UNIDOSUS
STRONGER COMMUNITIES. STRONGER AMERICA.

HEADQUARTERS
Raul Yzaguirre Building
1126 16th Street NW, Suite 600
Washington, DC 20036-4845

📞 202.785.1670
📠 202.776.1792
🌐 unidosus.org

April 6, 2023

Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th Street, SW, Room 10276
Washington, DC 20410-0500

Re: Comment on Proposed Affirmatively Furthering Fair Housing (AFFH) rule by the Housing and Urban Development Department (HUD) [Agency/Docket Number: FR-6250-P-01 RIN: 2529-AB05, Document Number: 2023-00625]

On behalf of UnidosUS, we submit these comments in response to HUD's request for feedback on the proposed Affirmatively Furthering Fair Housing (AFFH) rule, which aims to enhance and build upon the measures established in HUD's 2015 final AFFH rule. The proposed rule seeks to bolster the implementation of the AFFH obligation, ensuring that federal funding is strategically allocated to advance the policies and objectives of the Fair Housing Act in a comprehensive and effective manner.

UnidosUS is a nonprofit, nonpartisan organization that serves as the nation's largest Hispanic[*] civil rights and advocacy organization. Since 1968, we have challenged the social, economic, and political barriers that affect Latinos through our unique combination of expert research, advocacy, programs, and an Affiliate Network of nearly 300 community-based organizations across the United States and Puerto Rico.

UnidosUS has extensive housing experience through its Wealth and Housing Alliance (UWHA) (formerly the National Homeownership Network, or NHN) which is the nation's largest network of community-based organizations working to empower Latino wealth-building through homeownership. The UWHA network is a HUD-approved housing counseling intermediary and trains hundreds of housing counselors to emphasize culturally competent counseling. Established in 1997, it includes 50 independent community-based organizations that support more than 60,000 families a year. This network of community-based financial and housing counseling agencies provides a deep understanding of Latinos' homeownership challenges and opportunities.

---

[*] The terms "Hispanic" and "Latino" are used interchangeably by the U.S. Census Bureau and throughout our materials to refer to persons of Mexican, Puerto Rican, Cuban, Central and South American, Dominican, Spanish, and other Hispanic descent; they may be of any race. Our materials may also refer to this population as "Latinx" to represent the diversity of gender identities and expressions that are present in the community.

In addition to direct services and counseling, UnidosUS also publishes reports, provides testimony, and advocates for policies that expand access to credit, make financial services more inclusive, and increase homeownership rates for low-income people and the Latino community.

UnidosUS appreciates the opportunity to comment on the proposed rule. We support the HUD's efforts to implement the AFFH obligation to ensure that Federal funding is used in a systematic way to further the policies and goals of the Fair Housing Act and ensure the equitable service of Latinos in HUD programs. Below we outline the importance of a robust AFFH rule to the Latino community, areas of alignment with the proposed rule, and highlight areas for improvement that will lead to greater progress towards fair and equitable housing opportunities for the Latino community.

The Updated AFFH Rule will Advance Equity and Inclusion for Latinos

The Latino community faces considerable challenges related to housing access and affordability. Discrimination, limited access to credit, and a shortage of affordable housing options have resulted in entrenched disparities in homeownership rates.[1] These challenges trace back to a long history of discriminatory housing policies and practices that have denied Latinos equal opportunities to choose where they live, restricted their access to credit and mortgage lending, and exposed them to predatory and abusive practices.

While the Fair Housing Act was intended to eliminate all barriers to fair housing and mitigate policies that negatively impact protected classes, it has not fully realized its potential. The Affirmatively Furthering Fair Housing (AFFH) rule can and should be a critical tool to address these barriers. The updated AFFH Rule works to confront these challenges by promoting equitable housing opportunities, requiring federal funds be used to combat discrimination, reduce segregation, and enhance inclusive communities for Latinos and other marginalized groups.[2]

Key suggested provisions of the proposed AFFH rule can lead to improved outcomes.

The proposed rule introduces a framework designed to assist local jurisdictions in utilizing housing and community development resources to enhance housing outcomes for minority communities. The updated AFFH rule includes several provisions explicitly aimed at addressing housing inequality and fostering inclusive communities.

1. **Equity Plans:** The proposed AFFH rule seeks to improve fair housing planning through the mandatory submission of an "equity plan" to HUD every five years for approval. This equity plan, a refined version of the Assessment of Fair Housing delineated in the 2015 rule, requires an analysis of the community's fair housing issues, the strategies devised to address those issues, and a comprehensive description of community engagement. By encouraging communities to systematically analyze their fair housing challenges, the equity plan supports an evidence-based approach to policymaking, ensuring that strategies are based on an understanding of the issues at hand.

2. **Community Engagement:** The proposed rule also highlights the importance of robust community engagement, which is necessary to understand how to support specific localities and populations. By involving stakeholders who have firsthand knowledge of the community's housing landscape, the equity plan promotes the development of contextually relevant strategies and fosters a more nuanced understanding of local housing issues.

In comparison to the previous 2015 rule, the updated AFFH Rule provides clearer guidance, more robust accountability measures, and augmented support for community participation. These enhancements ultimately aim to create a more equitable housing landscape, with the full implementation of equity plans and community engagement serving as vital drivers of improved outcomes.

Improved fair housing outcomes will improve equity for Latinos and drive economic dynamism and growth.

The housing sector represents roughly 18% of the U.S. Gross Domestic Product (GDP),[3] is a crucial driver of the nation's economy. Yet Latinos face limited access to affordable housing due to restrictive zoning and problematic permitting policies, resulting in excessive proportions of hard-earned income spent on rent.[4] Creating an equitable society for the Latino community is both morally sound and makes economic and business sense.

Research demonstrates that closing the Latino/white wage gap would have significant positive impacts on the U.S. economy. For example, a study found that raising the median income of Latinos to match that of non-Latino whites would increase the U.S. GDP by approximately $1.3 trillion per year.[5] Furthermore, when Latinas are held back from labor market opportunities, their families face worse economic outcomes, and the entire U.S. economy loses out on the higher aggregate demand and productivity growth that could be realized in a more dynamic labor market powered by closing wage gaps and increasing occupational integration.[6]

Discrimination and inequality hinder the economy by distorting markets, restricting resources, creating unbalanced consumer demand, contributing to inflation, and driving up costs. Eliminating bias in our housing markets can help lead to shared economic growth and prosperity. The updated AFFH rule, if it can successfully address the suggestions below, can help create communities with more affordable and stable housing for Latinos, leading to improved economic outcomes.

The need to update the AFFH Rule is particularly timely given the ongoing challenges faced by the Latino community in the United States.

Latinos face significant barriers to obtaining affordable and stable housing, including discrimination, limited access to credit, exclusionary zoning, and a lack of affordable homes. The Latino population is continuing to rapidly grow, making steps to address disparities in homeownership and rental housing access increasingly urgent.[7] Furthermore, the COVID-19 pandemic has disproportionately impacted Latino communities, exacerbating existing inequalities and heightening housing instability.[8]

By updating the AFFH Rule, HUD can work to address pressing issues and promote equitable housing opportunities for the Latino community. Because the equity plan requires planners to include input from local community and address their unique challenges, the updated rule is a step towards fulfilling the promise of fair housing and equal opportunity. HUD should expeditiously finalize its rule.

While the updated Affirmatively Furthering Fair Housing (AFFH) Rule could establish new ways to address housing disparities, there is room for improvement. By improving the proposal with the ideas described below, the final AFFH rule would become a more potent instrument for overcoming Latino housing inequities and fostering a more inclusive and equitable housing ecosystem.

HUD Should Enhance the Requirements to Support Limited English Proficiency (LEP) Residents in the AFFH Final Rule

The proposed Affirmatively Furthering Fair Housing (AFFH) rule, especially the Equity Plan and community engagement components, represents a significant step forward in addressing housing inequality and promoting inclusivity. However, the final rule can and should further emphasize the importance of robust support for limited English proficiency (LEP) residents.

In the Equity Plan, the proposed rule highlights the need for language assistance by calling for program recipients to provide meaningful access to participation for LEP residents. It also mentions ensuring language assistance for LEP residents and effective communication for people with disabilities, in accordance with the Rehabilitation Act and the Americans with Disabilities Act. It requires an analysis of areas with significant concentrations of protected groups, including LEP populations, and emphasizes the importance of implementing fair housing goals as part of the Equity Plan to address the needs of these communities.

Despite these beneficial provisions, the rule could be more explicit about drawing from HUD's own best practices and other expert resources for supporting LEP communities. Many jurisdictions may be ill-prepared to provide the necessary level of support for their LEP residents. Without technical assistance, training, and funding, many localities may fail to adequately meet these needs.

To ensure the successful implementation of the AFFH rule, HUD should offer more explicit guidance and resources for addressing the needs of LEP residents, as well as practical supports and funding. See below for some considerations that HUD should include in a final rule:

- Through guidelines with specific requirements, HUD should emphasize to program recipients the importance of language access in promoting fair housing.[9] Developing and sharing guidelines will help highlight the role of language access in reducing housing discrimination and fostering inclusive communities.

- HUD should provide resources and technical assistance on best practices for engaging LEP communities.[10] Offering training materials, webinars, or workshops on effective engagement

with LEP communities and sharing best practices and case studies from successful language access initiatives will help program participants meet the requirements of AFFH.

- HUD should consider establishing organizational learning hubs to promoting peer-to-peer infrastructure and information sharing. These hubs would foster networking, enable organizations to exchange knowledge, resources, and best practices for effectively serving LEP populations.

- HUD should be explicit that partnering with community-based organizations to create appropriate materials and outreach strategies is the key to meaningful engagement, and that co-creation of materials with impacted communities is the best approach. Deep and sustained collaboration with organizations like the UnidosUS Affiliate Network[11] and others, can and would generate culturally sensitive resources that foster better LEP support, trust, and engagement.

- HUD should encourage the use of technology and innovation for language access during community engagement events. Promoting digital tools, such as translation apps or real-time interpretation services, at meetings and events, and encouraging accessible online platforms for virtual meetings to engage LEP individuals with in-person participation barriers, will enhance accessibility. These tools should be a complement to, and not a substitute for, sustained relationship building and community outreach.

- HUD should require program recipients to track and publicly report language preference data. Using data from LEP communities and advocacy groups to inform adjustments to provisions and strategies will ensure continuous improvement.

The proposed AFFH rule by HUD in 2023 demonstrates a commitment to addressing housing inequality and promoting inclusivity but needs stronger emphasis on supporting LEP residents. By implementing the steps suggested above, HUD can better meet the needs of LEP residents.

HUD Should Enhance Requirements to Support Non-US Citizens and Immigrants in the AFFH Final Rule

To truly foster fair housing and ensure that no group is left behind, the final rule must place greater emphasis on the importance of non-discrimination based on country of origin and must explicitly recognize and provide support to address the unique challenges faced by non-US citizens and immigrants in accessing housing opportunities.

Non-US citizens and immigrants are among the most marginalized and hard-to-reach populations, often facing language access barriers and a deep-rooted fear of government outreach due to concerns over immigration status or potential discrimination.[12] Many immigrants understandably hesitate to engage with government officials due to fear of revealing their undocumented status or exposing themselves to discrimination.[13]

Acknowledging these challenges and addressing them head-on as part of the community engagement requirements is essential for the successful implementation of the AFFH rule. HUD should require that organizations develop targeted outreach strategies, and work closely with trusted community organizations, provide translation services, and culturally appropriate resources.

HUD should be clear that the voices and concerns of non-US citizen and immigrant communities must be integrated into the development and execution of Equity Plans. Specifically, in its final rule, HUD should emphasize the importance of proactively engaging with non-US citizen and immigrant communities during community engagement initiatives. The final rule should clearly specify as follows:

- HUD should require partnerships with trusted community-based organizations and leaders to create culturally and linguistically that reach and connect with non-citizens. For example, HUD could recommend working with organizations such as Welcoming America,[14] UnidosUS, or the Immigrant Legal Resource Center[15] to develop best practices for engaging immigrant populations. Additionally, program participants could adopt the use of "promotoras,"—community health workers[16] who are trusted members of the community—to bridge the gap between service providers and non-US citizen communities.

- HUD should provide specific training and resources to local jurisdictions on the unique housing challenges faced by non-citizens and immigrants, such as discrimination based on immigration status or nationality, limited access to credit, and unfamiliarity with the U.S. housing system.

- HUD should develop and publish strong anti-discrimination policies that explicitly prohibit discrimination based on country of origin, immigration status, or citizenship in the allocation of housing resources and services.

- HUD should encourage data collection and reporting on the feedback from non- citizens and immigrants in accessing housing opportunities to identify patterns of discrimination or barriers and inform targeted interventions. This can be done at the community level to assuage individual concerns about immigration status.

- HUD should develop and promote accessible housing and financial education resources tailored to the needs of non-citizens and immigrant communities, such as guides on tenant rights, fair housing, and navigating the mortgage process.

- HUD should acknowledge that certain federal programs might be unavailable to non- citizens and immigrants, and therefore urge program participants to consider creating additional avenues to address the housing needs of these communities. This may entail tapping into local resources, partnering with community-based organizations, or pushing for policy modifications at the state and local levels to advance fair housing for everyone, irrespective of their citizenship status. For instance, program participants could collaborate with organizations such as the National Immigration Law Center,[17] local community-based organizations,[18] or the International Rescue Committee,[19] to develop tailored housing solutions and support services.

- HUD should also encourage program recipients to look to local governments to explore options such as affordable housing trust funds, inclusionary zoning policies, or rent stabilization measures to better serve non-US citizens and immigrants that may not be served by Federal programs.

By enhancing the requirements related to non-discrimination based on country of origin, the final AFFH rule will not only be better equipped to address the housing challenges faced by non-US citizens and immigrants, but it will also further promote the core principles of inclusivity and equity that underpin the rule's intent.

HUD Should Strengthen Its Fair Housing Analysis by Enhancing Data Collection and Accessibility

We applaud HUD's development of the Affirmatively Furthering Fair Housing Data and Mapping Tool (AFFH-T) within the 2015 AFFH rule, which offers valuable insights into demographics, housing conditions, segregation, and disparities in outcomes through its data, tables, and maps from the U.S. Census Bureau and other sources. These resources provided a strong analytical foundation for the prior Assessment of Fair Housing (AFH) process, guiding grantees in formulating data-driven policy goals and strategies. Moreover, HUD-supplied data and maps proved instrumental in stimulating additional analyses using local data and facilitating community engagement in the AFH process.

To expand its impact and usability we propose several enhancements to the AFFH-T's data, tables, and maps, as well as improvements to the platforms for user access, which would create a more effective and user-friendly experience. Research shows that Latinos do not access Federal housing resources at rates proportional to their levels of poverty or the severe housing challenges they face, and it is critical that program recipients assess service levels by race and ethnicity and incorporate this data into their planning.[20] These suggestions below are aligned with the comments submitted by the poverty and race research action council (PRRAC).

Suggestions to improve the existing AFFH-T data.

a. Current data is crucial for program grantees to effectively assess housing conditions. While HUD offers a wealth of information, much of it is outdated, which diminishes its analytical value. HUD should strive to incorporate the latest internal administrative housing data and utilize the most recent American Community Survey data available, thus providing accurate and relevant insights for decision-making.

b. HUD should provide Public Housing Agency (PHA)-specific statistics, tables, and maps for publicly supported housing to complement the existing aggregate data. In areas with multiple PHAs administering Housing Choice Vouchers, the lack of PHA-specific data on voucher concentration limits the AFFH-T's utility for individual PHAs to evaluate their baseline data and establish goals.

Should HUD provide static data packages?

    a. We support enhancing the current AFFH-T "Query Tool," particularly for analyzing publicly supported housing. HUD should include racial/ethnic data for Low Income Housing Tax Credit (LIHTC) properties in the tool and consider creating a separate tool comparing census tract characteristics (poverty rate, race/ethnic composition) for Public Housing Authorities (PHA) and jurisdiction-administered Housing Choice Vouchers to those of all rental or affordable units in the service area.

What homeownership data should HUD provide?

    a. HUD should utilize the Home Mortgage Disclosure Act (HMDA) dataset to provide data and generate tables. The Snapshot Loan/Application Register (LAR) offers comprehensive HMDA data, including geographic and demographic information, as well as occupancy type for requested loans. HMDA data reveals mortgage lending patterns, crucial for identifying discrimination and lending disparities affecting Latino homeownership access. Access to this data would help regions understand challenges Latinos face and develop targeted interventions.

    b. HUD should collaborate with FHFA to offer Uniform Appraisal Data (UAD) Aggregate Statistics Data File and Dashboards for regional fair housing analysis. UAD data informs on appraisal bias, helping identify undervaluation and discrimination in appraisals. This information is vital for understanding challenges Latinos face in equitable valuation and developing targeted interventions, ultimately furthering fair housing and wealth generation for Latinos.

    c. HUD could also present data and maps on real estate and property tax burden. PolicyMap currently offers maps displaying various tax-related metrics, such as median annual real estate taxes, tax as a percentage of median home value, and income tax returns with real estate taxes.

Are there additional data that HUD could provide relating to eviction, neighborhood (access to parks, green space, trees), zoning and land use, and housing-related costs (like transportation)?

    a. Eviction is a significant housing issue that disproportionately impacts low-income and marginalized communities, including people of color, and families with children. Access to eviction data, such as that found at the Eviction Lab,[21] would enable regions to better understand the scale of the problem and identify areas where interventions are needed to prevent unnecessary evictions and displacement. It would also help policymakers and community organizations develop targeted strategies to address the root causes of eviction, such as insufficient affordable housing, lack of tenant protections, and economic inequality. In short, providing eviction data is essential to affirmatively further fair housing and ensure that all residents have access to safe and stable housing.

    b. HUD should also provide data related to zoning and land use. Zoning and land use play a critical role in shaping the housing landscape and directly impacts housing affordability, availability, and diversity. Restrictive zoning practices, such as exclusionary zoning, parking requirements,

environmental review, single-family zoning, height restrictions, and lots sizes among others have contributed to the housing crisis by limiting the development of affordable housing options, perpetuating segregation, and exacerbating income and racial disparities.

Given the significance of zoning and land use in addressing housing challenges, it is essential for localities to have access to comprehensive data and resources to make informed decisions. We suggest that HUD consider how they can assist localities in learning more about zoning issues at the local level. Resources such as the Housing Solutions Matchmaker Tool[22] and Local Housing Solutions[23] offer valuable insights and best practices for developing balanced, equitable local housing strategies. In addition to the resources above, providing detailed data on current zoning regulations, land use patterns, and the potential impact of these regulations on housing affordability, inclusiveness, and fair housing would be beneficial. Lastly, HUD could also offer guidance on evidence-based zoning reforms and best practices to foster more equitable communities and support localities to engage in meaningful community dialogue on zoning and land use issues. By supplying comprehensive zoning and land use data as well as related best practices, HUD can empower local jurisdictions to develop and implement targeted strategies that advance fair housing and contribute to a more inclusive and equitable society for all.

Enhancing the AFFH-T by incorporating the most recent data, including PHA-specific information, homeownership data, eviction data, and zoning data, is crucial for developing effective and inclusive housing strategies. By including these recommendations, HUD can better equip program grantees with the necessary tools and resources to accurately assess housing conditions, identify disparities, and develop targeted interventions that promote fair housing and equal access for all residents. These enhancements would strengthen the AFFH-T's analytical foundation and facilitate community engagement, helping to drive informed, data-driven decision-making to ensure equitable access to HUD resources.

Conclusion

UnidosUS commends HUD's efforts to update AFFH rule. While the proposed rule provides a strong foundation for promoting fair housing and fostering inclusive communities, we encourage HUD to consider the recommendations outlined above, specifically enhancing the AFFH-T data and accessibility, bolstering support for limited English proficiency residents, and strengthening the provisions related to non-discrimination based on country of origin.

By implementing these suggestions, HUD can ensure a more comprehensive and effective approach to advancing fair housing and come closer to fulfilling the promise of equal opportunity in the housing market. UnidosUS stands ready to collaborate with HUD in achieving these goals.

Thank you for the opportunity to comment on this important issue. Please contact UnidoUS Senior Policy Analyst, Sam Kenney, with any questions at skenney@unidosus.org.

NOTES

[1] UnidosUS. (2022). Testimony on the long-term impact of the hot housing market. Retrieved from https://unidosus.org/wp-

[2] National Fair Housing Alliance. (n.d.). Affirmatively Furthering Fair Housing. https://nationalfairhousing.org/affirmatively-furthering-fair-housing

[3] National Association of Home Builders. (2020). Housing's Contribution to GDP. https://www.nahb.org/news-and-economics/housing-economics/housings-economic-impact/housings-contribution-to-gross-domestic-product

[4] Urban Institute. (2017). The housing affordability gap for extremely low-income renters. https://www.urban.org/research/publication/housing-affordability-gap-extremely-low-income-renters

[5] Latino Donor Collaborative. (2019). Latino GDP Report. https://www.latinodonorcollaborative.org/original-research/2022-ldc-u-s-latino-gdp-report

[6] The intersectional wage gaps faced by Latina women in the United States - Equitable Growth

[7] Pew Research Center. (2021). Facts on U.S. Latinos, 2020. https://www.pewresearch.org/hispanic/fact-sheet/u-s-hispanics-facts-on-the-latino-population-in-the-united-states

[8] Joint Center for Housing Studies of Harvard University. (2021). The State of the Nation's Housing 2021. https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_State_of_the_Nations_Housing_2021_Report.pdf

[9] U.S. Department of Housing and Urban Development. (n.d.). *Limited English Proficiency (LEP) - HUD.* Retrieved from https://www.hud.gov/program_offices/fair_housing_equal_opp/promotingfh/lep

[10] LEP.gov. (n.d.). *Resources.* Retrieved from https://www.lep.gov/resources/resources.html

[11] UnidosUS. (n.d.). Affiliates. https://unidosus.org/about/affiliates/

[12] American Immigration Council. (n.d.). Access to justice: Language barriers. https://www.americanimmigrationcouncil.org/research/access-justice-language-barriers

[13] Dreby, J. (2015). U.S. Immigration Policy and Family Separation: The Consequences for Children's Well-Being. Social Science & Medicine, 132, 245-251

[14] Welcoming America. https://www.welcomingamerica.org/

[15] Immigrant Legal Resource Center. https://www.ilrc.org/

[16] Centers for Disease Control and Prevention. Promotora de salud. https://www.cdc.gov/minorityhealth/promotora/

[17] National Immigration Law Center. (n.d.). https://www.nilc.org/

[18] UnidosUS. Affiliates. https://unidosus.org/about/affiliates/

[19] International Rescue Committee. (n.d.). https://www.rescue.org/

[20] Aiken, C., Reina, V. J., & Culhane, D. P. (2019). Understanding low-income Hispanic housing challenges and the use of housing and homelessness assistance. University of Pennsylvania, School of Social Policy and Practice. Retrieved from https://www.huduser.gov/portal/periodicals/cityscpe/vol23num2/ch7.pdf

[21] Eviction Lab. (n.d.). https://evictionlab.org/

[22] National Association of Counties. Housing solutions matchmaker tool. https://www.naco.org/resources/housing-solutions-matchmaker-tool

[23] Local Housing Solutions. https://localhousingsolutions.org/