

## **Working Draft**

### **NLIHC Comments Regarding HUD's Proposed AFFH Assessment Tool**

Modified, November 20, 2014

Regulations Division  
Office of General Counsel  
Department of Housing and Urban Development  
451 7<sup>th</sup> Street SW  
Room 10276  
Washington, DC 20410-0500

Via regulations.gov

November XX, 2014

Re: Docket No. FR-5173-N-02, Affirmatively Furthering Fair Housing Assessment Tool

The National Low Income Housing Coalition (NLIHC) is an organization whose members include state and local housing coalitions, residents of public and assisted housing, nonprofit housing providers, homeless service providers, fair housing organizations, researchers, public housing agencies, private developers and property owners, local and state government agencies, faith-based organizations, and concerned citizens. While our members include the spectrum of housing interests, we do not represent any segment of the housing industry. Rather, we focus on what is in the best interests of people who receive and those who are in need of federal housing assistance, especially extremely low income people.

NLIHC enthusiastically supports the proposed Assessment Tool, as we did the proposed improvements to regulations that carry out the Fair Housing Act's requirement to ensure that all federal agencies administer their programs relating to housing and community development in a manner that affirmatively furthers fair housing choice. NLIHC endorses the proposed Assessment Tool because it contains many components that will provide clear guidance to program participants – and equally importantly – to advocates and especially the residents who are the intended beneficiaries of federal funds.

NLIHC thinks that the Assessment Tool should have as much detail as possible because it will be the working template and ultimate document that program participants, advocates, and residents will be working with on a frequent, operational basis. The final rule, along with additional guidance HUD proposes to provide, will be very important in order to realize the goal of affirmatively furthering fair housing choice; however, on a working basis they will eventually be less prominent than the Assessment Tool. An Assessment Tool with as much detail as possible providing direction that echoes the final rule will minimize the need for stakeholders to juggle the

final rule and any subsequent guidance. In short, the Assessment Tool may be as important as the final rule.

NLIHC endorses the proposed Assessment Tool and all efforts to greatly improve mobility to areas of high opportunity. However, we are very concerned about the proposed Assessment Tool's glaring lack of attention to an equally important aspect of affirmatively furthering fair housing choice – the choice of long-time low income residents, and especially residents who are members of protected classes, to remain in their publicly supported affordable homes and in the communities where they have social, cultural, and language ties.

NLIHC raised this concern in the lead up to the proposed rule. Former HUD Secretary Shaun Donovan, as well as other HUD officials, consistently provided assurances that the final rule would have a “both/and” structure. However, the proposed Assessment Tool does not have a “both/and” structure. There is no balance between mobility and preservation/revitalization because the proposed Assessment Tool only addresses mobility.

The preamble to the proposed Assessment Tool, not the Tool itself, has two references to a “balanced approach.” However, these two references in the preamble, should they ever be referred to in the future, are insufficient, ambiguous, and imply a strong preference for mobility over preservation and revitalization.

The proposed Assessment Tool's references only to racial and ethnic concentrations of poverty and disparities in access to community assets could be misconstrued to mean a prohibition on the use of resources in neighborhoods that have such concentrations, yet also have the assets of community-based development organizations and affordable housing preservation organizations that have long worked with residents to improve publicly supported housing and/or community living conditions.

Fair housing choice must include residents' ability to choose to remain in their homes and the communities where they have long lived and where they have deep social, community, cultural, and economic ties, even if those communities are racially or ethnically areas of concentrated poverty.

NLIHC's comments offer additional language to ensure that low income people, especially people in the protected classes, have the full range of housing choices available to them. The questions we offer can guide a jurisdiction to determine whether residents of affordable housing would prefer to rehabilitate and preserve their buildings and remain in the neighborhoods they have long called home. NLIHC also offers questions that would take into account efforts to preserve public housing or HUD-assisted multifamily housing, and/or community-based neighborhood revitalization efforts and consider such efforts as valuable community assets.

The balance of this comment letter offers specific suggestions for improving the Assessment Tool.

### **SECTION III: COMMUNITY PARTICIPATION PROCESS**

The proposed Fair Housing Assessment Tool should be greatly expanded in this section.

#### **Availability of the Assessment Tool**

It is not clear that the Assessment Tool will be readily available for the public to review. A version of the Assessment Tool should be available online at the program participant's website for the public to view as it is being developed.

In addition, a "sample" version of the Assessment Tool should also be available on the program participant's website as well as on HUD's website. The "sample" version, not linked to HUD's IDIS or other systems, could be downloaded by the public and used to create an "advocate's AHF". This "sample" version could facilitate public consideration of fair housing issues and determinants, and could serve as additional community input for the program participant.

The Assessment Tool should track the outline of the proposed regulation, with separate treatment for Consultation (24 CFR 91.100) and Community Participation (24 CFR 91.105).

#### **Consultation (24 CFR 91.100)**

During preparation of the AFH, the program participant should list each organization consulted and the date(s) of the consultation, and provide a summary of the input offered through the consultation (attach as appendix any detailed written input provided).

Program participants should demonstrate that consultation took place throughout the planning process. [§ 91.100(e)]

In addition to the types of organizations that should be consulted that are already listed in the Consolidated Plan regulations, the Assessment Tool should also include:

- Community-based and regionally-based organizations that represent protected classes (race, national origin, disability, sex, family status)
- Fair Housing Initiatives Program (FHIP) entities
- Other fair housing organizations
- Public housing agency or agencies
- Metropolitan-wide planning and transportation entities

A program participant should list local knowledge gained through the consultation process, which local knowledge it chose to use, and which local knowledge it chose not to use and why.

## **Community Participation (24 CFR91.105)**

### Encouragement of Community Participation [§105(a)(2)]

The statute requires jurisdictions to not only provide for, but also encourage community participation. The regulations state “jurisdictions must take appropriate actions to encourage participation of all... including minorities and non-English speaking persons...as well as persons with disabilities.”

Program participants should describe how community participation was both provided for and encouraged. They should be asked to present a detailed list (by date and time of day) of specific outreach activities for various components of the community.

The Assessment Tool should offer a list of potential community components they should reach out to, such as:

- Groups representing various races, ethnicities, and national origins
- Groups representing people with limited English proficiency
- Groups representing people with disabilities
- Public housing Resident Advisory Boards (RABs) and resident councils
- Groups representing Housing Choice Voucher holders
- Groups representing tenants of HUD-assisted multifamily housing
- Tenant organizations
- Neighborhood-based organizations
- Community-based development corporations
- Affordable housing advocacy organizations
- Legal Services offices
- Continuum of Care organizations

The Assessment Tool should ask what efforts were made in discussions with residents of publicly supported housing to determine residents’ desire to remain in their homes and neighborhoods, or to relocate to areas of opportunity.

The Assessment Tool should ask what efforts were made in discussions with residents of R/ECAPs where community-based revitalization efforts exist or are planned, to determine their desire to remain in their communities or to relocate to areas of opportunity.

Program participants should describe how meetings and events were held at times and places conducive to optimal participation, and were accessible to people with disabilities. [§91.105(e)(3)]

- Were meetings held in neighborhoods and community facilities (not just city hall)?
- Were meetings held in the evenings and/or on weekends (not just during the business day)?
- Were meetings held in places that are barrier-free or otherwise accessible to people with disabilities?

Program participants should describe how they assessed language needs and provided for translation of notices and vital documents, as well as provided interpreters for meetings and public hearings. [§91.105(a)(4)]

Program participants should describe how far in advance notice of meetings and events was provided.

Program participants should describe the method(s) of notification, for example:

- Notices in newspapers oriented to particular neighborhoods, languages, and people with other population characteristics
- Notices in newsletters of organizations serving various populations
- Public service announcements on radio and television stations oriented to particular populations
- Provisions for people with limited English proficiency
- Provisions for people with visual, hearing, or other communications disabilities,
- Social media

Program participants should summarize all local knowledge and comments obtained in the community participation process, and include a summary of any local knowledge or comments not accepted and the reasons why. These should be attached as an appendix to the AFH.

#### Development of the AFH [§105(b)(1)]

Program participants should describe when and how HUD-provided data was made available to the public.

Program participants should describe when and how any supplemental data or local knowledge was made available to the public.

Program participants should describe efforts to identify supplemental data and local knowledge from sources such as:

- Universities
- Advocacy organizations
- Service providers
- Planning bodies
- Transportation departments
- School districts
- Healthcare departments
- Employment services
- Unions
- Business organizations

The Assessment Tool should provide examples of local knowledge such as:

- Efforts to preserve publicly-supported housing
- Community-based revitalization efforts
- Public housing Section 18 demolition or disposition application proposals
- Rental Assistance Demonstration (RAD) conversion applications
- Transit-Oriented Development plans
- Major redevelopment plans
- Comprehensive planning or zoning updates
- Source of income ordinance campaigns
- Inclusive housing provision campaigns

Program participants should list any local data and knowledge received from the community engagement process that was not used to develop the AFH, and explain the reason for not using such information.

Program participants should describe when and where the required public hearing took place before the proposed AFH is published for comment. [§105(e)(1)(iii)]

This is a crucial feature of the proposed rule paralleling the long-required CDBG statutory obligation to have a public hearing to obtain housing and community development needs before a proposed plan for the use of CDBG is offered to the public. (This CDBG statutory requirement is currently embedded in the ConPlan rule at §105(e)(1)(ii).)

A public hearing at this stage – before a proposed AFH is even drafted – serves as an opportunity to obtain crucial local knowledge and input regarding the public’s fair housing concerns.

A similar concern is discussed below pertaining to public hearings regarding the proposed AFH.

Proposed AFH  
[§105(b)(2)-(5)]

Program participants should describe how the proposed AFH was published for comment.

- Was the proposed AFH on a easily identifiable page on the jurisdiction’s website?
- Were paper copies made available at public places?
- Were a reasonable number of paper copies available at no cost for those requesting a copy of the proposed AFH?

Program participants should indicate how far in advance of the beginning of the 30-day comment period the notice was provided.

Program participants should describe when and where the public hearing regarding the proposed AFH took place.

HUD's proposed rule is not clear regarding a public hearing regarding a proposed AFH.

Proposed §105(b)(3) requires at least one public hearing "during the development of the AFH." In the context of proposed §105(b)(2),(4),and (5) it is implied that this public hearing is about the "proposed" AFH. However, the Assessment Tool (as well as the final AFFH rule) should make it clear that this public hearing is about the proposed AFH. Again, the requirement for a hearing on the proposed AFH should parallel the CDBG statute which has long required (as reflected now in the ConPlan rule), a public hearing regarding the proposed use of CDBG (and therefore the proposed ConPlan).

In short, the Assessment Tool (as well as the final AFFH rule) should clearly indicate that a minimum of two separate public hearings are required:

- A public hearing to obtain public input regarding local knowledge and fair housing concerns prior to a program participant drafting an AFH.
- A public hearing to obtain public comment regarding a proposed AFH.

Program participants should indicate how many days the public hearing about the proposed AFH was conducted prior to submitting the AFH to HUD for approval. A public hearing a day or two before an AFH is submitted to HUD would indicate that the program participant did not give serious consideration to public comment.

## SECTION IV: ANALYSIS

For rest of NLIHC's comments, we present suggestions by replicating relevant parts of the text of the proposed Assessment Tool in the original Times New Roman font, with NLIHC's suggestion in red Arial font.

### A: Demographic Summary

1. Describe demographic patterns in the Jurisdiction and Region, and describe trends over the past ten years, including factors influencing those trends, such as investments leading to gentrification/displacement, immigration by different income groups, national origin groups, LEP persons, etc.

### B: Segregation/Integration and R/ECAPs

#### 1. Dissimilarity Index

b. Explain how levels of segregation have changed over time for the Jurisdiction and Region, including factors influencing those changes, such as public and private disinvestment, and policies and practices of the program participant and other jurisdictions in the region.

#### 2. Geographic Analysis

c. For each identified R/ECAP neighborhood or area, describe the relevant characteristics that set it apart from non-R/ECAPs, including:

- patterns of financial investment, including:
  - disproportionately less per capita use of CDBG and local general revenues in R/ECAPs
  - existence or lack of policies and practices intended to prevent gentrification/displacement of long-term, low income residents due to financial investments
  - existence or lack of policies and programs to preserve publicly supported affordable housing
  - existence or lack of policies and programs to support community-based revitalization
- transportation and other basic services
- infrastructure, including disproportionately less per capita use of CDBG and local general revenues in R/ECAPs
- health and safety conditions
- geographic isolation, as a result of barriers such as highways, waterways, hills, etc.
- tenant and neighborhood organizations
- community-based organizations devoted to neighborhood or area revitalization
- nonprofit or government efforts to preserve publicly supported affordable housing
- social and economic services provided by nonprofits and local government



- other important social network and cultural support infrastructure, especially networks or cultural supports for people of various racial, ethnic, language, or national origin groups.

d. Identify and *describe neighborhoods or areas* where either segregation or integration by race/ethnicity has significantly changed over time.

- Describe the program participant's policies, programs, or practices that have contributed to those significant changes.
- Describe other factors contributing to those significant changes.

e. Identify neighborhoods or areas in the Jurisdiction and Region where any national origin group is segregated and indicate the predominant groups in each. Identify any neighborhoods or areas where either segregation or integration by national origin has changed over time. **Describe factors influencing those changes, such as immigration and other communities' resistance to acceptance of other national origin groups.** Identify neighborhoods or areas where a national origin group was displaced due to financial investments or local government policies incentivizing private and public investments leading to displacement.

f. Which neighborhoods or areas segregated by race/ethnicity or national origin, including any R/ECAPs, have persisted across multiple decades? Explain. **Identify community assets that make the neighborhood or area attractive to the racial/ethnic group or national origin group, such as cultural associations, immigrant support services, etc.**

g. Have any R/ECAP tracts or areas newly emerged or moved out of the R/ECAP definition since 2000? Explain what changes have occurred **and what factors led to the changes. To what extent has gentrification been a predominant force in an R/ECAP census tract or area moving out of the R/ECAP definition since 2000?**

h. Which, if any, neighborhoods or areas are vulnerable to becoming segregated or becoming a R/ECAP. *Describe any factors contributing to such vulnerability.*

**NLIHC suggests adding a (i): Which, if any, neighborhoods or areas are vulnerable to becoming gentrified, causing significant displacement of long-term, low income people? Describe any factors contributing to such vulnerability.**

*4. Provide additional relevant information, if any, about segregation and R/ECAPs in the Jurisdiction and Region (e.g., information regarding LEP persons, color, religion, and families with children).*

**The Assessment Tool does not provide for an analysis of areas that are almost exclusively white and/or extremely affluent. This portion of the Assessment Tool should require the program participant to identify areas in its region that are extremely disproportionately white and/or that have extreme disparities in wealth, compared to the region as a whole.**

5. NLIHC Proposes a new Number 5 (renumbering existing Number 5 to become Number 6):

“Assets in Segregated Neighborhoods or Areas or R/ECAP”

Program participants must describe for each segregated neighborhood or area or R/ECAP assets that should be considered, including but not limited to:

- Tenant and neighborhood organizations
- The presence of community-based development organizations working to revitalize the neighborhood, area, or R/ECAP
- Efforts by nonprofits and local government to preserve publicly supported affordable housing
- Proportionate investment of CDBG and local general revenues in the neighborhood, area, or R/ECAP
- Effective social infrastructure
- Cultural support infrastructures for people of various racial, ethnic, language, or national origin groups
- Access to public transportation that is frequent, reliable, affordable, and that has routes most needed by residents
- Walkability

## 6. ~~5~~ Determinants of Segregation/R/ECAPs

*To what extent do each of the following factors impact the Jurisdiction and the Region by contributing to segregated housing patterns or R/ECAPs? For each factor, select whether its impact on segregation is highly significant, moderately significant or not significant from the drop down menu and explain the basis for the significance level selected in the space provided.*

- Land use and zoning laws, such as minimum lot sizes, limits on multi-unit properties, height limits, or bedroom-number limits as well as requirements for special use permits
- Occupancy restrictions
- Residential real estate steering
- Patterns of community opposition, **including opposition to inclusive housing policies**
- Economic pressures, such as increased rents or land and development costs
- **Displacement of long-time low income residents as a result of private or publicly assisted development**
- Major private investments **or disinvestment**
- **Lack of or insufficient** Municipal or State services and amenities, **including disproportionately little allocation of CDBG and local general revenues for meaningful improvements**
- Foreclosure patterns
- Disparities in the maintenance, management, and marketing of foreclosed properties
- Redlining by lenders and insurers
- Siting of proposed new publicly assisted housing

- Location of proposed new multifamily housing developments
- Disparities in access to rental housing that is decent and affordable
- Historical factors
- Other

[Note: For ease of communication, NLIHC keeps the proposed Assessment Tool's numbers going forward.]

## **6. Publicly Supported Housing Patterns**

NLIHC urges the Assessment Tool to explicitly include the HOME program as one of the publicly supported housing programs. NLIHC also urges HUD to be prepared to add the National Housing Trust Fund to this list because NLIHC is optimistic that FHFA will soon lift the suspension on funds held by Fannie Mae and Freddie Mac.

### **a. Publicly Supported Housing Demographics**

[Table 7 - Tabular data for total units by 4 categories of publicly supported housing – Public Housing, Project-Based Section 8, Other Multifamily, and the HCV Program - in Jurisdiction - *and LIHTC and other Federal Housing*]

HOME multifamily rental projects should be included here.

Data should also be provided for the region.

[Table 8 - Tabular race/ethnicity data for 4 categories of publicly supported – Public Housing, Project-Based Section 8, Other Multifamily, and the HCV Program - compared to the Jurisdiction as a whole and to persons earning 30% **or less of** AMI - *and LIHTC and other Federal Housing*]

HOME multifamily rental projects should be included here.

Data should also be provided for the region.

### **b. Publicly Supported Housing Location and Occupancy**

[Map 5 - Public Housing, Project-Based Section 8, Other Multifamily, and LIHTC locations mapped with race/ethnicity dot density map with R/ECAPs, distinguishing categories of publicly supported housing by color]

i. Describe patterns in the siting of the categories of housing presented above. Describe in particular any differences in siting patterns for housing that serves families, elderly, or individuals with disabilities. For example, are all or most family housing developments or housing developments for persons with disabilities located in R/ECAPs or neighborhoods predominately occupied by persons of a specific race or ethnicity?

HOME multifamily rental projects should be included here.

Data should also be provided for the region.

NLIHC is concerned about how this will be interpreted because most publicly supported housing projects have long been sited. While these projects might be in areas of racial/ethnic concentrations, sensitivity to the wishes of existing residents must be paramount – if people prefer that their developments be improved and preserved, then devoting federal funds should not be deemed contrary to affirmatively furthering fair housing choice.

Program participants should explain any recent or planned applications to designate a public housing development as “elderly only”.

- What compelling factors warrant such a designation?
- Do the demographics truly warrant a designation?
- What will be the impact of such a designation on families on the public housing waiting list?

[Table 10 – Development Census tract level demographics by Public Housing, Project-based Section 8, Other Multifamily *and LIHTC and other Federal Housing*]

HOME multifamily rental projects should be included here.

iii. Discuss the extent to which Public Housing developments in the Jurisdiction are located in segregated neighborhoods or areas. Discuss the extent to which the residents of those Public Housing units are of the same race or ethnicity as the residents of the neighborhood or area in which the development is located. Describe any patterns or outliers with respect to occupancy (for example, a housing development disproportionately occupied by residents of one race/ethnicity or national origin). What does this information suggest about the fair housing implications of project siting or occupancy generally or at any specific project?

Program participants should describe actions taken to determine public housing residents’ desire to remain in that public housing development and their neighborhood, or their desire to move to a different public housing development, receive a voucher, or move to a different neighborhood.

Program participants should describe the resources (and in what amounts) that have been used to improve the neighborhood in which the public housing development is located.

iv. Discuss the extent to which Project-Based Section 8 and other HUD multifamily assisted developments are located in segregated neighborhoods or areas. Discuss the extent to which the residents of those units are of the same race or ethnicity as the residents of the neighborhood or area in which the development is located. Describe any patterns or outliers with respect to occupancy (for example, a housing development disproportionately occupied by residents of one race/ethnicity or national origin). What does this information suggest about the fair housing implications of project siting or occupancy generally or at any specific project?

- Program participants should describe actions taken to determine Project-Based Section 8 and other HUD Multifamily-assisted development residents’ desire to remain in their assisted development and their neighborhood, or their desire to move to a different assisted development, receive a voucher, or move to a different neighborhood.

- Program participants should describe the resources (and in what amounts) that have been used to improve the neighborhood in which the Project-Based Section 8 or other HUD Multifamily- assisted development is located.
- Program participants should describe efforts that have been made, are underway, or are planned to identify Project-Based Section 8 developments at risk of opting out of the program or prepaying their mortgage and thereby exiting the program, or of other HUD Multifamily-assisted developments from leaving the affordable housing stock due to FHA mortgage maturity.
- Program participants should describe the efforts that have been made, are underway, or are planned to preserve Project-Based Section 8 or other HUD Multifamily-assisted developments.

v. Discuss the extent to which LIHTC developments are located in segregated neighborhoods or areas. Discuss the extent to which the residents of those units are of the same race or ethnicity as the residents of the neighborhood or area in which the development is located. Describe any outliers with respect to occupancy (for example, a housing development disproportionately occupied by residents of one race/ethnicity or national origin). What does this information suggest about the fair housing implications of project siting or occupancy generally or at any specific project?

- Program participants should describe actions taken to determine LIHTC development residents' desire to remain in their LIHTC development and their neighborhood, or their desire to move to a different LIHTC development, receive a voucher, or move to a different neighborhood.
- Program participants should describe the resources (and in what amounts) that have been used to improve the neighborhood in which the LIHTC development is located.
- Program participants should describe the efforts that have been made, are underway, or are planned to preserve LIHTC developments, including at Year 15 and beyond Year 30.

vi. Describe any patterns of HCV usage, **describing separately tenant-based vouchers and project-based vouchers**, in particular neighborhoods or areas, including segregated neighborhoods and R/ECAPs, and identify the predominant race/ethnicity *or national origin groups* in such neighborhoods.

vii. Referring to Table 9, what proportion of HCVs, **describing separately tenant-based vouchers and project-based vouchers**, are used in R/ECAPs? *Describe the extent to which tenant-based HCV holders are successful in using their vouchers outside of RE/CAPS?*

NLIHC notes that to address the added description of PBVs, Table 9 would have to include a PBV breakdown.

viii. To what extent are tenant-based HCV holders successful in using their vouchers in LIHTC **and HOME** developments?

NLIHC suggests that, for informational purposes, the Assessment Tool explicitly remind users and readers that LIHTC and HOME statutes prohibit owners assisted by those programs from discriminating against tenants with a voucher.

## 7. Publicly Supported Housing and Mobility Policies

### a. Publicly Supported Housing Policies

i. Discuss how admission preferences or designations in each type of publicly supported housing (such as residency preferences or elderly or disability designations) **tenant selection policies, application and waitlist procedures, and affirmative marketing** affect residency patterns of publicly supported housing residents (by race/ethnicity, national origin, families with children, and disability)?

### b. Mobility Policies

i. Describe how HCV policies or practices, including **payment standards (i.e. allowable rents), landlord and apartment listings,** and portability **issues between PHAs, and presence or absence of** mobility counseling impact **the types of neighborhoods and communities that HCV families move to,** ability of persons using HCVs (**Discuss these issues** by race/ethnicity, national origin, age, families with children, household size) to live in neighborhoods of their choice.

ii. Is there a **housing** mobility counseling program (~~other than the PHA's~~), ~~central registry, listing of rental housing available to HCV holders, or other program~~ to ensure that residents, particularly those living in low-asset/high poverty neighborhoods, become aware of public or private housing opportunities ~~outside their neighborhood~~ **in significantly lower poverty communities, and receive assistance in making moves to such areas?** Explain.

iii. What barriers do persons using HCV's encounter when attempting to ~~utilize mobility and portability features~~ **move to low poverty neighborhoods and communities?**

8. Provide additional relevant information, if any, about publicly supported housing and mobility programs in the Jurisdiction and Region (e.g., information regarding LEP persons, religion, color and families with children, as well as information about other federally supported housing or state or locally supported housing). **Does the program participant have a local or state "source of income" ordinance or law that prohibits discrimination of voucher holders? If not, what has the program participant done to directly (or by supporting others) to attempt to secure source of income protection?**

## 9. Determinants of Segregation/R/ECAPs related to Publicly Supported Housing Location and Occupancy

*To what extent do each of the following or other identified factors act as determinants of segregation in the Jurisdiction or Region by contributing to the segregation of neighborhoods or R/ECAPs? For each factor, select whether the impact on segregation is highly significant, moderately significant or not significant from the drop down menu and explain the basis for the significance level selected in the space provided.*

- Land use and zoning laws, such as minimum lot sizes, limits on multi-unit properties, height limits, or bedroom-number limits as well as requirements for special use permits
- Siting decisions for **proposed new** Public Housing
- Siting decisions for **proposed new** LIHTC housing, including discretionary incentives in the relevant Qualified Allocation Plan governing LIHTC distribution
- Siting decisions for other **proposed new** publicly supported housing, **including HOME**
- Admission or residency preferences for public housing or other publicly supported housing
- **Inadequate efforts to fully inform residents about their options of remaining/returning to the publicly supported housing, or opportunities to move to lower poverty areas.**
- Community resistance to building publicly supported housing in particular areas
- Regional collaboration or the lack of regional collaboration
- Other

**As noted by the National Housing Law Project, simply using the term “siting” fails to clarify whether reference is being made to existing housing stock or stock that is planned for future development. Residents may wish to remain in existing publicly supported housing when there are strong community ties and valued services. Even housing that has not yet been built may serve a neighborhood’s need and desire for affordable housing and may be part of an ongoing neighborhood revitalization effort by residents.**

## 10. Determinants of Segregation/R/ECAPs related to Mobility

*To what extent do each of the following or other identified factors act as determinants to segregation in the Jurisdiction or Region by contributing to segregation of neighborhoods or R/ECAPs? For each factor, select whether the impact on segregation is highly significant, moderately significant or not significant from the drop down menu and explain the level of significance selected in the space provided.*

- Lack of Housing Choice Voucher program
- Admission or residency preferences for Housing Choice Vouchers
- The quality of mobility counseling programs
- Lack of support for voucher mobility
- Lack of landlord participation in the voucher program
- Landlord refusal to accept other sources of income, such as Social Security, disability retirement, or other tenant-based rental assistance



- Program participant unwilling to promote source of income legislation, or willing to accept weak source of income provisions, or poorly enforces source of income provision
- Inadequate voucher payment standards (allowable rents)
- PHAs' portability policies
- Regional Fair Market Rent (FMR) hinders use of voucher in low poverty areas where market rents are much higher
- Screening or rescreening of tenants
- Landlord and apartment listings provided only by PHA
- Racial/ethnic discrimination
- Disability discrimination
- Other

## **Section C: Disproportionate Housing Needs**

### **1. Demographic Patterns**

[Table 12 - Tabular data of severe housing burdens by race/ethnicity, **family size, and disability type** for Jurisdiction and Region]

a. Which groups (by race/ethnicity, *national origin*, family status, **and disability type**) are more likely than other groups to experience housing cost burden, overcrowding or substandard housing? Explain.

d. Given the supply of units with two, three, four or more bedrooms for each category of publicly supported housing, discuss whether this supply achieves an appropriate balance from a fair housing perspective in serving the needs of families with children, including large families? Please explain.

**Program participants should describe efforts or plans to preserve or develop units for families with children, including large families.**

### **2. Geographic Patterns**

a. Summarize and discuss **neighborhoods and areas** within the Jurisdiction and Region with notable patterns of housing needs. Which areas experience the greatest housing needs? Which of these areas align with segregated areas or R/ECAPs and what is/are the predominant race/ethnicity or national origin group(s) in such areas? **Summarize and discuss neighborhoods and areas where the greatest housing needs are being addressed by nonprofit and local government preservation efforts and/or neighborhood revitalization efforts by community-based development organizations and/or local governments.**



#### 4. Determinants of Disproportionate Housing Needs

*To what extent do each of the following or any additional factors act as determinants to disproportionate housing needs in the Jurisdiction?* For each factor, select whether the impact on disproportionate housing need is highly significant, moderately significant or not significant from the drop down menu and explain the level of significance selected in the space provided.

- Land use and zoning laws, such as minimum lot sizes, limits on multi-unit properties, height limits, or bedroom-number limits as well as requirements for special use permits
- Occupancy restrictions
- Economic pressures, such as increased rents
- The availability of affordable units with two or more bedrooms
- The supply of publicly supported units with two or more bedrooms
- Housing stock deterioration
- Program participant reluctance to undertake publicly supported affordable housing preservation, or willingness to only undertake minimal preservation activities
- Foreclosure patterns, particularly foreclosure of rental housing
- Private investments (such as investment exclusively in luxury housing) leading to gentrification/displacement
- Designation of elderly-only public housing, causing a reduction in needed family units
- Lack of public investment of CDBG, HOME, local, or state funds for rental housing,
- Overemphasizing homeowner housing in use of CDBG, HOME, local, or state funds
- Inadequate local or state minimum wages (consequently households spending more than 30% or 50% of income for housing)
- Other

#### Section D: Disparities in Access to Community Assets and Exposure to Adverse Community Factors

##### 1. Disparities in Access to Community Assets

###### b. Access to Jobs and Unemployment

[Map 10 - Mapped jobs proximity index for Jurisdiction and Region with race/ethnicity, national origin, family status and R/ECAPs]

[Map 11 - Mapped labor engagement index with race/ethnicity, national origin, family status and R/ECAPs]

- Describe any disparities in proximity to jobs and labor market engagement by race/ethnicity, national origin, and family status.

Because the maps have information by national origin and family status, the discussion should also include national origin and family status.

ii. *Compare and contrast neighborhoods with high access to jobs and neighborhoods with low access to jobs for the jurisdiction as a whole. Are there any patterns in terms of race/ethnicity, national origin, family status, etc?*

Because the maps have information for the region the discussion should be based on the region as well as the program participant.

The program participant should discuss whether areas with high access to jobs (such as those adjacent to a central business district or other employment magnets such as medical centers and universities) are threatened with gentrification, and if so what policies and programs are preventing or will prevent displacement.

For areas with low access to jobs, the program participant should discuss programs that could be implemented to enable long-time low income residents to remain in their neighborhoods if they choose to do so, while gaining affordable access to employment centers.

iii. *Identify and discuss any job training or employment programs in the Jurisdiction or Region that assist residents of neighborhoods and areas with high unemployment such as R/ECAPs to find and obtain jobs. Describe the strengths or weaknesses of the PHA's Section 3 employment, training, and contracting practices.*

NLIHC proposes a new "iv":

iv. Describe community-based development organizations and/or local program participant's neighborhood or area revitalization efforts that address the need for job creation or retention.

#### c. Public Transportation

i. Assess differences, if any, in the availability (e.g., type, frequency, **routes**, ~~and~~ reliability, **and affordability**) of public transportation based on the predominant race/ethnicity or national origin groups of the residents in the neighborhoods or areas served in the Jurisdiction and the Region.

NLIHC proposes a new "ii":

ii. Describe differences, if any, in the jurisdiction's or regional entities' public transportation investments in low asset/high poverty areas such as R/ECAPs and asset-rich/low poverty areas.

NLIHC proposes that re-numbered "iii" read:

~~iii.~~ iv. *Describe the effect of laws, policies, or practices in the Jurisdiction, Region, or State that contribute to any differences in the availability, type, frequency, **routes** ~~and~~ reliability, **and affordability** of public transportation.*

NLIHC proposes a new “v”:

v. Where Transit-Oriented Development (TOD) policies and programs exist or are planned:

- What provisions will protect long-term low income residents from displacement?
- What programs or policies will preserve publicly supported affordable housing near TOD?
- What policies or programs will require public and/or private investments to include development of affordable housing near TOD?

d. Other Community Assets

*Are there neighborhoods or areas **that** stand out as having particularly low or high numbers of other community assets? Include, as applicable, health care facilities, grocery stores, ~~or~~ parks, **tenant and neighborhood organizations, community-based development organizations, nonprofit and/or program participant efforts to preserve publicly supported affordable housing, effective social infrastructure, and cultural support infrastructure.** Identify those neighborhoods and the predominant race/ethnicity, or national origin group(s) of each.*

## 2. Exposure to Adverse Community Factors

a. Exposure to Neighborhood Poverty

[Map 13 - Mapped poverty exposure index with race/ethnicity, national origin, family status and R/ECAPs]

i. Describe any disparities in exposure to poverty by race/ethnicity, **national origin, and family status.**

**Because the map has information about national origin and family status, the discussion should also.**

ii. Which *neighborhoods or areas* stand out as having particularly low and particularly high exposure to neighborhood poverty? Identify the predominant race/ethnicity national origin, or family status of the residents of each. **Describe any efforts by community-based nonprofits or the program participant to improve.**

b. Environmental Health Hazards

[Maps 14 - Mapped environmental health hazards index with race/ethnicity, national origin, family status and R/ECAPs]

i. Describe any disparities in exposure to ~~poverty~~ **environmental health hazards** by race/ethnicity, **national origin, and family status.**

There appears to be a mistake in the above direction because it calls for a discussion of poverty, rather than environmental health hazards. In addition, because the map has information about national origin and family status, the discussion should also.

ii. Which *neighborhoods or areas* stand out as having particularly low and particularly high levels of environmental health hazards? Identify the predominant race/ethnicity, or national origin group(s), **and family status** of the residents of each.

**Because the map has information about family status the discussion should also.**

c. Other Adverse Community Factors

*Are there neighborhoods or areas **that** stand out as having particularly low or high exposure to other adverse community factors? Include, as applicable, deteriorated and abandoned properties and foreclosure. Identify those neighborhoods and the predominant race/ethnicity, or national origin group(s) of each. Program participants should identify the nature and extent of efforts by nonprofit, community-based development organizations and the program participant to address abandoned properties and foreclosure.*

3. Identify and discuss any overarching patterns of access to assets and exposure to adverse community factors based on race/ethnicity, national origin and familial status. For example, identify neighborhoods that experience an aggregate of poor access to assets and high exposure to adverse factors.

**It is not clear what is intended by this direction regarding “overarching patterns”/ “experience aggregate poor access to assets” given all of the questions that have preceded it. If it remains, it should be balanced by a direction calling for the program participant to discuss the overarching efforts to redevelop and revitalize through community-based development organizations and the program participant.**

4. *Provide additional relevant information, if any, about disparities in access to community assets and services and exposure to adverse community factors (e.g., addressing religion, color, LEP, familial status).*

**Program participants should provide additional relevant information, if any, about efforts by nonprofit organizations or the program participant to address disparities in access to community assets and services and exposure to adverse community factors.**

## 5. Determinants of Disparities in Access to Community Assets and Adverse Community Factors

a. *To what extent do each of the following factors act as determinants in disparities in access to community assets based on race/ethnicity, or national origin?* For each factor, select whether the impact on disparities in access to community assets is highly significant, moderately significant or not significant from the drop down menu and explain the level of significance selected in the space provided.

- Presence and location of proficient schools
- School assignment policies
- The availability, type, frequency, ~~and~~ routes, reliability, and affordability of public transportation
- Transit-Oriented Development policies and programs that do not protect long-term low income residents from displacement, or that do not provide for affordable housing as a component of TOD
- The location of employers in the Jurisdiction and Region, and programs to link people who are unemployed and underemployed in R/ECAPs to employment centers
- Weak PHA Section 3 employment, training, and contracting compliance efforts
- ~~Patterns of public investments/lack of investment in specific neighborhoods,~~ Disproportionately low per capita public investments (including CDBG and general revenues) in R/ECAPs compared to high-asset/low poverty areas
- Private investments (past, current and planned)
- Foreclosure and abandoned property patterns
- Weak local or state environmental health enforcement efforts
- Hindrances to walkability, such as lack of sidewalks
- Lack of regional collaboration on community assets or adverse factors

### Section E: Disability and Access

NLIHC endorses the detailed comments submitted by the Consortium for Citizens with Disabilities Housing Task Force. In particular, the Task Force provided recommendations on how program participants should be required to find and use disability-related needs information, including data related to the Supreme Court's *Olmstead* decision on the extent to which people with disabilities are needlessly institutionalized in a variety of specific settings. Without such guidance, Jurisdictions will be unable to secure disability-related data.

### Section F: Fair Housing Compliance and Infrastructure

NLIHC endorses the comments regarding Section F submitted by the National Fair Housing Alliance. In short, this section should guide program participants to describe the capacity and performance of the local fair housing enforcement infrastructure, both public and private. In particular, program participants should discuss the amount of

funding they have provided to fair housing enforcement agencies within the past five years, the consistency of that funding, and the number of organizations receiving that funding that are full-service fair housing groups with the capacity to take, investigate, and resolve complaints as well as conduct education and outreach.

The Assessment Tool should also help program participants assess the level of fair housing compliance in the community by looking at the number and type of fair housing complaints that have been received in the past five years (by HUD, public enforcement agencies and private fair housing groups) and how those have been resolved.

#### **Part V: Fair Housing Goals and Priorities**

NLIHC is happy to see that more than one goal will have to be articulated, and that metrics for measuring success over an identified timeframe are called for in the Assessment Tool. However, the Assessment Tool should require program participants to go one step further and propose actions that could be taken toward achieving each goal.

The entire AFH process leading up to the goals and priorities stage will have involved the program participant, those it consulted, and the community that participated in the development of the AFH. It is this set of participants who are most likely to have ideas about actions that could be taken to achieve the goals. A set of proposed actions embedded in the AFH will facilitate the strategic thinking of those who later will embark in the Consolidated Plan process.

Most participants in the Consolidated Plan process have historically limited their strategic thinking to utilization of the formula grant programs. Without recommended actions in the AFH, the Consolidated Plan participants would have to take an unfamiliar leap from the AFH goals and priorities to devise appropriate actions to write into the Consolidated Plan. A set of recommended actions in the AFH would much more firmly and realistically link the AFH to the Consolidated Plan.