

# Supporting Statement for Paperwork Reduction Act Submissions

## Justification

### 1. Circumstances Making Information Collection Necessary

Substantial equivalence certification occurs when the U.S. Department of Housing and Urban Development (HUD) determines that a State or local law, both “on its face” and “in operation” provides rights, procedures, remedies, and the availability of judicial review that are substantially equivalent to the federal Fair housing Act (FHA). Substantial equivalence certification is authorized by the FHA at Section 810(f). The regulation governing substantial equivalence is located at 24 CFR 115, Subpart B.

Agencies that receive certification as a substantially equivalent are eligible to participate in the Fair Housing Assistance Program (FHAP), whereby HUD provides funding to agencies on a non-competitive basis for fair housing complaint processing, administrative costs, training, and building the capacity necessary to administer a substantially equivalent fair housing law. The regulation governing FHAP is located at 24 CFR Part 115, Subpart C.

Agencies seeking to participate in the FHAP provide HUD with copies of the jurisdiction’s fair housing law so that HUD may make a determination of substantial equivalence. Once agencies are participating in the FHAP, HUD collects sufficient information to monitor the agencies in order to ensure that the State or local law, both “on its face” and “in operation,” continues to be substantially equivalent and therefore eligible to participate in the FHAP.

### 2. How and By Whom the Data will be Used

Eligible State and local government agencies submit to the Assistant Secretary a request for substantial equivalence certification. With the request, the agency submits a copy of the State or local fair housing law, the law creating and empowering the agency, all laws referenced in the jurisdiction’s fair housing law, any regulations and directives issued under the law, and any formal opinions of the State Attorney General or the chief legal officer of the jurisdiction that pertain to the jurisdiction’s fair housing law. These submissions are reviewed by HUD (Office of Fair Housing and Equal Opportunity, and Office of General Counsel) to determine whether the jurisdiction administers a law that is substantially equivalent to the FHA.

Once the State or local agency is deemed substantially equivalent, then HUD and the agency enter into an Agreement for the Interim Referral of Complaints and Other Utilization of Services (interim agreement). HUD and the agency also enter into a cooperative agreement. Initially, under the cooperative agreement, the agency receives a flat amount of funding to build the agency’s capacity to enforce and administer its substantially equivalent law. Following the capacity building phase, the agency will receive funding on a per complaint basis. The interim agreement is in effect for three years, after which HUD and the agency may enter into a Memorandum of Understanding, which sets forth the relationship between HUD and the agency during the period of certification. During all of these periods, HUD will gather sufficient information to monitor performance of the agency to ensure continued substantial equivalence, in accordance with FHAP performance standards set forth at 24 CFR § 115.206.

### 3. What extent is information automated

The FHAP regulation, at 24 CFR 115.307(a)(3), requires agencies participating in the FHAP to use HUD’s official complaint data information system. The regulation requires agencies to input all relevant complaint data and information into the system in a timely manner. The complaint data information system that is utilized by HUD and agencies participating in the FHAP is called the Title Eight Automated Paperless Tracking System (TEAPOTS).

**4. Efforts to Identify Duplication**

Information submitted with requests for substantial equivalency certification only include new or amended fair housing laws that HUD has not yet reviewed. Therefore, there is no duplication of effort. TEAPOTS is used to review agency performance and ensures there is no duplication of effort because when the agency inputs information into TEAPOTS, the system will store the information, and not require inputs of that information again. HUD has access to TEAPOTS, and can review all information the agency has put in TEAPOTS.

**5. Impact on Small Businesses**

The information being collected has no significant impact on small businesses or other small entities.

**6. Consequences of Less Frequent Data Collection**

Without benefit of the information currently obtained for substantial equivalence certification and agency performance, HUD has no means for determining if State or local fair housing laws on "their face" and "in operation" provide substantive rights, procedures, remedies, and judicial review procedures for alleged discriminatory housing practices that are substantially equivalent to the FHA.

**7. Circumstances Requiring Deviation from Guidelines of 5 CFR 1320.6**

There are no circumstances requiring deviation from guidelines of 5 CFR 1320.6

**8. Federal Register Publication**

See attached (INCLUDE ATTACHMENT OF FEDERAL REGISTER NOTICE BEFORE SUBMISSION TO OMB)

**9. Incentive Payments and Gifts**

This information collection does not involve any payment or gift to respondents, other than remuneration of contractors or grantees.

**10. Arrangements and Assurances Regarding Confidentiality**

The FHA and HUD policy specify confidentiality for all open fair housing complaints. HUD maintains this policy when reviewing open fair housing complaints of agencies participating in the FHAP.

**11. Sensitive Questions**

This information collection does not contain requests for information of a sensitive nature.

**12. Estimate of Recordkeeping and Reporting Hour Burden on Respondents**

The Department estimates that the request for substantial equivalency and reporting of complaint processing will have the following reporting burdens:

Reference	Number of Respondents	Annual Responses	Est. Avg. Response Time	Est. Annual Burden	Average Hrly Cost	Total Annual Cost
Request to Establish Substantial Equivalency	10	6	15	900	\$ 55	\$49,500
Reporting and Complaint Processing	100	33	20	66,000	\$18	\$1,254,000
<b>Totals</b>	<b>110</b>	<b>39</b>	<b>35</b>	<b>66,900</b>		<b>\$1,303,500</b>

The Department estimates the burden for substantial equivalency submission is based upon the following:

- Number of Respondents (10): In FY 2010 the Assistant Secretary received approximately 10 requests for substantial equivalency from State and local agencies around the country.
- Estimated Average Response Time: The estimated number of hours that an agency spends putting together a package requesting substantial equivalence.

The Department estimates that complaint processing/reporting is based upon the following:

- Number of Respondents: There are currently a total of 100 State and or local FHAP agencies that have been deemed substantially equivalent.
- Estimated Average Response Time: Each FHAP agency is required to utilize TEAPOTS. The system is designed to track the number complaints filed and the investigative activities of the complaints. It is estimated that each FHAP agency spends 10 hours inputting information on a complaint.

The estimated hourly cost of for a submitting request for *substantial equivalency* is estimated at \$55 per hour, which includes time spent by senior level staff preparing and reviewing the request package. The estimated hourly cost for submitting information related to agency performance is \$18 which includes time spent by clerical staff putting information in TEAPOTS.

### 13. **Estimated Total Annual Cost Burden**

There are no additional costs to respondents. Respondents receive reimbursements for recordkeeping, reporting, and investigations of fair housing complaints through a cooperative agreement that provides administrative and case processing costs. The agency can receive \$2,600 per case.

### 14. **Estimated Cost to the Federal Government**

There will not be any additional cost to the Federal Government as a result of this information collection beyond the usual personnel costs to review state and local fair housing laws to determine substantial equivalency.

### 15. **Reasons for Change in Burden**

This information collection is being submitted as a reinstatement with change, of a collection for which approval has expired. Changes occur as the number of agencies participating in the program increase/decrease, and hourly rates have been increased to reflect inflation/cost of living. In addition, the estimated average response time has been changed to more accurately reflect the information collection hours required.

### 16. **Plans for Tabulation, Analysis, and Publication**

There are no plans for tabulation, analysis and publication.

### 17. **Reasons for Not Displaying the OMB Exploration Date**

There is no request seeking approval to not display the expiration date for OMB approval of the information collection.

### 18. **Exceptions to the certification statement identified in Item 19**

There are no exceptions to the certification statement identified in Item 19 of OMB Form 83-1.

## **PART B - EMPLOYMENT OF STATISTICAL METHODS**

Statistical methods are not employed.