

## **Department of Housing and Urban Development**

### **Affirmatively Furthering Fair Housing Assessment Tool**

#### **Supporting Statement for Solicitation of Comment 30-Day Notice Under the Paperwork Reduction Act of 1995 Published on July 16, 2015 under Docket No. FR-5173-N-05**

#### **A. JUSTIFICATION**

##### **1. Circumstances Making the Collection of Information Necessary**

This information collection request is made in connection with and in support of implementation of HUD's final rule entitled "Affirmatively Furthering Fair Housing," published in the Federal Register on July 16, 2015, at 80 FR 42272. HUD and its program participants that receive HUD funds have a statutory duty to affirmatively further fair housing. Until publication of the Affirmatively Furthering Fair Housing (AFFH) final rule, the approach that HUD directed its program participants to take to assist them in carrying out their duty to affirmatively further fair housing, the Analysis of Impediments (AI), turned out to be not as effective as HUD envisioned. The AFFH final rule provides HUD's program participants with a more effective approach to fair housing planning so that they are better able to meet their statutory duty to affirmatively further fair housing.

##### **2. Purpose and Use of the Information Collection**

The purpose of the Affirmatively Furthering Fair Housing (AFFH) final rule is to provide HUD program participants with a more effective approach to fair housing planning so that they are better able to meet their statutory duty to affirmatively further fair housing. In this regard, the final rule requires HUD program participants to conduct and submit an Assessment of Fair Housing (AFH). The AFH requires program participants to identify and evaluate fair housing issues, and factors contributing to fair housing issues (contributing factors) in the jurisdiction or jurisdictions served by the program participant.

The Assessment Tool is the standardized document designed to aid program participants in conducting the required assessment of fair housing issues in their jurisdictions. The Assessment Tool asks a series of questions that program participants must respond to and through such response provides assurance that the program participants are carrying out a meaningful assessment of fair housing issues and contributing factors in the program participant's jurisdiction, and setting meaningful fair housing goals and priorities to overcome barriers to fair housing choice.

The Assessment Tool published on July 16, 2015 is intended for use only by Entitlement Jurisdictions and HUD program participants that choose to conduct and submit a joint AFH. Under HUD's AFFH final rule, which provides for a staggered submission deadline, entitlement jurisdictions that receive a Community Development Block Grant of more than \$500,000 in Fiscal Year (FY) 2015 are the category of program participants that will submit the first AFHs.

The AFFH final rule requires HUD program participants to engage the community in the AFH process. The information collection includes the input HUD program participants receive during the community participation process. This community input will assist HUD program participants to effectively plan in order to meet the fair housing needs or address fair housing concerns raised by the community when setting their goals and priorities.

### **3. Use of Improved Information Technology and Burden Reduction**

In this 30-day notice, HUD has addressed many of the burden concerns raised by commenters on the Assessment Tool during the comment period provided by the 60-day notice. In response to public comments, HUD has revised the Assessment Tool by reducing the number of questions, presenting questions more so that they are more easily understood, and to eliminate some duplicative analysis that was included in the version of the tool that was the subject of the 60-day notice. HUD has also added detailed instructions to help guide HUD program participants through the required analysis in the Assessment Tool, as well as how to use the HUD-provided data.

HUD also has reduced the number of narrative responses that HUD program participants will be required to provide, especially with respect to the identification and prioritization of contributing factors. HUD program participants will no longer need to provide a separate explanation for each factor or evaluate the factor's level of significance, which commenters noted as being excessively burdensome during the 60-day comment period.

In addition to the template form for the Assessment Tool, HUD is providing its program participants with a web-based Data Tool, which contains interactive maps and exportable tables by jurisdiction and region. The Data Tool allows HUD program participants to complete the AFH without the need to hire consultants to collect and analyze data. Additionally, HUD has provided clear parameters for the use of "local data" and "local knowledge," and these clarifications limit when program participants will be required to use such information and thus reduce the burden in completing the AFH.

In the 30-day notice, HUD confirmed (as previously indicated in the 60-day notice) that HUD would be developing separate assessment tools for certain types of program participants, including States and insular areas, PHAs and program participants submitting AFHs in a regional collaboration. Separate assessment tools will reduce burden because it allows HUD to focus more on the questions that should be posed and areas that should be addressed by a program participant, given its type (i.e., State, Insular Area, or PHA) and the populations and geographic areas served.

HUD is also committed to providing HUD program participants with technical assistance throughout the process. HUD will answer questions submitted by program participants through the HUD Exchange, at <https://www.hudexchange.info/programs/affh/>.

### **4. Efforts to Identify Duplication and Use of Similar Information**

As each Assessment Tool is developed and approved by OMB, the Assessment Tool will replace the AI that program participants were required to use under the prior approach.

## **5. Impact on Small Businesses or Other Small Entities**

HUD recognizes that the AFH may be burdensome for smaller HUD program participants and as part of the Final Rule; HUD is providing a later first submission date for certain HUD program participants. As such, small entitlement jurisdictions, defined as jurisdictions receiving \$500,000 or less in Fiscal Year (FY) 2015 CDBG funds, and small PHAs that are qualified (with respect to size are defined as PHAs with fewer than 550 units, including public housing and Section 8 vouchers), will have a later submission date than would otherwise apply under the Final Rule. Since small entities are the last to submit an AFH, this gives HUD additional time and experience with the first AFHs to determine what other improvements, and specifically burden reduction improvements can be made.

## **6. Consequences of Collecting the Information Less Frequently**

The collection is submitted to HUD once every five years. If the information were submitted on a more infrequent basis, the AFH would not coincide with the planning cycles of HUD program participants, making it more difficult to effectively plan to overcome fair housing issues as part of the planning processes.

## **7. Special Circumstances Relating to the Guidelines of 5 CFR 1320.5**

This request fully complies with regulation 5 CFR 1320.5.

## **8. Comments in Response to the *Federal Register* Notice and Efforts to Consult Outside the Agency**

As required by 5 CFR 1320.8(d), HUD published in the Federal Register a 60-Day Notice on September 26, 2014, at 79 FR 57949. HUD received a total of 198 comments on the Assessment Tool. These commenters were made up of PHAs, Community Development Block Grant recipients, cities, States, advocacy groups and nonprofits, and industry advocates.

The areas of concern raised by a majority of commenters were burden, timing, data, the content of the Assessment Tool, and small entities, joint participation, and local control issues. Additionally, HUD received a number of comments that were more related to the AFFH proposed rule, as opposed to the Assessment Tool itself.

Although the typical PRA 30-day notice does not require a preamble that addresses public comments received on the 60-day notice, HUD included such a preamble in its 30-day notice.

Additionally, HUD has provided greater transparency in its PRA notices by having public comments posted on [www.regulations.gov](http://www.regulations.gov). Public comments on the 60-day notice can be found at <http://www.regulations.gov/#!docketDetail;D=HUD-2014-0080>.

## 9. Explanation of Any Payment or Gift to Respondents

Through this information collection, HUD offers no funds or any bonus points to be used in a competition for funds under one of HUD's notices of funding availability. The Final Rule provides for this the AFH to be submitted to HUD, and the Assessment Tool is the form for the information collection.

## 10. Assurance of Confidentiality Provided to Respondents

This information collection does not seek any personal identifying information. The information sought solely pertains to the fair housing issues affecting HUD program participants and their respective jurisdictions and regions.

## 11. Justification for Sensitive Questions

No sensitive questions are being asked by this collection.

**12. Estimates of Hour Burden Including Annualized Hourly Costs:** HUD's regulatory impact analysis (RIA) that accompanied the final rule estimated hourly costs at \$46.14 per hour. See AFFH RIA at page 13. RIA can be found at <http://www.regulations.gov/#!documentDetail;D=HUD-2013-0066-0890>

**A. Estimated Annualized Burden Hours:** The burden hours are provided in the chart below.

**B. Estimated Annualized Burden Costs:** HUD estimated that annualized burden costs range from \$6 million to \$28 million, with a primary estimate of \$17 million. Please see page 13 of the RIA.

## 13. Estimate of Other Total Annual Cost Burden to Respondent or Recordkeepers

	Number of Respondents *	Number of Responses Per Respondent	Frequency of Response**	Estimated Average Time for Requirement (in hours)***	Estimated Burden (in hours)
<b>CFR Section Reference:</b> § 5.154(d) (Assessment of Fair Housing)	2,508 total entities (1,194 Entitlement Jurisdictions and approximately 1,314 PHAs) *	1	Once every five years (or three years in the case of 3-Year Consolidated Plans) **		
Entitlement Jurisdiction	1,194			240 ***	286,560
PHAs	1,314 *			120 ****	157,680

<b>Total Burden</b>	2,508	1,194 *			<b>444,240</b>
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\* This template is primarily designed for entitlement jurisdictions, of which there are approximately 1,194, and PHAs seeking to join with entitlement jurisdictions on a jointly submitted AFH. There are 3,942 PHAs and HUD estimates that approximately 1/3 of PHAs may seek to join with an entitlement jurisdiction and submit a joint AFH. The Total Number of responses is listed as 1,194 based on the number of entitlement jurisdictions that will submit AFHs using this Assessment Tool. The total hours and burden are based on the total estimated number of both types of program participants and the “estimated average time” listed for type of program participant.

\*\* The timing of submission depends upon whether an entitlement jurisdiction submits its consolidated plan every 3 years or every 5 years.

\*\*\*As noted in the explanatory text, this is an average within a range, with some AFH requiring either more or less time and effort based on jurisdiction size and complexity. The 240 hour estimate is an increase from the previous 200 hour estimate in the 60-Day PRA Notice, published on September 26, 2014. The increased time estimate takes into account public comments on the 60-Day Notice. For some joint participants, the division of hours may be higher or lower based on the program participant’s areas of expertise, program operations or through mutual agreement.

\*\*\*\*PHAs participating in joint submissions using the Assessment Tool under this notice are assumed to have some fixed costs, including staff training, conducting community participation costs, but reduced costs for conducting the analysis in the assessment itself.

**14. Annualized Cost to the Federal Government:** HUD estimated \$9 million as the cost the Federal Government, but the cost to HUD is expected to be lower during the first two years of implementation because the number of submissions will be lower.

## **15. Changes in Hour Burden**

Many public comments received during the 60-day comment period stated that the 200-hour per program participant as too low. HUD has increased this to 240 hours per entitlement jurisdiction submitting and AFH. However, it is not likely that all entities participating together will all incur the full cost as they would if they were submitting an AFH separately. Thus, the hour estimate for PHA partners using this Assessment Tool is estimated at 120 hours. Additionally, as noted above, HUD expects that after experience with the first AFHs, will guide HUD to identify areas of the assessment where burden can be further reduced.

## **16. Plans for Tabulation, Publication, and Project Time Schedule**

### **A. Time Schedule**

HUD hopes to publish a final Assessment Tool through a Notice in the Federal Register after considering the comments received on this 30-Day Notice.

### **B. Publication**

HUD will publish a Notice in the Federal Register when the final Assessment Tool is available.

### **C. Analysis Plan**

Under the Final Rule, HUD program participants must include a review of progress achieved since submission of a prior AFH. This includes a summary of progress achieved in meeting the

goals set forth in the prior AFH and associated metrics and milestones of the prior AFH, and the identification of any barriers that impede or prevented the achievement of goals.

**17. Reason(s) Display of OMB Expiration Date Inappropriate**

No Exemption is requested.

**18. Exceptions to Certification for Paperwork Reduction Act Submissions: N/A**

**19. Collections of Information Employing Statistical Methods: N/A**