

# **FHEO National Policy Conference: Affirmatively Furthering Fair Housing**

## **HUD's Affirmatively Furthering Fair Housing Rules**

### **History and Overview**

# What This Presentation Will Cover ...

- History and primary authorities for the obligation to affirmatively further fair housing (AFFH)
- Other AFFH authorities
- Departmental regulations

# What Does Affirmatively Furthering Fair Housing Mean?

- In general, using Federal financial assistance and other program resources to overcome barriers to fair housing choice
- Three components:
  - Analysis of impediments
  - Action planning and implementation
  - Recordkeeping and assessment

# History and Primary Authorities

- 1962: Executive Order 11063
- 1968: Title VIII of the Civil Rights Act of 1968 – *the Fair Housing Act* – § 808(e)(5)
- 1994: Executive Order 12892

# History and Primary Authorities

- Before the Civil Rights Act and Fair Housing Act – Executive Order 11063 – *Equal Opportunity in Housing*
- Signed by President Kennedy on November 20, 1962
- Charge to executive agencies to fairly administer Federal financial assistance programs and make their benefits “available to all Americans without regard to their race, color, creed, or national origin ....”
- Section 101. Agencies whose functions “relate to the provision, rehabilitation, or operation of housing and related facilities [are directed] to take all action necessary and appropriate to prevent discrimination because of race, color, creed, or national origin.”

# History and Primary Authorities

- E.O. 11063 – HUD regulations at 24 CFR p.107
  - Purpose: prevent discrimination in the sale, rental, or other disposition of housing owned, operated, or assisted by HUD – including housing with insured or guaranteed loans
  - Purpose: assure compliance with HUD policy to administer its programs affirmatively – i.e., individuals to have a “like range of housing choices” regardless of race, color, religion, or national origin
  - Contracts and agreements to contain provisions for compliance under E.O. 11063
  - Recordkeeping requirements for recipients: race, sex, religion, and national origin of participants
  - Complaints, compliance, and sanctions

# History and Primary Authorities

- The Fair Housing Act - adopted in 1968
- Section 808(e)(5) (42 U.S.C. 3608(e)(5) – Administration)
- *The Secretary shall administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this subchapter.*

# History and Primary Authorities

- General affirmative fair housing rules and resources
  - Fair housing poster – 24 CFR p.110
  - Fair housing advertising and logo – former 24 CFR p.109
  - Data collection requirements for recipients – race, color, religion, sex, national origin, age, handicap, and family characteristics – 24 CFR p.121
  - HUD's Fair Housing Planning Guide  
<http://www.hud.gov/offices/fheo/images/fhpg.pdf>

# Other AFFH Authorities

- § 104(b)(2) of the Housing and Community Development Act of 1974 – covering CDBG and other Title I programs  
42 USC 5304
- § 5A(d)(15) of the U.S. Housing Act of 1937 – as amended by § 511 of the Quality Housing and Work Responsibility Act of 1996 – covering public housing and voucher programs  
42 USC 1437c-11
- § 426(a)(2)(G) of the McKinney-Vento Homeless Assistance Act – covering the Supportive Housing Program  
42 USC 11386

# HUD Regulations – Overview

- Public Housing Agency Plan
  - Public housing and housing choice vouchers
- HOME
- HOPWA
- McKinney-Vento homeless assistance
- Supportive housing for the elderly and persons with disabilities (202 and 811)
- FHA-insured housing
- CDBG and other Title I programs

# HUD Regulations - PIH

- Public Housing and Rental Assistance
  - Public Housing Agency (PHA) Plan
    - Civil rights certification – that the PHA will affirmatively further fair housing – at 24 CFR § 903.7(o)(1)
    - AFFH regulations at 24 CFR § 903.7(o)(3)
  - Housing Choice Voucher and Project-Based Voucher – follow 24 CFR § 903.7(o)

# HUD Regulations – Housing and Homeless Assistance Programs

- HOME – affirmative marketing and minority outreach – 24 CFR § 92.351
- HOPWA – affirmative outreach – 24 CFR § 574.603(b)
- McKinney-Vento Act – affirmative outreach
- FHA-insured housing – Affirmative Fair Housing Marketing Plan (AFHMP) – 24 CFR §§ 200.600-640
- Section 202 elderly and Section 811 disabled – AFHMP – 24 CFR § 891.155(a)

# HUD Regulations for CDBG

- Housing and Community Development Act of 1974 – § 104(b)
  - “the grantee will affirmatively further fair housing”
- Regulations at 24 CFR part 91
  - § 91.225(a)(1) (entitlement communities)
  - § 91.325(a)(1) (States)
  - § 91.425(a)(1) (consortia)

# HUD Regulations for CDBG (continued)

- Responsibility for fair housing planning
- AFFH certification
- Analysis of Impediments to fair housing choice in the jurisdiction, State, or jurisdictions covered by the consortium
- Appropriate actions to overcome the effects of impediments
- Recordkeeping on analysis and actions

# HUD's FY 2008 SuperNOFA

General Section published on March 18, 2008  
– 73 FR 14882

Program NOFAs to follow

AFFH application submission requirement for most programs under the SuperNOFA

Most program NOFAs to include instructions appropriate to the type of assistance and eligible uses



# HUD's FY 2008 SuperNOFA (continued)

- Alternative ways program NOFAs can implement the General Section's AFFH directions
  - Default
  - Program-specific instructions
  - Rating factors
- Default: specify steps to overcome impediments to fair housing choice as identified in the applicable Analysis of Impediments, remedy discrimination in housing, and promote fair housing rights and fair housing choice.

# AFFH History and Overview

- For more information
  - E.O. 11063  
<http://www.hud.gov/offices/ftheo/FHLaws/EXO11063.cfm>
  - Promoting fair housing  
<http://www.hud.gov/offices/ftheo/promotingfh.cfm>
  - SuperNOFA:  
<http://www.hud.gov/offices/adm/grants/fundsavail.cfm>
- Questions and answers