

Part A

JUSTIFICATION

Overview

Section 2835(d) of the Housing and Economic Recovery Act, or HERA, (Public Law 110-289, approved July 30, 2008) amended Title I of the U.S. Housing Act of 1937 (42 U.S.C. 1437 et seq.) (1937 Act) to add a new section 36 (codified as 42 U.S.C. 1437z-8) that requires each state agency administering tax credits under section 42 of the Internal Revenue Code of 1986 (low-income housing tax credits or LIHTC) to furnish HUD, not less than annually, information concerning the race, ethnicity, family composition, age, income, use of rental assistance under section 8(o) of the U.S. Housing Act of 1937 or other similar assistance, disability status, and monthly rental payments of households residing in each property receiving such credits through such agency. New section 36 of the 1937 Act further provides that to the extent feasible, each agency collect such information through existing reporting processes and in a manner that minimizes burden on property owners.

New section 36 requires HUD to establish standards and definitions for the information to be collected by state agencies and to provide states with technical assistance in establishing systems to compile and submit such information and, in coordination with other federal agencies administering housing programs, establish procedures to minimize duplicative reporting requirements for properties assisted under multiple housing programs.

LIHTC is a tax incentive intended to increase the availability of low-income housing. Section 42 of the Internal Revenue Code of 1986 provides an income tax credit to owners of newly constructed or substantially rehabilitated low-income rental housing projects. The credits allocated are based on the cost of units placed in service as low-income units under particular minimum occupancy and maximum rent criteria. In general, a building must meet one of two thresholds to be eligible for LIHTC: (1) 20 percent of the units must be rent-restricted and occupied by tenants with incomes no higher than 50 percent of the area median gross income (AMGI); or (2) 40 percent of the units must be rent-restricted and occupied by tenants with incomes no higher than 60 percent of AMGI. The term “rent-restricted” means that gross rent, including an allowance for tenant-paid utilities, cannot exceed 30 percent of the tenant’s imputed income limitation (i.e., 50 percent or 60 percent of AMGI). The rent and occupancy thresholds

remain in effect for at least 15 years, and building owners are required to enter into agreements to maintain the low-income character of the building for at least an additional 15 years.

The HERA requirement reflects Congressional intent to have data on households residing in LIHTC properties collected annually and submitted under uniform standards. In 2010, OMB approved the first collection instrument used for the collection of LIHTC household information (OMB Approval No. 2528-0165, expiration date 05/31/2013). HUD used the previously approved form to collect data on LIHTC tenants in 2010, 2011 and 2012. The form was approved with minor changes in 2013 with an expiration of 6/30/2016. Renewal of this form is required for HUD to remain in compliance with the statute.

The number of data items is limited to the items required under HERA. As required by this statute, the data collected will be compiled into a report to Congress. The data will be accepted in the XML (Extensible Markup Language) format, which has been used by the state housing agencies to submit data on tenant's residing in LIHTC properties since 2010. Two data forms define the data elements. One form collects data on project characteristics and the second form collects data on tenant-specific information. The project form is necessary to avoid state agencies submitting duplicate information along with each tenant data submission.

A1 All Circumstances That Make the Collection of Information Necessary

The statutory authority for this data collection is found in 42 U.S.C. 1437z-8, Collection of information on tenants in tax credit projects, which requires the state housing agencies submit to HUD "information concerning the race, ethnicity, family composition, age, income, use of rental assistance under section 8(o) of the United States Housing Act of 1937 or other similar assistance, disability status, and monthly rental payments of households residing in each property."

The congressional intent of this data collection is to provide basic information on the Low-Income Housing Tax Credit (LIHTC) program and the population it serves. The LIHTC program uses benefits available through the tax code as an incentive to produce qualified low-income housing units. The program is administered by 59 (predominantly state-level) allocating agencies. While the IRS has responsibility for issuing LIHTC regulations and ensuring compliance with the code for individual taxpayers, states administer the program and are also responsible for monitoring compliance at the project level.

A2 How and By Whom the Data will be Used

The information to be collected in the LIHTC database will be used by HUD to comply with the reporting requirements of HERA, which requires HUD to make the data publicly available. For the first time, HUD released the report *Understanding Whom the LIHTC Serves* in December 2014 and plans to update this report, or issue a similar descriptive report, annually. In addition to fulfilling this statutory requirement, HUD will use the data internally to inform policy.

Information will be submitted in XML formatted files by state housing finance agencies (HFAs) through a secure, access-restricted portal on HUDUser.org. All responses must be submitted electronically through this online system in the XML-format established by HUD. HFAs must submit the information annually in September. The information will not be shared with any agencies or entities outside of HUD, aside from the statutory reporting requirements described above. This collection has not materially changed since its inception in 2010.

A2.1 Consequences if the Information Was Not Collected

Absent the data collection, HUD would be in violation of 42 U.S.C. 1437z-8. In addition, HUD would not have the information needed to analyze the locations of recent tax credit projects; the interactions of tax credit units with other HUD supported low-income housing; the beneficiaries of the program (low-income tenants); or the costs and effectiveness of this method of subsidizing low-income rental projects. As noted above, Congress and researchers from federal agencies and academia are hampered in their efforts to evaluate the tax credit program due to the lack of available data on LIHTC projects and the tenants residing in these projects.

A2.2 Project Objectives and Analysis Design

The primary objective of this project is to comply with 42 U.S.C. 1437z-8, which requires the collection and reporting of data on tenants residing in LIHTC properties. The data requested is limited to the set of variables required by Congress and information needed to ensure accurate collection of the variables required by Congress. Further, the variables are readily available to states, which is an explicit strategy designed to minimize the burden of the information collection to both state housing agencies, who must collect and submit the data to

HUD, and property managers, who must submit the data to the state housing agencies. Key features of the data collection plan are outlined below.

Data Elements

Exhibit 1 lists the variables to be collected as part of this study. The items were selected based on the requirements of HERA and their availability. For project data, the requested data were limited to public information, which should pose no issues of confidentiality to the states. All of the items should be readily available to states, as they are among the most basic descriptive data concerning these federally subsidized properties. Moreover, virtually all of the project data are reported by the states on IRS Form 8609 for each building at the time it is placed in service. For tenant data, the data were limited related to data specifically requested by Congress through HERA. The data is similar, if not identical, to data currently collected by state housing agencies for income certification and program eligibility. Thus, states are required to collect and maintain these data as part of their federal tax reporting responsibilities.

Changes to Previous Collection Forms

HUD is resubmitting the previously approved data collections forms in their entirety with the exception of two changes each on the tenant and property collection forms. On the tenant collection form, HUD previously requested that all monthly rental assistance be reported in aggregate. The proposed forms request respondents to report federal monthly rental assistance separate from other sources. A question was also added to identify the program/source of rental assistance. This is needed to identify the extent of subsidy layering among HUD's rental assistance programs and other subsidy programs.

The property form was modified to request the HUD Property ID and to allow properties receiving on funds from the Tax Credit Exchange Program (TCEP) to identify that status in response to the type of credit received.

Scope and Coverage

The data to be collected will cover the universe of tax credit projects placed in service and all tenants residing in low-income, rent-restricted units of tax credit properties. Data will be collected from 60 administering agencies, which will be asked to submit the LIHTC data request electronically.

Timing of Data Collection

In accordance with the HERA requirements, the tenant and project data will be collected once per year and at the same time. Based on the information provided by the state housing agencies and similar to the previous three data collections, HUD will request the information in the fall of each year. Most state agencies process applications for new tax credit allocations in the first half of the calendar year and many agencies process the IRS 8609 forms for properties placed in service during the previous calendar year during the spring and summer. Data collection in the fall provides states time to prepare the data request after the completion of their allocation awards and IRS submissions. States will be asked to submit the data during September of each calendar year, similar to the three LIHTC tenant and property data collections under the HERA authority.

Methods of Data Collection

As in the three data collections under the HERA authority, the submissions will be collected through a secure portal on HUDUser.org.

Process and Instruments

The data collection process will begin with a request letter e-mailed to all state in the spring of each collection year. The letter will include the LIHTC Tenant and Project Data Form and instructions and a set of detailed instructions designed specifically for staff preparing the automated data submission. The e-mail will include instructions to the state housing agency to provide a contact who will be responsible for the tenant and property data collection activity, since many agencies separate the two activities, and to specify the electronic method in which the state will provide the data.

HUD plans to procure a contractor, as in past years, who will be available throughout the data collection period to answer questions and/or assist states as needed regarding data submission. This has proven to be a very effective and efficient method of assisting agencies with limited capacity to comply with this congressional mandate.

States will submit data files using the XML standard into HUD's HUDUser LIHTC Tenant Upload website. HUD will then perform data validity tests and create a standardized database containing the above-mentioned variables.

Analysis Plan

As required by HERA, HUD must publically release data received from this collection. Due to the lack of funding and limited HFA capacity, the first three data collection under this authority did not produce data sufficient for public release. Many states are still not able to submitting data for a majority of their LIHTC tenants and some of the data received is incomplete. When HUD is satisfied that the data received provides a representative sample of each state's LIHTC tenants, HUD will begin releasing aggregated summaries of the data. When sufficient data is received, HUD plans to undertake an analyses focusing on tenant characteristics, financing of properties, and the location of tax credit projects. Each property will be geocoded with the appropriate Census Tract code via the use of a commercial geocoding package.

Using this database, HUD will generate basic descriptive statistics about the universe of tax credit tenants and projects. With consideration of tenant privacy, tenant data will be aggregated to the project or higher level for public reporting. Census-type non-disclosure rules will be applied to ensure tenants are not identifiable through the publically released report or database.

A3 Use of Improved Technologies

The data collection proposed here is specifically designed to take advantage of state-of-the art information technologies. Prior experience suggests that many states have computerized systems containing the needed data items. A detailed set of instructions are being prepared to enable state data processing staff to construct the required XML data file using their current data system. A vendor of state LIHTC data systems might also provide system-specific instructions or programs. Also, HUD plans to procure a contractor who will be available throughout the data collection period to answer questions and/or assist states as needed regarding data submission.

A4 Efforts to Avoid Duplication

The congressional mandate for this data collection originated from the lack of data on tenants in Low-Income Housing Tax Credit (LIHTC) units. This effort represents the only federal effort to collect data on tax credit tenants. The tax credit program is designed such that program compliance is conducted by the state housing finance agencies. For this reason, no federal agency collects information on LIHTC *tenants*. This also represents the only federal effort to collect data on tax credit *projects* aside from IRS reporting which is not available for HUD or public use.

Private researchers have conducted some work on the tax credit program, but these efforts have either been very limited in scope or do not provide data that is publicly available. Indeed, one of the benefits to states of this project is that HUD plans to make the LIHTC database available to the public, thus eliminating the need for states to fill redundant requests from individual researchers.

No data are available which are similar to the data that will be collected through this study.

A5 Efforts to Minimize the Burden for Small Entities

Respondents for this data collection include state tax credit allocating agencies. None of these entities is a private business. HUD does not have information on the size of the entities administering the credits in individual states; however, responsibility typically lodges with a state housing finance agency, which would ordinarily not be considered a small entity.

A6 Consequences of Less Frequent Data Collection

Less frequent data collection would violate the requirement in the Housing and Economic Recovery Act (HERA) to collect the information “at least annually”. Aside from the statutory requirement, less frequent data collection places data at HUD’s disposal with longer lags. Hence, the Department’s analysis of an important housing program is rendered less current and less comprehensive at any given time. Annual data collection keeps HUD abreast of any trends as they are developing and are most amenable to policy intervention. A secondary benefit of annual updates is, presumably, they are far less burdensome than the larger requests that would be needed if less frequent data collection were instituted.

A7 Explain any Special Circumstances

The data collection creates no special circumstances of the type listed.

A8 Public Comment and Consultations Outside the Agency

Prior to the initial data collection under the HERA authority, HUD published an Advanced Solicitation of Comment on Data Collection Methodology in the Federal Register on Monday, March 30, 2009, on page 14149. HUD staff also remain in contact with the state housing finance agencies which are required to submit this information. In addition to informal communication, HUD staff regularly participates in three annual conferences, two hosted by the National Council of State Housing Agencies (NCSHA) and one hosted by the National Affordable Housing Management Association (NAHMA). HUD staff also participate in the Multifamily Information and Transactions Standards (MITS) working group, which is composed of state housing finance agencies and their software vendors. This group works to define a common set of electronic reporting standards across states in order to facilitate the development of reporting systems.

A9 Payments or Gifts to Respondents

No payments or gifts will be provided to respondents.

A10 Arrangements and Assurances Regarding Confidentiality

Privacy Act information provided on data collection form. The collected tenant data will be aggregated to prevent the identification and protect the privacy of individuals prior to public release. HUD will apply Census-type disclosure rules to protect tenant privacy.

The property characteristics information to be collected are basic, descriptive data about publicly-subsidized housing projects, specifically their location, size, and use of specific financing mechanisms. All of this information is already publically available. Therefore, no offers of confidentiality will be made for the collected project data. The requested property-level data are public information.

A11 Sensitive Questions

The tenant data collection form contains questions which may be considered sensitive, including income, rent, date of birth, race, ethnicity and disability status. However, these questions are mandated by the 42 USC § 1437z-8 and HUD has no discretion regarding their inclusion. In the absence of these tenant questions, HUD would be violation of the National Housing Act as amended by HERA.

The questions concerning property characteristics are not considered sensitive in nature. Information focuses on standard variables concerning the location, size, and other characteristics of federally subsidized housing projects.

A12 Respondent Burden

The requested information is currently collected by the respondents. Respondents are also familiar with the electronic submission process that is used. To assist with the electronic submission of data, HUD plans to procure a contractor who will advise and if needed assist states in submitting the data.

Based on past experience with collecting data on projects placed in service, respondents generally spend approximately eight person-hours responding to the property survey. The burden to report tenant data will be longer since many agencies are still populating their newly developed or modified systems with the collected data. It is expected that respondents will spend approximately forty person-hours responding to the tenant survey. The burden will be lessened with the assistance provided from the HUD-funded contractor described above.

The overall response burden totals 48 person-hours per respondent. As the state housing agencies become more familiar with the collection process and the development of their systems is complete, this response is expected to decrease to a maximum of sixteen person hours per tenant form, for a total of twenty-four person hours per respondent.

A13 Total Annual Cost Burden to Respondents

Not applicable.

A14 Estimated Cost to the Federal Government

In the Housing and Economic Recovery Act, Congress authorized the following amounts to fund this initiative: \$2,500,000 for fiscal year 2009 and \$900,000 for each of fiscal years 2010 through 2013. However, no funds were specifically identified for this purpose in HUD's Appropriation between FY2009 and FY 2012. The only budgeted cost to the federal government at this time is \$200,000 annually to fund a contractor to assist state housing agencies with their data submissions.

A15 Reasons for Change in Burden

Not applicable.

A16 Tabulation Plan, Statistical Analysis and Study Schedule

The data collection and analysis described in Section A2.2 will be completed by HUD. The data collection is scheduled to occur in September 2013 and annually through the expiration of the data collection form.

Following collection of all data, HUD will have all projects geocoded with Census Tract identifiers, and begin the congressionally-mandated descriptive report, if possible. A public use database will also be prepared. If sufficient data is received in the September 2013 collection, the report and public use database could be expected to be available in 2014.

A17 Approval Not to Display Expiration Date

Not applicable.

A18 Exception to Item 19 of OMB Form 83-I

Not applicable.

STATISTICAL METHODS

B1 Potential Respondent Universe

The study will collect data for the universe of tax credit tenants each year and one placed in service year for projects. In 2013, HUD will request the latest certification data for all tenants in LIHTC-subsidized units on December 31, 2012 and data for properties placed in service in 2012. We estimate that data will be collected for about 1,500 total projects and 2 million tenants (households) annually. Data will be collected from the 60 state and local allocating agencies.

B2 Statistical Methods

B2.1 Stratification and Sampling Plans

Not applicable

B2.2 Sampling Procedures

Not applicable

B2.3 Justification of Level of Accuracy

Not applicable

B2.4 Problems Requiring Specialized Sampling Procedures

Not applicable

B2.5 Uses of Less Frequent Data Collection Cycles

Not applicable

B3 Response Rates

B3.1 Procedures to Maximize Response Rates and Handle Nonresponse

Reporting is the responsibility of the state agencies that allocate credits to individual properties and monitor tenants for program compliance. All of the data should be readily available (in fact, similar data are reported to the IRS, but are not accessible by the public or other federal agencies). Every effort has been made to minimize burden on states. The list of desired variables is limited and similar to data currently collected.

Current law, as stated in HERA, requires all allocating agencies to comply with the information request pursuant to the statute. HUD is in the process of procuring a contractor to assist states in responding to this congressionally-mandated data collection.

B3.2 Expected Response Rate

The study is designed to be a census of states and their tax credit projects, including all tenants. A 100 percent response from the state agencies is mandatory by law. In the first three data collections, nearly all agencies reported both tenant and property data. The few agencies which were not able to submit data are in contact with HUD and have cited technological reasons for their inability to comply. All agencies are working to improve their reporting rate and are expected to provide all requested data within the next few years.

B4 Tests of Procedures or Methods

The forms and methods discussed above have been used previously by HUD. The project form was used by a HUD to collect data on properties placed in service from 2008 through 2011. The tenant form is similar to forms historically used by state agencies to monitor program compliance and was used by HUD to collect data on tenants in LIHTC-subsidized units in 2009 through 2011. After three years, the state agencies are very familiar and comfortable with the data forms and method of submission.

B5 Statistical Consultation and Information Collection Agents

B5.1 Consultation on the Statistical Aspects of the Design

Not applicable

B5.2 Information Collection Agents

Information will be collected by a contractor to be designated.

EXHIBIT 1

The following information is requested for each LIHTC project under the jurisdiction of a given Allocating Agency:

Allocating Agency State
Allocating Agency Name
Project Identification Number
Project Name
Project Address
Building Identification Numbers (BINs) (for each building in property)
Building Address (for each building in property)
Owner/Owner's Representative Name, Address, and Phone Number
Annual Amount of Tax Credits Allocated
Number of Total Units
Number of Total Units by Bedroom Size
Number of Low-Income Units
Elected Rent/Income Ceiling for Low-Income Units
Are any units set aside to have rents below the elected rent/income ceiling? If Yes, how many?
Year Placed in Service
Year Project Received Allocation or Bond Issued
Project Type (e.g., new construction, rehab, existing)
Credit Percentage (e.g., 9% (i.e., 70% present value) or 4% (i.e., 30% present value) or both)
Did the project have a non-profit sponsor?
Did the project have an increased basis due to qualified census tract, difficult development area or HERA-based designation?
Did the project use tax-exempt bonds?
Did the project use a Rural Housing Service (FmHA) Section 514 loan? If yes, loan number?
Did the project use a Rural Housing Service (FmHA) Section 515 loan? If yes, loan number?
Did the project use a Rural Housing Service (FmHA) Section 538 loan? If yes, loan number?
Did the project have HOME Investment Partnership Program (HOME) funds? If yes, Activity ID and amount.
Did the project have Community Development Block Grant (CDBG) funds? If yes, Activity ID and amount.
Did the project have an FHA loan? If yes, loan number?
Did the project form part of a HOPE VI development? If yes, amount.
Did the project target a specific population?
Did the project have a federal or state project-based rental assistance contract? If yes, contract number.

The following information is requested for each household residing in a LIHTC-financed unit:

Certification Type
Effective Date of Certification
LIHTC Qualification Date
Property Name and Address
Property Identification Number (PIN)
Unit Number
Building Identification Number (BIN)
Number of Bedrooms in Unit
Name of Each Household Member
Relationship to Head of Household
Race of each household member
Ethnicity of each household member
Disability Status of each household member
Date of Birth of each household member
Student Status of each household member
Last 4 Digits of Social Security Number of each member over 18 years of age?

Household Total Gross Annual Income
Household Total Annual Income from Assets
Effective Date of LIHTC Income Certification
Household Size at LIHTC Certification
Program Percent Income Restriction Applicable for Unit
Percent Income Restriction if Set-Aside below Elected Ceiling
Current LIHTC Income Limit
Tenant Paid Monthly Rent
Monthly Utility Allowance
Other Monthly Non-Optional Charges
Federal Rent Assistance and Source
Other Rent Assistance
Maximum LIHTC Rent for Unit
Program Percent Rent Restriction Applicable for Unit
Percent Rent Restriction if Set-Aside below Elected Ceiling
Are All Occupants Full-Time Students?
Does Unit Count Toward Occupancy Requirements for another Federal Program?