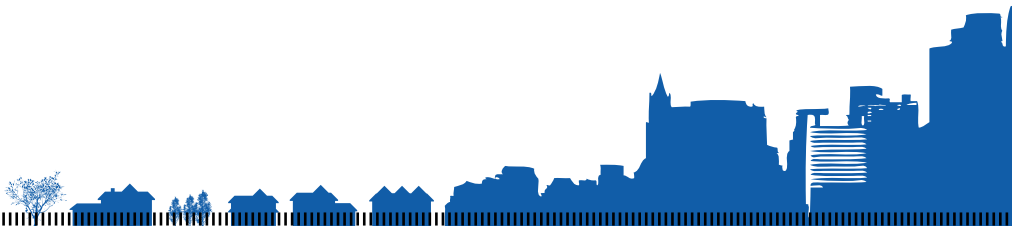


Advancing HUD's Learning Agenda through Cooperative Agreements with Historically Black Colleges and Universities, Hispanic Serving Institutions, Tribal Colleges and Universities, and Alaska Native/ Native Hawaiian-Serving Institutions

Short White Paper on Fair Housing



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Introduction

The Office of Policy Development & Research (PD&R) within the U.S. Department of Housing and Urban Development (HUD) recently published a Notice of Funding Opportunity (NOFO) titled *Advancing HUD's Learning Agenda through Cooperative Agreements with Historically Black Colleges and Universities, Hispanic Serving Institutions, Tribal Colleges and Universities, and Alaska Native/ Native Hawaiian-Serving Institutions*. Through this funding opportunity, PD&R seeks to fund quality research that contributes to knowledge on housing and community development and to support minority-serving institutions to conduct housing and community development research important to the communities and students the institutions serve.

Applicants for funding must submit a research project proposal that addresses one of the specific research questions featured in the NOFO.¹ The research questions are broadly organized under seven topic areas: (1) Community Development and Place-Based Initiatives, (2) Disaster Recovery, (3) Fair Housing, (4) Homelessness, (5) Homeownership, Asset Building, and Economic Opportunity, (6) Housing and Health, and (7) American Indian, Alaska Native, and/or Native Hawaiian Housing Needs.

This short white paper is designed to provide a high-level overview of the current state of research within the topic area of Fair Housing, references to foundational studies related to Fair Housing, and the general context for the research questions that are included in this NOFO. This paper is designed to provide potential applicants with a common grounding in the topic as they consider this new funding opportunity.

Background

HUD has a long and distinguished history of studying patterns of housing discrimination through rigorous research. Understanding the prevalence, extent, and forms of housing discrimination is critical for enforcing the Fair Housing Act and ensuring equal access to housing opportunities for all families in America. This research not only informs policy decisions but also plays a crucial role in shaping enforcement strategies and promoting fair housing practices across the nation.

The Fair Housing Act of 1968 stands as a landmark piece of civil rights legislation in the United States. Signed into law on April 11, 1968, the Act initially prohibited discrimination in the sale, rental, and financing of housing based on race, color, national origin, and religion. In 1974, sex was added as a protected class. The Fair Housing Amendments Act of 1988 further expanded the law to prohibit discrimination based on disability and familial status. In its landmark *Bostock*

¹ See a full list of the research questions in Section III.G under the subheading "Eligible Research Questions."

decision in 2020, the Supreme Court held that laws that prohibit sex discrimination, such as Title VII of the Civil Rights Act of 1964, also prohibit discrimination on the basis of gender identity and sexual orientation. In 2021, Executive Order 13988 required federal agencies to implement the Court's holding by enforcing prohibitions on sex discrimination on the bases of gender identity or sexual orientation. In response to the *Bostock* decision and Executive Order 13988, HUD announced that it would administer and enforce the Fair Housing Act's prohibition on "sex" discrimination to include discrimination because of sexual orientation and gender identity in February 2021.

Since the Fair Housing Act of 1968, HUD has sponsored four nationwide Housing Discrimination Studies (HDS) in 1977, 1989, 2000, and 2012 to measure the prevalence of housing discrimination on the basis of race and ethnicity. HUD has also sponsored smaller-scale studies of housing discrimination on the basis of other protected characteristics under the Fair Housing Act and amendments, such as family status and disability. These reports are available on the [Housing Discrimination Research](#) page on HUD User.

Many of these studies have relied on a paired-testing or audit-testing methodology in which two testers assume the role of applicants with equivalent social and economic characteristics who differ only in terms of the characteristic being tested for discrimination, such as race, disability status, or marital status. The testers record observations of their treatment, and differences in treatment are interpreted as evidence of discrimination. Following the 2012 HDS, there were calls for HUD to consider limitations of the paired-tester methodology. These concerns were captured in a series of articles published in a 2015 issue of *Cityscape* (HUD, 2015). In response, HUD sponsored a study to identify and test innovative methods for detecting and measuring housing discrimination. A final report documenting the outcomes of the three innovative methods selected for testing is forthcoming. A final presentation of the innovative methods was held in December 2024, and the recording is available online at HDSStudy.com/events1.

Research Questions of Interest Related to Fair Housing

HUD is interested in research proposals that address one of the following policy-relevant research questions which are adapted from HUD's [Learning Agenda](#):

1. In what ways and to what extent does housing discrimination occur through tenant screening practices, such as credit and criminal background checks, and non-rent costs, such as application fees and security deposits? What are promising or proven strategies to reduce or eliminate discrimination in tenant screening and non-rent costs?
2. How can innovative methods be used to better detect and measure housing discrimination?
3. What are ways to identify and eliminate discriminatory practices in home sales and mortgages, such as steering, appraisal bias, and financing referrals?

4. What are ways to identify and eliminate discriminatory practices in land use, public infrastructure funding, affordable housing siting, and related practices?

Context for the Research Questions of Interest

Additional context for each of the four research questions of interest is detailed below.

Question 1: In what ways and to what extent does housing discrimination (including discriminatory impacts/effects) occur through tenant screening policies and practices, such as credit and criminal background checks, and non-rent costs, such as application fees and security deposits? What are promising or proven strategies to reduce or eliminate discrimination in tenant screening and non-rent costs?

Landlords typically use a form of tenant screening to select a tenant for an available unit. However, landlords have a lot of discretion on how they choose to apply their tenant screening practices. The subjective components of tenant screening can be problematic as landlords may use criteria that increase barriers for certain groups of people, especially people of color, low-income families, and other vulnerable population groups (Reosti, 2020; So, 2023). Two examples of criteria commonly used by landlords that are associated with increasing barriers to rental housing are credit and criminal background checks.

The justification for using credit checks is to assess the financial risk of potential tenants. Landlords want tenants who can pay rent on time. Although this justification appears innocuous, credit checks can be problematic due to past discriminatory practices embedded in society that have led certain population groups to have lower credit scores. For example, credit screenings often disadvantage communities of color who typically have lower credit scores due to systemic inequities like redlining and historical exclusion from wealth-building opportunities (Rice & Swesnik, 2013). Additionally, communities of color often face higher rates of unemployment and underemployment, limiting their ability to build credit. Lower credit scores can be a reflection of persistent past discrimination, rather than an accurate indicator of whether a potential tenant has the ability to pay rent (National Consumer Law Center, 2024).

Criminal background checks have become a common practice in tenant screening (Thacher, 2008). In 2016, HUD issued guidance on the “Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions”. In this guidance, HUD recognizes that “a criminal record can constitute a legitimate, nondiscriminatory reason for a refusal to rent” but also states, “Because of widespread racial and ethnic disparities in the U.S. criminal justice system, criminal history-based restrictions on access to housing are likely disproportionately to burden African Americans and Hispanics.” Therefore, the way in which policies are created and implemented for criminal background checks can make these practices discriminatory. For example, blanket policies to reject housing applications because of an arrest or conviction record would violate the Fair Housing Act. To abide by the Act, landlords would need to enact a policy which “accurately distinguishes between criminal conduct that

indicates a demonstrable risk to resident safety and/or property and criminal conduct that does not” (HUD, 2016).

In addition to credit and criminal background checks, other tenant screening practices that have been associated with increasing barriers to access to rental housing include screening out applicants based on their source of income (e.g., housing vouchers) (Galvez et al., 2024), requiring non-rent costs (e.g., application fees), and reviewing applicants based on their names (i.e., using names to signal race or ethnicity) and eviction records (Choi et al., 2022; So, 2023). There is substantial evidence that these barriers to housing have had substantial disparate impacts on access to housing. For example, correspondence tests have found that landlords are less likely to respond to African American and Latino renters compared to White applicants (Ellen et al., 2024; Faber & Mercier, 2022).

Several strategies have been proposed or attempted to combat housing discrimination in tenant screening. Some strategies are directly focused on limiting the impact of credit scores through regulatory measures or the development of alternative screening tools. There are strategies that aim to reduce surprise fees and additional costs for potential tenants by capping application fees or advocating for a more transparent fee structure. Additionally, education and training strategies for landlords and real estate professionals attempt to address knowledge gaps regarding housing discrimination (National Consumer Law Center, 2024).

There is more to be learned about the extent to which discrimination occurs in tenant screening and how these practices manifest, especially as landlords and property management companies adopt practices using artificial intelligence (AI) and big data in support of tenant screening. Additionally, there are opportunities to explore solutions and promising practices that have the potential to be replicated. Several strategies have been implemented to reduce discriminatory practices in tenant screening, and evaluating these strategies can help inform future policies and practices to reduce or eliminate discrimination in tenant screening and non-rent costs.

Question 2: How can innovative methods be used to better detect and measure housing discrimination?

To achieve the goals of the Fair Housing Act, we must be able to adequately measure the current status of housing discrimination and understand both how it manifests and the mechanisms that drive its persistence. As the process of buying, selling, and renting a housing unit has evolved, the methods used to understand housing discrimination also must evolve to appropriately address the current landscape and provide a more adequate picture of housing discrimination today.

The following provides a brief overview of methods that have commonly been used by researchers in the housing discrimination literature:

Testing: Testing methodology has played an important role in measuring housing discrimination since the passage of the Fair Housing Act in 1968. Two types of testing are common in studying housing discrimination: in-person and correspondence audits. In-person audits have actors

similar in background except for race (or another protected class) inquire about the same housing opportunity, while correspondence audits use email or phone calls to inquire about properties where the race (or another protected class) of the home seeker is signaled in the correspondence (e.g., names or voice). These testing methods have been used to document housing discrimination in the housing search stage across different racial, ethnic, and population groups, including sexual identity (Friedman et al., 2013), disability (Aranda, 2015), socioeconomic status (Chan & Fan, 2023), religion (Flage, 2018), family status (Aron et al., 2016), and neighborhood characteristics (Ondrich et al., 2001). The literature generally agrees that more explicit forms of discrimination, such as an outright denial to show properties, have decreased, while more implicit forms, such as showing fewer properties or steering individual to specific neighborhoods, have increased (Hanson et al., 2011).

Regression models: Regressions have allowed researchers to utilize secondary data to better understand factors that are correlated with discrimination. With regression analysis, researchers have been able to show patterns of housing discrimination, highlighting populations and places (Ghekiere & Verhaeghe, 2022; Myers, 2004) that are especially vulnerable to housing discrimination. Furthermore, regression models have been used to document adverse impacts of housing discrimination on economic (Appel, 2016), health (Yang et al., 2016) and education (Quillian, 2014) outcomes.

Qualitative models: Qualitative research has played an important role in shedding light on potential mechanisms underlying housing discrimination and how people experience discrimination. Through interviews, surveys, and case studies, researchers have been able to gain perspectives from different stakeholders and strengthen our contextual understanding of housing discrimination. For example, Rosen (2021) found that landlords relied on stereotypes and common narratives regarding race, class, and gender when forming impressions about potential tenants.

These methods have expanded our understanding of housing discrimination; however, housing discrimination is a complex and evolving issue and continued research is necessary to inform programs and policies. New research may arise from updating and applying existing models to new data, context, or place. For example, advances in data collection and the push for open data provide new sources that can be examined. AI is increasingly being used in housing, and research remains limited in this area. Other areas of the housing ecosystem are understudied as previous research has focused on interactions between real estate agents or landlords and potential buyers or renters during the housing search process and modeling approval or denial of mortgage loans (Goodman et al., 2019; Ladd, 1998). Discrimination can occur in other areas, such as appraisals, insurance markets, and zoning laws. Furthermore, policy and programs can benefit from a better understanding of how historical and macro-level factors have shaped housing discrimination (Rothstein, 2017).

Future research will benefit as innovative methods are developed to provide new insights into housing discrimination. Alternatively, future research could apply existing research methods that haven't been typically used in studying housing discrimination, such as machine learning, Bayesian statistics, and network analysis.

Question 3: What are ways to identify and eliminate discriminatory practices in home sales and mortgages, such as steering, appraisal bias, and financing referrals?

Homeownership is often considered one of the primary pathways to building wealth in the United States. However, access to homeownership, as well as mortgages – which help finance over 60% of home sales – has not been equally available to all population groups, including protected classes under the Fair Housing Act (U.S. Census Bureau, 2021). Although the incidence of the most overt types of racial discrimination – such as direct denial of housing availability to non-White homebuyers – has declined to low levels, relative to the first HDS in 1977, other indicators of discrimination, such as the number of units shown to prospective renters or rates of loan denial, have only slightly declined (Quillian et al., 2020). Furthermore, considerable racial disparities in loan approval and cost have persisted, as has the homeownership gap. Notably, the disparity between Black and White homeownership today is greater than it was prior to the passage of the 1968 Fair Housing Act, when it was legal to discriminate on the basis of race and/or ethnicity (Urban Institute, n.d.).

Discrimination can occur at every stage of the homebuying and mortgage lending process. During a housing search, real estate agents may provide a prospective homebuyer less assistance than they do to other groups – such as being less willing to meet for an in-person appointment, providing information on fewer homes, not showing available or advertised units, showing fewer homes, spending less time with them, or being less likely to make future arrangements. Agents may also engage in “steering” in which prospective buyers are directed toward or away from a particular home or neighborhood (Galster & Godfrey, 2005). Discrimination in home sales may also affect the seller during the appraisal stage. Appraisal bias occurs when a home is undervalued due to a protected characteristic, such as the race and/or ethnicity of the sellers or the racial demographics of the neighborhood in which the home is located (Howell & Korver-Glenn, 2018). Additional areas in the homebuying and mortgage lending process where discriminatory practices can occur include advertisement, pre-application inquiries, loan application process, loan type, loan terms, and insurance (U.S. Department of Housing and Urban Development, 2015).

Given the sheer scope of instances where discrimination can enter the homebuying or mortgage-purchasing process, identifying systematic instances of discrimination can be challenging. In-person and correspondence audits have been used to identify discrimination in the housing search stage (Oh & Yinger, 2015). However, these types of tests are not a suitable strategy to measure discrimination in other areas of the homebuying and mortgage lending process (Roscigno et al., 2009). Alternative methodological approaches must be adopted to measure

discrimination in the homebuying process. For example, studies examining mortgage lending have applied regression models to the Consumer Finance Protection Bureau's Home Mortgage Disclosure Act (HMDA) data, which provides information on loan application decisions (Munnell et al., 1996). However, the risk of omitted variable bias is high in these studies as HMDA does not provide information on important characteristics that might otherwise influence loan-making decisions, such as credit history, wealth, or debt levels.

Overall, although there has been foundational work that has studied discrimination in homebuying and mortgage lending, this area is ripe for future research as homebuying and mortgage lending evolve. Most of the research has focused on *identifying* housing discrimination rather than *eliminating* discrimination, and there are numerous areas in the homebuying or mortgage lending process that have received minimal attention. Furthermore, the onset of big data and AI represent significant technological changes that could help decrease or perpetuate discrimination. It will be important for researchers to help the housing community understand how these changes affect fair housing (Davis et al., 2021).

Question 4: What are ways to identify and eliminate discriminatory practices in land use, public infrastructure funding, affordable housing siting, and related practices?

More than 50 years after the passage of the Fair Housing Act of 1968, barriers in land use, public infrastructure funding, and affordable housing siting continue to shape patterns of inequity and segregation. A large portion of discrimination research focuses on detecting specific 'bad actors' purposefully employing discriminatory practices. However, there has been a growing call for a broader perspective that can study institutional forms of discrimination. Influential scholarship, from authors such as Richard Rothstein, Douglas Massey and Nancy Denton, and Edward Glaeser, has illuminated how practices reinforce long-standing inequalities, even in the face of anti-discrimination laws.

Richard Rothstein's *The Color of Law* (2017) extensively documents how local zoning laws, federal policies, and other discriminatory practices have fostered racial segregation. Rothstein demonstrates that zoning practices, such as exclusionary zoning, are far from race-neutral, stating that they were "purposefully designed to contain African Americans in segregated communities" (Rothstein, 2017). Rothstein's work has become foundational to understanding the contemporary need for policies that counteract the impact of exclusionary zoning practices.

Douglas Massey and Nancy Denton's *American Apartheid* (1993) similarly highlights how segregation persists in American cities due to both market dynamics and government policies, which have spatially concentrated poverty and limited access to high-opportunity areas for minority communities. Massey and Denton describe the consequences of these patterns as "a system of residential apartheid," which isolates minority communities from critical resources (Massey & Denton, 1993). To address these patterns, HUD has worked to integrate fair housing principles into infrastructure and public investment, ensuring that federal support does not

unintentionally reinforce these inequities but instead opens avenues for mobility and access to resources.

In examining infrastructure funding, Edward Glaeser's work on urban economics underscores how public investments, if poorly allocated, exacerbate inequalities rather than ameliorate them. In *Triumph of the City* (2011), Glaeser argues that "infrastructure investments that are not equitably distributed risk creating islands of poverty and social exclusion" (Glaeser, 2011). This perspective aligns with HUD's approach to ensuring that infrastructure investments actively promote equitable access for historically marginalized communities. Infrastructure decisions play a crucial role in determining residents' access to jobs, schools, and healthcare, and research highlights the importance of using these decisions as a tool for promoting social inclusion.

Affordable housing siting policies are similarly impactful. Research from Ingrid Gould Ellen and Margery Austin Turner reveals how affordable housing developments, if poorly located, can trap low-income families in areas with limited resources and poor environmental conditions. They advocate for housing policies that "enhance mobility and expand choices" for low-income families, ensuring access to "high-opportunity neighborhoods that foster economic and social advancement" (Ellen & Turner, 1997). HUD's efforts in promoting equitable affordable housing siting reflect this commitment, aiming to dismantle discriminatory siting practices that concentrate affordable housing in areas of poverty.

Building on this scholarship, HUD invites applicants to explore actionable solutions to identify and eliminate ongoing discriminatory practices.

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