



**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
**Office of Sustainable Housing and Communities**  
WASHINGTON, DC 20410-0050

<b>Program Policy Guidance OSHC-2012-03</b>
<b>Date:</b> February 17, 2012
<b>Subject:</b> Fair Housing and Equity Assessment (FHEA)
<b>Status:</b> Current
<b>Applicability:</b> All OSHC Regional Planning Grantees
<b>Related Guidance:</b>
<b>Comments:</b>

Dear Sustainable Communities Regional Grantee:

This guidance document addresses the Fair Housing and Equity Assessment (FHEA) requirement of the grant program by providing the following:

- Background on the FHEA and Regional Analysis of Impediments (Regional AI) Opt-In
- FHEA Activities, Standard of Review and Submissions
- FHEA & Regional Analysis of Impediments capacity building and technical assistance
- Next Steps

### **Background on the FHEA and Regional AI Opt-In**

In the August 2011 webinar, OSHC explained the rationale for requiring an FHEA, laid out the FHEA components (including a demonstration of the data tools), described its uniqueness and relationship to the Regional AI, and clarified what an FHEA product would need to include.

The FHEA includes the following assessment components:

1. Segregated Areas and Areas of Increasing Diversity and/or Racial/Ethnic Integration
2. Racially/Ethnically Concentrated Areas of Poverty
3. Access to Existing Areas of High Opportunity
4. Major Public Investments
5. Fair Housing Issues, Services, and Activities

Grantees are asked to focus their analysis at regional scale across these components, comparing within and across jurisdictions to gain a full picture of regional equity and access to opportunity.

Innovation, learning, and action are three hallmarks of the Sustainable Communities Initiative and, more specifically, the FHEA. To set a tone of innovation, OSHC is not overly directive or prescriptive with grantees. As the FHEA guidance presentation shows, each of the five areas above has key data points and sample questions to answer. Grantees can go further than what OSHC requires, both in terms of the data points and the questions.

During the orientation webinar, OSHC set grantee expectations for the FHEA. First, the findings of the FHEA should inform strategy development, priority setting, and investments as part of the regional plan. This is the “bridge”, i.e., the assessment findings need to “bridge” from the findings to the implementation phase of regional planning. Second, the Regional Planning Consortium members and

leaders shall engage in the substance of the FHEA and understand the implications for planning and implementation. This engagement standard reflects current thinking in the larger HUD fair housing policy development process. (In fact, since OSHC has hardwired engagement, governance, and decision-making as part of the regional planning effort, an infrastructure already exists for considering the FHEA.) Across both the substance and process of the FHEA, grantees are poised to innovate in executing this grant obligation, under careful guidance from OSHC and other partners at HUD.

Under federal fair housing requirements, each grantee has an obligation to conduct an Analysis of Impediments (AI) with respect to its own jurisdiction. This obligation can be met through the preparation of an individual AI or through the preparation of a well-crafted, broader, Regional AI so long as the Regional AI addresses both the impediments to fair housing choice in each jurisdiction and broader impediments to fair housing choice across the region. Jurisdictions that opt in to a Regional AI would only need to conduct a few activities in addition to the FHEA process in order to comply with the federal AI requirements for each jurisdiction's AFFH certification. With additional guidance and support from the Department, we hope that all of you will choose to conduct a Regional AI.

This Program Guidance will be supplemented by additional guidance from HUD on the Regional Analysis of Impediments.

### **FHEA Activities, Standard of Review, and Submissions**

As the Regional Planning grantee cooperative agreement indicates, all grantees must conduct "activities pertaining to a Regional Analysis of Impediments." Fulfilling the requirements of the FHEA satisfies this grant obligation. As such, we enumerate below what the FHEA entails.

*FHEA Activities:* All Regional Planning grantees must do the following:

1. *Set an Approach to the FHEA* – All grantees should discuss with their GTR (Governmental Technical Representative) how they plan to fulfill the FHEA requirement. That discussion should include the approach they plan to take to each major element (e.g., data analysis, FHEA product, engagement on FHEA, and the "bridge") in addition to a discussion of the timeline for completion. While no absolute deadline is imposed, the strategic nature of the FHEA activities should incent grantees to consider these activities early in their planning process.
2. *Data Analysis* – HUD has provided data and data tools to all grantees. This data package is a starting point for the grantees. OSHC encourages all grantees to supplement data in order to gain a full appreciation of the issues in the region. Moreover, grantees – under the leadership of the lead applicant and other partners – shall also analyze the data. Please refer to the sample questions in the webinar for guidance as to the depth of data analysis expected. The analysis should inform decision making in the regional planning effort.
3. *FHEA Product* – Grantees may construct a standalone product or may integrate the content of the FHEA into other documents, specifically the final regional plan deliverable. Whichever pathway is selected, grantees must delineate to their GTR how they plan to fulfill the FHEA and what product(s) must be judged by the GTR to ensure that the FHEA requirement was met.
4. *FHEA Engagement* – All grantees must discuss FHEA findings with their consortium, at a minimum. It is critical for regional leadership to understand the implications of the FHEA, particularly as it relates to decision-making on priorities and investment. Grantees should consult with the GTR as to how to construct the most meaningful and consequential conversation on the FHEA. Before the FHEA requirement is deemed satisfied, all grantees must certify that their region engaged with the FHEA content and findings.
5. *The "Bridge"* – After engaging on the FHEA findings, grantees should determine how those findings will inform the regional planning effort and decisions that flow from it. This linkage from analysis to

engagement to decision-making is referred to, in the August 2011 guidance webinar, as the “bridge.” To maximize the effect of the FHEA, its implications must be seen in decision-making, prioritization, and/or investment. Grantees may clarify guiding principles and/or commitments that emerge from the FHEA findings and engagement. Grantees should emphasize principles/commitments that would be clearly measurable so as to create the right conditions for accountability with the FHEA. For example, given the FHEA data findings, grantees could determine that preferences for affordable housing production be allocated to “high opportunity areas.” Similarly, grantees could make commitments to a percentage decrease in racially concentrated poverty over a period of time. The key is to have the FHEA findings inform decisions that are made in regional planning. As with all of the above, grantees should discuss with their GTR how they plan to approach the “bridge.”

*FHEA Standard of Review:* As with other key deliverables, your GTR will review your FHEA activities and submissions to determine whether you have fulfilled the requirement. While the above activities chart a pathway for completing the requirement, your region should ultimately determine your FHEA approach, in consultation with your GTR. The following questions are among the ways your GTR may evaluate whether your FHEA was completed in a meaningful and consequential way.

1. Did the grantee analyze the HUD provided data completely and seriously? Did the grantee supplement the HUD data with locally or regionally relevant data in order to gain a full appreciation of the context of regional equity and access to opportunity?
2. Does the FHEA product(s) reflect a meaningful consideration of the data and its implications for the region?
3. Did the grantee provide proof of serious engagement by the consortium and/or regional stakeholders on the FHEA findings and content?
4. Does the bridge to decision-making, prioritization, and investment provide a clear pathway toward holding the region accountable for its FHEA deliberations? To what extent is it clear that the FHEA activities will be meaningful and consequential for the region?

GTRs have discretion in applying the standard of review. However, given the cooperative approach to the FHEA, GTRs will apply this standard with the presumption that grantees have completed the requirement with their submissions. GTR review of the FHEA is not a review of the AI or a review of grantee’s compliance with its civil rights obligations.

*FHEA Submissions:* The following key deliverables need to be submitted to OSHC. Although they do not need to be separate submissions, all items must be accounted for in order for the GTR to render the FHEA submission substantially complete.

1. *FHEA Product* – All grantees must submit a standalone or integrated product that reveals the data that were analyzed, data findings, and conclusions or recommendations from findings.
2. *FHEA Engagement Certification* – All grantees must certify that the consortium and/or regional stakeholders considered the FHEA findings. The lead applicant will submit this certification on behalf of the region and will be accountable for the veracity of the certification claim.
3. *FHEA Bridge* – Whether as part of the FHEA product or in a standalone document, all grantees must submit their bridge document to clarify how the FHEA findings will inform decision-making, prioritization and investment.

## **FHEA & Regional Analysis of Impediments Capacity Building and Technical Assistance**

HUD and OSHC specifically are committed to making the FHEA or your Regional AI exercise impactful for your region. OSHC will be providing capacity building assistance to grantees related to

fulfilling their FHEA requirement. In forthcoming guidance, the Department will outline technical assistance that it will provide for those grantees choosing to submit a Regional AI. All grantees should work with their GTRs in securing the capacity building and technical assistance that would be most helpful to the region. Unless your GTR determines otherwise (i.e., specific issues in your region that require technical assistance), all capacity building activities related to completing the FHEA or Regional AI will be optional.

### **Next Steps**

First and foremost, all grantees should discuss the FHEA with their GTR to finalize an approach, including whether the region will evolve their FHEA into a Regional AI submission. These conversations with GTRs should take place by or before the end of March in order for capacity building and technical assistance resources to be deployed effectively. In particular, all Category II Regional Planning grantees should clarify with their GTR how they intend to satisfy the FHEA requirement, given the presence of an existing regional plan.

Once you determine an approach (including your GTR having an understanding of your timeline for completion), grantees should periodically update GTRs on the status of completing FHEA activities.