Affirmatively Furthering Fair Housing Final Rule: Regulatory Impact Analysis

1 Summary of Analysis

The Fair Housing Act not only prohibits discrimination but, in conjunction with other statutes, directs HUD and its program participants to take proactive steps to overcome historic patterns of segregation, achieve truly balanced and integrated living patterns, promote fair housing choice, and foster inclusive communities that are free from discrimination. HUD's Affirmatively Furthering Fair Housing (AFFH) final rule helps HUD program participants address the legacy of segregation and locational choice influenced by protected characteristics including race, color, religion, sex, familial status, national origin, and disability.

Through this final rule, HUD establishes an integrated assessment and planning process to give HUD program participants more effective means to affirmatively further the purpose of the Fair Housing Act. AFFH requires steps to foster more inclusive communities and access to community assets for all people protected by the Fair Housing Act. States, local governments, and public housing agencies (PHAs) will provide local and regional data on patterns of (1) integration and segregation; (2) racially and ethnically concentrated areas of poverty; (3) access to education, employment, low-poverty neighborhoods, transportation, environmental health, and other assets that comprise areas of opportunity; and (4) disproportionate housing needs of protected classes. HUD will provide data from nationally standardized datasets to local entities for the planning process. From these data, program participants will assess the current state of fair housing in their community, identify the primary contributing factors perpetuating the issues revealed in the data, and set forth fair housing goals, strategies, and actions to address these issues in an Assessment of Fair Housing (AFH) report that replaces the current analysis of impediments to barriers to fair housing choice (AI). The rule provides for HUD to review and evaluate the strategies and actions intended by a program participant to fulfill its obligation to affirmatively further fair housing, as documented in the AFH, and for HUD to determine that the AFH can be accepted.

The final rule makes several key changes that will reduce costs and burden while replacing the AI process with the new AFH process. First, the final rule advises that HUD will provide versions of the Assessment Tool (or Template), the document by which a program participant will document its assessment of fair housing issues in its geographic area, that are tailored to the roles and responsibilities of the various program participants covered by this rule. HUD agreed with commenters that a one size Assessment Tool does not fit all and that Assessment Tools tailored to the roles and responsibilities of the various program participants, whether they are entitlement jurisdictions, States, or PHAs, will eliminate examination of areas that are outside of a program participant's area of responsibility. Second, HUD recognizes that all program participants do not have the same resources and capacity and HUD provides additional time for small entities, qualified PHAs (as defined by statute) and jurisdictions that receive a Community Development Block Grant (CDBG) of $500,000 or less, to complete their first AFH. Third, HUD provides a staggered submission deadline for program participants to submit their first AFH. As reflected in the proposed rule, HUD intended to provide all program participants with considerable time to transition from the current AI approach to the new AFH approach. However, HUD agreed with commenters that the Assessment Tool issued for public comment was a better fit for entitlement jurisdictions than the other program participants. Therefore, entitlement jurisdictions receiving a CDBG of more than $500,000 will be the first category of program participants to submit their AFHs, and the other program participants will follow as their Assessment Tools are developed and made available. The staggered submission deadline not only helps program participants with the time needed to complete their first AFH, but allows HUD the time to help program participants with their AFHs since they will be coming into HUD on a staggered basis. Additionally, as each wave of AFHs are submitted, HUD and its grantees have the benefit of experience from the program participants that

already submitted their AFHs, and HUD believes this will help in identifying any areas of the Assessment Tool that may need to be remedied. Fourth, the final rule provides that a program participant that undertook a Regional AI in connection with a grant awarded under HUD's Fiscal Year 2010 or 2011 Sustainable Communities Competition is not required to undertake an AFH for the first AFH submission stage. The final rule clarifies that PHAs, similar to Consolidated Plan program participants, only submit an AFH every 5 years. The provision by HUD of Assessment Tools that are program participant-specific and staggered submission deadlines for first AFHs, yield significant reduction of burden and costs. As noted above, program participant specific Assessment Tools will provide for greater focus on the role and responsibility of the specific program participant and that will reduce burden. The staggered submission deadline provides for additional time and the provision of additional time cannot be over-emphasized. The additional time that HUD provides allows HUD to work with specific program participants (providing guidance and technical assistance) as their submission deadline approaches, which will help program participants in developing an AFH that can be accepted by HUD. Further the Assessment Tool is subject to compliance with the Paperwork Reduction Act, which means the burden must be re-assessed every 3 years. This periodic review provides the opportunity to examine, following use of the Assessment Tool in practice, that the burden is only that necessary for an effective AFH.

While these significant changes reduce burden and costs, HUD recognizes that there will be costs. The new AFH approach will be a substantial change from the current AI process. While HUD is providing new data to assist grantees in developing AFHs, it also recognizes that some aspects, such as the community participation process, will entail additional cost. Accordingly, the aggregate compliance cost on local entities is expected to be in the range of $25 million per year after the second year of implementation plus $9 million for HUD, for a total of $34 million annually.

There will also be costs associated with the strategies and actions program participants take to address the goals of the AFH. However, the rule covers program participants subject to a diversity of local conditions and economic and social contexts. Therefore, this analysis is unable to quantify the outcomes of the process to identify (1) barriers to fair housing, (2) program participants' decisions on which barriers to address, (3) the types of policies to address those barriers, and (4) those policies' effects on protected classes. The precise outcomes of the AFFH planning process are uncertain, but the rule will enable each jurisdiction to plan meaningfully.

Executive Order 13563 (2011) allows regulatory agencies "where appropriate and permitted by law" to "consider (and discuss qualitatively) values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts." While the final rule imposes increased costs of data collection and paperwork on participating jurisdictions and PHAs, most of the positive impacts entail changes in equity, human dignity, and fairness. If the rule prompts communities to promote a more racially and socio-economically equitable allocation of neighborhood services and amenities, residents would enjoy the mere sense of fairness from the new distribution. Elevating communities out of segregation revitalizes the dignity of residents who felt suppressed under previous housing and zoning regimes. Quantifying such factors as fairness and dignity is likely impossible, yet these values are the crux of the final rule. Since the rule primarily results in such unquantifiable impacts, it is appropriate to consider many of its effects in qualitative terms.

The benefits of this rule can be significant. HUD and its grantees have a statutory duty to affirmatively further fair housing. This is not an administrative requirement that can be waived by HUD. As the preamble to the proposed rule provided and reiterated in the preamble to the final rule, the current AI process has been highly criticized as not an effective AFFH tool. The outcomes that HUD seeks from this rule are those intended by the Fair Housing Act – overcoming historic patterns of segregation, promoting fair housing choice, and fostering inclusive communities that are free from discrimination.

2 Need for the Rule

A Government Accountability Office (GAO) analysis of 30 Analyses of Impediments (AIs) highlighted the most common impediments to fair housing choice: zoning and site selection, inadequate public services in low- and moderate-income areas, less favorable mortgage terms from private lenders, and lack of access to information about fair housing rights and responsibilities (GAO, 2010). The existence of these barriers is costly, and the final rule is designed to improve the current planning process to overcome these impediments.

2.1 Existence of communities with barriers to fair housing choice

Despite genuine progress and a landscape of communities transformed in the more than 40 years since the Fair Housing Act was enacted, the ZIP code in which a child grows up all too often remains a strong predictor of that child's life course.[1] There are communities that remain segregated by classes protected by the Fair Housing Act. Racially-concentrated areas of poverty exist in virtually every metropolitan area. Disparities in access to important community assets prevail in many instances.

The existence of these communities can be costly for members of protected classes that reside in these communities. Consider, for example, the case of a family looking for a home. On average, minorities are treated differently at every stage, from searching for a home to closing on a loan. Differential treatment of minorities could lead to them paying a premium for housing whether in the form of rent, the purchase price of housing, or the terms of a mortgage loan.[2] The indirect implication of having to pay a premium is that a member of a protected class will not have equal access to the same locations as others. Thus, any public policy that responds to discrimination and its historical legacy has the potential to create significant social benefits not just in housing consumption but in the choice of neighborhood.

Ondrich et al. (2003) use data from 1989 Housing Discrimination Study to examine the decisions of real estate agents. The researchers found that the marketing effort of agents increase with the price of a home for white customers but not for black customers. Black customers are more likely to be shown houses in integrated neighborhoods (steering). The houses that agents show are more likely to deviate from the initial request when the customer is black than when the customer is white. These findings are consistent with discrimination on the part of real estate agents and such behavior on the supply side will result in restricted housing choice for minorities.

The most recent (2012) Housing Discrimination Study (HDS) finds that while more blatant forms of racial and ethnic housing discrimination have declined since the previous HDS study in 2000, housing discrimination still exists in more nuanced forms and persists in both rental and sales markets. The study finds that when minority home seekers contact housing providers to inquire about recently advertised housing units, they receive treatment comparable to equally qualified white home seekers in many important respects. However, when differences in treatment occur, they consistently favor white home seekers over equally qualified minorities. Most importantly, minority home seekers are told about and shown fewer homes and apartments than whites, raising the costs of housing search and limiting housing choice.[3]

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[1] See http://www.equality-of-opportunity.org/images/mobility_geo.pdf.

[2] A study of closing costs (Woodward, 2008) provides evidence that African Americans pay $415 more for their mortgage loans and that Hispanics pay $365 more (after taking into account borrowers' differences, such as credit score and loan amount) than Whites do.

[3] Myers (2004) finds a positive and statistically significant relationship between race and the value of owner occupied housing. The finding is a powerful one because the researcher does a careful job of controlling for structure and neighborhood characteristics. The same study, however, does not provide evidence that minorities

A study (Hanson and Hawley, 2011) using matched-pair audits of discrimination in the U.S. rental market finds that African-Americans experience discrimination and that discrimination increases as neighborhoods reach a "tipping point" (from 5 to 20 percent minority share of the community).[4] Thus, discrimination in the real estate market is less likely when minorities comprise either a very small or much large larger share. The dynamics of the tipping point phenomenon is likely generated by both economic and social phenomenon. However, it appears that there is extra resistance to change as communities are at the precipice of significant demographic change.

The planning process put in place by the final rule highlights these issues and their attendant costs in ways that were not previously appreciated, one might expect policy-makers to craft a response. They could potentially create a task force charged with increasing local enforcement activities to root out such discrimination. Alternatively, they could expand informational programs which alert both tenants and landlords of the illegality of discriminatory practices, which could deter those considering acting in discriminatory ways. Other policies are possible as well.

While efforts to combat ongoing discrimination are important, they are also at the core of HUD's existing fair housing efforts. HUD's final rule is designed to support and facilitate those efforts, but goes further and addresses other significant barriers to fair housing choice that have been largely absent from HUD's fair housing policy initiatives. Specifically, HUD's rule is designed to help address the legacy of segregation and factors related to locational choice that have been influenced by race, national origin, disability, and other protected classes, but typically do not rise to the level of discriminatory actions that violate other sections of the Fair Housing Act.

There are additional costs to restricting housing choice. These costs include reducing employment, education, and homeownership opportunities as well as the benefits of living in a safer and healthier environment. For example, Card and Rothstein (2007) study educational outcomes, and controlling for student background, find that residential segregation during high school is associated with lower test scores for black students relative to whites. Beyond these issues of fairness to individual households, there is evidence that fair housing policy improves economic welfare for an entire metropolitan area. Cutler and Glaeser (1997) analyze the metropolitan-wide impacts of segregation and find that a one standard deviation decrease in segregation is correlated with a one-third of the black-white difference in measured outcomes (schooling, earnings, and single parenthood).[5] The authors conclude that housing policy which reduced spatial segregation could be as effective as education, labor, or social policies in achieving equal outcomes. Another researcher (Ananat, 2011) controls for omitted variable bias and confirms the Cutler-Glaeser result: segregation is correlated with higher black poverty and lower white poverty, compared to places that are less segregated. We know that segregation exists; that segregation is often involuntary; the impacts of involuntary segregation are malicious; and that local policy can play a role in ameliorating those adverse impacts on protected classes.

The factors underlying these realities are many and varied. HUD's Fair Housing Planning Guide defines (see p. 2-17) impediments to fair housing choice as:

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pay a premium in the rental market. The author concludes that the lack of a rental premium may be explained by either the absence of discrimination in the rental market or the use of rental subsidies.

[4] Tipping points in the range of 5 and 20 percent of the minority share were identified by Card, Mas, and Rothstein (2008) using a variety of estimation methods. Tipping points have been found to vary across cities, due in part to differences in local preferences.

[5] The authors present a theoretical analysis that is ambiguous concerning the net impact of segregation. The statistical analysis is statistically rigorous and controls for endogeneity of location choice by individual households. However, Durlauf (2004) points out that underlying discrimination may be the root cause of both spatial segregation and less lower outcomes.

- Any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status, or national origin that restrict housing choices or the availability of housing choice; or

- Any actions, omissions, or decisions that have this effect.

Impediments to fair housing choice include actions or omissions in the State or Entitlement jurisdiction that constitute violations, or potential violations, of the Fair Housing Act that are counterproductive to fair housing choice, such as:

- Community resistance when minorities, persons with disabilities and/or low-income persons first move into white and/or moderate- to high-income areas.

- Community resistance to the siting of housing facilities for persons with disabilities because of the persons who will occupy the housing.

- Other actions that have the effect of restricting housing opportunities on the basis of race, color, religion, sex, disability, familial status, or national origin.

There are literally dozens of impediments to fair housing choice. As noted above, a GAO analysis of 30 AIs highlighted the most common impediments to fair housing, which are shown in the table below.

Table 1. Most Commonly Cited Impediments to Fair Housing in Selected Analyses of Impediments

Impediments	Description of impediments
Zoning and site selection	Building and zoning codes, which may contain lot requirements such as minimum street frontage and front yard setbacks, and amenities (e.g., landscaping), that can affect the feasibility of developing low- and moderate-income housing. Placement of new or rehabilitated housing for low-and moderate-income groups in areas that already have high concentrations of this type of housing or have zoning requirements that encourage such concentrations.
Neighborhood revitalization, municipal and other services, employment-housing transportation linkage	Inadequate public services in low-and moderate-income areas, where many African-American, Hispanics, and people with disabilities may live, including schools, recreational facilities, social service programs, parks, roads, transportation, street lighting, trash collection, and police protection.
Lending policies and practices	Less favorable mortgage lending terms from private lenders, such as higher interest rates for African-Americans or other minority borrowers than are generally available for nonminority borrowers with similar risk characteristics.
Informational programs	Lack of access to information about the rights and responsibilities associated with fair housing, potentially creating an environment favorable to discriminatory practices.

Source: GAO, 2010, Analysis of 30 AIs

With so many specific barriers, it is perhaps useful to categorize them according to how they limit housing choice. One set of issues pertains to barriers that prevent people from moving out of segregated neighborhoods, racially or ethnically -concentrated areas of poverty, and neighborhoods that perpetuate disparities in access to important community assets. A second set of issues involves realities that prevent these neighborhoods from attracting a sufficiently broad distribution of people such that

segregation and racial concentration of poverty dissipate over time. Included among these barriers are characteristics these neighborhoods lack that would help ameliorate observed disparities in access to community assets.

2.2 Barriers That Prevent Mobility

Market and regulatory barriers hamper families in segregated neighborhoods, racially concentrated areas of poverty, and locations that limit access to opportunity from trying to move to locations where inequality is less acute. Potential barriers in target areas to protected classes' entry include a lack of affordable housing, inability to use existing housing subsidies, a lack of awareness about housing options, and a lack of supports such as childcare.[6]

In some instances, government policies and practices have not aggressively promoted integration in order to eliminate racially or ethnically concentrated poverty and reduce disparities in access to opportunity. One historical example is the race-based restriction on Federal Housing Administration activities in the 1940s. A second and more contemporary example is evidence that HUD-assisted housing is often concentrated in segregated, high-poverty areas.[7]

Housing discrimination is not the primary focus of this rule, but it could limit housing choice and perpetuate the existence of segregation, racially or ethnically concentrated poverty, and disparities in access to opportunity. Restricted choice during the search process leads minorities to achieve less than the optimal housing outcome,[8] likely causing them to pay more for similar quality housing.[9] The premium could manifest in the rent, purchase price, or mortgage loan terms.[10] The indirect implication of that premium is that a member of a protected class will not have equal access to the same locations as others. Thus, any public policy that responds to discrimination and its historical legacy could create significant social benefits in housing consumption and the choice of neighborhood.

2.3 Barriers That Prevent a Broader Appeal

Barriers that inhibit community improvements are as costly as barriers that prevent people from settling in their preferred community. More families are drawn to neighborhoods with particular assets, and the lack of these assets can limit the number of families who will consider living in a particular place. These

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[6] Murray (1997) found affordability to be the largest barrier for low-income individuals to securing housing. Her study confirmed that households reaching 80 percent of median area income had a high probability of being in acceptable-quality housing. Sirmans and Macpherson's (2003) review of affordable housing literature identified a lack of home buying and credit knowledge and the lack of affordable housing as major impediments to poor families seeking housing.

[7] Schill and Wachter (1995) describe the concentration of public housing in high-poverty areas of American inner-cities citing HUD-regulations as a key contributor to the phenomenon. Rohe and Freeman (2001) examined the siting of HUD- and federally-assisted housing in the 1980s and found the percentage of African-American and Hispanic households in tracts to be strong predictors of the siting of subsidized housing in that tract.

[8] The most recent (2012) Housing Discrimination Study, based on 8,200 paired tests, found that housing discrimination exists but has decreased significantly in most forms since the first study, in 1977. Hanson and Hawley (2011), using matched-pair audits of discrimination in the U.S. rental market, found that discrimination against African Americans increases as neighborhoods reach a "tipping point" (from 5 to 20 percent minority share).

[9] Myers (2004) found a positive and statistically significant relationship between race and the value of owner-occupied housing. The finding is powerful because the researcher carefully controlled for structure and neighborhood characteristics. The same study, however, did not find that minorities pay a premium in the rental market, which Myers attributed to either the absence of discrimination in the rental market or the use of rental subsidies.

[10] Woodward (2008) provided evidence that African Americans pay $415 more and Hispanics pay $365 more (after accounting for borrowers' differences, such as credit score and loan amount) for their mortgage loans than Whites do.

assets include good schools, safe streets, access to good jobs, a good health infrastructure, available services such as childcare, parks and open space, diverse and healthy food choices, and a range of transportation options (including accommodations for disabilities). In each case, the absence or reduction of the asset hinders effective transformation of segregated neighborhoods.

Alternatively, increasing a neighborhood's appeal to families with different income and ethnic profiles can encourage a more diversified population and reduce isolation, thus advancing fair housing goals. A key challenge in transforming neighborhoods and promoting integrated communities is preserving their affordability and highlighting their appeal without radically changing their character. Transformation, particularly of lower income neighborhoods, can induce gentrification, which can help advance fair housing goals and integration, but it can also change the ethnic mix to the extent that the minorities who originally populated the neighborhood are no longer present, and thus do not accrue the benefit of the initial investments. Such tipping is not a desired outcome of fair housing, because displacement can negate any progress.

2.4 Potential to Improve Existing Process

The traditional means of fair housing planning are not as effective as they could be. In the past, HUD did not require submission and review of AIs, and did not clearly link AIs to community planning efforts, such as the Consolidated Plan and the PHA Plan. HUD determined that recipients of HUD funds would benefit from tools that aid in understanding patterns of segregation, disparities in access to opportunity, and disproportionate housing needs for protected classes to guide them to better develop strategies and actions to address these fair housing concerns.

GAO (2010: 32-33) affirmed the need to revise the current planning process to "better ensure that grantees' AIs serve as an effective tool for grantees to identify and address impediments to fair housing." The report recommended establishing rigorous standards for submission, checking, and verification of AIs, and it recommended measuring grantees' progress in addressing fair housing impediments.

3 Economic Impact of the Rule: Execution of the Process

The rule's impacts on program participants are associated with executing the fair housing planning process provided in the final rule. HUD expects there to be compliance costs.

3.1 Costs to Program Participants

The new regulation provides a fair housing planning process that is builds upon the Consolidated Plan and the PHA planning process, utilizing planning procedures familiar to HUD's program participants. HUD anticipates additional impact of this rule on document preparation time. States, local governments, and PHAs are already required to address analyses comparable to those required by the AFH, such as disproportionate housing needs, and they undertake activities to offer fair housing choice, and maintain records of the activities and their impact. The principal differences imposed by the final rule are the following: program participants submit the AFH to HUD for review and feedback; the contents of the AFH are precisely defined; HUD is providing much of the data necessary for the analysis; and participants will use the HUD-provided data, local data, and local knowledge, as these terms are defined in the final rule, and information gained through a new required community participation process to complete the assessment. Because the fair housing planning process is tied to the existing Consolidated and PHA Plans, local governments, States, and PHAs would not have to establish wholly new procedures. Additionally, the clarity provided by the rule concerning AFFH requirements may, to some extent, reduce the burden of completing the AFH.

HUD expects there to be costs from community engagement, producing an improved analysis, and potentially greater attention to policy implementation.

3.1.1 Data

The rule requires that participants utilize local area data, again to the extent relevant and readily available, on a wide array of welfare measures (housing needs, education, access to transportation, environmental health, and employment); how these welfare measures are distributed spatially and by protected class (race/ethnicity, national origin, family status, and disability); and what factors, including public policy, may influence any inequalities in the spatial distribution of the welfare measures.[11] Although HUD plans to provide nationally available data to program participants, the final rule recognizes the value of local data, which may be more relevant and current than HUD-provided data. Program participants must describe any local data utilized in development of their AFH.[12]

HUD expects there to be new costs from extending community participation/consultation. The regulation imposes a separate community participation process for the AFH, but using the procedures already in place for the community participation process required by the Consolidated Plan and PHA Plan. Examples of additional efforts include web postings and more vigorous outreach to disabled individuals or those with limited-English proficiency (which is an existing requirement for HUD programs and is not created by this rule). Entities are also required to consider all relevant comments, including data analysis, which the public provides, just as they are required to do so under the Consolidated Plan and PHA Plan. Nevertheless, there may be some initial costs associated with program participants becoming familiar with and considering the relevant information and data provided during the public participation process.

3.1.2 The Report

The net change in burden for specific local entities will depend on the extent to which they have been complying with the planning process already in place. The local entities that have been diligent in completing rigorous AIs may experience a net decrease in administrative burden as a result of the revised process. Many program participants spend considerable time and funds trying in good faith to comply with the existing AI requirements, given the absence of specificity, and for those program participants, the new AFH process, given its specificity should be easier and less costly. PHAs, which are not required to prepare AIs, may already spend considerable time cooperating with local governments by drawing upon the information and housing needs analysis in the local Consolidated Plan to inform the PHA plan and assessing the potential effectiveness of strategies such as local preferences. Indeed PHAs are currently required to certify that the PHA Plan is consistent with the consolidated plan applicable to the PHA. However, the demands of the new process are expected to result in a net increase of administrative burden for entities that have not regularly conducted an AI. For these entities, the new AFH process will result in an increase in burden and cost.

Similarly, the burden of the rule will vary by data aptitude and resources of the program participant. Entities that have invested in data systems and are able to access more easily relevant local data would in all likelihood have a reduced burden. A program participant that already collects data and employs analysts who study local trends will be able to respond with little additional effort compared to a program participant that does not have this capacity.

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[11] Compare the short time that a government official has to respond to such questions to the decades that social scientists devote to researching the same issues.

[12] If properly done, the analysis of spatial patterns, trends, and determining their causes would be time-consuming. A local government may minimize the extra effort devoted to reflection and knowledge creation. Yet, without thoughtful work, the AFH process will amount to no more than an administrative hurdle rather than the generation of applicable and beneficial knowledge.

As noted in the Summary of the Analysis, HUD has made several changes in the final rule that reduce burden, including and especially for smaller entities such as qualified PHAs and entitlement jurisdictions that receive a CDBG grant of $500,000 or less. Examining the current costs of completing an AI provides insight as to the potential scale of cost changes the final rule might engender. The results of an informal survey by HUD of its program participants concerning the costs of performing an AI are presented below. Most of the respondents paid consultants for the preparation of the AI so that the cost identified is the contract cost. The sample was not systematically chosen to represent accurately the different regions and size and types of program participants. Rather, the survey comprises the efforts of a HUD staff member to provide a reasonable base from which a cost estimate could be based.

Table 2. Cost of Analysis of Impediment Preparation (surveyed participants)

Jurisdiction	**Cost of AI Preparation**	**Year of Preparation**	**Cost in 2014 $***
LOCAL GOVERNMENTS			
Boston, MA	$140,000	currently being prepared	$148,200
Jacksonville, FL	$75,000	2004	$94,300
Ft. Wayne, IN	$70,000	2006	$82,500
Rockland County, NY	$57,240	2009	$63,400
South Bend, IN	$50,000	within past 5 years	$58,900
Canton, OH	$28,500	2010	$31,100
Cedar Rapids, IA	$27,000	within past 5 years	$31,800
Dallas, TX	$26,500	2007	$30,400
Lexington-Fayette County, KY	$19,000	2008	$21,000
Lee County, FL	$19,000	2005	$23,100
Evansville, IN	$15,000	2006	$17,700
Pittsburgh, PA	$12,000	within past 5 years	$14,200
Winston-Salem, NC	$10,000	2003-2004	$12,600
Durham, NC	$9,999	2008	$11,100
Louisville, KY	$9,999	within past 5 years	$11,800
STATE GOVERNMENTS			
Iowa (not including entitlement cities)	$34,000	within past 5 years	$40,100
Vermont	$25,000	2005	$30,400

* For AIs completely "within the last five years," we assume that the year of completion is 2006 for the purpose of converting to 2014 $

The average total expenditure across the identified governments is $42,500 (2014 $).[13] This base of $42,500 is useful for estimating the potential burden as a result of the rule. While the percentage change in costs is not known with precision, knowing the starting point provides context. Another informal survey of a similar process (Regional Fair Housing Equity Assessment) shows that the costs of preparing a report are similar in size.[14]

HUD expects that the cost of completing the AFH is roughly equivalent to the cost of an AI completed in good faith. As such, the cost of bringing all grantees into compliance with the existing AI requirements should roughly approximate the paperwork burdens associated with the report. HUD's

[13] The actual cost across all grantees may be smaller: approximately half of all grantees receive less than $1 million annually in CDBG funding.

[14] The average across 9 observations is $52,000. Removing an obvious outlier, a small government with a cost of $125,000, reduces the average to $43,000, which is almost identical to the AI cost.

Office of Policy Development and Research's survey of AIs is useful for the purpose of determining average quality level. A random sample of 70 AIs were selected to review for the study. Approximately 35 percent (25) of the jurisdictions sampled either were unable to produce an AI upon request, or were not sufficiently directed to submit their completed AI by the appropriate HUD field staff. Additionally, 8 AIs (18 percent) were rated "Poor". It is assumed that all of those AIs not received were of poor quality and all of those not rated "poor" would be sufficient to meet the standards for an AFH. Thus, the proportion affected by the rule would be (no response) + (1 – no response) X (poor) or 47 percent. Approximately half of all participants would have to increase the quality of their reports as a result of the rule. There are approximately 1,100 entitlement jurisdictions such that 514 (0.47 x 1,100) will have to pay this additional cost.

There are also 4,050[15] PHAs, which, under the final rule, would not be immediately required to produce an AFH (for a total of 5,150 program participants). A PHA may submit the AFH on its own or partner with an entitlement jurisdiction. A partnership would significantly reduce the costs of an AFH to almost zero. The total costs of the AFFH will depend greatly on these partnerships. If none cooperate, there will be a burden on an additional 4,539 (4,050 + 514) program participants; if half, [16] then 2,539 (2,025 +514); if all then 514 (0 + 514). Our primary prediction is one half and thus a burden on 2,539 participants.

An AFH is generally required every five years. [17] Thus the number of affected program participants in a typical year ranges from 103 to 913, with a primary estimate of 508. The annual incremental increase in costs associated with preparation of the report itself is expected to range between $4 million and $39 million, with a primary estimate of $22 million.

HUD has allowed smaller entities and those unfamiliar with the process a delay in submitting their first AFH in order to reduce the burden of the rule. The delay will allow PHAs and smaller entitlement jurisdictions to adjust gradually to the new requirements and learn from any discoveries in the first two years. Explicitly, the rule allows smaller entitlement jurisdictions (receiving less than $500,000) to submit one year later. PHAs are provided a one year delay as well. Qualified PHAs are given a two-year delay. In the first year, only larger jurisdictions submit. In the second year, all entitlement jurisdictions and non-Qualified PHAs submit. After the second year, all grantees must submit, except those that prepared a Regional AI in connection with a grant awarded under HUD's Fiscal Year 2010 or 2011 Sustainable Communities Competition. The expected number of affected participants in the first year is 68. In the second year, the impact is on 103 to 338 participants (primary estimate of 220). Afterwards, the impact is as described (from 103 to 913). The monetized burden in the first two years is expected to be less than later years: $3 million in the first year and from $4 million to $14 million in the second year. Afterwards, the costs increase as more are affected.

The AI cost-based approach to estimating compliance costs of the new AFH will underestimate the costs of compliance of some participants and overestimate the costs of others. For example, it is assumed that entitlement jurisdiction not responding to the AI survey did not do one. It is likely that some did and would not have to pay the full costs of an AI in order to comply. On the other hand it was assumed, that those with acceptable AIs would pay no costs, an assumption that would underestimate costs. New requirements would impose incremental costs, of some kind, on all grantees. These costs are of two kinds: training costs and participation costs.

[15] There are approximately 900 PHAs that administer only vouchers and approximately 3,100 PHAs that own public housing and administer vouchers.

[16] Half of all PHAs are located in geographic areas with a population greater than 50,000 and so are more likely to have a general purpose government with which to partner.

[17] Some consolidated plans are on a 3 or 4 year cycle. However, most program participants, including all PHAs, will submit their AFHs once every 5 years.

Training costs. At least one staff member from all grantees will have to learn how to write and implement an AFH. One can imagine different learning methods: paying a private consultant, technical assistance by HUD staff, courses offered online by HUD, or attendance at seminars at professional conferences. We assume that the minimum burden would be the opportunity cost of time and that the maximum burden would be the costs of a conference plus the opportunity costs of time. We assume that one staff member from every grantee will be trained.

HUD offers many online training courses for its programs and we expect that careful reading and watching of subject-oriented videos would consume two workdays, or 16 hours. The assumed opportunity cost of time is $46.14. The wage for urban and regional planners employed by local governments is $30.76.[18] The full cost to an employer of an employee is greater than the wage and includes other benefits, such as paid leave, health insurance, social security and Medicare and retirement. The ratio of the compensation cost to wage is approximately 1.5. An increase of 50% expands hourly costs to $46.14. At 16 hours per training, the cost per grantee is $738. The aggregate cost of training across all grantee (5,150) over 5 years is $3.8 million. The training cost could be realized upfront or the year preceding the AFH. If training costs were staggered, then the aggregate annual training cost would be $760,000 ($3.8 million/5).

Conferences would add to travel and conference fees. We assume $1,000 travel and $400 conference fees. Adding the time costs of a two day conference yields $2,140 per participant. We calculate the aggregate costs as $2.2 million annually for the first five years or $11 million distributed in some other manner over 5 years. Thus, our annual training estimate ranges from $760,000 to $2.2 million. Including these costs could raise our estimate of compliance costs by $2.2 million (our primary estimate).

Participation costs.

The required participation process imposes an additional burden on grantees.

PHA's are required to perform the following activities: provide initial public notice of the AFFH participation; consulting with the Resident Advisory Board; conducting the meeting(s) with the Resident Advisory Board and the residents; and responding to comments. The burden of some of these tasks will vary by the type or size of PHA. To estimate accurately the total burden hours for PHAs requires separating them into different size categories:

- Qualified and/or small PHAs that are non-qualified with 100 combined Housing Choice Voucher (HCV)/Public Housing (PH) units or less.
- Qualified and/or small PHAs that are non-qualified with between 101 and 550 combined HCV/PH units.
- Medium PHAs (with at least 550 combined HCV/PH units but no more than 1,200 units) all of which are under Annual Plan as well as 5 year requirements.
- Large PHAs (more than 1,200 combined HCV/PH) all of which are under Annual Plan as well as 5 year requirements.
- Moving to Work PHAs, which conduct an annual MTW Plan

The approximation of burden (provided by the program office) for the different categories is as follows:

1) Qualified PHAs with fewer than 100 units spend approximately 2 hours on public participation. (1 hour on notification, Resident Advisory Board Consultation, reporting requirements; and 1 hour on conducting the meeting(s) and responding to comments)

[18] http://www.bls.gov/oes/current/naics4_999300.htm#19-0000.

2) Qualified PHAs making up between 100 and 550 units spend approximately 4 hours on public participation. (2 hours on notification, RAB consultation, reporting requirements; 2 hours on conducting the meeting(s) and responding to comments)
3) Medium PHAs spend approximately 8 hours on public participation. (3 hour on notification, RAB consultation, reporting requirements; 5 hours on conducting the meeting(s) and responding to comments)
4) Large PHAs spend as much as 15 hours on public participation. (7 hours on notification, RAB consultation, reporting requirements; 8 hours on conducting the meeting(s) and responding to comments).
5) MTWs spend 20 hours on public participation. (8 hours on notification, RAB consultation, reporting requirements; 12 hours go to conducting the meeting(s) and responding to comments).

As a result, the total hours spent on notification is 21,000 and the total monetized burden of the participatory process for PHAs is approximately $1 million (21,340 x $46.14).

Total Compliance Cost of Participation Process for PHAs					
PHA Category	Size (Units)	PHAs	Hours per PHA	Total Hours	Monetized Burden
Qualified/Very Small	Less than 100	1,500	2	3,000	$ 138,420
Qualified/Small	101 to 550	1,510	4	6,040	$ 278,685
Medium	551 to 1,200	500	8	4,000	$ 184,560
Large	1,201 and above	500	15	7,500	$ 346,050
MTWs		40	20	800	$ 36,912
TOTAL		4,050		21,340	**$ 984,628**

These costs will be imposed at some point during the AFH process, but not on all PHAs at the same time. The costs on qualified PHAs are realized later because this category is given a delay in compliance. Once the AFFH process is normalized, the participation costs for PHAs will be at least $200,000 annually.

Entitlement communities will be similarly affected and the impact is likely larger on average per grantee. Insight from HUD's Regional Fair Housing and Equity Assessment reveals that 100 hours would be an accurate estimate for jurisdictions. Similarly, an analysis by the Bureau of Indian Affairs (Department of Interior) of a recent notice (25 CFR 224, Tribal Energy) announcing a public participation process can be used to generate estimates for entitlement communities. Their estimates range from 30 – 1,000 per respondent, with an average of 90. Across 1,100 jurisdictions the burden hours will be 110,000 and monetized burden will be $5 million. The annual burden of participation on jurisdictions is $1 million.

The total annual burden of public participation on all grantees is $1.2 million.

Comparison with Burden Hour Approach

Another approach to measuring compliance costs on program participants would be to monetize estimates of the incremental increase in hours required for reporting and recordkeeping. Although this is a valid approach, the predictions of burden hours may be less precise. Thus, HUD uses the cost-based approach as its primary method but includes a discussion of burden hours for informational purposes. The program offices estimate that respondents require approximately 200 hours to complete an AFH per respondent. However, this amount could vary significantly from the original point estimate of 200 hours

for several reasons. For example, the burden could be less because much of the work is already required or completed to fulfill other tasks; or it could be more because the complexity of the data collection and analysis has been underestimated.

Some commenters have suggested that the burden of data collection and analysis could go beyond the 200 hours that HUD estimated. For example, one estimate from New York City officials of the burden imposed by the AFFH tool suggested a six-fold increase in time would be a more reasonable estimate. This higher estimate characterizes a city government that already has a data infrastructure.[19] A commenter writing for the Council of State Community Development Associations notes that the analysis is burdensome for the States that would have to assemble data at a high level of geographic detail but over a larger area.

To estimate the cost per respondent, multiply the hourly burden by the cost of labor. The total cost per respondent using this method would be $27,600 ($46.14 X 600 hours). The aggregate costs range from $6 million to $28 million, with a primary estimate of $17 million. These micro-estimates confirm the approach based on total costs, the results of which overlap. These estimates are not our primary estimates but, instead, underline the consistency of the cost-based and burden hour approaches.

Another way to gain insight into the burden is to consider the proportion of time devoted to preparation. There are 2,080 work hours in a year assuming a standard 40 hour week. The requirements would subtract up to 29 percent of one employee's time in the year the AFH is prepared. For program participants with only 1 employee, this additional burden would deter participation in HUD programs.

3.2 Costs to the Federal Government

The regulation would additionally burden HUD staff, who must review and approve the AFH, help program participants identify and analyze drivers of fair housing choice disparity, and help develop strategies to overcome such disparity. Increased upfront review activity would likely comprise much of the additional effort on the part of HUD staff but, HUD believes, be balanced by reduced back-end review, compliance, and enforcement costs.[20] A single case, such as Westchester County, can occupy significant staff time, let alone court resources. [21]

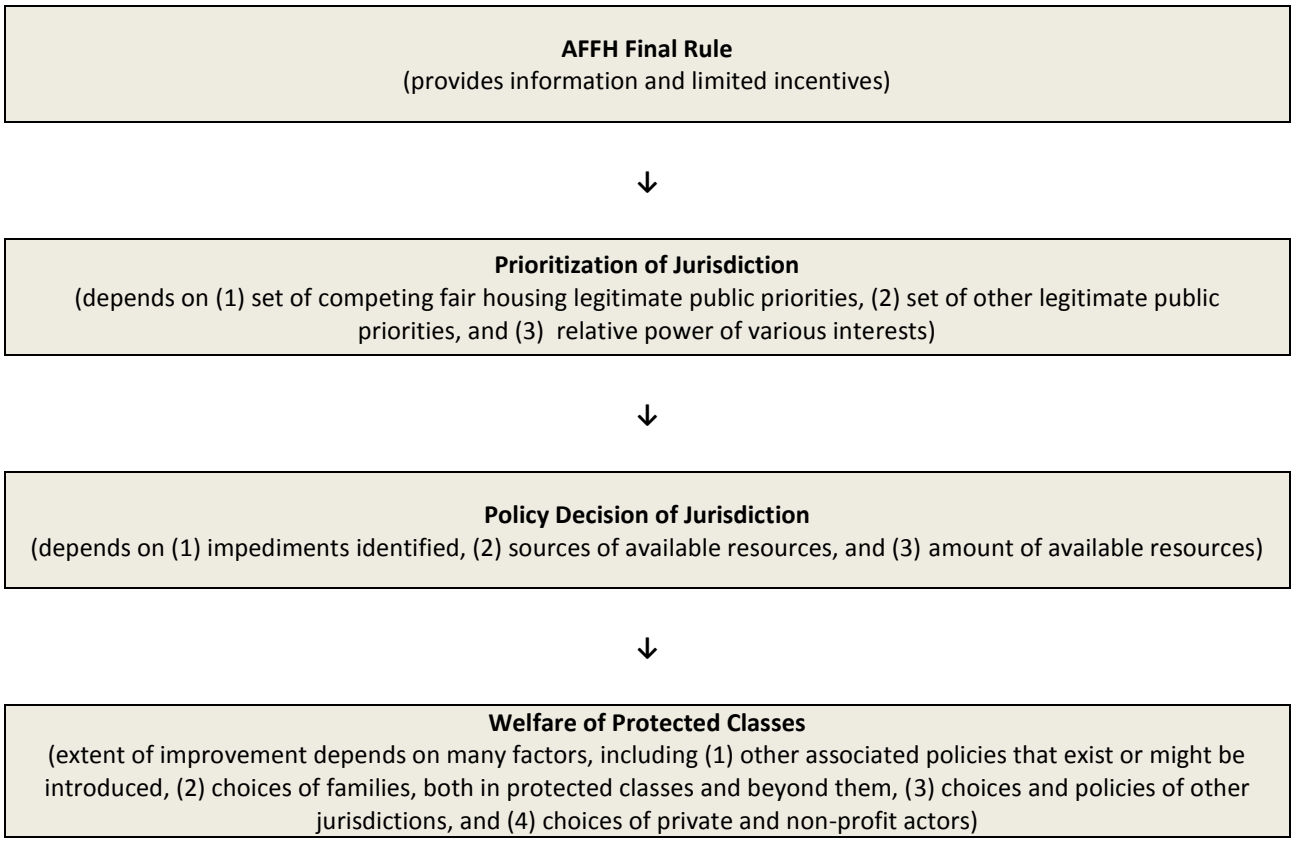
HUD requested 64 full time staff at a cost of approximately $9 million to implement the new AFH process. If the $9 million budget estimate is an accurate measure, then this impact will transpire whether HUD receives its budget request or not. Either way, resources will be diverted from other activities to AFFH. If HUD does not receive the budget request, then less work will be devoted to lower priority activities and AFFH itself will not receive the resources needed to be fully effective. Attempting to measure the cost of an imperfect AFFH implementation or compromising another HUD program is fraught with difficulties. Thus, we use $9 million as our primary estimate. The cost to HUD is expected to be lower during the first two years of implementation because the number of submissions will be lower.

4 Economic Impact of the Rule: Potential Community Benefits

Any changed decisions induced by the broader information set under the AFH represent the community impact of the rule. The goal of the final rule is to improve fair housing outcomes and thus the welfare of protected classes through better information, clearer AFH formulation standards, and improved

[19] Larger cities will have higher total variable costs, which could override advantages from a lower average fixed cost.
[20] In such a case, the lower bound estimate of costs to the Federal government would be $0.
[21] For a review of the Westchester case, see Applebome (2012).

accountability. How a jurisdiction would use the information; what decisions it would reach; and how those decisions would affect the protected classes are difficult to predict, however. Although the final rule is intended to ensure that program participants, when allocating resources and making policy decisions, fully consider the challenges the protected classes face, the final rule does not mandate any policy decision or offer incentives to pursue fair housing policy. Given competing priorities and resource constraints, additional information might not change decisions in some instances. As shown in the diagram below, the AFH process is only one factor that determines what actions are pursued and what impacts are ultimately achieved. At every step in this process there are uncertainties both in terms of the size and types of effects that the AFFH process may have. The additional information might, however, cause decision makers to pursue different policies and actions.



4.1 Uncertainty in Jurisdictional Preferences

The effect of the rule on a jurisdiction's policies would depend first on whether the jurisdiction is favorably predisposed to fair housing policy and the character of the local bureaucracy, which raises the question of how such local preferences and structures are established. Economic theory offers insights about these issues through the public choice literature. [22]

The dominant approach in urban economics was spurred by Tiebout (1956), who hypothesized that the provision of local public goods would occur at an optimal level when residents are perfectly mobile. His theoretical result concerning optimality is contrary to the original conclusion of Samuelson (1954)

[22] A review of the public choice literature is provided by Wildasin (1987), which outlines three theoretical approaches to public choice: Tiebout theory of local governments, median voter theory, and models of bureaucratic behavior.

that there would be an undersupply of all public goods. However, according to Tiebout, if residents have a wide choice of jurisdictions that offer different tax-expenditure-regulatory environments, then they will choose the jurisdiction that best fits their preferences. A market for public goods is created and under certain conditions (many governments, perfect mobility), the allocation of public resources will be optimal. One important implication of the emphasis on perfect mobility is that if tax, expenditure, and amenity differences are capitalized into land prices, then local policy no longer matters to renters and prospective homebuyers: any benefits are removed by higher land prices. Land owners do care, however, and have a significant incentive to participate in and influence the political process. Thus, according to this framework, the goal of the local government becomes the maximization of land values.

The theoretical efficiency of the Tiebout outcome may rely on assumptions that are imperfectly met in reality. Violating assumptions such as the absence of spillovers between jurisdictions or the costless mobility of households may jeopardize Tiebout efficiency. Perhaps the largest exception concerns that of absentee landlords. Indeed, many, if not most, residents of a jurisdiction are likely to be landowners themselves. Public policy becomes both a consumption and wealth-maximizing decision for the resident landowners. There is no inherent reason that this situation should lead to an inefficient outcome. However, the formulation of zoning policy, which pits developers against resident homeowners, could easily lead to either under- or over- development of a locality. Eventually a conflict between the owners of developed land (homeowners) and undeveloped land (developers) might arise in a growing community. For example, if the developers could influence the political process, then they would be able to make the community more attractive to newcomers at the expense of existing residents (by lowering property taxes). Existing residents would want to exert a similar transfer perhaps by charging developers impact fees. The resulting outcome will depend upon the intensity of interests.

A second traditional approach to understanding public choice is the Bowen (1943) – Black (1948) median voter model. A local government will maximize the utility of the median voter, for whom there is an optimal level of a public good given a median voter characteristic, such as income. In order to achieve a majority-voting equilibrium, a self-interested government will provide the optimal level of public good. The basic model has been revised and tested by many researchers. However, the theory behind this has two fundamental flaws: households are assumed to be immobile and only one public good is assumed.

Despite the weaknesses of the theoretical model, local land use regulation can be understood through the median voter model (Fischel, 2005). For many households, a large proportion of wealth consists of the asset value of a home, a large fraction of which is determined in part by the quality of public services and taxes. Because the median voter in many jurisdictions is a homeowner, issues related to house values and property taxes can have prominence. For example, voters care about their tax bill. Homeowners might accept new development if it lowers their property tax rate but resist changes that would raise their tax rate. Similarly, erecting regulatory barriers increases the price of housing by reducing the supply of housing. Homeowners might be inclined to pursue such policies, such as imposing regulations on new construction that exclude households, a practice sometimes referred to as "fiscal zoning."

A third approach of understanding public choice is to focus on the institutions involved, especially the interest groups. One common focus is the government itself, analyzed through the lens of the theory of self-interested bureaucrats. Bureaucrats are generally assumed to be budget-maximizers, spending more than what is optimal. Bureaucrats are more informed than the average voter and can influence which issues are placed on the agenda (for example, see Niskanen, 1968). Fischel (2005) argues that land use regulation is not well justified by models of the budget-maximizing bureaucrat. If anything, regulation is an alternative to an expenditure that would accomplish the same public policy goal. Thus, the model of the budget-maximizing bureaucrat suggests less regulation and more public works projects. Of course there is a multitude of perspectives that can drive resident and, by extension, jurisdictional

preferences. Public opinion polls indicate that many factors drive resident and, by extension, jurisdictional preferences. Beyond land values and taxes, including property taxes, that are the focus of much economic theory, religious, environmental, social justice, libertarian, international, economic, and a number of other considerations have been identified as important for significant portions of the population. How these factors interact to produce jurisdictional preferences cannot be predicted. This is true regarding every issue, including those associated with civil rights and fair housing.

For example, one study (Boustan, 2012) found that court-ordered desegregation of public schools led to a decline of housing prices by 6 percent relative to neighboring suburbs. If the median voter theory holds, if the median voter is a homeowner, and if that homeowner places greater attachment to house values, residents would collectively vote against a government that aggressively pursued desegregation policy, even if many homeowners believed that desegregation was a just policy. Alternatively, if the median voter placed greater attachment to desegregation, they might vote in support of a government that aggressively pursued desegregation policy, even if many homeowners cared deeply about house values. Tensions and tradeoffs such as these are not uncommon and outcomes will vary across communities according to the specific way these considerations interact. Indeed, we see such variation across communities today.

4.2 Uncertainty in Prioritization

Whether the information that emerges from the AFH will change a jurisdiction's priorities is also uncertain. For example, several jurisdictions (such as Austin, Texas; Berkeley, California; Cambridge, Massachusetts; Minneapolis, Minnesota; and Montgomery County and Takoma Park, Maryland) have aggressively pursued policies to advance civil rights and fair housing objectives. In such places, the AFH information might not be new and the program may have relatively little effect on goal setting or policies pursued.

If the information is new, several possibilities remain. The new information might confirm a widely held belief in a locality, in which case the resultant goals might not differ. The new information could, however, highlight relationships that were previously not well understood. In even this case, the new relationships could be deemed minor relative to previously existing priorities, in which case no change in goals or strategizing would be expected.

The new information might also shed light on an issue that had not previously been emphasized but that the AFH process makes clear is important. This process could highlight additional goals or supplant some goals with new ones that could be of either primary or secondary significance from a strategic perspective. However, other aspects of the AFH process are more likely to shift the priorities of program participants towards fair housing than information alone. The additional accountability imposed by the rule, as well as linkages to HUD resources, will influence the direction of HUD program participants' local policy.

4.3 Uncertainty in Policy Decisions

It is difficult to quantify the potential economic impact of the rule based on possible policy responses that may be adopted by different program participants. The current Fair Housing Planning Guide (HUD FHEO, 1996) offers hundreds of pages detailing policies and practices to advance fair housing objectives. Many policy options address each particular concern. Consider integration. One approach might confront the forces that cause segregation, such as housing discrimination, lending discrimination, predatory lending, insurance redlining, weak enforcement of antidiscrimination laws, regulatory barriers, and "NIMBYism."[23] Other approaches involve improving access to neighborhoods or public services

[23] "NIMBYism" refers to actions by neighborhood residents to prevent new policies or programs from being sited in that neighborhood. NIMBY stands for "not in my backyard."

through housing mobility programs, housing counseling, inclusionary zoning (IZ), siting public and assisted housing, a more equitable distribution of public services, and accessible housing.

The final rule does not prescribe or enforce specific local policies but rather allows for a flexible approach appropriate to the need, housing market conditions, and available resources. A program participant's choice from among the various policy options will depend fundamentally on the local context and the prevailing circumstances when the issues are considered.

Moreover, a policy appropriate for one program participant may not be an appropriate policy for another, depending on the built environment, spatial distribution and characteristics of the population, prevalence of discriminatory practices, and prevailing local economic conditions. In addition, different States or localities may adopt different approaches to address similar problems and issues.

4.4 Uncertainty in Outcomes for Families and Individuals

A further degree of uncertainty, best illustrated via an example, involves potential impacts of whichever policy a program participant selects. Consider IZ, a policy under which developers of certain types of properties are required to allocate a proportion of their development activity to "affordable" housing, often in return for zoning waivers and other development incentives. Studies of IZ to date have shown uncertain results in terms of the impact and effectiveness are uncertain; the policy might not result in new affordable units, particularly in the longer term, depending on market conditions and local circumstances (McFarlane, 2009; Schuetz, Meltzer, and Been, 2007). The impact ultimately depends on the complex interaction of judgments and decisions by the program participant, neighboring jurisdictions to the program participant, private and nonprofit actors, and families in protected classes; in addition to changing market prices and quantities. In addition, cumulative policy effects of multiple strategies – for instance if affirmative marketing requirements were combined with customary zoning policies – would differ in every jurisdiction, making impact predictions for a policy choice difficult, especially given the many policies that program participants could pursue.

5 Demonstration of Potential Effects

The variations in the program participants covered by this rule, the populations they serve, and the local laws and ordinances under which they operate make predicting the final rule's influence on local planning policy, the subsequent change in the spatial distribution of housing, people, and businesses, and the resulting economic effects difficult. These realities suggest considering examples of potential impacts if the information from the process leads program participants to make different decisions and actions than under the current process. Four categories of actions emerge: (1) modifying local regulations and codes, (2) constructing new developments, (3) creating assets, and (4) moving people.

5.1 Modifying Local Regulations and Codes

Local regulations and codes can be an important lever for advancing fair housing objectives. In thinking about how the information from the AFH might change program participants' local decisions and actions, consider persons with disabilities. The new AFH process provides program participants with more systematic information on the geographic distribution and housing needs of households with different protected characteristics. This information, together with information gathered in the community participation process, could increase local decision makers' awareness of the need for more affordable housing options in a greater variety of geographic areas.

As an example, localities could address the lack of affordable and accessible housing for persons with disabilities by changing local building codes, perhaps by requiring that a fixed percentage of first-floor units adhere to Interstate Commerce Commission/American National Standards Institute guidelines.

Alternatively, the program participant may seek a change to the zoning code to provide density bonuses for projects in neighborhoods where persons with disabilities have limited representation if the project includes more Americans with Disabilities Act-compliant units than some threshold. Both of these actions would be expected to make more units attractive persons with disabilities.

Although the new units would clearly benefit the households with persons with disabilities that occupied them, the new codes and regulations may have other potential impacts. On balance, program participants must weigh how regulations impact the cost and quantity of housing supplied when deciding how to modify local regulations and codes. Costs, benefits, and significant transfers are involved. An AFH would both identify barriers to access that arise from zoning policy and potentially introduce new regulations.

An alternative to introducing inclusionary regulations is withdrawing existing exclusionary regulations. Research makes clear that regulations generally impact market outcomes. Quigley and Raphael (2005) find a positive and significant effect of regulations on the price of both rental and owner-occupied housing in California. Pollakowski and Wachter (1990) find that the price effects of regulations are amplified by the existence of regulations in neighboring jurisdictions. Glaeser and Gyourko (2002) find that measures of regulation explain high-cost housing better than many measures of demand pressure. One interpretation of all of these results is that regulation confers benefits, which are reflected in the higher price of housing. In the context of the example above, the disabled might face higher prices for the housing in the new neighborhoods. However, regulation does not always confer benefits. Rothwell and Massey (2010) find that metropolitan areas with suburbs that restrict the density of residential construction are more segregated on the basis of income than those with more permissive density zoning regimes. Many argue that reducing the barriers to affordable housing by reducing regulation may be the best way of encouraging the construction of affordable housing (Glaeser and Gyourko, 2002).

Exclusionary zoning is a major barrier to unrestricted residential choice. Exclusionary zoning is any land-use practice, such as minimum lot-size zoning or a growth control that raises housing prices by restricting the supply of buildable land or the size of buildings that can be constructed on available land. Protecting the environmental assets of a locality is usually the primary stated motivation for such zoning practices. However, an unintended indirect effect, or even an explicit motivation for a zoning practice may be to make housing less affordable. There may be a fiscal motivation for exclusionary zoning, as lower-income households may cost a locality more in services than they contribute in tax revenue, or there may be a fundamental opposition to socio-economic integration. Whatever the rationale, raising the cost of housing is one means of excluding marginal renters and homeowners, which include lower-income populations (Fischel, 1985). For this reason, one of the suggestions from the Fair Housing Planning Guide is to allow for a diverse membership on planning and zoning boards.

On balance, there are many factors that program participants must weigh regarding the impacts of regulations on the cost of housing and quantity supplied when making decisions about modifying local regulations and codes. There are costs and benefits as well as significant transfers involved. Benefits include reducing the environmental impact of construction amenities whereas costs consist largely of a higher cost of housing. Zoning can also be used by local governments as a means to achieve a fiscal surplus when the primary tax is a property tax (a transfer). However, low-income residents will be excluded from affluent neighborhoods through fiscal zoning. An AFH would identify barriers to access that arise from zoning policy.

5.2 Constructing New Developments

Neighborhoods may lack housing affordable to many people in protected classes, or the existing housing might not accommodate the needs of households in protected classes. For example, areas with greater access to opportunity assets, including jobs or more proficient schools, may not have affordable housing

options including in a range of unit sizes needed by families with children. As a consequence, policies and actions associated with building housing are of particular interest where fair housing is concerned.

In considering the role that the new information from the process might play in this context, we turn again to IZ. Many IZ programs are voluntary or allow for significant exemptions, and most offer developer incentives to compensate for the anticipated revenue reduction. A common incentive, the density bonus, enables developers to build beyond the applicable density ceiling.

Under the final rule, as program participants assess fair housing and use the HUD-provided data and local data, suppose that further analysis shows that this disparity is because of a lack of affordable housing in the neighborhoods with better schools. The AI process, which gives program participants less guidance than that provided by the new AFH, Assessment Tool, maps and guidance, might not uncover this conclusion. In the face of this new information, local policymakers might opt to establish development zones covering neighborhoods in which IZ rules apply to increase the availability of affordable units in the targeted areas.

The mere existence of additional affordable units, generally, does advance fair housing goals, because these units will be available to any eligible resident, and therefore might need to be coupled with additional policies such as affirmative marketing to be fully effective. In this instance, IZ policies will transfer units to families with children, but may also increase prices and reduce quantity supplied.

5.3 Creating Assets

The quality of public services varies dramatically among residential neighborhoods. Access to neighborhood assets that enhance low-income households' quality of life and opportunities are important elements in the welfare of protected classes. Improved street lighting and access to a dense transportation network are two examples of neighborhood assets provided by a local government. Under the final rule, a program participant's AFH might suggest that a particular fair housing issue has been driven by the absence of these public goods.

For example, the HUD-provided data on disparities in access to opportunity may show disparities between households with different protected characteristics in access to important job centers. This may suggest multiple policy strategies including incentivizing the development of new affordable housing units closer to such job centers, as well as improving affordable transportation options to link those centers with existing residential areas.

A more complicated example may be the case where rapidly improving economic conditions in a submarket may be leading to increasing demand for housing in that area and a resulting increase in housing prices as the area improves. Policy responses in such cases may include preserving existing affordable rental housing in such areas, or adopting relief from rapidly increased property tax assessments for low-income homeowners. Thus, to improve the lives of low-income households, many of whom are renters, the rent increase must not erode the benefit from a better quality of life. Otherwise, housing market pressures may displace tenants from their current residences.[24] It is important to choose assets for which low-income households will benefit relative to high-income households.[25] Glaeser, Kahn, and Rappaport (2008) showed that low-income households who live in central cities are able to take advantage of dense transportation networks, so extending rail lines would be a progressive strategy.

[24] Recent empirical literature on gentrification made the opposite conclusion: that low-income and minority residents do not leave gentrifying neighborhoods more than they do non-gentrifying neighborhoods. In fact high school-educated African Africans' probability of remaining increases in gentrifying neighborhoods (Kiviat, 2008).
[25] One measure of the income elasticity of demand for public transportation in the United States is -0.62 (Holmgren, 2007), which suggests an inferior good.

Baum-Snow and Kahn (2005) found that the primary beneficiaries of expanding railway lines are bus riders who substitute toward rail.

The net effect on low-income households can be known only after considering the impact on the housing market. Bowes and Ihlandfeldt (2001) emphasized three real estate effects of siting transit: (1) a direct hedonic effect, (2) the value of increased commerce, and (3) more crime. The researchers found that the direct effect dominates and that increased commerce generally trumps the increased crime effect. The sum and mix of effects vary with neighborhood characteristics such as income and distance to the central business district (CBD). A price decline is estimated in all low-income neighborhoods except those within 1/4 mile of a transit stop but between 7 and 10 miles distant from the CBD. From this very detailed study, siting a railway station appears unlikely to drive low-income households from their homes.

For this example, where the AFH leads to the creation of a new transit stop, the benefits are reductions in commuting times and/or costs, and the costs are construction, maintenance, and operational costs.

Communities will face a variety of resource allocation decisions in creating community assets and care must be taken to make the most effective one. Improving a community involves investments in both local schools and in neighborhoods writ large, yet the benefits conferred from investing in schools may be quite different from the benefits of investing in neighborhoods. Fryer and Katz's (2013) review of experimental neighborhood and school interventions, including the Moving to Opportunity (MTO) suggested school improvements, were most effective in alleviating economic and educational inequality and in quelling risky behaviors. They found, however, that neighborhood investments were more associated with improvements in mental and physical health disparities. Local entities must therefore be aware of the potential tradeoffs in benefits they make by choosing to invest limited funds in either neighborhoods or schools.

The motivation for mobility policy is to provide access to education, job centers, and social contacts that would improve income opportunities for members of protected classes.[26] A key economic argument for mobility policy is that, for a household to maximize its quality of life, discrimination or regulatory barriers should not constrain its choice.

Impediments to mobility may include either a lack of affordable housing in areas with greater access to opportunity assets, or barriers in access to such housing when it does exist, such as a lack of information about housing options. Improving mobility options may therefore include both increasing the availability of housing, such as removing barriers to new development of mixed income housing, or improving mobility by increasing access to existing affordable housing options. Examples of strategies in the latter category can include mobility counseling for low income renters, or improved informational resources such as central registries of affordable rental units. Mobility strategies specifically for the section 8 voucher program could also include the adoption of exception rents for sub-markets with greater opportunity and the use of Small Area FMRs to guide such decisions. They might also include regional program coordination between PHAs.

For example, HUD might provide program participants data that indicate disparities in access to community assets that, on further analysis, appear more acute for public housing residents, many of whom are racial and ethnic minorities. Using this information, program participants could choose to reduce access disparities by encouraging development of new affordable units in communities throughout the region. A PHA might respond by expanding its services to tenants seeking available

[26] Evidence on the impact of neighborhood on a household is of direct relevance to mobility policy, but the diversity of dependent variables studied, econometric methods used, and theoretical approaches unfortunately makes it difficult to draw definitive conclusions except that neighborhood effects exist (Durlauf, 2004).

voucher units by providing improved listings of participating landlords and affordable units and emphasizing options in neighborhoods with greater access to opportunity assets. As with the other examples, the ultimate impact of the AFH process is difficult to assess. Voucher holders will still have full discretion in the units they pursue, and the PHA's policy in this example may or may not influence the voucher holder to seek out units in different neighborhoods.[27] By enabling low-income families to move from high- to low-poverty neighborhoods, vouchers potentially reduce segregation and provide protected households the benefits associated with high-income neighborhoods. Many highly-regarded studies provide empirical evidence on both the negative effects of areas of concentrated poverty, particularly for children growing up in them, as well as the impacts of mobility programs.

Studies on mobility programs include both those based on the Gautreaux case and later the Moving to Opportunity program. The Gautreaux study, which was based on the settlement against the Chicago Housing Authority and the U.S. Department of Housing and Urban Development. One group of low-income minority households was placed in suburban communities and one group in other parts of the city. Rosenbaum (1995) showed that families living in the suburbs experienced better outcomes, particularly with respect to the educational outcomes of children. However, the two groups were not randomly assigned, so the external validity of the study's findings is limited.

HUD sponsored a ten-year long experimental study ("Moving to Opportunity") on the effects of residential mobility of participating households. The final report of the Moving to Opportunity experiment (U.S. Department of Housing and Urban Development, October 2011) provides a detailed and more nuanced discussion of the impact of the MTO experiment on measures of well-being, such as employment, mental and physical health, housing outcomes, education, risky and criminal behavior, and safety.[28] Whether there is an improvement in an outcome measure appears to depend on the outcome measure itself as well as the type of individual.

The final report (Sanbonmatsu et al., 2011) does not provide the evidence of improved economic outcomes that many policy advocates had hoped for. HUD's MTO study does not reveal any statistically significant impact of moving to a lower poverty neighborhood on employment, income, or educational outcomes. However, these families experienced some negative unintended economic consequences. For instance, families that moved to low-poverty neighborhoods were more likely be behind on their rent and were more dependent on food stamps.

It is worth noting that the test subjects may have had different motivations for participating in the program. The overwhelming majority of all movers (77.1 percent) reported their primary or secondary reason for moving as "To get away from drugs and gangs." Indeed, on average, there were improvements in aspects such as mental health. Voucher holders lived in lower poverty and less segregated neighborhoods and higher quality housing. They are reported to feel safer in their neighborhoods. Adults are reported to have lower rates of stress and anxiety. On average, youth report the same improved outcomes in emotional stability. An exception is males from the ages of 10 to 20. Although not statistically significant, mental health indicators had worsened for this group.

Another study (Kessler et al., 2014) found the negative (positive) impacts on the mental health of boys (girls) to be statistically significant. Boys in the low-poverty voucher group had higher rates of

[27] Cunningham and Sawyer (2005) found that voucher holders enrolled in the mobility program moved to "opportunity neighborhoods" only slightly more often than unenrolled voucher holders.

[28] Sanbonmatsu, Lisa, Jens Ludwig, Lawrence F. Katz, Lisa A. Gennetian, Greg J. Duncan, Ronald C. Kessler, Emma Adam, Thomas W. McDade, and Stacy Tessler Lindau. 2011. Moving to Opportunity for Fair Housing Demonstration Program: Final Impacts Evaluation. Washington, DC: U.S. Department of Housing and Urban Development, Office of Policy Development and Research.

depression, PTSD, and conduct disorder compared to the comparison. In addition, boys in the traditional voucher group had increased rates of PTSD compared with the control group. Girls, however, did not suffer these adverse consequences and experienced gains in welfare by some measures.

A preliminary follow-up of the MTO research related to the economic impacts of mobility suggests that moving out of a high-poverty neighborhood is especially important to young children. Chetty and Hendren (2015) observed tax records for children who in families which moved between 1996 and 2012. They found that every additional year a moving child spends in a higher-income neighborhood is associated with a greater capture of the increased income in that better neighborhood. For example, if a child moved to a neighborhood with an average income $5,000 greater than their original neighborhood, we would expect the child to earn $2,500 (50 percent of the difference) more if they moved at age 9, but only about $1,000 more (20 percent of the difference) if the move occurred at age 19.[29] While this research is still being developed, the preliminary findings support the idea that mobility policies to higher opportunity neighborhoods can improve lifetime outcomes.

A more recent, and still unpublished, study argues that there is a causal relationship between the neighborhood in which a child is brought up and the prospects of her future upward mobility. Chetty, Hendren, and Katz (2015) found that moving a young child out of a high-poverty area increased her lifetime earnings by $302,000. They looked at evidence from the Moving to Opportunity experiment and showed children in the experimental group who moved to low-poverty areas before age 13 had earnings that were 31 percent higher than those who were in the control group. Previous studies of the MTO experiment lacked the data to observe outcome for this age bracket, and consistent with past findings, no statistically significant or positive effects of moving on income were detected in children between 13 and 18 years old. While this research is still unpublished and preliminary, it also offers support for the idea that mobility policies can improve lifetime outcomes.

As with the other examples, the ultimate impact of the HUD's AFH approach is difficult to assess. Voucher holders have full discretion on which units they pursue, and the housing authority's encouragement policy offered in the example may or may not influence the set of units that the voucher holder ultimately seeks out.[30] By enabling low-income families to move from high- to low-poverty neighborhoods, housing choice vouchers have the potential to reduce segregation and remove the widely-recognized detrimental effects of concentrated neighborhood poverty, particularly for families with children. Mobility policies may change demand, prices, and quantities in individual neighborhoods, but overall housing demand will be unaffected. Such policies are likely to entail additional transfers to participants of mobility programs and additional administration costs for those implementing the programs.

6 Costs, Benefits, and Transfers Accounting

Executive Order 13563 (2011) allows regulatory agencies "where appropriate and permitted by law" to "consider (and discuss qualitatively) values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts." Thus, HUD judges the merits of this rule by the value that it will create for protected classes, whether this value is due to new benefits or is transferred from others. Nevertheless, the rule will generate benefits and impose costs that should be accounted for.

[29] Chetty, Raj, and Nathaniel Hendren. (2015) "The Impacts of Neighborhoods on Intergenerational Mobility: Childhood Exposure Effects and County-Level Estimates," Unpublished Working Paper, The Equality of Opportunity Project: http://www.equality-of-opportunity.org/index.php/executive-summaries.

[30] One study of Chicago's mobility program found that the movement to "opportunity neighborhoods" by voucher holders enrolled in the mobility program was only slightly higher than those voucher holders who were not enrolled (Cunningham and Sawyer, 2005).

6.1 Compliance and HUD Costs

The primary compliance costs are for the HUD program participants to prepare a more rigorous five year plan. The cost will depend upon on the difficulty of preparation for a participant as well as how different the new fair housing planning process is from current practices. About $3 million of these costs are comprised of training and public participation costs. In addition to the burden on HUD program participants, HUD itself will need to hire staff to implement the rule; provide data support; and review submitted AFHs

Compliance Costs in a Typical Year ($millions)			
Costs to all Grantees			
	Primary Estimate	Lower Bound	Upper Bound
Analysis	22	4	39
Training	2.2	0.8	2.2
Participation	1.2	1.2	1.2
Total	**25.4**	**6.0**	**42.4**

*Note: Compliance Costs in first two years are less.

Annual Costs to HUD			
	Primary Estimate	Lower Bound	Upper Bound
Total	9	---	---
Annual Costs to Grantees and HUD			
	Primary Estimate	Lower Bound	Upper Bound
Total	**34.4**	**15.0**	**51.4**

6.2 Benefits, Costs, and Transfers of New Grantee Policy Examples

As mentioned above, HUD judges the merits of this rule by the opportunity value it can create for protected classes. Ultimately, that value will be created by new program participant policies that result from the improved planning and analytical process. Section 5 of this analysis analyzed several examples of policies that may be pursued by program participants in response to the new AFH process. While this list is far from exhaustive, it does provide insight into the types of impacts we can expect from this rule. As such, the impacts are summarized in the table below.

Table: Summary of Impacts of New Grantee Policy Examples.

Potential Rule Outcome	**Potential Benefits and Transfers**	**Potential Costs**
IZ Policies	Transfer: Housing units and associated locational amenities that would have otherwise been market-rate are transferred to protected classes.	Costs: Reductions in consumer and producer surplus (deadweight loss) associated with increased prices and reduced quantities.

Removal of Harmful Regulations that act as Barriers to Fair Housing (e.g. minimum lot size requirements)	Benefit: Increased consumer surplus from reduction in prices and increased quantities.	None.
Creation of New Amenities (Transit Stop Example)	Benefit: Reductions in commute times or costs.	Costs: Construction, maintenance, and operating costs.
Mobility Policies	Transfer: Units and associated locational amenities that otherwise would have been market-rate, are transferred to protected classes.	Costs: Administrative costs associated with implementing mobility programs (e.g. paperwork costs and outreach to target landlords.)

7 Conclusion

The new AFFH regulations are designed and expected to improve the process for carrying out a statutory mandate, potentially improving the lives of protected classes who face barriers to fair housing choice. The best outcome of the rule would be for each program participant to have the capacity and a well-considered strategy to affirmatively further fair housing. The final rule does not prescribe, compel, or enforce concrete actions that must be taken by HUD's program participants. The rule instead encourages a more engaged and data-driven approach to assessing the state of fair housing and planning actions.

Our estimates suggest the final rule would generate limited additional compliance costs as a result of the data utilization requirements. Otherwise, most paperwork and planning costs will not increase as a result of the final rule. Program participants already are required to engage in outreach and collect some data.

Regarding community impacts, this analysis highlights the variation that can occur regarding how the new AFH-generated information would translate into different actions by program participants. Moreover, as outlined in the analysis above, quantifiable impacts are difficult to estimate with precision because of the numerous policy options that are available to program participants to adopt according to their local needs.

Actions taken by program participants as a result of this rule may result in new local approaches to reducing segregation, eliminating racially concentrated areas of poverty, reducing disparities in access to opportunity, and reducing disproportionate housing needs. HUD believes that some of these new approaches would better achieve the goals of fair housing, meaning that communities would be more

integrated, fewer people would live in high-poverty, segregated neighborhoods, and access to high-quality education, job opportunities, and other community assets would be more equal.

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