



May 10, 2016

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

Re: Affirmatively Furthering Fair Housing Assessment Tool for States and Insular Areas, Docket No.: FR-5173-N-08

To Whom It May Concern:

The National Council of State Housing Agencies (NCSHA) appreciates this opportunity to comment on the Affirmatively Furthering Fair Housing (AFFH) Assessment Tool for States and Insular Areas. NCSHA and its member state Housing Finance Agencies (HFAs) strongly support the Fair Housing Act, including the obligation it creates to affirmatively further fair housing.

While we support the goals articulated by the U.S. Department of Housing and Urban Development's (HUD) AFFH regulations, we are deeply concerned that the state tool, which states must use to conduct the Assessment of Fair Housing (AFH) under AFFH, imposes unreasonable requirements on states that go well beyond what is necessary to achieve meaningful fair housing planning. We urge HUD to revise the tool in a manner responsive to our recommendations below.

- **Reduce the time and cost burden the rule places on states.** Based on their extensive experience in statewide planning efforts, state HFAs contend that the AFH will take far longer to complete than HUD anticipates. Moreover, despite HUD's claims to the contrary, many states will need to retain costly outside consultants to address many AFH requirements.
- **Design a state tool that recognizes the unique needs of states.** The state tool as currently envisioned closely tracks the structure of the local tool with little modification to account for the larger geographies covered by states.

- **Provide states an opportunity to comment on the state mapping and data tool.** Until HUD makes available the state data and mapping tool, states are unable to assess the accuracy of the individual state data it provides and cannot evaluate the mapping and data tool’s functionality and ease of use. This is a significant limitation on our ability to comment on the state tool.
- **Ensure data accuracy and transparency.** HFAs have raised concerns about the reliability and transparency of some of the HUD datasets that we understand HUD will use in the mapping and data tool. Moreover, we urge HUD to ensure that all datasets it uses—including those it is getting from other sources—are current.
- **Do not require states to answer questions that will necessitate the collection of new local data.** While HUD maintains it will only require the use of local data that is readily available at little to no cost to program participants, many of the questions in the tool cannot be answered without significant efforts to collect data that does not currently exist.
- **Provide states the flexibility to exclusively use state and local data if they determine it better meets their needs than the HUD-provided national data.** We also urge HUD not to impose a statistical validity test on state and local data that is so strict as to prevent states from using certain data sources that may be helpful to their planning efforts.
- **Minimize the duplication of efforts by allowing states, at their discretion, to adopt local program participants’ AFHs.** This will allow states to focus their limited resources on balance-of-state areas not already covered by local program participants while still achieving a statewide analysis.
- **Recognize the limits of states’ abilities to affect change.** Achieving many worthwhile fair housing goals may require changes to zoning, permitting, and local taxation policies, over which states do not have control.
- **Use appropriate indicators to assess fair housing in rural and tribal areas.** These areas often face different challenges than urban and suburban areas and are likely to score poorly on measures such as use of public transportation and concentration of poverty.
- **Do not require states to undertake analyses beyond their borders.** It is unreasonable to require states to conduct assessments of fair housing in neighboring states. Such assessments should be optional.
- **Do not require states to oversee or enforce the AFHs of local program participants.** It is not clear if HUD has this expectation. Not only would this be overly burdensome, but in most cases states do not have legal authority over the actions of local governments.

- **Do not require longitudinal analyses of demographic patterns.** It is not necessary to analyze demographics from a quarter century ago to effectively plan to further fair housing with the resources available today. We do not believe this is a productive use of time or resources.
- **Remove the contributing factors analysis sections from the tool.** The questions in the tool regarding contributing factors require states to conduct an extraordinary amount of new research to show whether individual contributing factors have a statistically significant causal impact on specific fair housing issues. Without rigorous empirical research, states would be unable to objectively determine causation. Subjective conclusions leave states vulnerable to liability.
- **Make optional analyses of non-housing policy areas.** The state program participants undertaking this study are typically housing and/or community development entities that do not necessarily have expertise in policy issues such as education, labor markets, job training programs, environmental hazards, prisoner re-entry, public health, public safety, and emergency management and preparedness.
- **Clarify that the questions related to Qualified Public Housing Agencies (PHA) are only required if a state enters into a partnership with a Qualified PHA.** HUD may wish to encourage such partnerships, but whether to partner on an AFH should be the mutual decision of the state and the Qualified PHA.
- **Do not require states to rank contributing factors in setting their goals.** Given the difficulty of proving causation in the analysis of contributing factors, it is unreasonable to expect states to measure and rank contributing factors. Doing so is not necessary for setting relevant and achievable goals.

We believe that the next iteration of the assessment tool would benefit from in-person meeting(s) between HUD and state HFA representatives so that we can work together to devise a meaningful state assessment tool that challenges state participants in HUD programs to effectively plan to further fair housing in their state, while being mindful of their capacity, available resources, and jurisdictional authority. NCSHA stands ready to assist HUD in any way we can to advance this process.

The remainder of our comments elaborate on and provide further context for each of NCSHA's recommendations.

NCSHA and Its HFA Members

NCSHA represents the HFAs of the 50 states, the District of Columbia, New York City, Puerto Rico, and the U.S. Virgin Islands. HFAs are governmental and quasi-governmental,

nonprofit agencies created by their jurisdictions to address the full spectrum of housing need, from homelessness to homeownership. HFAs are dedicated to their common affordable housing mission, reinvest their earnings in the furtherance of that mission, and are publicly accountable.

The majority of HFAs act as the state Participating Jurisdiction administering the HOME Investment Partnerships (HOME) program. Many HFAs also run other HUD programs, such as Section 8 Project-Based Rental Assistance, Housing Choice Vouchers, the Community Development Block Grant program, the Emergency Solutions Grant program, Housing Opportunities for Persons With AIDS, and the Housing Trust Fund. In addition, HFAs administer federal housing programs outside of HUD's authority, including the Low Income Housing Tax Credit (Housing Credit) and tax-exempt private activity Housing Bonds.

Overarching Concerns

HUD underestimates the time and cost of the AFH process.

HUD estimates that the completion of the AFH, which states will conduct once every five years, will require approximately 1,500 hours of staff time on average. HUD also states in the AFFH final rule that it "has designed the AFH process so that an AFH can be completed without the use of consultants." Moreover, HUD Office of Fair Housing and Equal Opportunity (FHEO) officials have expressed their desire to minimize the burden of statewide implementation multiple times at NCSHA conferences and meetings. Unfortunately, we believe that HUD has gravely underestimated the time requirements, need for outside expertise, and burden this process will impose on states.

As we prepared this comment for HUD, NCSHA received feedback from numerous HFAs, all of which said that it will take well more than 1,500 hours of staff time to fulfill the requirements of the state tool. This unanimous assessment that HUD's time estimate is inaccurate is rooted in HFAs' extensive experience in developing planning documents, including the Qualified Allocation Plan for the Housing Credit program, the Consolidated Plan for HUD funding programs, and the Analysis of Impediments (AI) to Fair Housing. Even very small states told us that they will not be able to accomplish the AFH as envisioned in the time HUD estimates. Larger states will be even more burdened given the more expansive scope of their geographies.

State HFAs typically employ an expert, but limited, policy and research staff to undertake the various planning processes for which their agencies are responsible. These individuals have a deep understanding of their state's housing markets, affordable housing need, and residents' access to affordable housing, but do not necessarily have similar expertise in the other policy and program areas that the AFH tool covers, such as education, emergency preparedness, public health, environmental health hazards, public safety, prisoner re-entry, and job training programs.

While we understand that HUD will provide uniform national data on some of the non-housing programmatic areas covered in the tool, HFAs will almost certainly need to retain outside consultants to achieve the level of expertise necessary to analyze and draw conclusions from that data to complete the AFH. States may also need to rely on consultants to identify local data and assess the quality of that data to decide whether the state should supplement the HUD-provided data with local datasets.

Unfortunately, states will receive no new resources from HUD to either cover the cost of their staff members' time or pay for the consultants they will need to retain to complete the AFH. States expect that the cost of conducting the AFH will far exceed the cost associated with the AI. Administrative resources for many HUD programs are already inadequate to cover the cost of program operation. The added financial burden associated with the AFH as currently envisioned is cost-prohibitive.

The tool does not take into consideration the challenges of statewide implementation.

We appreciate HUD's intention to design an assessment tool that is specific to the needs of state-level program participants. However, it appears that the state tool closely tracks the structure of the local tool without much modification to account for the larger geographies covered by state agencies. It is critical that HUD provide states with a tool that reflects the differences between states and local jurisdictions in their capacity to assess fair housing at a granular level, recognizes the limits to state authority to impact local zoning decisions and other policies at the local level, and minimizes the burden of implementation statewide.

While the introduction section of the AFH Instructions says that states are "not generally expected to provide the level of neighborhood analysis that local governments conduct," we remain concerned about HUD's expectations of states in this regard. Throughout the state tool, HUD refers specifically and repeatedly to neighborhoods—for example, asking states to assess access to low-poverty neighborhoods and environmentally healthy neighborhoods. Moreover, many of the questions included in the AFH cannot be adequately answered at the state or county level and will require analysis at a far more local level.

While it is appropriate for local jurisdictions to evaluate the racial and ethnic makeup of neighborhoods and other areas within their boundaries or to make a similar analysis of demographics for individual projects, doing so across an entire state is overly burdensome. States do not have the information to accurately reflect on all the neighborhoods within all the cities and towns, both urban and rural, within their boundaries.

States are equipped to undertake county-level and broader regional, in-state analysis. While there may be instances when states are able to conduct more granular assessments of smaller geographies, it is not reasonable to expect that all states will be able to do so or that any individual state could do so for all neighborhoods throughout the entire state.

HUD should clarify that a neighborhood-level analysis is unnecessary, change all references to neighborhoods to area or region, provide flexibility to states to define area/region, and remove from the state tool or make optional all questions that necessitate analysis at the neighborhood level.

States should have ample opportunity to comment on the state mapping tool.

The AFFH rule recognizes the importance of data-driven planning to affirmatively further fair housing, and we appreciate HUD's provision of national data to state program participants so that states do not have to access this data on their own. However, as of this writing, HUD has not yet made available the state data and mapping tool. Instead, it has provided limited static PDF maps and tabular data for one state (South Carolina), as an example. While these documents provide states a general idea of the kind of data HUD intends to make available, states are unable to provide comments to HUD about the accuracy of the data for their states. Moreover, states cannot assess the mapping and data tool's functionality and ease of use.

The absence of the state mapping and data tool significantly limits our ability to comment on the tool. Therefore, we urge HUD to provide an additional comment opportunity to states once it finalizes its state data and mapping tool so HFAs can work with HUD to address any inaccuracies in the data and provide detailed comments about the tool's functionality and usability.

While we are unable to provide detailed comments on the mapping tool without access to it, we offer the following preliminary recommendations.

- Ensure that counties and racially and ethnically concentrated areas of poverty (R/ECAPS) are clearly labeled on the maps.
- Provide the same level of detail for Housing Credit- and U.S. Department of Agriculture (USDA)-financed housing as provided for HUD-financed housing.
- Ensure that demographic data is easy to interpret at the county level. Dot matrix mapping of demographics at the county level is not effective.
- Provide Core Based Statistical Area and county-level data.
- Allow states to choose how to group county data to form sub-state regions of analysis. Do not require states to conduct analyses at the census tract level.

HUD should address states' data quality and transparency concerns.

The success of the AFH process is dependent on the reliability of the data program participants will use to evaluate access to opportunity in their jurisdictions and set goals for furthering fair housing. We therefore offer the following comments on the data we understand HUD will provide:

Housing Credit Data: While HUD has not yet made available the state mapping and data tool, we understand the mapping tool will provide information on the location and characteristics of various types of assisted housing, including Housing Credit developments. Presumably, the data on Housing Credit property location will come from HUD's Low Income Housing Tax Credit Placed in Service (PIS) database.

HFAs report that they have serious concerns about the reliability of the PIS data. For example, HFAs are unable to remove properties that are no longer active Housing Credit properties from the PIS database.

For several years, HFAs have been working with HUD's Policy Development and Research office to provide HUD with new data about Housing Credit residents as required by the Housing and Economic Recovery Act of 2008. This data collection process has led to some improvement in the PIS database, as HUD has cross-referenced the tenant data with the PIS property location data. However, in part because Congress never appropriated the funding it authorized for tenant data collection, HUD and HFAs have not been able to entirely eliminate mistakes in the PIS data. HUD and HFAs should continue to work together to improve the accuracy of the PIS database so that states and local program participants are not basing their fair housing planning efforts on Housing Credit data that is not entirely reliable.

Public and Indian Housing Data: HUD has access to a considerable amount of data from its program participants, some of which is stored in HUD's Public and Indian Housing Information Center (PIC) database. It is appropriate for HUD to incorporate PIC and other HUD data into the AFH data and mapping tool; however, HUD also should provide states with access to the raw datasets, not just a pre-packaged analysis of that data. In the past, states have raised concerns with HUD about the integrity and accuracy of PIC data, but due to HUD's lack of transparency concerning this data, those concerns remain unresolved. One state reported to NCSHA that its efforts to access PIC data were met with resistance, bureaucracy, and even a requirement that the state make a request for the data under the Freedom of Information Act.

American Community Survey Data: HUD also must ensure that the data it provides from non-HUD sources is current and complete. For example, HUD must ensure that the American Community Survey (ACS) data featured in the mapping tool is the most recent ACS survey data.

The *Affirmatory Furthering Fair Housing Data Documentation* report HUD published in conjunction with the data and mapping tool for local program participants provides the sources

and years of the various universal national datasets HUD incorporated into the local mapping tool. Unfortunately, many of those sources are already out of date. For example, the source used for the R/ECAP data in the local mapping tool is the 2010 Decennial Census and 2006-2010 ACS data. One state showed NCSHA a map of the R/ECAPs in its capital city that it created using the HUD-provided local mapping tool and compared it to a map the state generated using more recent ACS data. In the intervening years since 2010, the areas of concentrated poverty in the city had changed substantially. This illustrates the importance of ensuring that all HUD mapping and data tools incorporate current data.

In addition, we strongly encourage HUD to include margin of error calculations with all related ACS data. Margin of error calculations are the primary indicator of the statistical validity of ACS data. We are concerned that without this information, program participants may assume that HUD-provided ACS data is statistically valid when it might not be in smaller localities and rural areas due to small sample sizes.

Education Data: We are also concerned that some of the data HUD intends to provide is an insufficient proxy for the indicator in question. For example, the School Proficiency Index that HUD will make available so program participants can determine whether protected classes have access to high quality schools is based only on the performance of 4th grade students on state exams. The data does not reflect educational achievement in early education, middle, or high school and does not consider any other measures of quality in education.

Moreover, one of the data sources HUD relies on to determine 4th grade students' performance for its School Proficiency Index is the School Attendance Boundary Information System (SABINS); however, the SABINS website indicates that funding for the project has ended and no future data releases are planned.

Questions requiring the collection of new local data should be optional, and states should have flexibility in their use of local data.

NCSHA supports HUD's intention to only require the use of local data that is readily available at little to no cost to program participants. However, many of the questions included in the tool cannot be answered without collecting new local data through surveys or other methods.

For example, to determine whether private discrimination is a contributing factor to segregation, states will need to identify and measure (per HUD's definition of private discrimination) instances of discrimination by landlords, property managers, home sellers, real estate agents, lenders, homeowners' associations, and condominium boards. HUD has no ability to provide this sort of data to states so that they could address this question and it is unlikely that such data currently exists or could be attained without extensive and costly efforts. We urge

HUD to remove or make optional questions that will necessitate the collection of new state or local data.

In cases when local or state data does exist, we expect states will want to use it to supplement the HUD-provided national data and possibly substitute it for the national data if they determine this data is more accurate. States should have the flexibility to use state or local data in place of the HUD-provided data.

The AFFH final rule states that HUD will “apply a rigorous statistical validity test to all local data.” We would like more information about the statistical validity tests HUD intends to impose. We support the use of quality data; however, there may be instances when local data might not meet HUD’s standards, due to small sample size or because it comes from a specific geographic area and may not be generalizable to larger areas, but is still a useful supplement to other proven data sources. While we agree that HUD will need to have some basic descriptive statistics about the data to frame the reliability of the conclusions (for example, HUD will need to know the sample size and survey response rate), we encourage HUD to provide states with flexibility regarding the use of local data if they deem it to be a useful supplement to national or state data that meets HUD’s statistical validity test.

The AFH process requires states to unnecessarily duplicate local entitlement areas’ efforts.

The tool requires each state program participant to conduct the AFH analysis across the entire state, including analyzing all local entitlement areas, which are already required to conduct their own separate AFH. While we agree that a full state analysis is necessary, this can be achieved by allowing state program participants to review and adopt local program participants’ AFHs if they determine the local AFH sufficiently meets their goals rather than conduct a second, duplicative analysis of those geographies. This would allow states to focus their limited resources on balance-of-state areas that are not already covered by local program participants and local entitlement jurisdictions for which the state feels they need to do additional analysis beyond that conducted by the local program participant.

States may or may not operate HUD programs within the boundaries of local entitlement jurisdictions, which limits their ability to affect measurable change in those areas. It therefore makes sense to allow states to adopt the AFHs of local jurisdictions rather than duplicate efforts in those areas.

There are limits to states’ abilities to effect change.

In some instances, effecting change may require modifications to local policies that are beyond a state’s legal authority. For example, state HFAs do not have land use decision-making authority, permitting responsibility, or local taxing authority, significantly limiting their options

for achieving measurable change. For this reason, many fair housing challenges are best addressed at the local level. States should be able to set meaningful fair housing goals that state entities can achieve based on the resources they control and authority they legally exercise.

Fair housing planning must not unintentionally penalize rural and tribal areas.

Rural and tribal areas often face different challenges than urban and suburban areas because they frequently have limited access to public transportation, lower incomes, and employment challenges. We are concerned that rural and tribal areas will automatically score poorly when considering disparities in access to opportunity.

For example, states will need to describe disparities in access to transportation by protected classes related to place of residence using HUD's Transit Trips Index, which measures how often low-income families in a neighborhood use public transportation. Rural or tribal areas without public transportation will not perform well in this analysis. Yet, these areas often desperately need housing resources.

In particular, tribal areas are sovereign nations within states, are often remotely located, and can suffer from concentrations of poverty. It is critical that fair housing planning—in an effort to direct resources to high opportunity areas—does not unintentionally result in reduced investment in tribal areas because they have high poverty levels and score poorly on the assessment of disparities in access to opportunity.

Rural areas have particular challenges regarding data quality. Even national data in these areas is less complete than it is in more urban areas and may not be statistically viable. Data quality issues in rural areas could impact states' ability to analyze characteristics such as poverty, racial and ethnic concentrations, and concentrations of people with disabilities. While states may have limited access to some local data in rural areas, it is likely that this data also may suffer from inconsistencies and may not even pass the statistical validity criteria HUD ultimately imposes.

Make regional analyses optional.

Not only does the state AFH tool require states to examine fair housing issues that exist within the state, it also requires them to analyze those issues outside of their borders in neighboring states. One state, which has a border with Canada, commented to NCSHA that it was not clear whether it would need to examine fair housing issues in the area of Canada that borders its state. While we understand that fair housing issues do not end at state borders, we believe that any analysis that requires states to consider fair housing issues of neighboring states or countries should be optional.

Concerns about Specific Sections of the Tool

Section IV: Assessment of Past Goals, Actions, and Strategies

Unlike the local program participants' tool, the state tool requires states to include a description of any oversight, coordination, or assistance of other public entities' goals, actions, and strategies, including those within the state or region. We are concerned this suggests that HUD may expect states to oversee, coordinate, or assist with local program participants' AFH processes. Assisting local program participants or coordinating the AFHs of multiple localities will create a significant additional burden on states above and beyond that of conducting their own AFHs. Moreover, states do not have the legal authority to oversee or control local program participants' AFH processes and many local program participants will not welcome state involvement in their planning efforts.

Section V: Fair Housing Analysis

Longitudinal Demographic Trends Analysis: In various places in the General Issues subsection of Section V: Fair Housing Analysis, the tool requires states to undertake a longitudinal analysis of demographic patterns, dating from 1990 until the present day. We do not believe it is necessary to analyze demographics from a quarter century ago to effectively plan to further fair housing with the resources available today. In addition, the data HUD is providing to states to analyze these changes come from the dissimilarity index values at only three distinct points in time—1990, 2000, and 2010. It is impossible to draw accurate conclusions about trends with so few data points spread across so many years. We do not believe this is a productive use of time and resources.

Contributing Factors Analysis: Throughout the General Issues subsection, HUD requires states to consider numerous contributing factors to fair housing issues. The fair housing issues in question are: segregation; R/ECAPS; disparities in access to opportunities; disproportionate housing need; publicly supported housing location and occupancy; and access to opportunities for people with disabilities. In each of these instances, states are told to “[C]onsider the listed factors and any other factors affecting the state and region,” and to “[I]dentify factors that significantly create, contribute to, perpetuate, or increase the severity of” the given fair housing issue.

It appears that HUD is requiring states to determine whether each contributing factor has a statistically significant causal impact on the applicable fair housing issue. For example, states will have to draw a conclusion about whether community opposition creates, contributes to, perpetuates, or increases the severity of segregation. To do this, states will need to find some way to empirically measure community opposition, control for all other factors, and determine whether community opposition not only is correlated with segregation, but actually causes

segregation. On its own, this would be an ambitious doctoral thesis. There are over 70 contributing factors to various fair housing issues listed in the tool, each requiring its own study.

Furthermore, states will need to conduct most if not all of these analyses at the local level. For example, determining whether land use and zoning laws significantly create, contribute to, perpetuate, or increase the severity of R/ECAPs will require states to separately analyze the land use and zoning laws of individual jurisdictions in each R/ECAP in the state, and in each case determine whether there is a statistically significant causal effect on the severity of that R/ECAP. This means that the number of necessary studies will increase exponentially.

Without undertaking this level of analysis, states will be unable to fulfill the requirements of the AFH. States simply cannot look at the HUD-provided data and draw conclusions from that data without conducting additional data collection (likely extensive surveys) and analysis. Without such additional research, any conclusions about contributing factors would be subjective, anecdotal, and not based in rigorous, empirical study. It would make the state vulnerable to lawsuits and would not improve fair housing planning efforts.

The surveys and empirical analysis associated with conducting hundreds of these studies will require a team of researchers and could take years to complete. Even at the local level, it will be difficult to conduct these sorts of studies, but it likely would be impossible to do so at the state level. Thus, NCSHA recommends removing the contributing factors analysis sections from the state tool.

Disparities in Access to Opportunity: The Disparities in Access to Opportunities subsection of the state tool includes numerous questions that require expertise in policy areas far beyond that housed in HFA policy and planning departments. For example, state HFAs are not experts in education policy, labor markets, and job training programs and may not be able to assess what constitutes an environmentally healthy area.

Moreover, answering many of these questions will require knowledge about numerous policies and programs in every locality and various institutions throughout the state. For example, one question of states is “[D]escribe how education-related laws, policies, and practices, such as admissions policies, tuition assistance, financial aid, and funding affect the ability of residents of different areas of the state to attend postsecondary and vocational education.” This unreasonably requires the state housing agency to have knowledge of the tuition assistance and financial aid programs and admissions policies of every postsecondary and vocational educational institution across the state.

There are numerous examples of questions in this subsection that pose the same problem, such as asking states to describe all employment policies; transportation programs and policies; and environmental laws, including emissions standards, clean drinking water standards, and the siting of industrial and energy facilities in the state. Moreover, it appears that the tool requires states to describe all of these policies within their jurisdictions—not just state-level policies, but

also policies enacted by local entities. It is simply impossible for a state housing agency—whose mission is to finance affordable housing—to undertake the breadth and scope of an analysis that covers such disparate state and local policy issues.

The *Federal Register* notice accompanying the state tool specifically solicits comments regarding several other targeted questions HUD is considering including in the Disparities in Access to Opportunities subsection and asks if such questions should be included in the tool. These questions ask for detailed information about emergency management and preparedness, re-entry opportunities, public health services, public safety, and housing and financial opportunities. It is appropriate for states to describe the laws, policies, and practices affecting affordable rental housing, homeownership, and mortgage access in the state. However, HUD should not include questions about these other issues, as state housing agencies do not have expertise in these areas.

It would be more useful for states to focus on disparities in access to affordable housing, as HFAs administer resources that directly relate to housing access and could set meaningful goals in this regard, but are not positioned to do so for the other issue areas envisioned therein.

Qualified Public Housing Authorities: The *Federal Register* notice accompanying the state tool says that HUD is encouraging states to partner with Qualified PHAs, which are small PHAs that oversee a limited number of public housing units or Section 8 vouchers. However, the tool itself does not clearly indicate that partnerships between states and Qualified PHAs are optional. In fact, it includes a subsection on Qualified PHA Service Area Questions, which appears to be mandatory. HUD should ensure that the tool makes clear that states are only required to answer questions related to Qualified PHAs if they enter into partnerships with those entities.

Section VI: Fair Housing Goals and Priorities

Section VI requires states to prioritize the contributing factors to each fair housing issue, justify their prioritization, and describe how the state will address the contributing factors in its goals. As discussed previously, the contributing factors analysis is an unworkable expectation for states. Going a step further to prioritize those contributing factors to fair housing issues requires states to empirically measure the extent of their impact and rank them accordingly. Even if states were able to conduct the contributing factors analysis, they would not be able to rank objectively those factors. How could a state possibly compare and rank the importance of factors such as community opposition, land use and zoning laws, lending discrimination, private discrimination, and more on segregation, for example?

Thank you for your consideration of our comments. We look forward to working with HUD to modify the state AFH tool so that it better reflects the needs and capabilities of state-level

program participants, and ensure that it is a useful and meaningful means for states to assess fair housing.

As stated at the outset of our comments, NCSHA is willing to work with HUD to organize a meeting or series of meetings between state HFA and HUD officials so that we could work together to develop a viable state AFH tool that will advance our shared goal of affirmatively furthering fair housing.

Sincerely,

A handwritten signature in blue ink that reads "Barbara J. Thompson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Barbara J. Thompson
Executive Director