

Summary and Response to Public Comments Received

	Topic	Issue	Commenter ¹	Response
1	Municipal Bankruptcies	The State should analyze the impacts local municipal bankruptcies have on fair housing choice. Bankruptcies could foreseeably lead to a broad range of impediments to fair housing – lack of funding for infrastructure, understaffed police force leading to unsafe neighborhood, or inability to plan for or fund new affordable housing. The State should consider these issues in its analysis and assess what State policies may support a stable fiscal environment for cities that work allow them to avoid bankruptcy and its resulting impediments to fair housing.	1	The impacts of potential future municipal bankruptcies on fair housing opportunities are too speculative to constitute an impediment for the purposes of this document. The causes and effects of municipal bankruptcy in California are many and wide-ranging. It is impossible to isolate, or analyze specific impacts of municipal bankruptcies on fair housing opportunities within the scope of this document. Municipal bankruptcies are governed by state and federal law and any appropriate action to address potential fair housing impediments would be a matter for the legislative branch.
2	Limited Access to Justice System	AI fails to analyze how limitations in tenants' access to the California justice system places their housing at risk due to eviction AI should identify problem that currently California does not provide interpreters in civil courts for self-represented and/or indigent litigants.	1	Limited access to justice under the current state court system can impact low-income persons in a number of ways. However, it is impossible to isolate, analyze or address those specific impacts which might constitute impediments to fair housing within the scope of this document.
3	FEHA and Federal Voucher Pay Standards	State should amend FEHA to include specific protections for immigrants and subsidized housing participants (i.e. Section 8) Impediment 8, Action 8-6 should be stronger. Commenter recommends 1) the State work with federal government to increase payment standards for more costly "high opportunity" areas where Section 8 voucher-holds and/or minority households are underrepresented and/or 2) amend the California Fair Employment and Housing Act (FEHA) to include specific protections for Section 8 participants.	3	Fair housing laws are designed to protect certain classes of persons from various forms of discrimination. As noted by the commenter, the establishment of protected classes for immigrant status and subsidized housing participants is appropriately a matter of legislative action. As an administrative agency HCD is not authorized to adopt or amend the categories of protected classes. It is acknowledged that payment standards in high opportunity areas are an issue that has fair housing implications, however, this is a federal issue and HCD has no authority. The Department will forward commenter's concerns to appropriate agencies for consideration.

¹ Please refer to Table 1 below for a listing of corresponding commenting organizations

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4	Immigration Status	The AI should analyze discrimination based on immigration status as an impediment to fair housing choice and propose actions to address this pervasive form of discrimination ... (including) explore further policy options available to the State and/or sub-recipient jurisdictions to prevent discrimination on the basis of immigration status.	1	The Department acknowledges that immigrants often face discrimination and may frequently be members of one or more of the State or federal protected classes and the AI sets forth analyses of these protected classes, including identification of potential impediments to fair housing. Please note, however, immigration policy is governed by federal law. Any appropriate action to prevent discrimination on the basis of immigration status would require legislative action and is outside the scope of this document.
5	Foreclosure	Identify the diversion of funds received in the National Attorney General's Mortgage Settlement as an impediment and analyze potential fair housing impacts and actions to address. — The AI does not specifically identify foreclosure-related practices or policies as impediments to fair housing choice. Nor does it discuss actions which have been taken and should be taken to ameliorate the impediments. For example, the AI should address the diversion of funds that California received in the National Mortgage Settlement to help close the 2012-2013 budget deficit. — AI should also analyze the ways in which California's non-judicial foreclosure statute serves as an impediment to fair housing choice.	3, 1	The direction of funds from the Mortgage Settlement to the general fund leaves intact existing programs to assist homeowners impacted by the foreclosure crisis. See the analysis of the impact of foreclosures in Chapter 4 of the AI. To the extent the diversion may constitute an impediment; it is a product of the budget process which is strictly a legislative function. Any appropriate action to address this matter must be taken by the legislature The effect of the availability and common use of non-judicial foreclosure on fair housing opportunities is too speculative to constitute an impediment for the purposes of this document.
		Recommend passage of SB 1473 and AB 2610 currently pending in the CA legislature to permanently incorporate key protections of the Protecting Tenants at Foreclosure Act as well as addition tenant protections. AI stops short of identifying any related actions to remove impediments to fair housing choice related to foreclosure-driven evictions. Should analyze impact upon tenants of color if bills are not passed.	3	See response above. The impact of the failure to enact pending legislations is too speculative to constitute an identifiable impediment.

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6	Redevelopment	<p>Identification of current and potential ramifications of the loss of redevelopment funds including a description of the actual impact of the loss to cities and counties, the agencies that were contracted with these cities and counties and the persons who would have been helped with those funds.</p> <p>The AI should provide a more meaningful analysis of how the loss of affordable housing financing presents such an impediment. By analyzing more fully the impact of redevelopment's loss on access to fair housing choice, the AI could at least ensure that policymakers appreciate this aspect of the loss. HCD should present options for mitigating the loss.</p> <p>—————</p> <p>Need to find a way to restore RDA or establish a mechanism for providing incentives for the development of affordable housing.</p>	3, 8	The loss of redevelopment funds to local jurisdictions and agencies that are in turn awarded contracts for fair housing-related activities is a component of the overall impact of the loss of redevelopment funds. Based on this analysis, the Department has identified the shortage of subsidies and strategies (including the loss of redevelopment) as an impediment and proposed actions 3-1 and 3-2 to mitigate the identified impediment.
7	Inclusionary	AI fails to explore possible actions to address Palmer Decision and its effects on local inclusionary housing policies. Commenter recommends mentioning legislative action of amending Costa-Hawkins Act specifically to permit inclusionary zoning policies for rental housing as a potential solution.	1	The action proposed by the commenter to address would be a matter for the legislative branch. As an administrative agency, HCD is not authorized amend existing State law. The AI, however, does include multiple actions to address impediments related to the identified shortage of subsidies and strategies to promote affordable and accessible housing (see Actions 3-1 to 3-3 in Executive Summary).
8	Mobilehome Park Closure and Displacement	State law should require anti-displacement measures for mobilehome park closures, provide for meaningful tenant impact reports that include anti-displacement provisions, demand an analysis of differential effect on protected classes, requirement payment of "in place" value of the loss of the existing space, regardless of whether displacement is private, caused by code enforcement or cause by other related government funding or action.	1	Existing State relocation statutes currently provide anti-displacement measures for tenants displaced from mobile-home parks closed due to public projects. In addition, these existing relocation statutes provide extensive reporting requirements for tenants through and by relocation plans when displaced by public action. Changes in the current requirements would require action by the legislature.

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9	NIMBY Issues	<p>Community NIMBYism is one part of but an even larger portion is with local officials. Many officials are quite ignorant of the definition of affordable housing and think it only means high rise projects and old fashioned tenement housing.</p> <p>—</p> <p>Rural communities may be resistant to the development of multifamily housing and lower-income households because they have a perception they are already saturated relevant to their population and services and perceived impact on property values.</p> <p>—</p> <p>The report does not document the prevalence of NIMBYism derailing proposals to construct multifamily rental housing and housing for lower-income or minority households.</p>	8, 9, 5	<p>With respect to anti-NIMBY trainings, one of the Department's objectives is to design in-person trainings and other training tools which address concerns and problems faced by different groups interfacing with this issue, including developers, local elected officials, and community groups.</p> <p>In addition, Impediment 2 and its corresponding actions (2-1 and 2-2) are specific to NIMBYism and the potential impacts on furthering fair housing choice.</p> <p>Numerous studies have identified the prevalence of resistance to multifamily rental housing, including housing for lower income households. These range, for example, from a report by Harvard's Joint Center for Housing Studies - "<i>Resistance to multifamily rental housing is a growing phenomenon in communities around the country</i>,"¹ to legal articles based on California experience: "<i>The development of affordable housing and services for low and moderate income households has been plagued by local opposition (commonly referred to as the not-in-my-back-yard or NIMBY syndrome) for decades.</i>"²</p> <p>Examples of such literature citations as noted below have also been added to Chapter 3 of the AI.</p> <p>¹ OVERCOMING OPPOSITION TO MULTIFAMILY RENTAL HOUSING / Obrinsky, Mark; Stein, Debra. -- Cambridge, MA: Joint Center for Housing Studies Harvard University, March 2007 (Working Paper RR07-14) , pg.1. http://www.jchs.harvard.edu/sites/jchs.harvard.edu/files/rr07-14_obrinsky_stein.pdf</p> <p>² MANAGING LOCAL OPPOSITION TO AFFORDABLE HOUSING: A new approach to NIMBY / Iglesias, Tim -- Washington, DC: Bazelon Center for Mental Health Law, 2002; <i>Journal of Affordable Housing – Vol.</i></p>

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				<u>12, No. 1 (Fall 2002) p. 78-122.</u> <u>http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1018536</u>
10	General	Draft AI does not provide an in-depth analysis of unfair housing practices to document unfair housing practices, where they occur, how frequent they are, and what sorts of practices are used to prevent them. While information on housing complaint data is included, the report does not provide an in-depth analysis of the self-reports. One approach would be a survey of recent buyers to determine if they experienced any forms of discrimination.	6	<p>Data has limitations. The responses to the question asking for the identification of unfair housing practices in the survey tool are based on subjective perceptions and there exists a potential bias to not identify the responding jurisdiction's own actions as potential impediments or unfair practices. Consequently, this type of information is likely to under-report the extent of the problem and would point to the most serious problems. Despite this limitation, the survey of jurisdictions is a concrete step in identifying potential problems and barriers.</p> <p>Because these practices are difficult to detect by individuals, relying on self-reporting, consequently, is very problematic in reviewing discrimination. Even when housing discrimination is suspected, many possible victims may be reluctant to pursue remedies, or do not have the time or resources. While it is important to look at formal complaints of housing discrimination, this is likely to be only the tip of the iceberg.</p> <p>No single piece of information in the AI study is conclusive. Instead, the disparate findings should be taken as a whole to assess whether "fair housing" and "equal housing opportunity" and whether governmental housing programs are operating in ways consistent with these principles.</p>
11	General	Equal access to housing is not a necessary and sufficient condition of fair housing. Furthermore, by focusing on "impediments that may prevent equal housing access" no substantial facts are really presented or documented.	6	Equal access to housing may not be a necessary and sufficient condition of fair housing access, but it is a necessary component to equal housing opportunity. Addressing any particular impediment may or may not prevent equal housing access, and even if it does, it is important to determine if addressing this impediment is feasible and effective relative to addressing other impediments.

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12	General	<p>Most of the State's population growth is due to births. Since 1990, births increased the population by 12.1 million compared to migration at 1.3 million. This population segment (births) does not create a demand for housing for several years. In fact those born in 1990 are just now beginning to create demand for housing.</p> <hr/> <p>The AI does not document nor quantify the State's annual housing need.</p>	6	<p>Births are just one of the vital statistics that make up population growth. Population growth is projected by DOF using recognized birth/fertility, mortality and migration assumptions, and by tracing people born in a given year through their lives (baseline cohort-component method). As each year passes, cohorts change as specified in the mortality and migration assumptions. New cohorts are formed by applying the fertility assumptions to women of childbearing age. Fertility is race/ethnicity and age specific, so any shifts in demographic trends can influence births. Migration, which includes immigration is another important component. Although somewhat diminished recently as California experiences domestic populations growth from within for the first time, it has been partially compensated by recent increase in life expectancy.</p> <p>Housing demand is primarily based on population growth and household formation, which is the propensity with which a certain race/ethnicity in a specified age group forms households. As with fertility, any shifts in demographic trends for race/ethnicity or age groups can influence the household formation. As such, these shifts can affect the type, location, tenure of housing needed (increased demand for family units). For more information on demographic trends and housing demand in California, visit the Department's State of the Housing in California paper at: http://www.hcd.ca.gov/hpd/HCD_PaperState_of_Housing_in_CA2011.pdf</p> <hr/> <p>Identification of impediments to fair housing are related to many variable, and are not dependent on estimates of annual housing need.</p>
13	General	<p>Re: Parity values analysis for mortgage loan applications (Page 4-16). In every area throughout the State, Non-Hispanic White had a loan application parity index below 1.0. It is doubtful that Non-Hispanic White experience fair</p>	6	<p>HMDA data used in this analysis has inherent limitations as the information collected in the loan documentation process is self-reported by applicants. This could affect the number of Non-Hispanic Whites</p>

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		housing issues, in particular, discrimination. It would seem that factors such as age and homeownership rates are likely to have a greater impact on index values.		<p>captured by the HMDA data. In 2006, about 17% of loan applications in Los Angeles County did not report a race and about 14% did not report an ethnicity. Financial institutions may also impute the race or/and ethnicity, if an applicant fails to report it, which may affect how applicants are reported.</p> <p>For example, comparison of the race/ethnic distribution of applicants reported in HMDA with selected householder data from the 2006-2010 5-year ACS Public Use Microdata (PUMS) shows that Non-Hispanic Whites are undercounted in HMDA data by almost 10-percentage points in Los Angeles County. The selected households from ACS PUMS include householders that moved in the past year and who reported having a mortgage. The selected households could be used as an alternate form of identifying people that likely applied for a loan. According to HMDA, Non-Hispanic Whites accounted for about 29% of loan applications while the ACS approximation would indicate a share of about 38%. We can observe a similar pattern with originated loans—32% compared to the 38% ACS estimate. When tabulating a comparison parity index with the selected ACS PUMS households the index further illustrates that Non-Hispanic Whites are undercounted in HMDA as it shows that the group is applying at parity to its share of households (parity of 0.99).</p>
14	Implementation Issues	The State Program staff should ensure that the criteria established in any grant application rating system related to these types of criteria be designed in such a way that they create an equitable playing field for both rural and urban recipients.	7	The Department is sensitive to the issue of ensuring rating criteria and other program requirements are administered so as not to create an unfair advantage for one group over another. We will continue to be mindful of this principle as we move forward with AI implementation.
15	Implementation Issues	Several recommendations call for local reporting requirements. Local jurisdictions suffer from a lack of resources. We ask that the State minimize the time involved in providing data concerning fair housing.	7	The Department will seek to develop data collection methods that are easy for jurisdictions to administer, and do not require a lot of additional staff time.

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16	Implementation Issues	Templates could be development, as appropriate, that jurisdictions could update as needed.	9	The Department will take this under consideration in the development of fair housing training materials. A sample Multifamily Housing Affirmative Fair Housing Marketing Plan is now available on the HOME website at http://www.hcd.ca.gov/fa/home/manual/12/AFHMP_Sample.pdf
17	Impediment 1, Action 1-1	The RHNA process needs to be revised because there are so many complications with the process – is confusing and staff resource intensive. Unclear whether process encourages affordable housing.	8	The complexity of the RHNA process increased in conjunction with SB 375's amendment of State housing law requiring the RHNA projection and housing element planning periods be linked with the adoption dates of regional transportation plan updates by Metropolitan Transportation Organizations (MPOs). These amendments were supported in the legislative process in exchange for less frequent RHNA/Housing Element updates (8 vs. 5 yrs.), with longer planning periods, for the regions covered by MPOs. The department will continue to provide and participate in technical assistance efforts to facilitate understanding of the RHNA process; the actual RHNA processes within MPO areas however are conducted by individual councils of governments (COGs). Govt. Code Sec. 65584.2 provides that local governments may, but are not required to submit information or request review or appeals of the RHNA methodologies and processes conducted by their COGs. Linkage of housing element compliance to housing assistance administered by the department on a competitive basis has been effective, as it requires local governments to make available land with appropriate zoning and development standards accommodating affordable housing.
18	Impediment 4, Actions 4-3, 4-5 and 4-6	Impediment 4, Action 4-3: Posting information and training on fair housing issues on the Department's website should be just one tool. There must be other venues to educate local governments and the general public. Impediment 4, Action 4-5: Management Contract trainings should include a	7, 8	Over the next several years, HOME and CDBG will be integrating AI issues into their ongoing training and technical assistance functions. The Department will make their fair housing trainings available to a wide spectrum of interested parties, including local non-profits who are involved in fair housing activities.

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		<p>section on AI related topics including fair housing.</p> <p>—</p> <p>Impediment 4, Actions 4-5 and 4-6: The need for additional fair housing trainings is mentioned under a number of strategies. We encourage HCD to include local non-profits who are involved in fair housing activities in such trainings.</p>		
19	Impediment 6, Action 6-2	Encouraging City and County planning departments to implement land use policies which encourage fair housing and construction of affordable housing may not be as easy as it sounds ... if there are resources available to implement this recommendation with would be helpful to make the resources more accessible and easier to identify. Staff responsible for reviewing housing elements are not always aware of the constraints at the local level to implement many of the recommendations they make.	8	The Department has taken steps to continuously improve upon its technical assistance resources and will continue to do so in the future. For example, in the last two years the Division of Housing Policy has created an online technical assistance resource – the Building Blocks for Effective Housing Elements – to assist local governments in statutorily mandated housing element updates. The site provides information to address all statutory requirements as well as best practices in program implementation, etc. As part of the actions proposed in the AI, the Department will continue to improve upon this and other resources including the development of a webpage dedicated to NIMBY and Fair Housing Issues. We welcome ongoing feedback on the usability and comprehensiveness of these resources.
20	Impediment 8, Action 8-4	Develop a standard data system for reporting activities such as IDIS for the tracking of siting of HOME activities relative for minority concentration and standardize minority reporting requirements.	8	While the IDIS database is not programmed to determine the minority concentration status of completed activities, HOME can use project address data in IDIS to make this determination. The Department continues to coordinate with HUD on the need for online tools. As HUD implements more on-line database tools associated with automation of the Consolidated Plan, Annual Plan, and CAPER, the Department will investigate whether any of these tools is useful in analyzing the Department's performance on a program-wide basis.
21	Impediments 8, 9 and 10 and corresponding	Actions as proposed will result in the exclusion of minorities in deeply distressed areas. Specifically, preferences that favor localities in census tracks with under-represented minority populations will discriminate against	2, 5, 9, 11	HCD is obligated to ensure that as a HUD Grantee it is affirmatively furthering fair housing through planning for the development of affordable housing outside of areas of minority concentration. Data on completed

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	Actions	<p>majority-minority localities in rural areas and will result in the exclusion of minority participation. HCD should consider looking at these criteria regionally rather than statewide.</p> <p>_____</p> <p>Available properties for multifamily and lower-income households are usually found in areas of minority concentration. State should create incentives to build in areas outside of areas of minority concentration.</p>		<p>activities from 2005-09 shows that 62% of all minorities assisted with State HOME funds were assisted in areas of minority concentration. However, data from HOME projects completed in FY 11-12 indicates that projects in cities and counties that have high minority populations can still be sited in Census Tracts that are not minority concentrated.</p> <p>HOME will continue to analyze data on the siting of its activities in order to take reasonable, measured steps to help ensure that a balance is achieved in the siting of activities to serve minorities both within and outside of areas of minority concentration. In doing so, we will look carefully over time to ensure that cities that are predominately minority concentrated are not excluded from competing for HOME funds.</p>
22	Impediments 8 and 9	Recommendation 9-2 on its face may actually conflict with Recommendation 8-3	5	In some instances trying to implement these two actions on the same project may create a conflict. For example, if an infrastructure project associated with a HOME housing development is located in an area of greatest need (meaning that it has that has at least 51% low income), and in a Census Tract that is overrepresented by minorities by more than 10% percentage points above the percentage of minorities in the county. However, the two standards are measuring different things, and are not mutually inclusive, such that an area with at least 51% low-income can also have Census Tracts that are not considered minority concentrated.
23	Impediment 9, Action 9-4	With So many cities declaring bankruptcy, not sure that this is the time to implement such an application scoring method.	8	The objective of Action 9-4 is to award CDBG application rating points to jurisdictions that have the highest overall poverty rates, rather than to evaluate poverty rates of individual neighborhoods or targeted areas, which may lead to higher income areas with less relative need getting an unfair competitive advantage. For example, County A is 60% Low/Mod jurisdiction-wide, and County B is 41% Low/Mod, jurisdiction-wide, but they carve out a smaller targeted area that is 70% Low/Mod; under the previous scoring method, County B would get the available points, which

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				means that the greatest number of those in need may not be assisted. Additionally, the Department was concerned about the potential disparate impact of programs/services being limited to a target area smaller than the total eligible jurisdiction. Action 9-4 should be consistent with assisting jurisdictions who have the greatest financial constraints, attributable in part to lower overall income levels.
24	Impediment 10	<p>Recommendations to address Impediment #10 should be strengthened. Could assign rating points to increase competitiveness to HOME projects located near employment opportunities, transportation and public/social services similar to TCAC or MHP-SH.</p> <p>_____</p> <p>Encourage non-rural communities to develop more areas for fair (affordable) housing where there are more jobs, services and opportunities available.</p>	4, 9	At least 50% of State HOME funds must be allocated to activities in rural Census Tracts. HOME will consider ways in which incentives to locate projects near employment opportunities, transportation and public/social services can be utilized by applicants in rural as well as urban areas.
25	Infrastructure	CDBG has been drastically cut ... for many cities CDBG funds are the only means to finance infrastructure projects. Need to make cities aware of more funding opportunities for infrastructure projects other than CDBG	8	<p>State CDBG is a member of the California Finance Coordinating Committee (CFCC) Funding Fairs, made up of State and federal agencies that fund public works and public facility projects throughout the State. To market these programs, the Committee conducts Funding Fairs at various locations throughout the state. CDBG staff gives training and direct technical assistance to agencies seeking CDBG funds. CDBG will continue to market the availability of infrastructure funds in the future.</p> <p>Pursuant to State CDBG Statute, 51% of all funding must be spent on housing and housing related infrastructure for low/moderate income households. Nevertheless for awards being made under the 2012 CDBG NOFA, the Department updated its scoring method to allow infrastructure projects not connected to a specific housing development to be more competitive than in previous years. This resulted in \$12, 056,275 being awarded for these projects, which is 36% of the current State CDBG non-Economic Development allocation.</p>

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26	Infrastructure	The AI does not adequately analysis the inequitable provision of municipal services and infrastructure or describes actions to overcome it. HCD could address these issues in its review of jurisdictions’ housing elements, enforcing cities obligations to set forth concrete programs to address infrastructure deficits and work to ensure funding for drinking water and wastewater projects reaches communities most in need of such funding.	1	As noted previously, for awards being made under the 2012 CDBG NOFA, the Department updated its scoring method to allow infrastructure projects which are not specifically associated with a particular housing development to be more competitive than in previous years. This resulted in \$12,056,275 being awarded for these projects, which is 36% of the program’s current non-Economic Development allocation. This is significant given that State Statute requires CDBG to allocate at least 51% of its funds to housing related activities.
27	CDBG Regs	The AI should recommend the HCD amend its CDBG regulations and revise criteria for awarding CDBG funds to overcome impediments to fair housing choice and furthering fair housing. During regulation update process, the Program should immediately begin conditioning awards on compliance with federal fair housing and civil rights requirements.	1	CDBG currently requires compliance with federal fair housing laws. When monitoring the activities of State CDBG-eligible jurisdictions, the Department regularly reviews for fair housing compliance and requires immediate corrections should any violations be found. CDBG regulations currently do not prohibit the award of State Objective application rating points to jurisdictions that are proactive in addressing identified impediments to fair housing. As the Department implements its AI over the next several years, CDBG will consider ways to award State Objective points to jurisdictions that are proactive in addressing specific objectives of the Department’s AI, including addressing impediments to fair housing.
28	CDBG Regs	Point system for CDBG scoring presents significant problems and impediments to fair housing choice ... no priority is given to jurisdictions proposing projects that will affirmatively further fair housing and remove impediments to fair housing. Fair housing should be added to either the “needs and benefits assessment” or the “State objectives” categories. (if added to State Objectives, proportionate weight given to this category should be substantially increased).	1	Pursuant to AI Recommendation 8-3, CDBG will be considering awarding State Objective rating points to infrastructure projects in support of State HOME-funded projects not located in areas of minority concentration. As discussed above, CDBG will also consider ways to award State Objective points to jurisdictions that are addressing other specific objectives of the Department’s AI.
29	General	AI includes proposal to contact jurisdictions not applying for funds to	1	The Department acknowledges the potential impediment presented,

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		determine basis for their decision. However, it must also include an analysis of the effect of the decision to not apply for CDBG funds on minorities and other protected classes.		however, the effect of the in-action of a particular jurisdiction to not apply for these two specific funding programs cannot be objectively determined.
30	General	Jurisdictions should be required to appoint/authorize a local point of contact for information on fair housing and also require a follow-up to inquiries.	9	Pursuant to State housing element law (Government Code Section 65583(c)(5)), local governments are required to promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability. In review of local government housing elements, Department staff ensure each jurisdiction provides a means for the resolution of local housing discrimination complaints and includes a program to disseminate fair housing information and information about resources throughout the community. The local program must involve the dissemination of information on fair housing laws, and provide for referrals to appropriate investigative or enforcement agencies.
31	HE/RHNA	There is widespread Housing Element non-compliance at the local level. For example, according to HCD only 49% of SCAG, 48% of ABAG and 44% of AMBAG jurisdictions are in compliance with Housing Element Law.	1	Housing Element compliance statistics cited by the commenter are incorrect. As of August 1, 2012 the Department reported a statewide compliance rate of 77.88%. For the individual COGs quoted by the commenter, compliance rates are as follows: SCAG – 76% ABAG – 78% AMBAG – 89%
32	HE/RHNA	The AI should conduct an analysis of the effects of Housing Element Law implementation at the local, regional and State level ... it should not merely recite the goals and requirements of Housing Element law.	1	The AI presents the statutory requirements of State housing element laws as part of its review of State and Federal law and policies in Chapter 3. State housing element law is a critical tool in the State's efforts to affirmatively further fair housing and the description of its specific statutory requirements is provided to be illustrative of the State's commitment to the goals and objectives of fair housing planning and implementation. Similarly, the AI identifies and discusses the

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				<p>requirements of the California Fair Employment and Housing Act (FEHA), the Lanterman Act, and the Housing Accountability Act. It is not the purpose of the AI to provide an analysis of the implementation of State housing element law nor other State laws and policies at the local, regional and State level. The AI does, however, analyze the housing element compliance status of the 165 non-entitlement jurisdictions.</p>
33	HE/RHNA	<p>In some cases, the regional allocation of the housing needs by the Councils of Governments impedes rather than furthers fair housing.</p> <p>For example, in the Bay Area, 70% of new housing developments are to be concentrated in priority development areas volunteered by local governments ... such distribution methodology aids jurisdictions that seek to exclude lower-income residents of color.</p>	1	<p>Provisions in the State housing element law, specifically the RHNA Plan objectives in 65584(d)), address fair housing, housing need distribution by income, overconcentration of lower income households, and job and housing relationship.</p> <p>Government Code Section 65584(d) requires a RHNA Plan be consistent with all of the following objectives: (1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households; (2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, and the encouragement of efficient development patterns; (3) Promoting an improved intraregional relationship between jobs and housing; (4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent decennial United States census.</p> <p>The law also requires the RHNA Plan to ensure that the total regional housing need, by income category, is maintained throughout the appeals process, and that "...each jurisdiction in the region receive an allocation of units for low- and very low-income households."</p>

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				<p>—</p> <p>The Department is aware of advocate’s concerns on this issue. Communications between the Department, ABAG and advocates are ongoing.</p>
34	HE/RHNA	The AI must include actions that include increasing HCD enforcement resources, improving administrative procedures to review regional allocation by COGs and legislative reform.	1	<p>The Department continues to seek additional resources to address the workload associated with the review of local government housing elements. With the anticipated workload increase for the 5th cycle update, due in part to compressed update schedules, these resources are critical to the Department’s effective implementation of State housing element law. Action 1-1 has been amended to indicate the Department’s ongoing effort to secure additional resources to support this statutory responsibility.</p> <p>With respect to improved administrative procedure to review regional allocations by COGs, the Department’s authority to review RHNA Plans is prescribed in Government Code 65584.05 (h) as a 60-day review process in which the Department determines if the final allocation plan is consistent with the regional housing need determination made by the Department (per GC65584.01).</p>
35	LIHTC	The draft AI does not engage in a meaningful analysis of the Low Income Housing Tax Credit Program. It should assess where units are located, why they are located there, and whether the California Tax Credit Allocation Committee policies can ensure that new projects provide families with fair housing opportunities regardless of their membership in a protected class.	1	The comprehensive review of the State Low Income Tax Credit Program is outside the scope of the draft AI. The Department has invested significant resources in developing a methodology to analyze the siting of its HOME and CDBG funded projects to determine potential fair housing implications and the development of appropriate actions to affirmatively further fair housing objectives. The Department will provide this methodology to the Treasurer’s Office – along with the geo-coded data for TCAC funded projects – for their use in preparing a similar analysis as

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				they deem appropriate.
36	At-risk	AI should provide a more detailed analysis of which federal subsidies it considers to be at risk. The analysis must explore how the projected loss of the State's subsidized housing stock will impact fair housing choice.	1	At risk data presented in Chapter 4 of the AI (pages 4-5 to 4-7) includes federally subsidized properties receiving Section 8, 202, 211, 515, 236, 221(d)(3) and PRAC. Information has been added to Chapter 4 (Page 4-7) discussing fair housing impacts of the identified projected loss of subsidized housing.
37	Special Needs	The AI fails to identify discrimination on the basis of race, national origin, familial status, occupation, language or immigration status among the housing challenges faced by farmworkers. More significantly, the AI does not specifically characterize farmworker housing issues as impediments to fair housing choice. Actions should include 1) ensuring a sufficient supply of funding for farmworker housing and various types of farmworker housing are available, 2) housing element law is enforced and implemented to ensure that COGs include the need for farmworker housing in RHNA methodology and 3) housing elements provide adequate sites for farmworker housing, analyze need for farmworker housing and establish programs to ensure provision of farmworker housing suitable to meet needs.	1	While the AI includes an analysis of farmworker needs, the Department agrees the report could be expanded to discuss the extent to which this special needs population experiences fair housing issues. Additional information has been provided in Chapter 2. Regarding actions suggested, the RHNA process and Department's review of local government housing elements currently address these issues. However, the Department will in the forthcoming months through its update of Housing Element technical assistance materials and resources available to local governments, provide additional resources related to the needs of this population.
38	Special Needs	The AI should do a more thorough job of analyzing impediments to housing choice for persons with disabilities and should set forth more concrete actions for addressing those impediments. For example, HCD could commit to increased enforcement of the provision of housing element law that requires jurisdictions to remove constraints to the development of housing for people with disabilities.	1	The Department agrees with commenter on need for local governments to take actions to address impediments to fair housing choice for persons with disabilities – particularly through the housing element update process. Recently in the Department's draft Housing Element Guidance Document, adoption of a reasonable accommodation ordinance or process is a required threshold for local governments to take advantage of the Department's streamlined review process.
39	Special Needs	The AI should analyze whether existing housing options and supportive services are sufficient to ensure fair housing choice for California's seniors and should set forth specific actions to meet the housing needs of the elderly	1	The AI analyzes both the current demographics and housing needs of the elderly population, including the frail elderly. Additional information on types of housing and supportive services to address the needs of this

	Topic	Issue	Commenter ¹	Response
		populations as it continues to grow.		population is also discussed in the State's 2005-2010 Consolidated Plan. The Department's review of local government housing elements includes analysis of special needs populations – including elderly households and their housing needs - as well as reviewing for consistency with State law in regards to permitting of supportive housing and reasonable accommodation procedures.
40	LEP	AI fails to identify sufficient actions to overcome barriers to fair housing choice for persons with limited English proficiency. Training (Recommendation 4-7) is important, but State is obligated both to analyze and have an action plan that does more.	1	The existing State AI has made extensive efforts to identify fair housing impediments in its analysis and address possible remedies and ways to affirmatively further fair housing for LEP populations through the implementation of both the State AI Actions (specifically Action 4-7) the ongoing administration of the State CDBG and HOME programs. Current actions include provisions in the HOME contract management manual providing guidance regarding implementation of HUD's Affirmative Marketing requirements for projects of 5 or more units, including direction that in doing outreach and marketing to those in the housing market area least likely to apply to live in the project, the needs of non-English speaking persons should be considered. The Department advises owners to advertise in periodicals written in languages other than English, and which have a large readership in those communities and/or to translate other marketing materials into those languages that are spoken by the largest minority groups that have been identified as under-represented. Owners are further advised to outreach to community organizations working with the particular non-English speaking populations. Lastly proposed amendments to the federal HOME regulations will extend affirmative marketing requirements to housing assistance other than new construction or rehabilitation projects, such as tenant-based rental assistance and homebuyer mortgage assistance programs.

	Topic	Issue	Commenter ¹	Response
41	LEP	State must develop a Language Access Plan. The State can take actions, such as translating forms that are common to numerous types of housing projects and programs, so as to reduce the cost of multiple translations and HCD should require sub-recipients create LAPs and comply with requirements to provide meaningful language access.	1	<p>A Language Access Plan (LAP) is not a State requirement, but rather only a federal agency requirement (42 U.S.C. § 2000d) to prepare a plan to improve access to its federally conducted programs and activities by eligible LEP persons.</p> <p>While CAL. GOV'T. CODE § 11135 references compliance with Federal ADA requirements, and educational requirements (including Title VI and school de-segregation) requirements; it does not broadly impose or pertain to any housing-related LAP mandate for the State.</p> <p>The Department, however, recognizes the need and value of providing services for individuals and households with limited English proficiency and as such currently implements the actions outlined in the response above. Where the Department can expand upon and/or refine technical assistance in this area it will be part of the implementation of Action 4-7 of the AI which could include translation of common forms as suggested to the extent resources and needed expertise exist.</p>
42	Other	Update listing of FHEEOs to include the Housing Rights Center for Ventura Co.	3	Changes incorporated as suggested.
43	Central Valley public hearing	The Department should assist jurisdictions in finding consultants to help them submit applications for funding or administer funded activities.		The Department will consider compiling information on available consultants.
44	Southern CA public hearing	HOME should consider changing the way it determines whether a project is located in a rural area, because now small rural communities located in Census designated Urbanized Areas don't qualify as rural.		Changes to the methodology for determining rural area status would require an amendment to the State HOME regulations; however, the Department will consider this issue for possible future regulation changes.
45	Southern CA public hearing	Oftentimes people leave small rural areas for better access to transit, hospitals, and supermarkets. We need more assistance forging alliances with developers, and developing more mixed-use housing.		The Department will consider these issues as part of implementation actions associated with Recommendation 10-3.
46	Northern CA Public Hearing	Inactive jurisdictions in HOME and CDBG may not apply because low HOME Community Need and CDBG Targeted Income Group/Low-Mod Income		HOME is in the process of amending its State regulations to lower the number of points available for Community Need, which may address some of this problem.

	Topic	Issue	Commenter ¹	Response
		percentages may discourage them from applying for funds		HOME and CDBG will be reaching out to inactive jurisdictions in the future to market the programs, and discuss specific reasons for the jurisdictions' failure to apply, including possible solutions to address these issues.
47	Northern CA Public Hearing	More resource should be allocated to rental housing in order to increase access to CDBG assistance by minorities because minorities will have a harder time accessing homeownership.		Federal statute expressly prohibits new construction of housing with CDBG assistance except under very limited circumstances such as "housing of last resort". However, up to \$1,000,000 is available under the annual NOFA for multi-family rental rehabilitation and the program encourages jurisdictions to apply for these funds each year during the NOFA training workshops.

Table 1 Listing of Commenting Organizations	
Commenter	Organization
1	Law Foundation of Silicon Valley*
2	California Coalition for Rural Housing
3	Housing Rights Center
4	Many Mansions
5	Self-Help Enterprises
6	Riverside County, Planning Department
7	County of Tuolumne, Community Resources Agency
8	City of Gardena
9	City of Orland
10	County of Imperial
11	City of Avenal
12	Adams-Ashby Consulting
13	Sacramento Mutual Housing Association

** Co-signers include: Public Interest Law Firm, Fair Housing Law Project, Western Center on Law and Poverty, California Rural Legal Assistance, Legal Aid Foundation of Los Angeles County, Public Counsel, Public Interest Law Project/California Affordable Housing Law Project, Housing Equity Law Project, Bet Tzedek*

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**Division of Financial Assistance**

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June 15, 2012

FOR IMMEDIATE POSTING**PUBLIC NOTICE FOR COMMENT****Draft Analysis of Impediments to Fair Housing**

The State of California, Department of Housing and Community Development (Department), is soliciting public review and comment on its Draft Analysis of Impediments to Fair Housing (AI). As a recipient of federal CDBG and HOME funds, the State of California is required to take actions to affirmatively further fair housing in all of its federally-funded activities. As part of this obligation, the Department has prepared a draft AI which is available for public review at beginning on June 15, 2012.

The AI analyzes a wide-range of issues related to impediments to fair housing including but not limited to: statewide demographic trends, fair housing complaint patterns, access to federal and State housing resources, home mortgage lending patterns, the loss of subsidized housing, beneficiary characteristics of the State CDBG and HOME programs, minority and low-income concentration in the siting of housing activities, and local fair housing impediments and practices.

The public review period for the AI is 60 days, from June 15, 2012 through August 13 2012. The Department must receive all comments on this document by August 13, 2012.

Written comments can be submitted via facsimile to (916) 327-2643, electronic mail cahouse@hcd.ca.gov or to the following address:

Division of Housing Policy Development
California Department of Housing and Community Development
1800 3rd Street
P.O. Box 952053
Sacramento CA 94252-2053
Attention: Jennifer Seeger

The Draft AI is available for public review on the Department's website at <http://www.hcd.ca.gov/hpd/hrc/rep/fed>. A limited number of copies of the AI are also available from the Department for entities or individuals unable to access the internet.

In addition, public hearings will be held in the following locations:

Location	Address	Date/Time	Contact phone
Visalia	Self-Help Enterprises 8445 West Elwin Court Visalia, CA 93291	Tuesday July 10, 2012 9:00 - 3:30	(559) 651-1000
Holtville	City of Holtville Civic Center 121 West 5th Street Holtville, CA 92250	Thursday July 19, 2012 9:00 - 3:30	(760) 356-4574
Sacramento	Department of Housing and Community Development Division of Financial Assistance 1800 3rd Street, Room 183 Sacramento, CA	Thursday August 2, 2012 9:00 - 3:30	(916) 322-1560

A draft agenda for the public hearings has been provided below. If you would like to participate in the public hearings by conference call, please contact Christina DiFrancesco five days prior to the hearing date at (916) 322-0918. (A limited number of conference call lines may be available.)

If you have any questions or are in need of translators or special services, please contact Christina DiFrancesco prior to the hearing dates at (916) 322-0918. For translator or special services needs, please advise the Department within five working days of the hearing in order to facilitate the request.

This proposal has been determined to be EXEMPT from CEQA (Public Resources Code Section 21080.10(b)) and CATEGORICALLY EXCLUDED from NEPA (Title 24 Code of Federal Regulations 50.20(o)(2)).

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15 de Junio, 2012

Para publicación inmediata
Aviso Público para Comentarios

**Propuesta para El Análisis de Impedimentos a La Vivienda
Justa**

El Departamento de Vivienda y Desarrollo Comunitario del Estado de California (el Departamento), está solicitando revisión pública y comentarios en su propuesta para el Análisis de Impedimentos a La Vivienda Justa (AI). Al recibir fondos federales de CDBG y HOME, el estado de California requiere de tomar acciones para afirmativamente avanzar la vivienda justa en todas sus actividades financiadas con fondos federales. Como parte de esta obligación, “el Departamento” ha preparado una propuesta de “AI” la cual está disponible para revisión pública inicial el 15 de Junio del 2012.

El “AI” analiza una amplia gama de asuntos relacionados a los impedimentos a la vivienda justa incluyendo pero no limitado a: las tendencias demográficas a nivel estatal, patrones de quejas relacionadas a la vivienda justa, acceso a recursos para vivienda federales y estatales, patrones de préstamos hipotecarios para la vivienda, perdida de viviendas subsidiadas, características de los beneficiarios de los programas estatales CDBG y HOME, concentración de grupos minoritarios y de bajos ingresos en la localización de actividades para la vivienda, y practicas e impedimentos a la vivienda justa a nivel local.

El periodo de revisión pública para el “AI” es de 60 días, desde el 15 de Junio del 2012 hasta el 13 de Agosto del 2012. El Departamento deberá recibir todos los comentarios en este documento el 13 de Agosto del 2012.

Los comentarios escritos pueden ser enviados vía fax al (916) 327-2643, correos electrónicos a cahouse@hcd.ca.gov o a las siguientes direcciones:

Division of Housing Policy Development
California Department of Housing and Community Development
1800 3rd Street
P.O. Box 952053
Sacramento CA 94252-2053
Atención: Jennifer Seeger

La propuesta para el "AI" esta disponible para revisión publica en el sitio Web del Departamento en <http://www.hcd.ca.gov/hpd/hrc/rep/fed>. También, un número limitado de copias del "AI" está disponible en el Departamento para entidades o individuos que no tengan acceso al internet.

En adición, audiciones públicas serán sostenidas en las siguientes localidades:

Ubicación	Dirección	Fecha/Hora	Teléfono del Contacto
Visalia	Self-Help Enterprises 8445 West Elowin Court Visalia, CA 93291	Martes 10 de Julio, 2012 9:00 - 3:30	(559) 651-1000
Holtville	City of Holtville Civic Center 121 West 5th Street Holtville, CA 92250	Jueves 19 de Julio, 2012 9:00 - 3:30	(760) 356-4574
Sacramento	Department of Housing and Community Development Division of Financial Assistance 1800 3rd Street, Room 183 Sacramento, CA	Jueves 2 de Agosto, 2012 9:00 - 3:30	(916) 322-1560

Una agenda provisional para las audiencias públicas ha sido provista abajo. Su usted quiere participar en las audiencias públicas por llamada de conferencia, comuníquese por favor con Christina DiFrancesco cinco días antes de la audiencia al (916) 322-0918. (Un número limitado de líneas disponibles para llamadas de conferencia)

Si tiene alguna pregunta o necesita un traductor o servicios especiales, por favor comuníquese con Christina DiFrancesco antes de las fechas de las audiciones al (916) 322-0918. Para un traductor o necesidades de servicios especiales avise al Departamento cinco días antes de la audiencia para satisfacer la petición.

Esta propuesta ha sido determinada de ser exenta del CEQA (Código de recursos públicos Sección 21080.10 (b)) y categóricamente excluida del NEPA (Titulo 24 Código de regulaciones Federales 50.20(o) (2)).

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Analysis of Impediments to Fair Housing
Public Hearing
Agenda

- 9:00 - 9:15 Welcome
- Overview of AI Planning Process and Goals for the Day

- 9:15 - 9:45 Fair Housing Complaints and Survey Responses on Fair Housing
 Impediments and Actions

- 9:45 -10:30 CDBG and HOME Access to Funding AI Data & Related
 Recommendations

- 10:30 -10:45 BREAK

- 10:45 -11:15 Minority Concentration Analysis & Related Recommendations

- 11:15 – 11:45 Model County Analysis & Related Recommendations

- 11:45 – 12:30 Overview of Additional Recommendation, Next Steps and
 Questions/Comments