

Top Seven Keys to Affirmatively Further Fair Housing



State and Entitlement CDBG grantees are required to certify that they will affirmatively further fair housing with the Consolidated Plan submission. Through the CDBG and HOME programs, HUD's goal is to expand mobility and widen a person's freedom of choice.

1. Understand how HUD defines affirmatively furthering fair housing.

HUD defines affirmatively furthering fair housing as:

- Conducting an analysis to identify impediments to fair housing choice within the jurisdiction
- Taking appropriate actions to overcome the effects of any impediments identified through the analysis
- Maintaining records reflecting the analysis and actions taken

2. Understand how impediments to fair housing choice are defined.

Impediments to fair housing choice are defined as:

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

3. Conduct the Analysis of Impediments.

- Review data
 - Demographic data regarding the jurisdiction's population and housing
 - Mortgage and rehabilitation lending patterns by race and ethnic group
 - Availability of accessible housing stock for residents with disabilities
 - Findings resulting from complaints and fair housing litigation
 - Note that the lack of complaints may not mean that the jurisdiction is free of problems; instead it may mean that there is no investigative entity; the public may be unaware of its fair housing rights or recourse; or members of protected classes may lack confidence in the investigative entity.

- Results of fair housing testing activity, if available
- Occupancy requirements that might unlawfully limit group homes for persons with disabilities or families with children
- Geographic patterns related to the use of Housing Choice Vouchers and the siting of assisted housing
- Efforts to assist and serve persons who have limited English proficiency to function more effectively in the housing market and assert their rights under civil rights laws.
- Develop strategies to overcome impediments

4. Understand what actions or omissions constitute impediments to fair housing.

Impediments to fair housing choice include actions or omissions in the State or Entitlement jurisdiction that:

- Constitute violations or potential violations of the Fair Housing Act
- Are counterproductive to fair housing choice
- Have the effect of restricting housing opportunities on the basis of race, color, religion, sex, disability, familial status or national origin.

5. Ensure that the Analysis of Impediments (AI) process is inclusionary.

The AI process should ensure that widely divergent views are incorporated into the process. Some groups that can be included in the process for an Entitlement grantee are:

- Fair housing organizations
- Other governments
- Advocacy groups
- Housing providers
- Banks and other financial institutions
- Educational institutions
- Neighborhood associations or groups
- Housing counseling agencies
- Organizations and agencies that serve protected classes (e.g., advocacy agencies for people with disabilities) as well as low-income families
- General public

The AI for the State CDBG grantee has a broader scope in that it examines all types of housing within the State, not just housing subsidized by the Federal or State government. The State process should also include input from a wide variety of organizations, such as:

- State-level commissions (such as the Commission on Women, Commission on Latino Affairs, Commission on Veterans, Rehabilitation Commission, etc.)
- Other State Departments (such as TANF, Aging Department, Family and Children's Services, Housing Finance Agency, Department of Banking, agency with oversight over real estate licensing, etc.)
- Advocacy groups
- Associations (such as banking, real estate, low-income housing, human relations councils, fair housing associations, etc.)

6. Implement actions to address the impediments identified.

The actions taken by grantees are totally dependent upon the findings of the Analysis of Impediments. Since every community and State has a different set of circumstances, it is impossible to assemble a comprehensive list of activities that can be taken. One common activity that can be undertaken by all agencies, however, is ensuring that there is continuing education on the wide variety of fair housing issues. The grantee should undertake actions to overcome the effects of the impediments it identifies, whether or not the grantee itself may have contributed to them. In addition, the grantee should ensure that the steps undertaken address the impediment identified. Some options for developing strategies include:

- Target high visibility action items
- Target high impact action items
- Build support

For Entitlement grantees, the review of local laws and policies undertaken during the Analysis of Impediments may result in actions such as:

- Changing local ordinances to encourage or mandate lower-income housing development in conjunction with higher income development
- Meeting regularly with community organizations to encourage on-going dialogue regarding any identified fair housing issues, including NIMBYism
- Conducting regular outreach with other organizations that serve low-income populations to ensure they are aware of specific programs, especially when waiting lists are opened
- Identifying opportunity areas and ensuring that zoning encourages development of low income housing in opportunity areas

- Educating local government elected officials and staff on fair housing requirements, impediments identified and actions being taken
- Passing a substantially equivalent fair housing ordinance

For State grantees, the Analysis of Impediments may result in steps to be taken such as:

- Establishing a statewide commission to address issues identified during the analysis of impediments
- Providing training to local communities on initiatives that can be taken to affirmatively further fair housing
- Providing workshops throughout the state on discrimination and housing segregation
- Coordinating metropolitan-wide or regional fair housing activities to ensure that issues are addressed on a regional level
- Working with individual communities on zoning laws that appear to restrict housing for the disabled
- Establishing a fair housing commission after passing a substantially equivalent fair housing law
- Providing education to the building industry on accessibility requirements of the Fair Housing Act

Regardless of the strategy the grantee takes, it is helpful to establish priorities and develop a realistic timeframe for actions and to ensure that sufficient resources (including staff, private and nonprofit organizations) are committed to the actions being taken to overcome the impediment to fair housing choice.

The grantee should also be prepared to analyze the effectiveness of the actions taken, to ensure that the actions have the desired impact on the impediments to fair housing choice.

7. Maintain records of analysis and actions taken.

The last key step to affirmatively furthering fair housing is to maintain records of the analysis conducted during the Analysis of Impediments as well as the actions taken to address the issues identified. The grantee must retain a copy of the analysis of impediments and the actions taken to overcome the impediments to fair housing choice.

All public meetings held to assemble information for the AI should have meeting minutes, including a list of those present. Data collected should note the source and date of the information. Involvement by the chief executive and/or elected officials should be documented in the file.

It is equally important to document the specific actions taken. A summary of all activities related to the analysis of impediments, a list of the actions taken and an analysis of the impact of those actions on eliminating discrimination and providing for fair housing choice.

Some examples of documentation of actions taken include:

- Trainings or briefings should include a list of participants and a summary of the training or briefing. A copy of specific training materials should be retained.
- Meetings of Commissions should be documented with minutes.
- If the State or Entitlement community is attempting to have legislation passed, the files should contain a history of the legislation so there is an understanding of the intent of the legislation.
- Keep detailed information on outreach to organizations to notify them of programs or the opening of waiting lists. Include correspondence, flyers, and records of telephone conversations.
- Keep copies of maps, census data, rental and homeownership data and other information that organizations can use to assist in program design.