

# **Affirmatively Furthering Fair Housing & CDBG**

November 9, 2017  
Ankeny, Iowa

# Today's discussion

- » HUD's Affirmatively Furthering Fair Housing rule (AFFH)
- » AFFH requirements & assessments
- » Where we are at now
- » Impacts on communities receiving CDBG funds
- » Questions?

# Affirmatively Furthering Fair Housing Rule

- » Fair Housing Act is Title VIII of the Civil Rights Act of 1968
- » Fair Housing act prohibits discrimination AND directs HUD program participants (including CDBG) to take meaningful steps to:
  - Address historic patterns of segregation
  - Promote fair housing choice
  - Foster inclusive communities

# Affirmatively Furthering Fair Housing Rule

*As provided in the rule, AFFH means "taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a program participant's activities and programs relating to housing and urban development."*

*(From HUD Exchange website)*

# Affirmatively Furthering Fair Housing Rule

- » Before 2015, AFFH obligation was not defined by statute.
- » HUD defined it as requiring a grantee\* to:
  - Conduct an Analysis of Impediments to Fair Housing within the jurisdiction
  - Take appropriate actions to overcome the effects of any impediments identified through the analysis
  - Maintain records reflecting the analysis and any actions taken

*\*Grantee= state, entitlement city or PHA- not communities funded through IEDA CDBG program*

# Affirmatively Furthering Fair Housing Rule

- » Analysis of Impediments was a component of the grantee's Consolidated Plan (5 year plan) and was typically updated at the same time
- » Analysis of Impediments not required to be submitted to or approved by HUD
- » HUD issued general guidance on what should be included in an analysis but no standard format or set requirements.

# Affirmatively Furthering Fair Housing Rule

- » By 2010, HUD received feedback from civil rights groups, stakeholders and the Governmental Accountability Office that the Analysis of Impediments approach was not as effective as envisioned.
- » Concern about lack of regulatory guidance
- » Concern about lack of standard framework for analysis

# Affirmatively Furthering Fair Housing Rule

- » HUD is the federal agency charged with writing the rules for the Fair Housing Act
- » In July 2013, HUD proposed a new rule regarding the charge to affirmatively furthering fair housing
- » Why the new rule?
  - *From the July 19, 2013 Federal Register...*
  - “...the fair housing elements of current housing and community development planning are not as effective as they could be, do not incorporate leading innovations in sound planning practice, and do not sufficiently promote the effective use of limited public resources to affirmatively further fair housing.”



# Affirmatively Furthering Fair Housing Rule

- » Proposed AFFH rule changed planning requirements for CDBG grantees
- » Analysis of Impediments replaced by Assessment of Fair Housing
- » Established a standardized framework for the assessment (assessment tool)
- » Established process for HUD to review and approve assessments

# Affirmatively Furthering Fair Housing Rule

- » Analysis of Impediments replaced by Assessment of Fair Housing
- » Established a standardized framework for the assessment (assessment tool)
- » HUD to provide data that grantees must consider in the assessment (i.e.- data on patterns of integration and segregation, race & ethnicity trends)
- » Established process for HUD to review and approve assessments

# Affirmatively Furthering Fair Housing Rule

## Where are we now?

- » AFFH rule became final in July 2015.
- » 2015-2016: HUD developed and released initial assessment tools for entitlement cities, states and PHAs. Tools released for public comment
- » 2017: HUD releases assessment tool for entitlements & PHAs
- » 2017: No final state assessment tool at this time. HUD working on updating this tool based on public comment

# Affirmatively Furthering Fair Housing Rule

- » Iowa (IEDA & IFA) must submit new 5 year Consolidated Plan by November 2019
- » Iowa will submit a new Analysis of Impediments in 2019 as well
- » Since there is no final state assessment tool, HUD guidance instructs states to update its Analysis of Impediments following the framework of the AFFH rule
- » Unsure of timeframe for the updated state assessment tool

# Affirmatively Furthering Fair Housing Rule

**What does this mean for communities?**

*“The duty to affirmatively further fair housing extends to all of a program participant's activities and programs relating to housing and urban development.”*

AFFH touches all CDBG projects and activities!

# Affirmatively Furthering Fair Housing Rule

- » Since 2015, IEDA has required all CDBG awardees to complete mandatory and optional fair housing activities. Reviewed at project monitoring
- » Depending on future guidance & direction from HUD, we may add or revise activities related to fair housing
- » IEDA will continue to look for AFFH training opportunities and resources for administrators/ awardees.

# Affirmatively Furthering Fair Housing Rule

- » Once updated state assessment tool is released, IEDA may have to work with local partners to collect data.
- » Original state assessment tool would have required local level data regarding such areas as public transportation, education and land use and zoning.
- » IEDA will continue to share information from HUD that impacts our CDBG awardees

# Questions?