The FHEA compared to the Regional AI

The Regional Analysis of Impediments (Regional AI) offers considerable value in assessing fair housing issues, as many of the fair housing issues that are most intractable are best addressed at a regional level. Despite its appeal, the Regional AI is not produced by many nor actively encouraged by HUD, a condition the Department hopes to change in the coming AI production cycles.

HUD believes that the Sustainable Communities Planning Grant program can be an important catalyst for this transition. The program's requirements include a provision that grantees must produce a Fair Housing Equity Assessment (FHEA) as part of their program deliverables. As currently conceived, the FHEA is quite similar to the Regional AI in scope and content. It is our hope that many grantees in the Planning Grant program will take the extra steps needed to transform their FHEA products into Regional AIs.

This document describes for grantees how an FHEA can be transformed into an acceptable Regional AI. The key takeaway is that there are a finite set of places where the FHEA and Regional AI differ, and these areas of difference are places where HUD will provide direct technical assistance to make it easier for grantees to conduct their analysis. Thus the burden in transitioning from an FHEA to a Regional AI should be manageable and, more importantly, the ability to address regional issues means the planning effort can be more effective.

The table below compares the FHEA and Regional AI and areas were the two may overlap. (For simplicity and illustration purposes only, the table uses terminology found in the FHEA as opposed to the Fair Housing Planning Guide.)

Element	FHEA	Regional AI
Protected Class Scope	Race/ethnicity	All protected classes
Background Includes consideration of disparities in housing need by protected class	Yes	Yes
Segregation/Integration Includes consideration of how land use and zoning have contributed/been a barrier or impediment	Yes	Yes
RCAP/ECAP or Areas of Minority Concentration Includes consideration of how land use and zoning have contributed/been a barrier or impediment	Yes	Yes
Disparities in Access to Opportunity Includes consideration of how land use and zoning have contributed/been a barrier or impediment affecting Fair	Yes	Yes

Housing Choice		
Fair Housing Enforcement Infrastructure Includes enforcement actions, summary of FHIP/FHAP	Yes	Yes
Physical Infrastructure Includes consideration of housing-employment-transportation linkage and how provision of municipal services have contributed/been a barrier or impediment	Yes	Recommended
Identification of barriers or impediments to fair housing choice not identified above	Optional	Yes
Fair Housing Strategies & Action Plan	Optional	Required for Certification
Conclusions	Yes	Yes

The Fair Housing Planning Guide provides helpful information in conducting regional fair housing planning. Approaching the AI in the manner described in the Fair Housing Planning Guide will provide jurisdictions with a comprehensive picture of the status of fair housing at local, regional, and State levels. The following sections describe the elements of these fair housing analyses, with a particular focus on the points of distinction between the two.

Scope of the Analysis

The analytical scope is one area where the FHEA and Regional AI differ. The Regional AI has a broader analytical scope than the FHEA in that it must encompasses issues associated with race, color, national origin, sex, religion, familial status, and disability, important protected classes covered by the Fair Housing Act, in addition to issues associated with race and ethnicity. Thus, Sustainable Planning Grant awardees that are interested in converting their FHEA into a Regional AI will need to supplement the analysis included in each section of the FHEA with comparable analyses regarding the state of fair housing for families with children and people with disabilities. The Regional AI includes an analysis that identifies both jurisdictional and regional impediments to fair housing choice.

In both of these cases, HUD has developed a data package that mirrors the data grantees will use in the case of their race-based analysis. As a result, grantees can use the guidance they have for the FHEA to complete these new sections. For the familial status analysis, grantees would follow the guidance with one modification: replace "race/ethnicity" with "familial status." For the disability analysis, grantees would do the same thing, but replace "race/ethnicity" with "disability status." The conceptual exercise is essentially the same.

The Background and Key Foci of the FHEA and Regional AI: The Role of Local Fair Housing Issues

A key potential tension in producing a Regional AI is that there may be specific fair housing issues and barriers that pertain to a single jurisdiction or subset of the jurisdictions associated with the report. The historical focus of the AI has been on jurisdiction, and one might have a concern that considering fair housing issues through a regional lens might result in relevant local issues being overlooked.

The recommended structure of the FH analyses reduces this concern significantly, as the core elements lead grantees and entitlement jurisdictions alike to consider local issues. One key class of local issues that are of particular interest involves land use and planning. As is noted in the table, a key component of both assessments is evaluating how land use and zoning within a jurisdiction or in a region contributes to disparities in access to opportunity, segregation, and racially concentrated areas of poverty. For both the FHEA and a Regional AI, it is expected that such land-use and zoning issues will be considered as part of the analysis (e.g., the proportion of land in high opportunity areas that permit multi-family housing and whether zoning provisions permit a reasonable accommodation). This local emphasis flows through both documents. For example, in both the FHEA and Regional AI, it is expected that the conclusions will establish guidelines for specific actions by the relevant entities involved. Actions to address impediments to fair housing choice at both the jurisdiction level and the regional level should be identified.

In addition, for both the FHEA and Regional AI, entities are encouraged to supplement the HUD-provided data with locally available information consistent with the overall goals of the undertaking. In the FHEA process, we are especially interested in seeking innovation and feedback regarding ways in which local data can most effectively supplement HUD-provided data as part of the anticipated process for the refinement of its new approach to AFFH.

Fair Housing Infrastructure

Both the FHEA and Regional AI will examine evidence concerning the level and types of discrimination that occur in the area, and the capacity of the entities in the area, such as those that participate in the Fair Housing Initiatives Program or the Fair Housing Assistance Program, to respond appropriately to them. In addition, for both, HUD will provide to those completing them a list of specific fair housing regulations or guidance to inform their analysis of their current compliance status. In particular, both should account for recent or current allegations of systemic discrimination against private or public entities, including civil rights lawsuits, pending fair housing enforcement actions, settlements, or consent decrees that signal the presence or resolution of key fair housing and civil rights concerns.

Physical Infrastructure

The FHEA requires a physical infrastructure analysis whereas the Regional AI does not, though AIs (Regional or jurisdictional) often include physical infrastructure issues in them. In transitioning the FHEA into a Regional AI, it will be important that any references to physical infrastructure strategies or actions in the Regional AI be consistent with those strategies and actions as articulated in the FHEA.

Strategies and Action Plan

In the course of the local-level fair housing certification process, a jurisdiction must identify strategies and actions that must be taken to address fair housing issues raised in the AI. This requirement will also apply in the case of a Regional AI. Strategies and an action plan are included in some of the strongest AIs, both regional and local, but they can also appear in a separate document. By contrast, strategies and an action plan are not required in the FHEA. However, the analysis and findings from the FHEA are expected to inform thinking in terms of priorities and strategizing of the consortium as it develops or implements its regional plan. Thus, FHEA strategies and actions will be implicitly reflected in all final product(s) of the Sustainable Communities Regional Planning Grant.

Note on the Regional AI

While the Regional AI is written using a regional lens, if prepared in accordance with these guidelines HUD expects it will operate as the reference fair housing document for the consolidated and annual plans for each individual jurisdiction that was a signatory to the Regional AI. Each jurisdiction is responsible for maintaining documentation of the analysis of impediments and the actions it carries out with its housing and community development and other resources to remedy or ameliorate any identified impediments to fair housing choice in the recipient's community.

HUD Review

Because the FHEA is part of an innovative program designed to identify new approaches for conducting planning, HUD does not prescribe a particular performance standard or mandate a specific approach for producing the report. However, because the AIs have a clear regulatory role in informing jurisdictions' affirmatively furthering fair housing certification, we have staff available to help you at every step of the way.

Next Steps: Training Support

As part of helping grantees complete their FHEA and Regional AI, HUD has developed and will offer training materials via a webinar. The table below describes the schedule of webinars.

Webinar topic	Time	Date
Background	TBD	TBD
Segregation /Integration	TBD	TBD
RCAP/ECAP	TBD	TBD
Disparities in Access to Opportunity	TBD	TBD
Fair Housing Infrastructure	TBD	TBD
Physical Infrastructure	TBD	TBD

As the dates approach, we will provide you with more information on how to participate in the webinar and send materials to help you prepare for them.