

**WESTCHESTER COUNTY FAIR AND AFFORDABLE HOUSING  
IMPLEMENTATION PLAN**

August 9, 2010

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**Appendix I-(ii): the County's December 8, 2009 extension request**



Andrew J. Spano  
County Executive

December 8, 2009

Mr. Nestor Davidson  
General Deputy General Counsel  
Office of General Counsel  
U.S. Department of Housing and Urban Development  
451 7th Street, S.W.  
Room 10110  
Washington, D.C. 20410

**RE: Westchester County/Fair & Affordable Housing Program: Request for  
Extension of Time to Submit a Revised Analysis of Impediments**

Dear Mr. Davidson:

The County of Westchester is hereby requesting an extension of time for the delivery of the County's Analysis of Impediments ("AI"), which is required to be submitted on or before January 30, 2010 pursuant to Paragraph 32 of the Stipulation and Order of Settlement and Dismissal entered in *U.S. ex rel. Anti-Discrimination Center v. Westchester* ("Stipulation").

As you know, the County submitted a draft AI to the United States Department of Housing and Urban Development ("HUD") in May of 2009. Due to the ensuing activities associated with the settlement of the litigation which resulted in the Stipulation, HUD did not issue comments on that draft AI until October 26, 2009, when it forwarded a 12-page summary of its required revisions to my attention.<sup>1</sup> Upon review of HUD's comments, the County immediately concluded that expert assistance would be required to undertake the very complex statistical and analytical work required by HUD. As you are aware, the County immediately contacted HUD to request for a list of AI consultants and/or industry experts who could assist us in completing this task. Beginning on November 4<sup>th</sup>, when HUD forwarded a list of persons and entities with an expertise in AI production and review, the County began a process of outreach to a panel of experts, including those recommended by HUD and others with which the County has direct contact. This process extended through November 18<sup>th</sup> and resulted in the receipt of preliminary proposals/responses from only 3 out of 9 of the experts contacted.

As you will see from the documents attached hereto as part of Schedule "A", each of the three responding experts submitted written comments which specified that the AI revisions and enhancements required by HUD could not be completed by January 30, 2010. In fact, the common wisdom among these experts was that a range of 4-9 months, with an average recommendation of 6 months, would be required for the necessary work to be undertaken and a final AI to be produced.

<sup>1</sup> A complete summary of all outreach activities related to this request are attached hereto as Schedule A, along with copies of the documents referenced herein as Exhibits 1-5.

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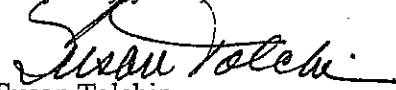
Notably, none of these experts would be willing to attempt the job with a deadline of January 30, 2010. Given the independent review and uniform conclusions of multiple industry experts, it seems clear that the County cannot produce an AI document which will satisfy HUD if the January 30, 2010 deadline remains unchanged.

In light of the above, the County feels compelled to seek an extension of the deadline which applies to the County's obligations pursuant to Paragraph 32 of the Stipulation from January 30, 2010 to September 30, 2010. In support of this request and to demonstrate the County's good faith commitment to completing the revisions to the AI on an expedited basis, please consider the following:

- (1) The County will commit to the selection of a consultant and the execution of a contract with that consultant for the required AI revisions by January 31, 2010. That contract will require work to begin in February, 2010 with the consultant agreeing to monthly benchmarks and reporting obligations, and a final completion date of August 30, 2010; and
- (2) In light of the pending transition to a new County Administration, this commitment is being verified by the Chair of the Westchester County Board of Legislators and the County Executive-elect, both of whom have issued letters supporting the scope and content of this request.

It is my hope that HUD will recognize the County's commitment not only to comply with the requirements of the Stipulation, but to produce an AI instrument which satisfies the spirit and intent of that Stipulation and the fair housing policies of both HUD and the County of Westchester, and agree to the extension requested herein.

Very truly yours,



Susan Tolchin  
Deputy County Executive

Cc: Andrew J. Spano, County Executive  
Robert Astorino, County Executive-elect  
William R. Ryan, Chair, Board of Legislators  
James Johnson, Esq., Federal Monitor

**SCHEDULE A**  
**Outreach Summary**  
**Analysis of Impediments to Fair Housing Choice**

**I. Chronology:**

- 10/26/09: HUD forwarded a letter to DCE Susan Tolchin indicating HUD had reviewed the County's Draft May 9/2009 Analysis of Impediments (AI) and had a number of recommendations as spelled out in an attachment, attached as Exhibit (1). The letter and attachment was forwarded by Ms. Tolchin to Jerry Mulligan (JEM), the County Attorney and Sue Gerry indicating a meeting would be set up to review and decide next steps.
- 10/29/09, a meeting was held with the DCE, County Attorney, Sue Gerry and Senior Asst. to the County Attorney, Hillary Raimondi to review next steps.
  - Sue Gerry indicated she would contact HUD to find out if they could recommend consultants who could assist the County in addressing the recommended changes to the AI
  - JEM agreed to review the scope of work requested by HUD to see if there were parts that could be handled by the County; JEM indicated he did not believe it was possible to complete the amount of work that was requested in the necessary timeframe.
  - JEM presented background on Daniel Lauber AICP, a consultant who contacted JEM in August to offer services to assist the County with the implementation of the Fair and Affordable Housing Plan. JEM suggested contacting Mr. Lauber.
  - County Attorney indicated a confidentiality agreement would be prepared by the Law Dept to send to potential consultants for them to review and sign before any material would be shared with them and requested that Hillary Raimondi be part of the follow up call with Mr. Lauber.
- 10/30/09 – conference call held with Mr. Lauber who indicated he would be interested in working with the County to address HUD's recommendations for the AI. He was told we would follow up with him once we had the confidentiality agreement to share.
- 11/4/09 – list of recommended consultants was provided by Elisabeth Voight of HUD to Sue Gerry who forwarded them to JEM
- 11/6/09 – Confidentiality agreement provided by Sue Gerry
- 11/6/09 - JEM contacted each of the potential individual consultants by phone and by e-mail.
- 11/6/09 – 11/18/09 – Communications with potential consultants
- 11/17/09 – 11/18/09 – Receipt of proposals/comments from interested consultants
- 11/19/09 – Sue Gerry email to Liz Voight/HUD conveying results of consultant outreach and fact that all consultants advised that it would take well beyond January 30, 2011 to do a thorough job, copy attached hereto as Exhibit (2).
- 11/24/09 – Sue Gerry phone call to Liz Voight/HUD, left voice mail message.
- 12/2/09 – Sue Gerry phone call to Liz Voight/HUD, suggested a call to the federal monitor.
- 12/2/09 – Sue Gerry phone call to federal monitor regarding possible extension. Advised to proceed with extension request supported by BOL, CE and CE-elect.

**II. Consultant Outreach:**

Unless otherwise noted, the consultants listed below were on a list provided by by Elisabeth Voight, Special Assistant to the General Counsel, Department of Housing and Urban Development by e-mail to Sue Gerry dated 11/4/09.

Each of the following individuals were initially contacted on Friday 11/6/09 by phone and voice messages were left on their phone or with their assistant. E-mails were sent to each individual confirming the phone call, along with a request to get in touch with Jerry Mulligan by e-mail or phone at their earliest convenience. The following summary represents the follow up efforts and results of outreach to each individual.

1. Diane Houk, Emery Celli Brinckerhoff & Abady LLP, 212-763-5000, [dhouk@ecbalaw.com](mailto:dhouk@ecbalaw.com)
  - Called Monday 11/9/09 and left message; JEM returned call same day. Ms Houk indicated she would not be in a position to do the work but went over the list of other individuals being considered and offered her recommendations. Ms. Houk on each.
2. Ingrid Ellen, Furman Center, 212-998-7533, [ingrid.ellen@nyu.edu](mailto:ingrid.ellen@nyu.edu)
  - Unable to commit to taking this on but would be willing to act as a resource for others if needed and offered her thoughts on the other candidates. Overall, recommends using the Urban Institute – possibly in collaboration with Professor Lance Freeman as a more local resource.
3. Henry Korman, consultant, 617-227-5070, ex 31, [henrykorman@comcast.net](mailto:henrykorman@comcast.net)
  - Responded Monday 11/9/09 by phone and e-mail. JEM to spoke with him Monday 11/9/09.
  - In process of doing the AI for Boston and has a number of other commitments that would likely prevent him and his associates from taking this on but he would give it some thought and get back to JEM.
  - Followup conversation on 11/13/09 – he indicated he would not be able to take on this effort but would be willing to act as a resource if needed for a specific part of the work.
4. Professor Lance Freeman, Columbia University, 212-854-8495, [LF182@columbia.edu](mailto:LF182@columbia.edu)
  - E-mail response on Monday 11/9/09 – JEM spoke with Professor Freeman on Monday 11/9/09.
  - Professor interested in submitting a proposal – most likely in partnership with others. A confidentiality agreement was forwarded and returned. A copy of the draft AI and HUD materials were forwarded in overnight mail to Professor Freeman on 11/20/09.
  - E-mail sent by JEM on 11/13/09 responding to questions about submission of a proposal – timing and budget, copy attached as Exhibit (3).

5. Margery Turner, Urban Institute, 202-261-5543, [maturner@ui.urban.org](mailto:maturner@ui.urban.org)

- E-mail response on Sunday 11/8/09; follow up e-mails on Monday 11/9/09 to confirm call to take place on Tuesday 11/10/09 at 4pm.
- Very impressive in conversation and interested in submitting a proposal. She would not be the lead but would put together a team to work on this. Stressed the excellent reputation they have and the ability to get the job done; some concern about not being in the NY area so may want to partner with a NY area person.
- Confidentiality agreement forwarded and returned.
- Ms. Turner requested the draft AI and HUD materials be sent to her office in Washington DC as she was at a conference in New Orleans. Materials forwarded 11/12/09.
- E-mail from Ms. Turner on 11/13/09 indicating she will be reviewing all the material over the weekend and will follow up on Monday 11/16/09 with questions and to find out next steps.
- E-mail response submitted on 11/17/09, copy attached hereto as Exhibit (4).

6. Nancy McArdle, consultant, 617-628-1341, [nancymcardle@comcast.net](mailto:nancymcardle@comcast.net)

- Responded by e-mail on Monday 11/9/09 – indicated she is booked over the next few months so would not be able to assist the County. Also said phone number provided by HUD may not be correct.

7. Demetria McCain, Inclusive Communities Project, 214-939-9239, [dmccain@inclusivecommunities.net](mailto:dmccain@inclusivecommunities.net)

- Non- responsive

8. Equal Rights Center, <http://www.equalrightscenter.org/>

- In addition to providing names of seven individuals, HUD recommended contacting this organization.
- Discussed this group with the individuals on the list – consensus they would not be the right group to work on the AI; better to look at similar groups in NY metro area.

9. Daniel Lauber AICP, Planning/Communications NOTE: Mr. Lauber contacted Westchester County in August of 2009 to offer his services right after the settlement was announced. JEM spoke with Mr. Lauber in August and indicated he would follow up at a future date once there was a decision on how to proceed.

- Conference call on Friday 10/30/09 with Hillary Raimondi, Senior Assistant County Attorney in County Law Dept. Mr. Lauber indicated by phone and by e-mail he would be interested in working with the County on the AI and was willing to sign and return a confidentiality agreement.
- Materials sent to Mr. Lauber in overnight mail on 11/10/09.
- Mr. Lauber confirmed interest (11/13/09) in submitting a proposal submitted some questions on next steps. He expressed serious concern about scope and timing to do the work but would submit his comments in writing.
- E-mail summary of his comments received 11/18/09, copy attached as Exhibit (5).