August 17, 2015

Regulations Division
Office of General Counsel
Attn: Ms. Camille E. Acevedo
Associate General Counsel for Legislation and Regulations
U.S. Department of Housing and Urban Development (HUD)
451 7th Street SW
Room 10276
Washington, D.C. 20410-0500

Re: Comments on the Proposed Affirmatively Furthering Fair Housing (AFFH) Assessment Tool Published on July 16, 2015 (Docket No. FR-5173-N-05)

Dear Ms. Acevedo:

The City of Los Angeles continuously supports HUD's goals and objectives that foster and maintain compliance with civil rights and fair housing laws. We hereby respectfully submit our comments regarding the U.S. Department of Housing and Urban Development's (HUD) Affirmatively Furthering Fair Housing (AFFH) Assessment Tool and related sources (FR-5173-N-05).

In addition to being the second largest City in the nation, Los Angeles has a majority-minority population of nearly 72%. Additionally, diverse and low-income neighborhoods throughout Los Angeles are experiencing transformative changes due in large part by the $40 billion transit investment in the region. The improvement in the local economy combined with the transit investment have spurred development throughout the city particularly in richly diverse and traditionally low-income communities. Given this reality it is imperative that HUD acknowledge that its proposed Assessment Tool does not properly recognize the changing factors of majority-minority localities that are experiencing an urban renewal renaissance where higher income and non-minority populations are migrating from the suburbs to the urban centers of large cities such as Los Angeles.

Based on our review, HUD's proposed Assessment Tool contradicts the final AFFH Rule's intent to offer a "balanced approach" in affirmatively furthering fair housing by equating AFFH with mobility. The Assessment Tool encourages the "move out" from R/ECAPs (Racially or ethnically concentrated areas of poverty) and promotes the commitment of community assets in less racially and ethnically concentrated geographies. On the other hand, Los Angeles believes that it is critical to make a concerted effort to continue investing in R/ECAPs to ensure that communities thrive and reap the benefits of urban change. It is important that federal policies accommodate and salute neighborhood reinventions not only for non-R/ECAPs, but also R/ECAPs since Los Angeles largely consists of these type of areas. While the rapid transformation in the city may help advance fair housing goals and integration, it can have detrimental impacts on the residents in many "established" communities, such as being priced out of their neighborhoods, losing access to nearby transit, job opportunities, and schools. As such, we request HUD to further consider that mobility is not the ideal or only approach for all jurisdictions to ensure fair housing choice.

HUD's Assessment Tool and the revised AFFH mapping and data tool demonstrate positive steps forward, however, the following pose key concerns for Los Angeles. (1) R/ECAPs: The proposed Assessment Tool, as well as the mapping and data tool require the identification of R/ECAPs in each jurisdiction; it is difficult to ascertain how HUD will determine with statistical validity if the locations of housing, services, assets, etc. are in R/ECAPs given that most

moderate to low-income communities of Los Angeles are majority-minority. The requirement to analyze areas on access to opportunities based on race/ethnicity, national origin or familial status and how it compares to segregative patterns or R/ECAPs is troubling. (2) Statutory and Regulatory Changes: The Tool holds agencies accountable today for the statutory and regulatory changes made to programs over the past several years (e.g., housing authorities administering public housing programs, which serve the poorest individuals and families since program inception due to previous requirements). (3) Corrections to Mapping and Data Tool: Many functional deficiencies (and incomplete data) are prevalent throughout the mapping and data tool.

To maximize HUD's effectiveness at implementing regulations that truly affirmatively further fair housing, the Los Angeles Housing + Community Investment Department (HCIDLA) and the Housing Authority of the City of Los Angeles (HACLA) urge HUD to consider the attached comments and recommendations as the assessment tool and the mapping and data tool are further revised. We will be glad to provide additional information upon request. Should you have any questions, please feel free to either contact Rushmore Cervantes at (213) 808-8808, rushmore.cervantes@lacity.org or Douglas Guthrie at (213) 252-1810, douglas.guthrie@hacla.org.

Sincerely,

Rushmore D. Cervantes
General Manager, Los Angeles Housing + Community Investment Department

Douglas Guthrie
President & CEO, Housing Authority of the City of Los Angeles

Concerns from the City of Los Angeles Regarding the Affirmatively Furthering Fair Housing Assessment Tool

I. Option A vs. Option B Assessment of Fair Housing Tool
Issue: Which Assessment Tool type is preferred? Are there any suggested changes?

Comments: Option B is preferred since this format provides an opportunity to discuss the contributing factors to the problem and frame the local situation over the past 25 years, before launching into the analysis of each topic (e.g., disproportionate housing need). This makes it easier to consider and identify the factors associated with each section. Whereas Option A lists all contributing factors in one location after the analysis sections, this makes it more difficult to follow.

Recommendations: HUD should select Option B as the Assessment Tool type for jurisdictions to utilize in drafting their respective AFHs as a starting point to finalize the Tool.

II. Assessment Tool (General Concerns)
1.) **Section III. Community Participation Process**
Issue: The final AFFH Rule indicates that HUD believes the separate analysis of barriers undertaken for fair housing choice must be separate from the Consolidated Plan (ConPlan) and PHA plan to inform the broader planning scope. Therefore, the AFH process precedes the consolidated plan and will not be concurrent with the Consolidated Plan and PHA plan. We understand that a community participation process will not be combined with the Consolidated Plan.

Comments/Questions: Although, HUD offers to consider the integration of the AFH with the consolidated plan in the future after reviewing the first submissions of the AFH, this still poses a problem for local jurisdictions like Los Angeles. Los Angeles will encounter the burden of carrying out multiple community participation meetings for the AFH and its ConPlan with limited funds (As mentioned in City of L.A.'s previous comment letter on HUD's proposed Assessment Tool, letter dated November 25, 2014). The City's initial AFH community participation process will require a large amount of staff time and high administrative costs without the guarantee that HUD will combine this process with the Consolidated Plan in the future.

Recommendations: Los Angeles reiterates the importance of combining both the Consolidated Plan and AFH community participation plans to minimize the burden on staff and the community.

2.) **Section IV. Assessment of Past Goals and Actions**
Issue: The Assessment Tool asks participants to indicate what goals were selected in recent Analyses of Impediments (AI) and Assessments of Fair Housing.

Comments/Questions: Why is the Tool asking for goals from previous AFHs? This requirement is confusing since the AFH submission requirement is new to jurisdictions, there is no previous AFH to reference for assessing achievement of goals.

Also, the assessment of past goals and actions should not apply to a jurisdiction's previous AI. The purpose of the new AFH requirement is to replace the AI process that was found to be ineffective by the Government Accountability Office (GAO). HUD designed the AFH process as a method for the department to offer improved guidance tools and data to jurisdictions, which did not exist during the AI era. Therefore, it is not clear why HUD should rely upon a jurisdiction's past AI to determine what progress has been achieved.

Recommendations: Since this is the first time the AFH will be conducted, the Tool should exclude first year reference to the AFH for determining progress in meeting any goals. Furthermore, HUD should not require localities to refer to any of their previous AIs to complete their AFH reports, since the AIs did not effectively help HUD in evaluating how jurisdictions were addressing fair housing issues in the first place. Instead, we encourage HUD to focus on

encouraging localities to implement a new AFH process by using a well-designed assessment tool and provide extensive technical assistance to complete the new AFH.

3.) Section V. Analysis – R/ECAPs

Issue: Discuss how R/ECAPs have changed over time (since 1990)?

Comments/Questions: Since census tract boundaries (the smallest geography that HUD will use for the ACS, as stated in the data documentation) have changed after each decennial census, with many splits due to population growth, Los Angeles must describe change in general terms. Can we use neighborhood names (e.g., Echo Park, Highland Park) to describe gentrification and displacement? What if the current income levels are not over 40% poverty, but previously may have been (e.g., Echo Park) do they get left out of the discussion?

Recommendations: HUD should provide further data to capture the change in neighborhoods over time, and allow localities to utilize neighborhood names and not have to rely on census tracts.

4.) Section V. Analysis – Disparities in Access to Opportunity

i. Issue: Which racial/ethnic, national origin, or family status groups are least able to attend proficient schools? How does a family's place of residence affect a student's ability to attend a proficient school? Describe how school enrollment policies affect a student's ability to attend a proficient school?

Comments/Questions: What if a jurisdiction does not have any statistics or particular insight into its school district (e.g., Los Angeles Unified School District [LAUSD], a separate entity)? Does that mean a jurisdiction can simply describe LAUSD's enrollment procedures? The school district may be filled with non-proficient schools according to their definition, even in affluent neighborhoods. We understand that HUD may only focus on elementary schools. Can HUD explain why they choose to exclude middle high and high schools?

ii. Issue: The Tool asks for the identification and discussion of any overarching patterns of access to opportunity and exposure to adverse community factors based on race/ethnicity, national origin or familial status. Identify areas that experience an aggregate of poor access to opportunity and high exposure to adverse factors. How do these patterns compare to patterns of segregation and R/ECAPs?

Comments/Questions: The City of L.A. agrees with the statements from the *Public Housing Authorities Directors Association (PHADA) Advocate*, July 29, 2015 issue – "HUD continues to conflate affirmatively furthering fair housing with mobility, and so it continues to require assessments of access to community access in an AFH."[1] Although HUD indicates in its final AFFH Rule that the department is taking a "balanced approach" to affirmatively further fair housing that includes both "access to opportunity" and place based alternatives that invest in what may be R/ECAPs as economic development efforts[2], the City of L.A. believes that HUD contradicts this objective in its analysis section of the Assessment Tool.

Recommendations: HUD should acknowledge the reality that Los Angeles is a majority-minority city (like other major cities in the country) so the natural make-up of many neighborhoods are R/ECAPs. Rather than HUD encouraging desegregation, HUD should realize that moving out of a R/ECAP is not automatically synonymous with the creation of economic opportunities for poor ethnic and racial minorities. In Los Angeles, for example, economic investments are taking place and the City must seize the opportunity to the benefit of the R/ECAP areas.

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[1] HUD Publishes a Final Affirmatively Furthering Fair Housing Rule – Final Rule and Reactions to Public Comments Distributed. (2015, July). *Public Housing Authorities Directors Association (PHADA) Advocate, 30*, p. 12.
[2] Ibid.

5.) Section V. Analysis – Publicly Supported Housing Location and Occupancy
Issue: Grantees are asked to describe patterns in the siting of categories of housing.

Comments/Questions: To explain this is akin to explaining the historic federal criteria and local attitudes in place at the time that each type of assisted housing was developed over the past seventy years. It is concerning that the historic guidelines for the siting of different assisted housing could generate a goal to be corrected under *Part V: Fair Housing Goals and Priorities*. In Los Angeles, 75% of the Housing Authority of the City of Los Angeles (HACLA) owned assisted units were built under the public housing program guidelines of the 1940s and 1950. To assume a correlation seventy years later that the placement of those projects is the cause of any current segregation or concentration of poverty is not sound, yet the Assessment Tool as proposed would suggest that to be the truth. There are no rational, realistic, or feasible means available to the HACLA or to the City to "correct" current realities regarding concentration of poverty in publicly assisted units, nor is there the funding from Congress or HUD to assist in developing affordable housing in low impacted areas.

Additionally, with HUD's goal of ending homelessness, agencies such as HACLA have been proactive in partnering with local service and housing providers to develop new units under HACLA's authority to project-base Housing Choice Vouchers. For these new housing units to be effective in attracting and stabilizing homeless individuals and families, they need to be located in areas where there is mental health, vocational and other services, as well as transportation options close by for families. Due to the cost effectiveness of providing such services where the participants are located (not to mention land cost and other factors), these vouchers are often committed to units located in areas of high poverty and minority concentration. To possibly be penalized or have a goal under Part V of the Tool to correct such concentration would be counterproductive to an equally worthy HUD goal.

Recommendations: Coupled with technical assistance to address siting issues, HUD should encourage public housing authorities to continue developing creative housing assistance programs/resources for public housing facilities in R/ECAPs since original placement of these housing types are entrenched in historical siting mechanisms.

6.) Section V. Analysis – Disability and Access
Issue: How are persons with disabilities geographically dispersed or concentrated in the jurisdiction and region, including R/ECAPs and other segregated areas identified in previous sections?

Comments/Questions: The accessible data is poor given that:
   a. Citywide data for persons with disabilities will be from the ACS – a 3% household sample;
   b. The R/ECAPs and other lower income areas will have additional data from HUD's databases of assisted housing, which may make it appear that there is greater concentration of persons with disabilities in lower income areas, which may be incorrect; and
   c. It also said that HUD's definition of disability will vary from the Census definitions? How will this discrepancy be addressed by HUD?

7.) Section V. Analysis – Disability and Access: "Integration of Persons with Disabilities Living in Institutions and Other Segregated Settings"
Issue: To what extent do persons with disabilities in or from the jurisdiction or region reside in segregated or integrated settings?

Comments/Questions: How are localities expect to know this? What does HUD mean by 'settings'? Will there be additional information/data provided?

8.) Section V. Analysis – Disability and Access: "Disparities in Access to Opportunity"

Issue: To what extent are persons with disabilities able to access the following? Identify major barriers faced concerning:

i. Government services and facilities
ii. Public infrastructure (e.g., sidewalks, pedestrian crossings, pedestrian signals)
iii. Transportation
iv. Proficient schools and educational programs
v. Jobs

Comments/Questions: How are localities expected to know this? What data sources are available, other than anecdotal evidence?

Recommendations: We urge HUD to provide further guidance on what is accessible data given the challenges in obtaining the information and the need to implement the objectives of the AFFH rule.

9.) Section VI. Fair Housing Goals and Priorities – Prioritization

Issue: This section requires that participants prioritize the identified contributing factors for each fair housing issue. Provide the highest priority to those factors that limit or deny fair housing choice or access to opportunity, or negatively impact fair housing or civil rights compliance.

Comments/Questions: How are participants supposed to "prioritize" the contributing factors, using what methodology? How will HUD evaluate the prioritization of factors?

Recommendations: HUD should provide further guidance on how jurisdictions are to properly prioritize contributing factors.

10.) Section VI. Fair Housing Goals and Priorities – Metrics and Milestones for Fair Housing Results

Issue: Participants are to identify metric and milestones for determining which fair housing results will be achieved, and indicate the time frame for all achievements.

Comments/Questions: How will the metrics and milestones be evaluated? How does HUD intend to determine proper metrics and reasonable milestones for each goal identified? HUD's enforcement capabilities are unclear.

Recommendations: After jurisdictions identify and submit their metrics and milestones for fair housing results, HUD should provide feedback on how to properly develop specific metrics and milestones that are most useful for evaluating progress in communities that directly satisfy the goals and objectives of the final AFFH rule.

III. HUD's Data and Mapping Tool and Tables

1) Issue: The AFFH Assessment Tool (Federal Register Notice) indicates that the functionality of HUD's provided maps and tables would be similar to that in HUD's CPD Maps tool and reduce burden.

Comments: Reliance on HUD's CPD Maps tool as a model tool is problematic since various issues have been raised concerning the CPD Maps tool in the past. Additionally, the recent mapping and data tool that HUD has released for the Assessment Tool poses many functionality issues (as detailed below), so HUD's goal to lessen the burden on users is actually an unmet goal.

The following reflects specific technical issues and the City's recommendations for improving HUD's data and mapping tool:

**Concerns from the City of Los Angeles Regarding the Affirmatively Furthering
Fair Housing Assessment Tool**

A. *Visibility Issues*
- The dot density per increment of 5 should be restructured so that it is not fully available at all scales, but rather be pre-adjusted to reflect the best set of increments at the appropriate scales to achieve better visualization of data. For instance, if the user zooms too far out, the user should not be able to select a dot density of 1 person. This option should only be available at a more zoomed-in view because it misrepresents data points and is unclear.
- Add the ability to create bookmarks so that when toggling back and forth between the data, the view does not default to zooming out to the entire jurisdiction.
- When displaying layers in the table of contents, a check mark next to each layer should indicate which of the layers are actually present in the view. For instance, for "Housing Burden" instead of trying to figure out what shade of grey includes 90-100% cost burden, it would be helpful if it is clearly indicated if it is actually present rather than using the naked eye to discern.
- The color distinctions between variables needs to change to distinguish the layers more effectively. For example: Black, Native American and Asian colors are too similar to be able to distinguish from each other.
- While it may be helpful to display historical data, it would be more helpful to visualize the change that occurred between the decades. For instance, if the Non-Hispanic White population declined in a certain census tract from 1990-2000, there should be a visual indicator that shows the difference in the number of people per dot.

B. *User Issues*
- Add the ability to click on a particular census tract and gather information in a pop-up window. For example: For the multifamily housing map, the ability to click on a shaded census tract would provide information about the percent of Section 8 vouchers in that tract as well as identify the tract.
- HUD's maps of "Demographics and School Proficiency" incorrectly maps data according to census tracts. School data is actually collected based on school districts/schools. HUD should not base school data on census tracts, but include these key layers when viewing data on education/school performance.
- Separate null values from 0 percent graphically in layers. For instance, for "School Proficiency," the layers are in 10 percent increments; for the layer that is 0-10 percent proficient, if the user wants to zoom into it, he/she would have to determine the type of layer that exists (e.g., a forest or an industrial area) by possibly using another mapping system for assistance. Currently null values can mean 0 percent, this is very misleading and can be improperly interpreted.
- HUD should make GIS shapefiles downloadable in order to truly access and utilize the data set HUD has made available with other data sets localities or grantees may have at their disposable.
- When the user downloads tables, having the average of either the state or nation directly next to it or downloadable as a separate sheet would be helpful for further analysis.
- The Racial Dissimilarity Index, indicates that a score above 55 is a highly segregated area. All races in the Los Angeles City area signify over 55, despite being a diversely integrated City, with a majority-minority population. This index should be depicted geographically, to reflect the reality of many races living next to each other in certain neighborhoods. A single aggregate table for the entire City of Los Angeles is not useful. The majority population in Los Angeles is non-white Hispanic/Latino. For example: In Los Angeles County itself, almost 50% of the population is identified as Hispanic/Latino.[3]
- The tabular data needs a description of metadata available at the time of exporting the table. The link to the general HUD exchange landing page alone is not useful for understanding the data. Other mapping applications such as "PolicyMap," illustrate good examples of how to best display metadata for grant reporting and applications (shown below). Metadata should be programmed into the tables to reflect a full definition of what is downloaded, otherwise a user may spend too much time seeking this information out

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[3] 2010 U.S. Census

each time they download a table. This places a further burden upon localities requiring additional time checking for data accuracy.
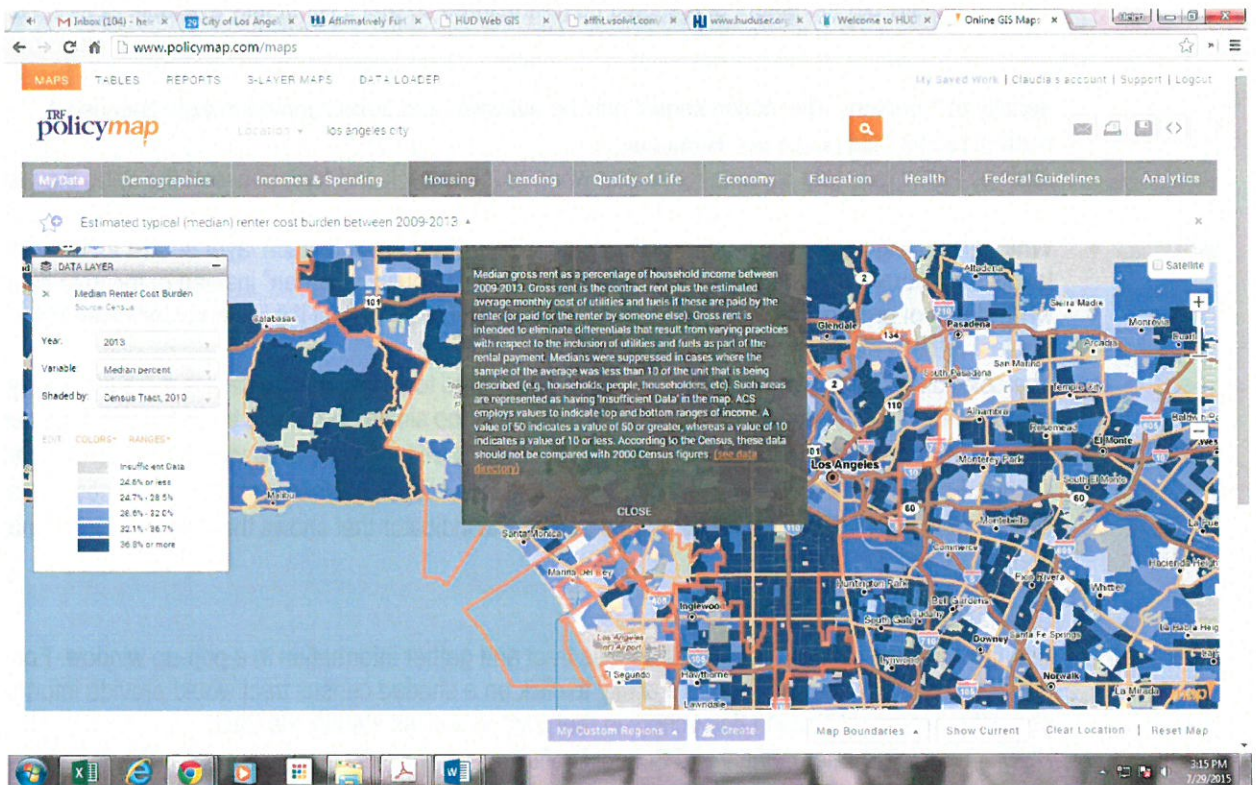
C. *Accuracy Issues*

- Various racially and ethnically concentrated areas of poverty and households experiencing one or more housing burdens identified in the City of Los Angeles appear to be incorrect. For example: The student dormitories at the University of California Los Angeles (UCLA) are improperly designated as areas having housing burdens and racially and ethnically concentrated poverty (shown below). This designation is completely inaccurate. Instances such as these require HUD's ability to conduct quality control of their data to ensure indices are properly identified.
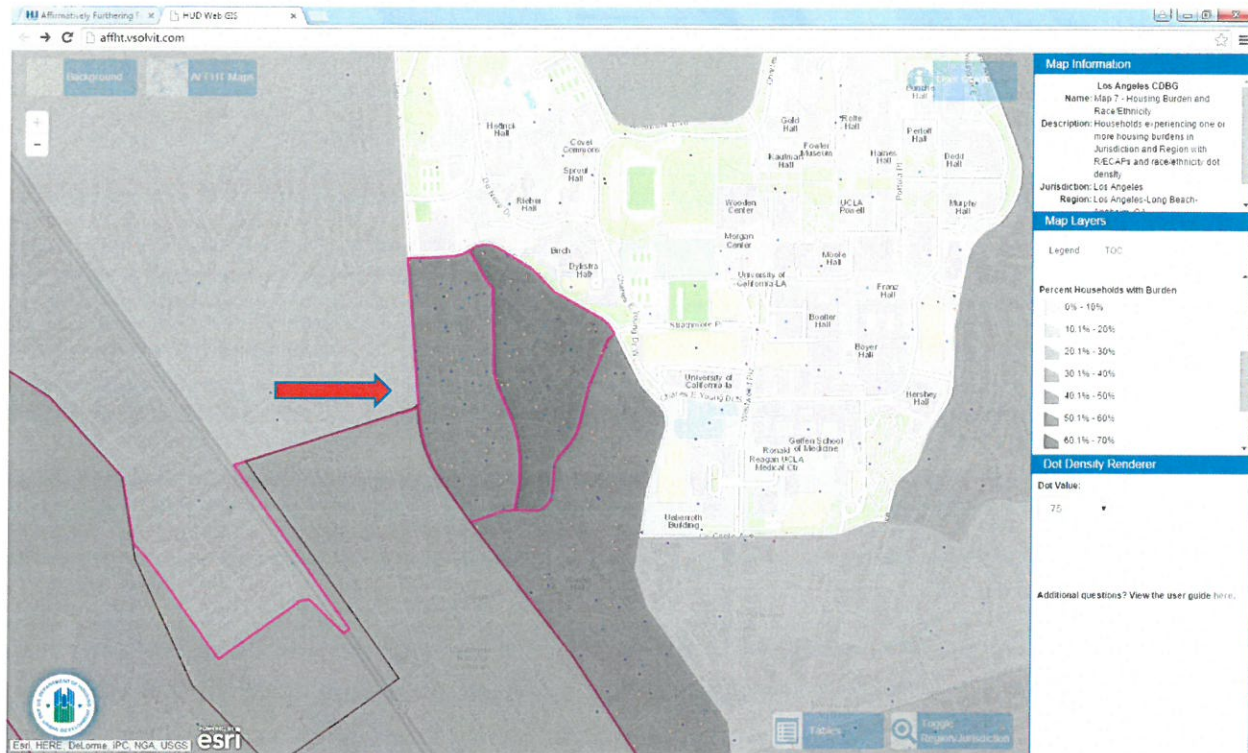
2) Issue: HUD is still anticipating further changes to its data tool prior to its final release. One of the anticipated changes is "improved data tool functionality" to allow for better access to data: on locations and demographics, as well as the ability to export maps and tables.

Comments/Questions: How does HUD expect for jurisdictions to provide their comments on HUD's revisions when all of the changes are still not yet finalized? This appears to be the same issue HUD had during its initial release of its proposed maps and data on September 26, 2014, incomplete/non-finalized data. Will the public have a chance to comment/review "finalized" data prior to the release of a final Assessment Tool? NOTE: Recognized that many of HUD's table footnotes include the statements: "*These data are not currently available, but are expected to be available before the AFFH rule goes into effect*" AND "*....is under review and subject to change.*" These disclaimers illustrate that HUD's data tables are not yet complete, making it difficult for jurisdictions to fully evaluate HUD's proposed data.

Recommendation: HUD should allow jurisdictions the opportunity to review the finalized mapping and data tools prior to HUD officially requiring the use of all data sources.

IV. AFFH Data Documentation
Issue: Low Transportation Index Summary

Question: Why is the index based on transportation cost estimates for a 3-person single-parent family? What is the significance of utilizing a "single-parent" family?

Recommendation: HUD should provide further clarity to explain this reference and how it relates back to the intended goals and objectives of AFFH and engaging in the AFH process.