

## Blueprint for the Next Generation of Place-Based Policy

# Policy Example—Affirmatively Furthering Fair Housing

Advancing racial equity and boosting upward mobility across the United States will require a robust national commitment to reversing the legacy of segregation and disinvestment that disproportionately harms low-income communities of color. As policymakers design new place-based policies and programs and strengthen those already in place, they must contend with key design decisions that will determine how effective the policy is in catalyzing lasting improvements in places for the benefit of current and future residents.

This policy example on **Affirmatively Furthering Fair Housing (AFFH)** is a companion to the report *A Blueprint for the Next Generation of Federal Place-Based Policy*.<sup>\*</sup> The blueprint offers a two-step process for policy analysis and program design that starts with high-level, analytical questions that help provide the aspirational framework for then addressing a series of specific design decisions. It aims to help federal agency officials, congressional staff, and policy advocates design place-based policies and programs that respond to the priorities of local practitioners to actively address racial inequity and injustice, bridge sectors and policy domains, respect and build community voice and power, deliver sufficient resources and lasting system reforms, and promote continuous learning.

\* With support from Blue Meridian Partners, the Urban Institute and PolicyLink developed a policy blueprint for the next generation of federal place-based policy. The blueprint offers actionable guidelines and examples federal policy makers can apply to both design new place-based policies and improve implementation practices at different scales and in different policy domains. It draws upon community voices, research evidence, and practitioner insights to lay out principles and a structure for incorporating lessons from the past into future place-based policies that confront long-standing racial inequities and injustices. This effort was informed by a policy working group that advised on lessons learned from past place-based programs, and it aims to clear a path forward for communities and policymakers interested in strengthening federal investments in place-based work and improving upward mobility for people regardless of where they live [Margery Austin Turner, James Ladi Williams, Justin Milner, Jessical Pizarek, and Ashleigh Gardere, *A Blueprint For the Next Generation of Federal Place-Based Policy* (Washington, DC: Urban Institute; Oakland, CA: PolicyLink, 2021)].

**Figure 1. Key Design Questions**

<b>Design decision</b>	<b>Guidance</b>
<b>Which federal agency or agencies will implement this program?</b>	<ul style="list-style-type: none"> <li>➤ Clearly define roles for lead and contributing agencies.</li> <li>➤ Specify governance mechanisms for interagency collaboration.</li> </ul>
<b>What types of local entities will be eligible to receive funding?</b>	<ul style="list-style-type: none"> <li>➤ Establish requirements that engage and strengthen entities with deep community relationships.</li> <li>➤ Give weight to the full spectrum of qualifications and capacities required to lead place-based efforts across different geographies.</li> </ul>
<b>How will participating local entities be selected from among those eligible?</b>	<ul style="list-style-type: none"> <li>➤ Clearly specify an equitable formula for allocating funding (if applicable).</li> <li>➤ Define equitable selection criteria that advance the program’s aspirations.</li> <li>➤ Establish mechanisms to monitor equity outcomes of the selection process.</li> </ul>
<b>What scale of federal funding will be provided?</b>	<ul style="list-style-type: none"> <li>➤ Match funding to program goals for population-level impact.</li> <li>➤ Consider giving participating organizations preference for other federal funding sources.</li> </ul>
<b>What additional supports will the program provide?</b>	<ul style="list-style-type: none"> <li>➤ Provide flexibility with accountability.</li> <li>➤ Build in needed technical assistance supports.</li> <li>➤ Include support for data collection and learning.</li> </ul>
<b>What will participating organizations be obligated to do?</b>	<ul style="list-style-type: none"> <li>➤ Specify both authorized and required activities.</li> <li>➤ Formalize community ownership beyond engagement.</li> <li>➤ Include pathways to partnership.</li> </ul>
<b>How will the program’s effectiveness be measured?</b>	<ul style="list-style-type: none"> <li>➤ Establish a parsimonious set of data requirements.</li> <li>➤ Encourage the use of multiple sources and types of data.</li> <li>➤ Plan any formal evaluation from the outset.</li> </ul>

Source: Authors’ analysis of federal place-based programs.

By offering recommendations across key design decisions, this policy example illustrates how the federal government can engage with cities and counties nationwide and mandate equitable place-based planning around the use of federal resources to overcome the legacy of segregation and disinvestment.

## Step 1: Frame the Aspiration

As a first step, it is essential to articulate the broader goals of the program and how it will improve the lives of real people.

### What population outcomes does the program aim to improve and for whom?

#### Overview

In passing the Fair Housing Act, Congress acknowledged the extent and harms of racial segregation as well as the federal government's role in creating it. Remedying the harms of segregation constitutes the core purpose of the AFFH mandate, which requires the federal government to ensure that federal housing and community development funds are used to “overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity.” For groups protected under the Fair Housing Act, including people of color, AFFH aims to reduce place-based barriers to opportunity and expand housing and neighborhood choices, improving life outcomes across a broad range of domains—from social and economic mobility to health and [longevity](#).<sup>1</sup>

#### Design Recommendation

- ▶ **Reinstate and strengthen AFFH.** To date, the federal government has largely failed to effectively enforce the AFFH mandate in the Fair Housing Act. Most recently, the Trump administration delayed and then abandoned new rules developed under the Obama administration.<sup>2</sup> Consistent with President Biden's [Executive Order](#) on Advancing Racial Equity and Support for Underserved Communities through the Federal Government and [Memorandum](#) on Redressing Our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies, the federal government should reinstate, strengthen, and effectively enforce AFFH.<sup>3</sup>
- ▶ **Modify the language of “regulatory purpose” to emphasize the requirement for “meaningful actions” from funding recipients,** including both strategies to promote housing choice and integration and place-based investments that expand opportunities and increase housing security.

## Step 2: Define Policy and Program Details

**Design decisions will ultimately drive whether policies and programs truly advance upward mobility for the populations of interest. The questions and recommendations below offer a starting point for how decisionmakers should think about refining AFFH.**

### Which federal agency or agencies will implement this program?

#### Overview

The US Department of Housing and Urban Development (HUD) has primary enforcement authority for AFFH under the Fair Housing Act. However, the act anticipates interagency cooperation by requiring “all executive departments and agencies” to “administer their programs and activities relating to housing and urban development ... in a manner affirmatively to further [fair housing]” and to “cooperate with the [HUD] Secretary to further such purposes.” Thus, HUD and other federal agencies must work collaboratively to empower communities that have been most harmed by past policies through rigorous enforcement of AFFH. Importantly, this obligation extends to federal agencies that regulate the nation’s financial institutions, whose capital and credit policies must affirmatively further fair housing.

The federal agencies with especially important roles to play in enforcing AFFH include the US Department of the Treasury (in administering the Low-Income Housing Tax Credit and emergency rental assistance), the US Department of Agriculture (in administering rural housing programs and mortgages), the Veterans Administration (in administering veterans’ housing programs), the Federal Housing and Finance Agency and the Consumer Financial Protection Bureau (in oversight of the mortgage lending industry), the Interagency Council on Homelessness, and the departments of Transportation, Education, and Commerce (on aligned policies and programs). And the Office of Management and Budget should provide overarching oversight and support given its mandate to advance racial equity in all federal agency operations.

#### Design Recommendations

- ▶ **Make explicit the obligation of all federal agencies to address fair housing issues** within their authorities and provide relevant guidance.
- ▶ **Reconvene the President’s Fair Housing Council**, a cabinet-level organization composed of the heads of numerous executive agencies, designed to increase coordination across the executive branch in affirmatively furthering fair housing.
- ▶ **Use HUD’s fair housing assessment process (currently being revised) to inform all federal agencies’ actions** to address racial segregation and institutional practices that underpin inequitable housing access.

- ▶ **Share relevant data and metrics** related to segregation, concentrated poverty, and access to opportunity for all groups protected under the Fair Housing Act.
- ▶ **Improve alignment of civil rights planning, enforcement, and reporting requirements** across HUD and the Departments of Transportation, Education, and Commerce.
- ▶ **Enforce obligations under Section 3608 of the Fair Housing Act** requiring federal financial regulators to administer their programs and activities consistent with the purposes of the act, with a goal of leveraging private capital to reverse patterns of housing discrimination and segregation.

## What types of local entities will be eligible to receive funding?

### Overview

The Fair Housing Act requires HUD and all recipients of federal housing and community development funds to affirmatively further fair housing. In practice, this has been interpreted to include all states, large cities, and most urban counties that receive funding directly from HUD (“entitlement jurisdictions”) and public housing authorities.<sup>4</sup> The federal government should clarify that other funding sources (e.g., the Low-Income Housing Tax Credit) are also covered, which would lead to the inclusion of the state and local agencies that administer them (e.g., state housing finance agencies).

In the past, HUD has also provided regional planning and nonprofit organizations, including fair housing organizations and metropolitan planning organizations, with grants to support state and local fair housing planning and compliance.

### Design Recommendations

- ▶ **Enforce consistent compliance across all agencies administering qualifying programs**, including housing and community development programs administered by the Departments of the Treasury and Agriculture, as well as other agencies covered by the AFFH mandate, and enforce consistent compliance with planning and reporting requirements to the state and local agencies that administer these programs.
- ▶ **As discussed further below, provide funding to regional planning and nonprofit organizations** that support state and local fair housing planning and compliance, including fair housing organizations and metropolitan planning organizations.

## How will participating local entities be selected from among those eligible?

### Overview

The Fair Housing Act applies to all recipients of federal housing and community development funds, including through formula grants, so no additional selection process is required. However, if federal funding is made available for regional planning and nonprofit organizations to support local fair housing planning and action, it should be allocated through a competitive process.

### Design Recommendations

- ▶ **Prioritize the following capacities in defining selection criteria for competitive funding to planning and nonprofit organizations:**
  - Amplify and apply the voices, perspectives, and lived experience of people in historically disinvested communities and people whose housing choices have been blocked by discrimination and segregation.
  - Use data to inform strategy and action, capitalize on existing data sources, and gather new, disaggregated, locally relevant data.
  - Work across relevant agencies and neighboring jurisdictions to align strategies and actions for maximum impact.
  - Build public understanding and support for housing justice across all types of neighborhoods and population groups.
- ▶ **Acknowledge variation in organizational capacity.** The outreach process and selection criteria should reflect differences in organizational types and capacities for rural and tribal communities.

## What scale of federal funding will be provided?

### Overview

HUD does not currently have dedicated budget lines for AFFH planning, rulemaking, data, tools, technical assistance, guidance, or compliance and enforcement. Further, responsibilities for these activities are spread across HUD program offices. HUD's Office of Fair Housing and Equal Opportunity, which will have primary responsibility for compliance and enforcement, has seen steady budget cuts and depleted staff capacity in recent years. However, the President's [FY 2022 budget request](#) includes \$85 million in funding for fair housing programs, a 17.2 percent increase over the FY 2021 budget.<sup>5</sup>

## Design Recommendation

- ▶ **Establish a dedicated funding line for AFFH within HUD commensurate with the following needs:**
  - Funding for HUD staff and contractors to develop the tools, guidance, and resources that will accompany the release of a new AFFH rule
  - Funding to support state and local HUD grantees engage communities, conduct data analysis, and complete fair housing plans
  - Funding for local nonprofit and culturally competent community-based organizations to support robust community engagement in developing plans

## What additional supports will the program provide?

### Overview

Given the Biden administration's intention to use the 2015 framework for reinstating a robust and effective AFFH rule, HUD should develop and share best practices in fair housing planning and action.

### Design Recommendations

- ▶ **Provide a streamlined fair housing planning template** that eliminates redundancy and facilitates clear and cohesive responses grounded in data, evidence, and local knowledge.
- ▶ **Offer relevant, high-quality, and timely training and technical assistance** to local governments in preparing fair housing plans.
- ▶ **Assemble and make available accurate and up-to-date data** communities can use to identify barriers to fair housing and prioritize goals and strategies.
- ▶ **Compile, create, and promote uptake of existing user-friendly tools**, FAQs, and guidance to enable both local governments and diverse stakeholders to participate in a robust fair housing planning process.
- ▶ **Eliminate the separate public housing Assessment of Fair Housing process** and require that public housing authorities subject to the process to become part of local government or regional AFFH processes.
- ▶ **Create incentives for collaboration** with surrounding jurisdictions to prepare regional fair housing plans.
- ▶ **Build knowledge** about what works by sharing completed plans publicly, identifying best practices, and supporting learning networks and communities of practice across grantees.

## What will participating organizations be obligated to do?

### Overview

AFFH obligates all state and local governments that receive federal housing and community development funds to take affirmative steps to overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity for groups protected under the Fair Housing Act. But the federal government has not effectively enforced this mandate. HUD has an opportunity to strengthen the AFFH rule developed during the Obama administration by encouraging and empowering state and local governments to go beyond the basic minimum requirements.

### Design Recommendations

#### ► **Require state and local governments subject to the AFFH requirements to**

- conduct a data-driven and community-informed fair housing planning process that includes robust community outreach and engagement, analysis of local and regional data (derived from both [national and local data sources](#)),<sup>6</sup> and interagency consultation;
- prepare and submit to HUD a fair housing plan that clearly states current conditions and fair housing barriers, identifies and prioritizes goals and strategies to overcome barriers to fair housing, and sets measurable benchmarks for success; and
- periodically report to HUD and the public on progress toward meeting goals and benchmarks.

#### ► **Encourage state and local governments subject to the AFFH requirements to**

- integrate the analysis and planning efforts of housing and community development agencies, public housing agencies, and state housing finance agencies; and
- partner with neighboring jurisdictions to develop regionwide fair housing analyses and plans, including by providing an efficient process for conducting regional analysis with utility for both counties and cities.



## How will the program's effectiveness be measured?

### Overview

The federal government has not rigorously enforced the AFFH mandate (except for a brief period before the 2015 rule was suspended), making it difficult to assess the program's long-term effectiveness. Until 2015, jurisdictions were able to self-certify they were meeting their AFFH obligations, and checking a box provides scant material for developing best practices or assessing effectiveness. The opportunity to understand the effectiveness of the AFFH planning, review, and implementation process described in the 2015 rule was cut short by the Trump administration's suspension of submission requirements in early 2018 after [just 49](#) jurisdictions had submitted their locally prepared assessments of fair housing to HUD in 2016–17.<sup>7</sup>

### Design Recommendations

- ▶ **Develop an assessment framework.** HUD should develop a framework for assessing the quality of local Assessment of Fair Housing plans and strategies, developing, compiling, and sharing best practices for preparing high-quality plans. This framework should focus on the adequacy of the actions to which grantees commit (and in later cycles, how well grantees have followed through).
- ▶ **Develop and publish a searchable database of submitted Assessment of Fair Housing plans,** HUD's comments, and the revisions required for acceptance.
- ▶ HUD should develop a formal mechanism for stakeholders and members of the public to file complaints regarding grantees' AFFH compliance, including their fair housing plans.
- ▶ **Lay the foundation for formal evaluation,** focusing on the extent to which local fair housing plans and assessments result in changes to local policies and public- and private-sector investments. Ultimately, fair housing plans should lead to dismantling systems of separate and unequal neighborhoods and ensuring that every family can choose a neighborhood that supports their quality of life and access to opportunities.

## Notes

- 1 “Large Life Expectancy Gaps in US Cities Linked to Racial and Ethnic Segregation by Neighborhood,” NYU Langone Health, press release, June 5, 2019, <https://nyulangone.org/news/large-life-expectancy-gaps-us-cities-linked-racial-ethnic-segregation-neighborhood>.
- 2 “Affirmatively Furthering Fair Housing,” PolicyLink, March 2018, <https://www.policylink.org/our-work/community/housing/affh>.
- 3 “Executive Order on Advancing Racial Equity and Support for Underserved Communities through the Federal Government,” White House Briefing Room, January 20, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>; “Memorandum on Redressing Our Nation’s and the Federal Government’s History of Discriminatory Housing Practices and Policies,” White House Briefing Room, January 26, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-redressing-our-nations-and-the-federal-governments-history-of-discriminatory-housing-practices-and-policies/>.
- 4 PolicyLink conducted a webinar featuring HUD leadership involved in the pilot and implementation of the AFFH and leaders from Kansas City, Missouri; Philadelphia, Pennsylvania; and Wilmington, North Carolina, which were the first to implement the AFFH offering regionally, offering in both large- and small-city experiences. See “Building Communities of Opportunity: How 3 Communities are Implementing HUD’s Affirmatively Furthering Fair Housing Rule,” PolicyLink, April 20, 2017, <https://www.policylink.org/equity-in-action/webinars/communities-implementing-affh>.
- 5 Office of Management and Budget, *Budget of the US Government: Fiscal Year 2022* (Washington, DC: US Government Publishing Office, 2021), [https://www.whitehouse.gov/wp-content/uploads/2021/05/budget\\_fy22.pdf](https://www.whitehouse.gov/wp-content/uploads/2021/05/budget_fy22.pdf).
- 6 Leah Hendey and Mychal Cohen, *Using Data to Assess Fair Housing and Improve Access to Opportunity: A Guidebook for Community Organizations* (Washington, DC: Urban Institute, 2017), <https://www.urban.org/research/publication/using-data-assess-fair-housing-and-improve-access-opportunity>.
- 7 Justin Steil and Nicholas Kelly, “The Fairest of Them All: Analyzing Affirmatively Furthering Fair Housing Compliance,” *Housing Policy Debate* 29, no. 1 (2019): 85-105, <https://doi.org/10.1080/10511482.2018.1469527>.



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