁹

Q20: What does this Notice mean for PHAs who joined with a Local Government and have already submitted an AFH that has been accepted by HUD?

PHAs that have already submitted an AFH that has been accepted by HUD must continue to execute the goals of that AFH. This includes integrating the goals and priorities established in the AFH into subsequent plans for the use of HUD funds (PHA Plans) consistent with the statutory requirements and goals governing such programs.

Q21: What does this Notice mean for PHAs who joined with a Local Government and have already submitted an AFH that has been non-accepted by HUD?

PHAs that received a non-accept decision from HUD regarding their AFH submission that were in the process of preparing to re-submit an AFH at the time of Notice publication should not submit their revised AFHs to HUD. These PHAs must continue to comply with existing obligations to affirmatively further fair housing as described above in Q19.

Q22: What does this Notice mean for PHAs who joined with Local Governments that have submitted an AFH to HUD in which a decision was pending?

HUD has discontinued the review of AFHs as of publication of the Notice on January 5, 2018. These PHAs have been notified by HUD that they will not receive a determination of accept, non-accept, or deemed accepted (per the guidance in the Notice). These PHAs must continue to comply with existing obligations to affirmatively further fair housing as described above in Q19.

FAQs for States and Insular Areas

Q23: What does this Notice mean for States and Insular Areas that are Consolidated Plan program participants?

States and Insular Areas are not currently required to submit an AFH, but must continue to comply with existing obligations to affirmatively further fair housing. Until the program participant is required to submit an AFH, it will continue to provide the AFFH Consolidated Plan certification 7 in accordance with the requirements that existed prior to August 17, 2015. See [24 CFR 5.160\(a\)\(3\)\(2017\)](#),¹⁰ [24 CFR 91.324\(a\)\(1\)\(2014\)](#).¹¹

Those requirements obligate a program participant to certify that it will affirmatively further fair housing, which means that it will conduct an Analysis of Impediments to Fair Housing Choice (AI) within

⁹ <https://www.gpo.gov/fdsys/pkg/CFR-2003-title24-vol4/pdf/CFR-2003-title24-vol4-sec903-5.pdf>

¹⁰ <https://www.gpo.gov/fdsys/pkg/CFR-2017-title24-vol1/pdf/CFR-2017-title24-vol1-sec5-160.pdf>

¹¹ <https://www.gpo.gov/fdsys/pkg/CFR-2014-title24-vol1/pdf/CFR-2014-title24-vol1-sec91-325.pdf>

the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions.