

**Department of Housing and Urban Development
Affirmatively Furthering Fair Housing Assessment Tool**

Supporting Statement for publication of Assessment of Fair Housing Tool for Public Housing Agencies Solicitation of Comment 30-Day Notice Under the Paperwork Reduction Act of 1995 Published on ~~September 20~~ Month XX, September 20, 2016 under Docket No. FR-5173-N-09-B

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. Prior to the publication of the final rule, recipients of HUD allocations certified they affirmatively further fair housing via the Analysis of Impediments (AI). The Government Accountability Office (GAO) released a report concluding that the AI was not an effective mechanism and process for program participants to fulfill their 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(s) and/or jurisdictions-service areas 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.

3. Use of Improved Information Technology and Burden Reduction

In ~~this-its 60-day and~~ 30-day notices, HUD ~~has~~ included an optional insert for ~~use by~~ Qualified Public Housing Agencies (QPHAs) to use that collaborate with non-qualified PHAs. The insert is meant to cover the analysis required for the QPHA's service area. For purposes of this assessment tool, the QPHA region is defined as the CBSA if the QPHA service area is within the CBSA. ~~For QPHAs in the same Core Based Statistical Area (CBSA) as the non-qualified PHA, the analysis is intended to meet the requirements of a QPHA service area analysis while relying on the non-qualified PHA to complete the regional analysis, provided the regional analysis is sufficiently analyzed under the Assessment Tool. For QPHAs that are located outside of a CBSA with a service area that is smaller than a county, the HUD-provided tables for the PHA's region will include the entire county. For PHAs located outside of a CBSA with a service area whose boundary is consistent with the county or statistically equivalent, or which extends into another county, the HUD-provided tables will include all contiguous counties or statistically equivalents within the State in which the PHA is located and including the counties in which the PHA operates. For Statewide PHAs, the HUD-provided data will be provided for that State, and will include maps for areas outside the State, but not tables. Consistent with the instructions for State program participants using the assessment tool for States and Insular Areas, Statewide PHAs will need to consider fair housing issues that extend beyond the State's borders, such as if areas of segregation or R/ECAPs extend beyond the border into another state or if there are larger economic or demographic trends affecting the PHA's service area. The HUD-provided maps may be useful to view fair housing issues and patterns extending into other States. For QPHAs whose service area extends beyond, or is outside of, the non-qualified PHA's CBSA, the analysis must cover the QPHA's service area and region.~~ QPHAs will then refer to the Contributing Factors listed ~~in the prior sections~~ and identify Contributing Factors. QPHAs must also identify any individual goals.

As a reminder, program participants, whether contiguous or noncontiguous, that are either not located within the same CBSA or that are not located within the same State and seek to collaborate on an AFH, must submit a written request to HUD for approval of the collaboration, stating why the collaboration is appropriate.

In addition to the Public Housing Agency (PHA) Assessment Tool (the subject of this review), ~~and~~ the Local Government Assessment Tool, and the State and Insular Areas Tool (both in development after posting for ~~360-day~~ public comment under PRA), HUD has recently committed to issuing a fourth assessment tool for Qualified PHAs (including joint collaborations among multiple QPHAs). The development of this fourth assessment tool is to address burden issues that impact QPHAs that have 550 units or less. HUD is also committed to continue to explore opportunities to reduce the burden of conducting AFFH analyses by consolidated planning agencies that receive relatively small amounts of HUD funding.

In addition to the template form for the Assessment Tool, HUD is providing its program participants with a web-based ~~d~~Data ~~t~~ool, the AFFH Data and Mapping Tool (AFFH-T), which contains interactive maps and exportable tables by jurisdiction and region. ~~The Data Tool~~AFFH-T 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~~ further reducing 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 Local Governments, States and insular areas, PHAs, and Qualified PHAs. Separate assessment tools will reduce burden ~~because as~~ 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, or QPHA) 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/>. This website also allows program participants to request direct- technical assistance related to their AFH process.-

4. Efforts to Identify Duplication and Use of Similar Information

This information collection - the Assessment of Fair Housing for Public Housing Agencies - is necessary to implement the new requirements of HUD’s AFFH Final Rule, issued in July 2015. The AFFH Final Rule established a new process for fair housing planning efforts for specific types of HUD grantees, including local governments, states and insular areas that receive HUD formula block grant assistance (e.g. CDBG, HOME) and public housing agencies. For local governments, states and insular areas, the Assessment of Fair Housing (AFH) replaces the previous regulatory requirement that these program participants conduct an Analysis of Impediments. PHAs were not required to complete an Analysis of Impediments prior to the final rule; tThus, there is no duplication of submitting an assessment of fair housing issues as the PHAs were not required to submit an AI prior to the publication of the final rule.

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, Qualified PHAs (with respect to size are defined as PHAs with fewer than 550 units, including public housing and Section 8 vouchers) and small Local Governments, defined as jurisdictions receiving \$500,000 or less in Fiscal Year (FY) 2015 CDBG funds, ~~and Qualified PHAs (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. The initial start date for both QPHAs and smaller local governments ~~and QPHAs~~ is calculated based on these types of agencies with 5-year plan fiscal years starting on January 2019 (rather than 2018 for larger agencies. (Please see Section 5.160 of the Final Rule for more detail).

HUD has also reduced the impact on small entities-program participants by providing a streamlined, shorter set of questions (also known as the “QPHA inserts”) that may be used to facilitate collaboration between these smaller types of program participants, QPHAs, who may choose to enter into a joint or regional AFH with a larger agency, non-qualified PHAs, acting as the “lead entity” for such collaborations. This step is intended to reduce burden for these smaller agencies-program participants. For this Assessment Tool, HUD included an insert for use by Qualified Public Housing Agencies (QPHAs) that collaborate with non-qualified PHAs.

6. Consequences of Collecting the Information Less Frequently

The collection is submitted to HUD once every five years. This is required by the AFFH Final Rule, so that the Assessment of Fair Housing coincides with and immediately precedes the 5-Year PHA plans of HUD program participants. The Assessment of Fair Housing is necessary to identify fair housing issues that are present in the agencies’ local-jurisdictions-service areas and regions, along with factors that may be contributing to those fair housing issues and to set priorities and goals to overcome the effects of those fair housing issues and contributing factors. The AFH will inform these agencies subsequent planning efforts, specifically in the 5-Year-consolidated plan, Annual Action Plans and the PHA 5-Year plans and other related planning documents, such as the Admission and Continued Occupancy Policy (ACOP) and Administrative Plans. Furthermore, HUD is currently preparing staff to review the AFH when it is submitted.

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

Explain any special circumstances requiring:

- response more than quarterly; None Applicable
- response in fewer than 30 days; None Applicable
- more than an original and two copies of any document; None Applicable
- retain records for more than three years (*other than health, medical, government contract, grant-in-aid, or tax records*); None Applicable
- statistical surveys not designed to produce results that can be generalized to the universe of study; None Applicable
- statistical data classification not been approved by OMB; None Applicable
- a pledge of confidentiality that is not supported by statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or, None Applicable
- respondents to submit proprietary trade secret, or other confidential information. None Applicable

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 March 23, 2016, at 81 FR 15549. HUD received a total of 38 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. [For the 30-Day Notice published at 81 FR 64475 on September 20, 2016, HUD received a total of 141 comments on the Assessment Tool.](#)

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 [within the PHAs control](#). 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 summary in its 30-day notice. [For the final publication of the PHA Assessment Tool, HUD is also not required to provide a preamble addressing public comments. However, HUD will provide such a summary with responses to public comments that were submitted during the 30-day public comment period.](#)

Additionally, HUD has provided greater transparency in its PRA notices by having public comments posted on www.regulations.gov. Public comments on the 60-day notice can be found at <https://www.federalregister.gov/documents/2016/03/23/2016-06492/affirmatively-furthering-fair-housing-assessment-tool-for-public-housing-agencies-solicitation-of>. [Public comments on the 30-day notice can be found at https://www.federalregister.gov/documents/2016/09/20/2016-22594/affirmatively-furthering-fair-housing-assessment-tool-for-public-housing-agencies-information.](#)

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 ~~f~~Final ~~r~~Rule provides for this 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:

[The estimate of annualized burden hours for the AFFH Assessment Tool for Public Housing Agencies is outlined in the answer to 12.A. below, as provided for in the accompanying table.](#)

The estimate of costs is discussed in more detail in 12.B. below.

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

	Type of respondent (lead entity or joint participant)	Number of respondents	Number of responses per respondent	Frequency of response	Estimated average time for requirement (in hours)	Estimated total burden (in hours)
PHA Assessment Tool						
	PHA as lead entity	814	1		240 hours	195,360
	PHA as joint participant	400 *	1		120 hours	48,000
<u>Subtotal</u>		1,214 **				243,360
PHA Service Area Information		3,942	1	Once per Assessment of Fair Housing cycle.	1	3,942
Total Burden						247,302 ***

* The estimate of 400 PHAs opting to submit AFHs acting as joint participants with other PHAs using this PHA Assessment Tool, includes an estimated 300 QPHAs and 100 Non-QPHAs. The estimate of 300 QPHAs is based on the new addition of a streamlined QPHA “insert” that is intended to facilitate collaboration by these small agencies. The estimate of 100 Non-QPHAs in this category is based on the likelihood of such collaborations occurring primarily in larger metropolitan areas. The latter estimate does not significantly change the overall total estimate burden

** The total estimate of 1,214 PHAs that are assumed to use the PHA Assessment Tool is a modest decrease from the estimate of 1,314 agencies included in the 60-Day PRA Notice estimate. This change is explained in greater detail below.

*** The total estimate of 247,302 burden hours is a decrease from the estimate of 319,302 burden hours that was included in the 60-Day PRA Notice that was published on March 23, 2016. The decrease in the estimate is solely attributable to a change in the estimated number of PHAs that will use this assessment tool as lead entities with individual submissions, rather than due to any revision in the estimated amount of time to complete an AFH using the assessment tool. The reasons for the change in the estimated number of PHAs that are assumed to use the PHA Assessment Tool is described in further detail below.

B. Estimated Annualized Burden Costs:

HUD's Regulatory Impact Assessment that accompanied the AFFH Final Rule included a primary estimate of \$25.4 million for the annual compliance costs to all grantees (with a range from a lower bound of \$6 million to an upper bound of \$42.4 million). See page 23 of the RIA, which can be downloaded at:

https://www.huduser.gov/portal/sites/default/files/pdf/AFFH_Regulatory_Impact_Analysis_FinalRule.pdf

The Assessment Tool for ~~Local Governments~~Public Housing Agencies that is the subject of this PRA Notice is one of three separate Assessment Tools that are currently in the Paperwork Reduction Act (PRA) process for approval. In addition, HUD has committed to issuing a fourth Assessment Tool specifically for smaller PHAs (Qualified PHAs). This fourth assessment tool is expected to undergo the PRA process in 2017. The estimated costs that were included in the RIA for the AFFH Final Rule represent a total cost across all of the HUD grantee types that will use these four separate assessment tools.

The actual costs will vary by grantee, including by the size and capacity of the grantee type (e.g. smaller or larger grantees) and by the grantee's available resources, specifically their available funding, capacity and staff. It is HUD's intention that ~~the~~this Assessment Tool can be completed by the grantee's current available staff, without the need for hiring of additional staff or the use of program funds to hire contractors. HUD will continue to assess the actual burden costs for program participants on an ongoing basis.

~~In implementing the AFFH Final Rule, HUD is making improvements on the previous fair housing planning requirement under which local governments receiving HUD block grant assistance (i.e. CDBG and HOME) were required to complete an Analysis of Impediments (AI). The AI was often completed by outside contractors that were paid for using program funds under the allowable expense caps for administrative and planning functions. A review of a sample of these outside contractor costs for a range of grantees was included in the Regulatory Impact Assessment that accompanied the Final Rule. The previous AI requirement has been replaced with a new requirement to complete the Assessment of Fair Housing (AFH) using the assessment tool. The new requirement is accompanied by a series of tools (described briefly here) that are intended to hire contractors or consultants to complete their AFH.~~

A major component of the new requirements under the final rule is the provision of data by HUD through an online dData and mMapping tool, AFFH Data and Mapping Tool (AFFH-T). There is also a new online system known as the AFFH User Interface (UI), through which the grantee can complete and submit the AFH to HUD electronically. The User Interface UI also facilitates access to the Data and Mapping tool components AFFH-T (tables and maps) by matching the relevant map or table to the pertinent section of the aAssessment tool for which that piece of data is needed. The combined intent of the HUD-provided data, the online tools and the aAssessment tools that are tailored to different types of grantees is to remove the necessity of for grantees to hire outside contractors or consultants in order to complete their AFH. In addition, the aAssessment tool has been written broadly so that it encompasses the various fair housing issues that might be present in a wide variety of locations across the country. Grantees will apply the HUD-provided data to identify and focus on those issues that are actually present

in their geographic area. As such, the [Assessment Tools](#) is meant to be flexible and applicable to a wide variety of grantees and not to unintentionally result in unnecessary or excessive burden.

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

As discussed in greater detail above, HUD's Regulatory Impact Assessment that accompanied the AFFH Final Rule included a primary estimate of \$25.4 million for the annual compliance costs to all grantees (with a range from a lower bound of \$6 million to an upper bound of \$42.4 million).

14. Annualized Cost to the Federal Government:

HUD estimated \$9 million as the annual cost to the federal government. -The full methodology for deriving the estimate of cost to the federal government is included in the Regulatory Impact Assessment that accompanied the AFFH Final Rule. The RIA can be downloaded here: https://www.huduser.gov/portal/sites/default/files/pdf/AFFH_Regulatory_Impact_Analysis_FinalRule.pdf.

15. Changes in Hour Burden

Comparison of Burden Estimate with Estimate from the 60-Day Notice

The total estimated burden of 247,302 hours is a reduction from the estimate of **319,302** total hours that was included in the 60-Day PRA Notice for this assessment tool. All of the reduction is attributable to a revision of the estimate of the number of public housing agencies that are estimated to enter into joint partnerships using this tool, rather than any revision in the estimated burden to be incurred by individual agencies using the tool. This revision is discussed in more detail below.

HUD acknowledges that actual participation in joint and regional partnerships may differ from these initial estimates and may vary according to a variety of factors such as the availability of local or state agency potential joint participants. For more information on the range of costs, see the Regulatory Impact Analysis that was issued by HUD to accompany the AFFH Proposed Rule. (Available at https://www.huduser.gov/portal/publications/pdf/FR-5173-P-01_Affirmatively_Furthering_Fair_Housing_RIA.pdf)

Note on Costs for Smaller Agencies

HUD acknowledges that actual participation in joint and regional partnerships may differ from these initial estimates and may vary according to a variety of factors such as the availability of local or state agency potential joint participants. For more information on the range of costs, see the Regulatory Impact Analysis that was issued by HUD to accompany the AFFH Proposed

Rule. (Available at https://www.huduser.gov/portal/publications/pdf/FR-5173-P-01_Affirmatively_Furthering_Fair_Housing_RIA.pdf)

Smaller agencies are estimated to have lower costs, based on both the required scope of analysis and scope of their responsibilities and program resources. All agencies however will have some fixed costs, including for training for staff and conducting community participation. HUD will continue to provide additional assistance including training materials, resources and opportunities. HUD's goal is to help agencies in meeting the goal of affirmatively furthering fair housing.

HUD reiterates the commitment it made in the December 31, 2015 Notice announcing the initial one-year implementation period for the local government assessment tool, to: “[further address] program participant burden by providing data, guidance, and technical assistance, and such assistance will occur throughout the AFH process.”

Joint and Regional Cooperation

As mission-dedicated public agencies, all types of housing and community development agencies share a common purpose in providing affordable housing to families and individuals most in need and improving neighborhoods and communities. While HUD recognizes that there may be some benefit to agencies in terms of cost sharing to complete planning requirements, HUD acknowledges that the primary benefits of joint participation may likely not be directly related to such administrative considerations. Indeed, cross-agency collaboration entails its own costs, including additional staff time for communication and coordination. Rather, the benefits are more likely to result from identifying common shared issues, contributing factors, concerns, obstacles, goals, and strategies and actions, in order to better meet their shared mission and improve program outcomes. Some objectives may also be better met through coordinating program activities and impact across jurisdictional boundaries. There may also be other indirect benefits from interagency coordination and communication and information sharing that are not easily quantified.

Explanation of Revision in PHA Participation Estimates

HUD is including the following information in the 30-Day PRA Notices for all three of the assessment tools that are currently undergoing public notice and comment. The information is intended to facilitate public review of HUD's burden estimates.

HUD is revising its burden estimates for PHAs, including how many agencies will join with other entities (i.e. with State agencies, local governments, or with other PHAs), from the initial estimates included in the 60-Day PRA Notices for the three assessment tools. These revisions are based on several key changes and considerations:

1) HUD has added new option for QPHAs when the QPHA partners with a Non-Qualified PHA. For QPHAs in the same CBSA as the Non-Qualified PHA, the analysis is intended to meet the requirements of a QPHA service area analysis while relying on the Non-Qualified PHA to complete the regional analysis, provided the regional analysis is sufficiently analyzed under the Assessment Tool. For QPHAs whose service area extends beyond, or is outside of, the Non-Qualified PHA's CBSA, the analysis must cover the QPHA's service area and region.

2) HUD's commitment to issuing a separate assessment tool specifically for QPHAs that will be issued using a separate public notice and comment Paperwork Reduction Act process. This QPHA assessment tool would be available as an option for these agencies to submit an AFH rather than using one of the other assessment tools. HUD assumes that many QPHAs would take advantage of this option, particularly those QPHAs that may not be able to enter into a joint or regional collaboration with another partner. HUD is committing to working with QPHAs in the implementation of the AFFH Rule. This additional assessment tool to be developed by HUD with public input will be for use by QPHAs opting to submit an AFH on their own or with other QPHAs in a joint collaboration.

3) Public feedback received on all three assessment tools combined with refinements to the HUD burden estimate.

Based on these considerations, HUD has refined the estimate of PHAs that would be likely to enter into joint collaborations with potential lead entities. In general, PHAs are estimated to be most likely to partner with a local government, next most likely to join with another PHA and least likely to join with a State agency.

While all PHAs, regardless of size or location are able and encouraged to join with State agencies, for purposes of estimating burden hours, the PHAs that are assumed to be most likely to partner with States are QPHAs that are located outside of CBSAs.

Under these assumptions, approximately one-third of QPHAs are estimated to use the QHPA template that will be developed by HUD specifically for their use (as lead entities and/or as joint participants), and approximately two-thirds are estimated to enter into joint partnerships using one of the QPHA streamlined assessment "inserts" available under the three existing tools.

These estimates are outlined in the following table:

Overview of Estimated PHA Lead Entities and Joint Participant Collaborations

	Number of QPHAs outside CBSA	Number of QPHAs inside CBSA	Number of PHAs (non-Qualified)	Total

PHA Assessment Tool				
(PHA acting as lead entity)	x	x	814	814
joint Joint partner Partner using PHA template Template	x	300	100	400
Local Government Assessment Tool (# of PHA joint collaborations)	x	900	200	1,100
State Assessment Tool (# of PHA joint collaborations)	665	x	x	665
subtotal	665	1,200	1,114	
QPHA template	358	605		963
Total	1,023	1,805	1,114	3,942

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 ~~f~~Final ~~r~~Rule, HUD program participants must include a review of progress achieved since submission of a prior AFH, if applicable. PHAs were not required to submit an Analysis of Impediments prior to the final rule, and thus, will provide a review of progress achieved after its initial submission of this Assessment Tool. The ~~review should~~~~is~~ 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