



This document is scheduled to be published in the Federal Register on 09/26/2014 and available online at <http://federalregister.gov/a/2014-22956>, and on FDsys.gov

Billing Code 4210-67
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5173-N-02]

**Affirmatively Furthering Fair Housing Assessment Tool:
Solicitation of Comment – 60-Day Notice under Paperwork Reduction Act of 1995**

AGENCY: Office of General Call, HUD.

ACTION: Notice.

SUMMARY: On July 19, 2013, HUD published a proposed rule that would provide HUD program participants with a revised process to plan for fair housing outcomes that will assist them in meeting the statutory obligation to affirmatively further fair housing. In the proposed rule, HUD advised that it would issue an “Assessment Tool” for use by each program participant to evaluate fair housing choice in its jurisdiction, to identify barriers to fair housing choice at the local and regional levels, and to set and prioritize fair housing goals to overcome such barriers and advance fair housing choice.

This Notice solicits public comment for a period of 60 days on the proposed version of Assessment Tool that is designed for use by entitlement jurisdictions other than States and joint submissions by entitlement jurisdictions and public housing agencies (PHAs). While the Assessment Tool that is the subject of this notice is designed for joint submissions by entitlement jurisdictions and PHAs, it presents the basic structure of the Assessment Tool to be used by all program participants, and is illustrative of the questions that will be asked of all program participants.

In seeking comment for a period of 60 days, this notice commences the process for compliance with the Paperwork Reduction Act of 1995 (PRA). The PRA requires two public comment periods – a public comment period of 60 days and a second comment period of 30

days. After consideration of the public comments submitted in response to this notice, HUD will solicit a second round of public comments for a period of 30 days.

DATES: Comment Due Date: **[Insert Date 60 days after date of publication in the FEDERAL REGISTER.]**

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500.

Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at www.regulations.gov. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the www.regulations.gov website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Individuals who are deaf or hard of hearing and individuals with speech impairments may access this number via TTY by calling the Federal Relay Service at 800-877-8339. Copies of all comments submitted are available for inspection and downloading at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Camille E. Acevedo, Associate General Counsel for Legislation and Regulations, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10282, Washington, DC 20410-0500; telephone number 202-708-1793 (this is not a toll-free number). Persons who are deaf or hard of hearing and persons with speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

On July 19, 2013, at 78 FR 43710, HUD published, for public comment, a proposed rule entitled “Affirmatively Furthering Fair Housing.” The proposed rule provided a new approach that will enable program participants to more fully incorporate fair housing considerations into their existing planning processes and assist them in their efforts to comply with their duty to affirmatively further fair housing as required by the Fair Housing Act, which is Title VIII of the Civil Rights Act, and other authorities. The Fair Housing Act not only prohibits discrimination

but, in conjunction with other statutes, directs HUD's program participants to take proactive steps to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination.

The new approach proposed by HUD would replace the current analysis of impediments (AI) process. As provided in the proposed rule, the new approach is designed to assist program participants in analyzing their fair housing environment, identifying fair housing issues and the related determinants, setting and prioritizing fair housing goals, and, ultimately, taking meaningful actions to affirmatively further fair housing. The new approach builds upon and refines the fair housing elements of the existing planning processes that program participants currently undertake.

To assist program participants in improving planning for fair housing outcomes, HUD advised in the proposed rule that it would issue an "Assessment Tool" for use in completing the assessment of fair housing (AFH) that program participants would undertake in accordance with the proposed rule. To further ease the burden on program participants in carrying out their duties under the proposed rule, HUD stated in the proposed rule that it would provide States, local governments, insular areas, and public housing agencies (PHAs), as well as the communities they serve, with local and regional data on patterns of integration and segregation; racially and ethnically concentrated areas of poverty (R/ECAPs); access to education, employment, low-poverty neighborhoods, transportation, and environmental health, among other critical community assets; disproportionate housing needs; and data on individuals with disabilities and families with children. Using these data, together with other available local data and local knowledge, program participants will evaluate their present environment to assess fair housing issues, identify significant determinants that influence or contribute to those issues, and set forth

fair housing priorities and goals to address fair housing issues and determinants.

HUD submitted that the benefit of this approach is that these priorities and goals would better inform program participants' strategies and actions by enabling program participants to improve the integration of the fair housing planning with current planning exercises.

At the time of publication of the proposed rule, HUD had not completed work on the Assessment Tool and therefore it was not published with the proposed rule. Many commenters advised that they welcome HUD's proposal to make such a tool available but needed to see the tool and have the opportunity for comment. This notice provides HUD program participants and other interested members of the public with the opportunity to comment on the draft Assessment Tool. Additionally, at the time of publication of the proposed rule, HUD posted a draft "Data Documentation" paper online at www.huduser.org/portal/affht_pt.html, and requested public comments on the categories, sources and format of data that will be provided by HUD. Many public comments were received on the Data Documentation paper, and several of the suggestions raised by commenters are reflected in the proposed Assessment Tool.

As noted in the Summary of this document, the Assessment Tool that HUD is submitting for public comment is primarily designed for use by entitlement jurisdictions other than States and for entitlement jurisdictions and public housing agencies that are submitting a joint AFH. This Assessment Tool is not the tool that will be used by regionally collaborating entitlement jurisdictions or PHAs that will not be making a joint submission nor will it be used by States and Insular Areas. However, this Assessment Tool that HUD is submitting for public comment through this notice, although primarily tailored for entitlement jurisdictions and joint submissions by entitlement jurisdictions and PHAs, serves as HUD's design for the Assessment Tool to be used by all program participants. HUD expects the topics and analysis included in

this Assessment Tool to be very similar to the content in Assessment Tools designed for use by other entities. Further, while HUD is releasing the template in paper form for purposes of public comment, ultimately program participants will complete the assessment via a web-based system that will guide participants' through the data and required analysis. Instructions will accompany each version of the Assessment Tool. Additionally, guidance on specific AFFH issues will be issued.

II. The Assessment Tool

A. Sources of Data and Information to Complete the Assessment of Fair Housing

HUD-Provided Data: As discussed in the proposed rule, one of HUD's major considerations in formulating the new AFFH planning process was to provide for meaningful fair housing planning while reducing the burden on program participants by providing the Assessment Tool and certain nationally uniform data to program participants that would be needed to complete an AFH. While HUD will provide nationally uniform data, there are other important data sources that may be available and relevant locally, including data that are unavailable from a nationally uniform source. HUD will continue to explore the types of data that may be available to assist program participants in performing an AFH and the feasibility of providing additional data in the future.

Local Data and Local Knowledge: In addition to the national uniform data provided by HUD, program participants will be required to use available local data and local knowledge to inform their assessments. While the AFH process will not require program participants to create or compile new data, program participants must consider existing local data and local knowledge that is relevant in order to answer questions in the Assessment Tool. Available local data and local knowledge include data and information gained through the community participation,

consultation, and coordination processes set out in the proposed rule at § 5.158.

Available local data are existing data pertaining to a respective jurisdiction or region that are relevant to the AFH, that are either known or become known to the program participant or that can be found through a *reasonable* amount of searching, and that are readily available at little or no cost.

Local knowledge, on the other hand, is information relating to a respective jurisdiction or region that is relevant to the AFH and is known or becomes known to the program participant.

A complete AFH includes an assessment of available local data and local knowledge that are relevant to fair housing issues and determinants to ensure that the AFFH priorities and goals identified in the AFH are consistent with evidence available to the program participant. Simply stated, a program participant is expected to respond to inquiries in the analysis section of the Assessment Tool using HUD-provided data, and available local data, and local knowledge that are relevant. To the extent that HUD does not provide data for a program participant to respond to a question or questions in the Assessment Tool, and local data and local knowledge that would be responsive to a question or questions in the Assessment Tool are not readily available, the lack of data or knowledge may be noted as an acceptable and complete response to that particular question. However, if HUD finds that an AFH analysis is materially inconsistent with data readily available and relevant to one or more questions in the Assessment Tool, or if priorities or goals are found to be materially inconsistent with available local data or local knowledge, HUD may find the AFH to be substantially incomplete and therefore unacceptable.

Specific solicitation of public comment: HUD specifically seeks public comment on whether the above description of available local data and local knowledge helps program participants understand how these terms are being used in the Assessment Tool and the extent of

their obligations to obtain and use data and other information. HUD also seeks comment on whether HUD has described clearly the circumstances under which a program participant may need to respond to a question in which the response would be that there are no relevant data or local knowledge that allows the program participant to address the question asked.

B. Structure of the Assessment Tool

HUD designed the Assessment Tool with three key objectives in mind. First, the Assessment Tool must ask questions that would be sufficient to enable program participants to perform a meaningful assessment of key fair housing issues and determinants and set meaningful fair housing goals and priorities. Second, the Assessment Tool must clearly convey the analysis of fair housing issues and determinants that program participants must undertake in order for an AFH to be considered acceptable to HUD. Third, the Assessment Tool must be designed so program participants would be able to use it to prepare an acceptable AFH without unnecessary burden. HUD welcomes comments on the extent to which the Assessment Tool meets each of these objectives.

Section I of the Assessment Tool (Cover Sheet and Certification) addresses basic information applicable to the program participant or program participants (where there are joint submissions), such as the name of the entity making the submission, the type of submission (e.g., whether it is a submission by a single program participant or is a regional submission), the time period covered by the assessment, and the certification that the information provided in the Assessment Tool fulfills the requirements of HUD's affirmatively furthering fair housing regulations.

Section II. This section is an Executive Summary to provide the program participant the opportunity to present a general overview of the AFH's findings and recommended actions.

Section III of the Assessment Tool (Community Participation Process) addresses the community participation process and directs the program participant to describe outreach activities to encourage community participation in the development and review of the AFH, to describe how successful its outreach efforts were in obtaining community participation related to the AFH, and to summarize all comments obtained in the community participation process, including a summary of any comments or views not accepted and the reasons why. The Department is highlighting this as an area for public comment. Citizen participation is a vehicle for obtaining important local information, including available local data and local knowledge, from members of the public, non-profit and other private organizations, and other government agencies. HUD is requesting comment on the best way to clarify how program participants should include relevant information gathered in the public participation process, including in the analysis section of the AFH, in the summary of comments received and considered, or in appropriate appendices or attachments in the case of lengthier comments and proposed additions to the AFH.

Specific solicitation of public comment: The community participation process is an important vehicle for soliciting input and acquiring additional information and knowledge that can be used to improve a local AFH. Program participants are responsible for obtaining, evaluating, and deciding how best to consider and respond to public comments, including by incorporating relevant and reliable information obtained through public participation into the analysis section of the AFH or through inclusion of comments in the section of the AFH reserved for describing such input, including discussion of public comments that are rejected. Does the proposed Assessment Tool make these options clear? If not, how can the Assessment Tool be improved or clarified?

Section IV of the Assessment (Analysis) presents the core analysis to be undertaken by the program participant (or participants in the case of regional collaboration). This section of the Assessment Tool is structured to help program participants identify the fair housing issues in their jurisdiction and region. The Assessment Tool requires a geographic assessment broader than the jurisdictional level because fair housing issues are often not constrained by political-geographic boundaries. HUD will provide data on the Core Based Statistical Area for the regional assessment.

An effective assessment of certain key fair housing issues – segregation, racially or ethnically concentrated areas of poverty, disproportionate housing needs, and disparities in access to housing or community assets – and their determinants constitute a key part of developing an appropriate affirmatively furthering fair housing strategy. (See § 5.154(a) at 78 FR 43730.) The Assessment Tool guides program participants step-by-step through an assessment of key fair housing issues and determinants. The proposed Assessment Tool includes the following required elements:

Demographic Summary: This section asks the program participant to review HUD-provided data, consider available local data and local knowledge, and discern demographic patterns and trends. This data and the accompanying questions provide context for the rest of the assessment and provide a starting point for analyzing the following sections on – segregation/integration, racial and ethnic concentrated areas of poverty (R/ECAPs), disproportionate housing needs, disparities in access to community assets and exposure to adverse community factors, and disability and access issues. Based on this data, program participants should be able to identify important trends such as an increase in families with children, or a change in racial/ethnic population that may impact the identification of fair

housing issues and determinants throughout the assessment. Discerning these patterns and trends is the first level of analysis, which must be followed by an assessment of policies, procedures, and practices that may act as determinants that influence or contribute to the identified patterns and trends.

Segregation/Integration and R/ECAPs: This section asks program participants to identify areas within their jurisdiction and region that have high levels of segregation, including but not limited to, racially or ethnically concentrated areas of poverty, consider which groups sharing characteristics protected by the Fair Housing Act are most affected by segregation, and consider any common characteristics of those areas. Additionally, program participants are asked to consider the unique issues faced by immigrant populations, by analyzing the needs of persons with limited English proficiency (LEP) and national origin groups.

Program participants are also asked to analyze trends in integration/segregation over time and any policies or other factors, such as private investments, market forces or community attitudes (e.g. NIMBYism) that may be driving these trends. Program participants are then asked to assess and rank possible determinants of segregation. Key to the identification of determinants is the program participant's assessment of its policies, procedures and practices. The determinants identified by the program participant as significant will serve as a basis for goal and priority setting.

Specific solicitation of comment: In this section and throughout the proposed Assessment Tool, program participants are asked to identify and rank determinants that influence or contribute to fair housing issues. The Assessment Tool is designed to elicit a meaningful assessment of a program participant's fair housing environment that would inform fair housing goal setting and prioritization. HUD sought to be clear and transparent in what it believes is

needed for meaningful fair housing analysis and planning. One means of HUD achieving this goal is to ask questions specifically related to fair housing issues. Another is providing a list of determinants related to specific fair housing issues that the program participant will assess as potential influences or contributing factors to fair housing issues. Does the Assessment Tool ask the right questions and provide the right list of determinants to provoke a meaningful assessment? Beyond listing determinants in the Assessment Tool, HUD anticipates issuing guidance that may aid program participants in identifying determinants. Is this a reasonable approach?

Next, this section asks program participants to examine issues related to the location and demographic makeup of residents of publicly supported housing, as well as mobility patterns in the jurisdiction and region. Using HUD-provided data, available local data, and local knowledge, program participants will answer a series of questions designed to help them assess whether there are fair housing considerations with project locations or occupancy overall as well as at specific projects that may appear to be “outliers” (for instance, buildings occupied primarily by one racial/ethnic group as compared to the public housing agency’s overall assisted population). HUD has determined that project level analysis is legally necessary because statistics with portfolio-wide averages or analysis at the census tract level may not reveal instances of localized segregation patterns. Due to current limitations on nationally uniform data, a list of LIHTC projects is not available at this time; however, program participants will be asked to conduct the same analysis for LIHTC projects as for other publicly supported housing projects based on available local data and local knowledge.

From a fair housing perspective, the assessment of the impact of project siting and project occupancy of publicly supported housing is critical to an assessment of segregation,

racially and ethnically concentrated areas of poverty, and their determinants. HUD believes that it is a critical part of an AFH submitted by a PHA and an assessment submitted jointly by an entitlement jurisdiction and PHA serving that jurisdiction. However, in some instances, entitlement jurisdictions and PHAs may submit separate AFHs and their submission of AFHs may be during different timeframes. In such circumstances, HUD seeks to ensure that program participants give due consideration to the siting and occupancy of different types of publicly supported housing when assessing segregation and racially or ethnically concentrated areas of poverty but does not wish to unnecessarily burden program participants. The proposed Assessment Tool reflects a compromise that balances the need for project level analysis of publicly supported housing with the need to avoid unnecessary burdens on program participants. Data provided by HUD for use in this analysis is in tabular form.

Specific solicitation of comment: HUD is specifically requesting comment on the following aspects of the subsection on Publicly Supported Housing.

Which types of program participants should be required to include project level data in tabular format for the various categories of publicly supported housing? Should these tables be formatted differently than in the proposed Assessment Tool (for example, would they be better included in appendices than in the body of the Analysis section)? What are the most effective ways of providing for assessment of project level data in an Assessment Tool used by States (for example, in connection with a State housing finance agency's administration of LIHTCs)?

Next, program participants are asked to select and rank possible determinants of both segregation and R/ECAPs for publicly supported housing location and occupancy and for assisted households' mobility.

Program participants are asked to identify what factors might be determinants of or

contributing to segregation in publicly supported housing locations and occupancy patterns, and to assess the level of significance and influence of these factors in order to help set goals and inform their policy choices. Key to the identification of determinants is an assessment of the program participant's policies, procedures, and practices. Addressing segregation and R/ECAPs requires a balanced approach that not only increases housing opportunities in integrated areas but also promotes integration by broadening housing opportunities in segregated areas and encouraging resident mobility.

Disproportionate Housing Needs: In this subsection, program participants would be required to assess disproportionate housing needs on the basis of characteristics protected by the Fair Housing Act (*i.e.*, race, color, national origin, religion, sex, familial status, or disability). Program participants are then asked to assess and rank possible determinants of disproportionate housing needs. As noted earlier, key to the identification of determinants is an assessment of the program participant's policies, procedures, and practices. The determinants identified by the program participant as significant will serve as a basis for goal and priority setting.

Disparities in Access to Community Assets and Exposure to Adverse Community Factors: This section asks program participants to analyze how residential location and the location of community assets and the presence of adverse community factors contribute to fair housing issues on the basis of race/ethnicity, national origin, and familial status. The fair housing concerns covered in the section include access to public transportation, quality schools and jobs, and exposure to poverty, environmental health hazards and deteriorated or abandoned properties. The objective of the section is to assist program participants in identifying patterns and outliers in access to community assets and exposure to adverse community factors. Program participants must also assess whether policies, procedures, and practices are

determinants that influence or contribute to these disparities.

An assessment of asset-rich areas compared to those areas that lack access to key community assets is critical to informing a program participant's policy decisions. Addressing disparity in access and exposure to adverse conditions requires a balanced approach that not only provides for strategic investment in areas that lack key community assets or are exposed to adverse community factors, but also opens up housing opportunities in asset rich areas and provides for resident mobility.

Disability and Access: This section asks questions that enable program participants to assess fair housing issues faced by individuals with disabilities in the jurisdiction and the region. While individuals with disabilities may experience the same fair housing concerns as individuals without disabilities, they also may experience additional disability-related barriers that are distinct from the barriers experienced by individuals without disabilities. For example, some individuals with disabilities may need specific accessibility features or additional services in housing, transportation, education, and other programs in order to have equal opportunity. Similarly, individuals with disabilities have often been isolated from their communities and housed in institutions and other segregated settings instead of being offered a range of housing options, including those in a more integrated setting, and services in the community. For this reason, HUD is proposing that issues unique to persons with disabilities be specifically addressed in this subsection.

The objective of this section is to help program participants assess information needed to establish goals for increased accessibility, greater access to housing and key community assets, increased geographic mobility, and greater residential integration of persons with disabilities living in the jurisdiction and region. Program participants are asked to assess and rank possible

determinants of disability and access issues. Ultimately, this information will assist the program participant in establishing fair housing goals and priorities that they will use to inform and plan their fair housing strategies relating to fair housing issues faced by persons with disabilities.

Specific solicitation of comment: HUD specifically seeks comment on whether the Assessment Tool, by addressing Disability and Access Issues separately, has inadvertently failed to consider any key fair housing issues that relate to individuals with disabilities.

Fair Housing Compliance and Infrastructure: This section asks program participants to describe compliance with fair housing and civil rights laws by listing and summarizing the existence and status of any unresolved administrative or judicial proceedings related to fair housing, nondiscrimination, or civil rights generally, including an alleged failure to affirmatively further fair housing. This section also asks program participants to identify fair housing or civil rights agencies and organizations in the jurisdiction and describe their capacity to assist in fair housing analysis and investigation. In addition, this section provides the opportunity for program participants to discuss the affirmative steps they have taken to provide resources to such agencies and organizations. Finally, program participants will identify and rank determinants relating to fair housing compliance and infrastructure by selecting specific potential issues from a menu of potential factors. The determinants identified by the program participant as significant will serve as a basis for goal and priority setting. Key to the identification of determinants is an assessment of the program participant's policies, procedures, and practices.

Specific solicitation of comment: The Assessment Tool has been designed to address many, but not all, of the most common fair housing issues. In some instances, a program participant may have fair housing issues that the Assessment Tool does not address. In other instances, a program participant may have no relevant local data or local knowledge related to a

particular inquiry. Therefore, HUD asks whether the Assessment Tool is sufficiently clear that a program participant may address additional fair housing issues that are relevant or may reply that a particular fair housing inquiry cannot be answered due to lack of HUD-provided data, available local data, and local knowledge responsive to the inquiry. What kinds of instructions would be helpful to address both of these concerns?

Section V (Fair Housing Goals and Priorities) contains a summary table of the fair housing determinants the program participant has identified as significant and the corresponding level of significance or influence for each. The table will be pre-populated based on responses to the inquiries in Section III regarding determinants. It is from this table that program participants will formulate goals to address significant fair housing determinants and issues. Each goal must identify one or more of the particular determinants it is designed to address, describe how the goal relates to overcoming the identified determinant(s) and related fair housing issue(s), and identify the metrics and milestones for evaluating the fair housing results to be achieved. The goals and priorities section within the assessment enables the program participant to begin to think about the fair housing actions that they will incorporate into subsequent HUD required planning processes. While actions and funding decisions are not a requirement of this section, the objective of the section is to concretely think through how significant fair housing determinants and fair housing issues would be addressed. Program participants are also asked to explain their reasoning if any significant determinants are not addressed by any of the goals.

C. Completing the Assessment Tool

Program participants have asked HUD to enable them to conduct assessments of fair housing in a way that limits their need to rely on costly outside consultants. The Assessment Tool, together with the HUD-provided data, available local data, and local knowledge, is

intended and designed to elicit a meaningful AFH in a program participant's area. Where there is no available local data or local knowledge responsive to a given question for which HUD- data is not provided, a program participant may respond that it has no available local data or local knowledge responsive to the question. While not every question will automatically trigger or require a long narrative response, HUD is seeking an analysis that is both qualitative and quantitative; that is, HUD is seeking a comprehensive AFH that reflects the program participant's review and consideration of fair housing issues and determinants in their particular jurisdiction and region.

D. Instructions to Accompany the Assessment Tool

The instructions to accompany the Assessment Tool, which are under development within HUD, will guide program participants in their completion of the Assessment Tool. The instructions will elaborate on how to use the data, provide definitions where definitions may be needed, especially for terms that may have more than one meaning, and provide illustrative examples. The instructions to accompany the Assessment Tool will be made available not later than at the 30-day notice required under the Paperwork Reduction Act. HUD remains committed to providing guidance and technical assistance to program participants as the AFH process is implemented, during both the initial roll-out and at the time when program participants are preparing their Assessments of Fair Housing.

E. Program-Participant-Specific Assessment Tools

As noted earlier, the Assessment Tool provided for public comment under this notice reflects the overall framework that HUD will use for an Assessment Tool to be used by all program participants. The Assessment Tool provides the core areas and key questions to be covered. However, similar to this Assessment Tool that is largely tailored for entitlement

jurisdictions and joint submissions by entitlement jurisdictions and PHAs, HUD is considering developing program-participant-specific Assessment Tools, such as one specifically for States and Insular Areas and one specifically for regionally collaborating PHAs or regionally collaborating entitlement jurisdictions. It is HUD's intention to have any program-participant-specific Assessment Tools developed by HUD available for public comment at the 30-day notice required under the Paperwork Reduction Act.

F. Solicitation of Comment on the Assessment Tool Only

While the primary purpose of comment under the Paperwork Reduction Act is to determine the burden of any information collection requirement, HUD also solicits comment on the content of the Assessment Tool, the clarity of the questions presented and whether there are areas of information sought that program participants believe are not necessary to a meaningful AFH, or whether there are important areas of information that HUD may have overlooked. HUD also solicits comments for the following questions:

- 1) Can program participants complete the Assessment Tool independently (i.e., without assistance from consulting firms or outside contractors)?
- 2) What kinds of additional instructions would be helpful for program participants in completing the Assessment Tool?
- 3) What costs may be associated with collecting and analyzing the available local data and local knowledge necessary to complete the Assessment Tool?
- 4) Do program participants expect to use Federal funds to complete the Assessment Tool?
- 5) What strategies can program participants use to reduce any burden associated with completing the AFH, including low-cost or no-cost strategies for obtaining available local data and local knowledge?

- 6) How do program participants envision joint participation in completing this template?

***Important Note:** It is important, however, that this solicitation of public comment is solely on the Assessment Tool. This notice is not reopening public comment on HUD's July 19, 2013, proposed rule, and HUD will not review or consider public comments that address issues other than the Assessment Tool.*

III. Compliance with the Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) (PRA), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a valid control number issued by the Office of Management and Budget (OMB). Through this notice, HUD commences the process for obtaining the requisite approval by OMB under the PRA process.

The public reporting burden for the Assessment Tool is estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

As HUD is furnishing a significant amount of data directly to the program participants, the burden in completing the Assessment Tool is reduced. Where HUD is not providing data, as noted earlier in this preamble, program participants are required to consider and in some cases utilize available local data and local knowledge. This refers to data already publicly available and reasonably easy to access. This does not refer to obscure data that may not be known or easily found, that requires an independent data or information collection effort such as a local survey, or that requires extensive analytical expertise or staff effort for instance in manipulating data sets or developing a complex methodology for analyzing complex data that may be available. With the data that HUD provides for use with the Assessment Tool supplemented by

available local data and local knowledge, HUD does not anticipate the need for any program participant to turn to outside consultants to collect data and conduct the assessment.

In addition, local knowledge may be supplemented with information received through the public participation process. In such cases, program participants retain the discretion to consider data or information collected through this process as well as the manner in which it may be incorporated into the AFH, whether in the Analysis section of the Assessment or in Section III of the AFH with an option to include extensive or lengthy comments in appendices or attachments. In short, the receipt of extensive public comments may require staff effort to review and consider input but would not result in a mandate to incur substantial additional costs and staff hours to do so. To the contrary, the public participation process should be viewed as a tool to acquire additional information to reduce burden.

The Assessment Tool is available at http://www.huduser.org/portal/affht_pt.html.

Information on the estimated public reporting burden is provided in the following table:

REPORTING AND RECORDKEEPING BURDEN:

CFR Section Reference	Number of Respondents	Number of Responses Per Respondent	Frequency of Response	Estimated Average Time for Requirement (in hours)	Estimated Annual Burden (in hours)
§ 5.154(d) (Assessment of Fair Housing)	4,388*	1	With each Con Plan or PHA Plan	200 hours	877,600
	Total Burden				877,600

* The number of respondents is based on the number of entities that will complete the version of the Assessment Tool that is the subject of this notice and is designed for use by entitlement jurisdictions other than States and joint submissions by entitlement jurisdictions and public housing agencies (PHAs) that are submitting a joint AFH. Entitlement jurisdictions that would use this template number 1,181. HUD is estimating that half of the PHAs, which number in total 4053, would opt for a joint submission but this estimate, 2026, may be high.

In accordance with 5 CFR 1320.8(d)(1), HUD is specifically soliciting comment from members of the public and affected program participants on the Assessment Tool on the

following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages not only program participants but interested persons to submit comments regarding the information collection requirements in this proposal. Comments must be received by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** to www.regulations.gov as provided under the “Addresses” section of this notice. Comments must refer to the proposal by name and docket number (FR-5173-N-02).

Following consideration of public comments submitted in response to this notice, HUD will submit for further public comment, for a period of 30 days, a version of the Assessment Tool that reflects consideration of the public comments received in response to this notice.

Dated: September 22, 2014

Camille E. Acevedo, Associate General Counsel for
Legislation and Regulations

[FR Doc. 2014-22956 Filed 09/25/2014 at 8:45 am; Publication Date: 09/26/2014]