

consultancies, and research grants or contracts. The selected candidates must fill out the U.S. Office of Government Ethics (OGE) Confidential Financial Disclosure Report, OGE Form 450. Disclosure of this information is necessary to determine if the selected candidate is involved in any activity that may pose a potential conflict with their official duties as a member of the committee.

A nomination package should include the following information for each nominee: (1) A letter of nomination from an employer, a colleague, or a professional organization stating the name, affiliation, and contact information for the nominee, the basis for the nomination (*i.e.*, what specific attributes, perspectives, and/or skills does the individual possess that would benefit the workings of the NACNHSC, and the nominee's field(s) of expertise); (2) a letter of interest from the nominee stating the reasons they would like to serve on the NACNHSC; (3) a biographical sketch of the nominee, a copy of his/her curriculum vitae, and his/her contact information (address, daytime telephone number, and email address); and (4) the name, address, daytime telephone number, and email address at which the nominator can be contacted.

HRSA will collect and retain nomination packages to create a pool of possible future NACNHSC voting members. When a vacancy occurs, the agency will review nomination packages from the appropriate category and may contact nominees at that time. Nominations should be updated and resubmitted every 4 years to continue to be considered for committee vacancies.

HHS strives to ensure a balance of the membership of NACNHSC in terms of points of view presented and the committee's function and makes every effort to ensure the representation of women, all ethnic and racial groups, and people with disabilities on HHS Federal Advisory Committees. Therefore, we encourage nominations of qualified candidates from these groups and endeavor to make appointments to NACNHSC without discrimination on basis of age, race, ethnicity, gender, sexual orientation, disability, and cultural, religious, or socioeconomic status.

**Authority:** Section 337 of the Public Health Service Act (42 U.S.C. 254j), as amended. NACNHSC is governed by provisions of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. Appendix 2), which sets for the formation and use of advisory committees, and applies to the extent that the provisions of FACA do not

conflict with the requirements of PHS Section 337.

Dated: May 17, 2018.

**Jay Womack,**

*Acting Deputy Director, Division of Executive Secretariat.*

[FR Doc. 2018-11034 Filed 5-22-18; 8:45 am]

**BILLING CODE 4165-15-P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5173-N-17]

### Affirmatively Furthering Fair Housing: Withdrawal of the Assessment Tool for Local Governments

**AGENCY:** Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD announces the withdrawal of the Local Government Assessment Tool developed by HUD for use by local governments that receive Community Development Block Grants, HOME Investment Partnerships Program, Emergency Solutions Grants, or Housing Opportunities for Persons With AIDS formula funding from HUD when conducting and submitting their own Assessment of Fair Housing (AFH) under the Affirmatively Furthering Fair Housing (AFFH) regulations. Through **Federal Register** notice published on January 13, 2017, HUD announced the Office of Management and Budget's renewed approval of the Assessment Tool under the Paperwork Reduction Act. Since that time, HUD has become aware of significant deficiencies in the Tool impeding completion of meaningful assessments by program participants. HUD therefore is withdrawing the Local Government Assessment Tool because it is inadequate to accomplish its purpose of guiding program participants to produce meaningful AFHs. Following this withdrawal of the Local Government Assessment Tool, HUD will review the Assessment Tool and its function under the AFFH regulations to make it less burdensome and more helpful in creating impactful fair housing goals. Accordingly, this withdrawal notice also solicits comments and suggestions geared to creating a less burdensome and more helpful AFH Tool for local governments.

**DATES:**

*Applicability Date:* May 23, 2018.

*Comment Due Date:* Comments on improvement to the AFH Tool for Local Governments are due on or before July 23, 2018.

**ADDRESSES:** Interested persons are invited to submit comments to the Office of the General Counsel, Rules Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street SW, Room 10276, Washington, DC 20410-0001. Communications should refer to the above docket number and title and should contain the information specified in the "Request for Comments" section. There are two methods for submitting public comments.

*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. Due to security measures at all federal agencies, however, submission of comments by mail often results in delayed delivery. To ensure timely receipt of comments, HUD recommends that comments submitted by mail be submitted at least two weeks in advance of the public comment deadline.

*2. Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at <http://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 comments immediately available to the public. Comments submitted electronically through the <http://www.regulations.gov> website can be viewed by other commenters and interested members of the public. Commenters should follow 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 notice.

*No Facsimile Comments.* Facsimile (fax) comments are not acceptable.

*Public Inspection of Comments.* All 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). Copies of all comments submitted are available for inspection and

downloading at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Krista Mills, Deputy Assistant Secretary, Office of Policy, Legislative Initiatives, and Outreach, Office Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 7th Street SW, Room 5246, Washington, DC 20410; telephone number 202-402-6577. Individuals with hearing or speech impediments may access this number via TTY by calling the toll-free Federal Relay Service during working hours at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On July 16, 2015, HUD published in the **Federal Register** its Affirmatively Furthering Fair Housing (AFFH) final rule.<sup>1</sup> The AFFH final rule provided HUD program participants with a revised planning approach to assist them in meeting their legal obligation to affirmatively further fair housing. The AFFH regulations are codified in 24 CFR part 5, subpart A.<sup>2</sup>

To assist program participants, the revised approach involves an “Assessment Tool” for use in completing the regulatory requirement to conduct an assessment of fair housing (AFH), as set out in the AFFH rule. Because of the variations in the HUD program participants subject to the AFFH rule, HUD has been developing separate Assessment Tools for use by different types of program participants. In addition to Assessment Tools for use by public housing agencies (PHAs) and States and Insular Areas, there is one for local governments, which is the subject of this notice. It is called the Local Government Assessment Tool. All the Assessments Tools, because they are information collection documents, are subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA).<sup>3</sup>

The Local Government Assessment Tool was developed by HUD for use by local governments that receive Community Development Block Grants, HOME Investment Partnerships Program, Emergency Solutions Grants, or Housing Opportunities for Persons With AIDS formula funding from HUD, when conducting and submitting their AFH. OMB granted PRA approval of the initial iteration of the Local Government Assessment Tool in December 2015, and HUD announced the approval and the availability of the Tool’s use by notice

published in the **Federal Register** on December 31, 2015.<sup>4</sup> The initial iteration of the Local Government Assessment Tool (known as “LG2015”) was approved by OMB for a period of one year. In 2016, HUD began the process for renewed approval of that information collection device.

The PRA establishes a notice and comment process for information collection approvals, involving the publication of two **Federal Register** notices, one for 60 days of public comments and another for a 30-day comment period.<sup>5</sup> HUD’s 60-day notice for renewed approval of the Local Government Assessment Tool was published on March 23, 2016.<sup>6</sup> The 30-day notice was published on August 23, 2016, and addressed the significant issues raised by the comments received on the 60-day notice.<sup>7</sup>

HUD announced the renewed PRA approval by OMB of a Local Government Assessment Tool through **Federal Register** notice published on January 13, 2017.<sup>8</sup> In addition to announcing the PRA approval of the Tool, the January 13, 2017, notice addressed the significant issues raised by the comments received in response to the 30-day notice. This current version of the Tool, which is the subject of this notice, is known as “LG2017.”<sup>9</sup>

**II. This Notice—Withdrawal of the Local Government Assessment Tool**

Through this notice, HUD announces its withdrawal of the current version of the Local Government Assessment Tool (OMB Control No: 2529-0054). As noted above, the PRA establishes a notice-and-comment process for information collection approvals, but not for withdrawals. Accordingly, this withdrawal is effective immediately.

In the January 13, 2017, **Federal Register** notice announcing the availability of that Assessment Tool, HUD noted its agreement with commenters that “a more accurate estimate of the time and cost involved in preparing the AFH may not be known until program participants submit their

AFHs.”<sup>10</sup> Accordingly, that notice stated that “HUD intends to also continue to monitor and assess the impact and burden of implementation of the AFH process on program participants, including on the range of fair housing outcomes.”<sup>11</sup> Consistent with this response to comments, since the publication of this notice on January 13, 2017, HUD has become aware of significant deficiencies in the Tool that have made it unduly burdensome for program participants to use the Tool to create acceptable and meaningful AFHs with impactful fair housing goals.

HUD’s decision is, in part, informed by its review of the initial round of AFH submissions that were developed using the Local Government Assessment Tool. This review led HUD to conclude that the Tool is unworkable based upon: (1) The high failure rate from the initial round of submissions; and (2) the level of technical assistance HUD provided to this initial round of 49 AFHs, which cannot be scaled up to accommodate the increase in the number of local government program participants with AFH submission deadlines in 2018 and 2019.

*1. Experience With the Initial Group of AFH Submissions Demonstrates That the Tool Is Unduly Burdensome and Ineffective at Assisting Program Participants With the Creation of Acceptable AFHs*

Between October 2016 and December 2017, HUD received, reviewed, and issued initial decisions on 49 AFHs submitted by local government program participants. In 2018, the Department conducted an evaluation of these submissions and found that, among this initial group of 49 AFH submissions, a significant proportion of program participants had difficulty completing or understanding how to use the Tool to complete acceptable AFHs. Indeed, the proportion of submissions determined to be unacceptable indicates that the Tool was unduly burdensome and not working as an effective device to assist program participants with the creation of acceptable and meaningful AFHs with impactful fair housing goals.

For instance, only 37% of the initial 49 submissions (18/49) had been determined to be acceptable on initial submission. HUD returned 35% of these (17/49) as unacceptable. Many other AFH submissions (28% or 14/49) were accepted only after the program participants submitted revisions and additional information in the form of addendums in response to HUD’s

<sup>4</sup> 80 FR 81840.

<sup>5</sup> See, e.g., 44 U.S.C. 3506-07

<sup>6</sup> 81 FR 15546.

<sup>7</sup> 81 FR 57602.

<sup>8</sup> 83 FR 4368.

<sup>9</sup> Both the original iteration (LG2015) and current version (LG2017) of the Local Government Assessment Tool are available at <https://www.hudexchange.info/resource/5216/assessment-of-fair-housing-tool-for-local-governments/>. Program participants with a due date of October 13, 2017 or earlier were required to use the LG2015 version of the Assessment Tool. Program participants with a due date of October 14, 2017, or later must use the LG2017 version of the Assessment Tool. This notice pertains to the current (LG2017) version.

<sup>10</sup> 82 FR 4391.

<sup>11</sup> *Id.*

<sup>1</sup> 80 FR 42357.

<sup>2</sup> §§ 5.150-5.168.

<sup>3</sup> 44 U.S.C. 3501 *et seq.*

technical assistance. Taken together, 63% of the 49 AFHs submitted were either: (a) Returned as unacceptable and have not been successfully resubmitted, or (b) accepted only after the program participant supplied necessary additional information and revisions.

Tellingly, despite the fact that joint and regional submissions benefit from the sharing of resources by program participants, enabling them to address fair housing issues from the broader perspective provided by collaboration, joint and regional collaborations nonetheless suffered from the same defects as individual AFH submissions. For example, the largest regional AFH submitted to HUD involved a total of 19 program participants. In its review of the AFH, HUD determined that each of the 19 program participants would have met the regulatory standards for nonacceptance.

Additionally, many jurisdictions found it necessary to incur additional expense to hire consultants to complete their AFHs. Particularly in light of the high initial fail rates, this fact further demonstrates that the Assessment Tool is unduly burdensome as an information collection device and must be improved to reduce the burden upon respondents.

HUD's analysis shows that the excessively high rate of unacceptable AFHs was due, in large measure, to problems with the Local Government Assessment Tool, and that efficiency gains over time from experience working with the Tool would be unlikely to address HUD's concerns about both the inadequacy of the Tool and the burden to program participants in using the Tool to complete acceptable AFHs. Specifically, HUD's analysis found a pattern of problems with the initial 49 AFH submissions, indicating at least seven different categories of critical problems with the Local Government Assessment Tool: (a) Inadequate community participation; (b) insufficient use of local data and knowledge; (c) lack of regional analysis; (d) problems with identification of contributing factors; (e) prioritization of contributing factors; (f) problems with setting goals; and (g) inadequate responses due to duplication of questions. While there may have been myriad issues that caused an individual AFH submission to have been non-accepted, in the aggregate, this summary of issues describes the basis for HUD's determination that the Assessment Tool is ineffective and unduly burdensome on program participants.

(a) *Inadequate Community Participation.* A significant cause of the high non-acceptance rate was inadequate community participation.

The AFFH regulations require program participants to "give the public reasonable opportunities for involvement in the development of the AFH and in the incorporation of the AFH into the consolidated plan, PHA Plan, and other required planning documents."<sup>12</sup> However, the questions in the Local Government Assessment Tool regarding community participation have resulted in confusion. The questions vaguely incorporate by reference the existing community participation requirements in HUD's Consolidated Plan regulations<sup>13</sup> and the comparable requirements in HUD's Public Housing regulations.<sup>14</sup> The questions do not explicitly state the specific requirements or ask that program participants explain how they met these specific requirements. As a result, many of the initial AFH submissions did not fulfill these requirements and/or did not explain in their responses how they fulfilled the requirements. For example, the regulation at 24 CFR 91.105(b)(4) requires a period of not less than 30 calendar days for comment by the community; however, one community posted a draft AFH for public comment on a Friday and submitted the final AFH to HUD the following Monday, after providing only three days for public comment.<sup>15</sup>

(b) *Insufficient Use of Local Data and Knowledge.* The Assessment Tool requires local governments to utilize their local data and local knowledge to supplement the HUD-provided data, or, when appropriate, to replace HUD-provided data. HUD requires the use of local data only if the program participants can find and use such data at little or no cost. While many program participants utilized local data and local knowledge exactly as intended, a substantial number did not. The absence of local data, or failure to use it, resulted in an inability to address issues in a community that have not manifested themselves in the HUD-provided data. For example, when discussing environmental health issues, one program participant did not identify multiple Superfund locations in their jurisdiction. While this is information that a local government would know, specific Superfund locations are not noted on HUD maps. The questions in the Tool thus are inadequate to inform

the program participants when to use local data and knowledge.<sup>16</sup>

(c) *Lack of Regional Analysis.* Questions throughout the Assessment Tool require program participants to undertake both a jurisdictional and a regional analysis of fair housing issues. Many of the 49 AFH submissions did not complete or adequately complete the regional component of the analysis of fair housing issues. Others may have completed the analysis but did so in a way that did not compare the jurisdiction to the region. The regional analysis is often a critical component of the AFH because fair housing issues may cross jurisdictional boundaries and demographic trends may extend across entire regions. HUD provides both jurisdictional and regional data through the AFFH data and mapping tool for each program participant. However, the Assessment Tool inadequately guides program participants in the use of such data to perform the type of regional analysis of fair housing issues that would be necessary for an acceptable AFH.

(d) *Identification of Contributing Factors.* Throughout the analysis of fair housing issues, the Assessment Tool requires that the program participant identify the contributing factors that create, contribute to, or perpetuate fair housing issues in their community. However, the Assessment Tool does not explicitly require the program participant to connect the identified contributing factors to the fair housing issues they will address until the final section where the program participant determines goals to overcome those contributing factors.

Because the Assessment Tool fails to instruct the program participants to connect these concepts, many of the 49 AFH submissions identified contributing factors which did not logically connect to the analysis of fair housing issues undertaken. In addition, factors which the program participants themselves identified in other portions of the Assessment Tool were not identified in the responses to these questions. For example, one AFH included 3 pages of detailed analysis of Home Mortgage Disclosure Act (HMDA) information outlining the lending discrimination occurring, yet the program participants did not identify lending discrimination as a contributing factor.<sup>17</sup>

(e) *Prioritization of Contributing Factors.* The final section of the

<sup>12</sup> 24 CFR 5.158(a).

<sup>13</sup> 24 CFR part 91.

<sup>14</sup> 24 CFR part 903.

<sup>15</sup> See, e.g., Section III, Questions 1–4 of LG2015 and LG2017.

<sup>16</sup> See, e.g., Section V, Questions B.3.1.a.3/ B.3.1.b.3/B.3.1.c.3/B.3.1.d.3/B.3.1.e.3 (LG2017).

<sup>17</sup> See, e.g., Section V, Questions B.1.3/B.2.3/ B.3.3/B.4.3/C.3/D.7 (LG2015 and LG2017).

Assessment Tool requires that the program participant(s) prioritize the contributing factors identified for each fair housing issue analyzed in the fair housing analysis sections. The program participant(s) must then justify the prioritization of the contributing factors. Finally, the program participant(s) set goals designed to overcome the contributing factors identified as significant. Jurisdictions must reasonably exercise their discretion to prioritize contributing factors. The justification provides an opportunity to explain the prioritization method selected. Many of the 49 submissions either included in this question contributing factors not identified in the

analysis of fair housing issues or did not include the contributing factors that were identified. Many program participants also did not explain their prioritization method. Without this critical link, the analysis of fair housing issues and the goals do not connect, making the AFH unacceptable. The Assessment Tool thus fails to provide adequate guidance for the prioritization of contributing factors.<sup>18</sup>

(f) *Goals Section was Highly Problematic.* The goals section was an issue in or the sole reason for the majority of initially non-accepted AFHs. In several submissions, the goals were not likely to result in meaningful actions, lacked metrics and milestones,

were not linked to contributing factors and fair housing issues, and generally lacked adequate discussion.

Program participants are responsible for identifying their own fair housing goals. However, the goals set by the program participant must connect to the analysis of fair housing issues *and* result in meaningful actions to affirmatively further fair housing.

These goals will then be incorporated into Consolidated Plans and Public Housing Plans. Along with extensive guidance, HUD provides the following chart in the assessment tool to assist program participants in completing this question.

Goal	Contributing factors	Fair housing issues	Metrics, milestones, and timeframe for achievement	Responsible program participant(s)

Discussion:

Many of the 49 AFHs reviewed were deficient in this section, which is the culmination of the AFH. Goals were frequently overbroad or would not result in meaningful actions, for example, to “increase housing choice,” or “partner with . . . .” Program participants frequently failed to connect their fair housing goals to the AFH analysis, or to the contributing factors or fair housing issues identified in the AFH.

Metrics and milestones for evaluating the accomplishment of fair housing goals were the most frequent source of deficiency in this section. However, frequently those established in the AFHs were neither time-bound nor measurable. The discussion section of the chart is a program participant’s opportunity to explain the goal to ensure that HUD understands its intention and can often counter-balance deficiencies in or confusion caused by other sections of the chart. Many of the program participants did not complete this section or provided only a vague discussion. HUD is therefore concerned that the roadmap provided in the Assessment Tool is inadequate to lead to the development of effective goals.<sup>19</sup>

(g) *Inadequate Responses Due to Duplication.* The Local Government Assessment Tool contains several questions that have elicited inadequate responses which merely duplicate previous responses to other questions

within the Tool without responding fully to the specific question asked. The lack of clarity in the questions led to responses that merely assumed a question was being asked twice and thus failed to respond fully to the question at hand. Similarities in the sentence structure and terminology used in the questions may have caused program participants to overlook slight or nuanced differences between questions.<sup>20</sup>

*2. HUD Does Not Have the Resources To Provide a Similar Level of Technical Assistance to Expanding Numbers of Program Participants in 2018 and 2019*

Because of these significant problems with the Tool, HUD has provided substantial technical assistance to this initial round of program participants, even for the AFHs that have been accepted. HUD does not have the resources to continue to provide program participants with the level of technical assistance that they would need to submit acceptable AFHs using the current version of the Local Government Assessment Tool. Despite the fact that many jurisdictions reportedly have found it necessary to engage consultants to complete the Assessment Tool, HUD estimates that it has spent over \$3.5 million on technical assistance for the initial round of 49 AFH submissions. In addition to contract technical assistance services,

significant HUD staff resources are required to review an AFH for acceptability and to communicate with program participants regarding HUD’s determination to accept or non-accept an AFH.

Although HUD anticipated providing technical assistance to program participants to assist them in submitting acceptable assessments, the amount of assistance that has proved to be required with the current version of the Local Government Assessment Tool is not sustainable particularly in light of the significant increase in AFH submissions scheduled to occur in 2018 and 2019. In 2018, for example, 104 local government program participants are scheduled to submit AFHs to HUD. In 2019, the number of local governments originally scheduled to submit their AFHs rises to 752. The level of technical assistance provided to the initial 49 participants could not be extended to these numbers of AFHs due in 2018 and 2019.

And due to the deficiencies in the Local Government Assessment Tool, HUD believes that, without the withdrawal and revision of the Tool, a high percentage of AFHs in future rounds of submissions would not be initially acceptable. Because the problems with the Tool have created the above-described patterns of deficiencies in AFH submissions even from collaborative groups leveraging the resources of multiple jurisdictions, HUD

<sup>18</sup> See, e.g., Section VI, Question 1 (LG2015 and LG2017).

<sup>19</sup> See, e.g., Section VI, Question 2 (LG2015 and LG2017).

<sup>20</sup> See, e.g., Section III, Question 3; Section IV, Question 1; Section V, Questions B.1.1.b/B.3/B.4/C.1.2/D.2.a (LG2017).

does not believe that the level of technical assistance it has been required to provide to the initial 49 AFHs would decrease meaningfully as result of expanded usage of the Tool. As a result, in 2018 and 2019, HUD would not be able to provide all program participants with the extent of assistance provided to those in the initial round of AFHs, meaning that these participants would not have the help they would need to correct their assessments. This would lead to a great deal of uncertainty for program participants as to how to submit an acceptable AFH. Such uncertainty would, in turn, lead to uncertainty regarding the status of their HUD-funded programs so long as they do not have an accepted AFH in place.

*3. In Light of HUD and Local Government Program Participants' Resource Limitations, Temporary Withdrawal of the Local Government Assessment Tool Is Necessary as the Most Efficient Way To Resolve the Tool's Significant Deficiencies*

HUD is withdrawing the Tool to produce a more effective and less burdensome Assessment Tool. These improvements to the Tool will make it more effective in assisting program participants with the creation of meaningful assessments with impactful fair housing goals to help them plan to fulfill their legal obligation to affirmatively further fair housing. Withdrawal and revision of the Assessment Tool will also conserve HUD's limited resources, allowing HUD to use those limited resources more effectively to help program participants produce meaningful improvements in the communities they serve. HUD also believes that investing additional time to improve its Data and Mapping Tool (AFFH-T) and the User Interface (AFFH-UI) will result in more substantive assessments with greater fair housing impact.

**III. Effects of Withdrawal of Assessment Tool**

The AFFH regulations at 24 CFR 5.160(a)(1)(ii) provide that if the specified AFH submission deadline results in a submission date that is less than 9 months after the Assessment Tool designed for the relevant type of program participant is available for use, "the participants(s)' submission deadline will be extended . . . to a date that will be not less than 9 months from the date of publication of the Assessment Tool." For example, in the case of the Assessment Tool for use by PHAs, HUD published a notice in January 2017, advising that the Assessment Tool had been approved

pursuant to the PRA process, but was not yet available for use by PHAs because the HUD data needed to make the Assessment Tool workable was not yet available.<sup>21</sup> Accordingly, under 24 CFR 5.160(a)(1)(ii), the deadline for first AFH submissions by PHAs was extended until a workable Assessment Tool becomes available.

Similarly, in the case of the Local Government Assessment Tool, HUD has determined that the current iteration of the Tool, although published after PRA procedures, is substantively deficient and unduly burdensome because it has resulted in great expense to program participants and HUD, yet it is not adequately guiding participants through the creation of acceptable AFHs. Accordingly, HUD is immediately withdrawing the Local Government Assessment Tool. As a result, local jurisdictions do not have an approved Assessment Tool that is published and available for use in completing the AFHs. Pursuant to 24 CFR 5.160(a)(1)(ii), the deadline for local government program participants to submit a first AFH is thus extended to a date not less than 9 months following the future publication of a revised and approved Local Government Assessment Tool. HUD is immediately seeking comment on ways to make the Local Government Assessment Tool workable and effective. Pursuant to 24 CFR 5.160(a)(1)(ii), the future published notice announcing that a revised and approved Local Government Assessment Tool is available will also provide program participants with the revised due date for first AFH submissions.

Consolidated plan program participants that have not yet submitted their first AFHs must nonetheless continue to comply with existing, ongoing legal obligations to affirmatively further fair housing (legal obligations which AFHs were merely intended to help participants plan to fulfill). Pursuant to 24 CFR 5.160(a)(3), until a consolidated plan program participant submits its first AFH, it will continue to provide the AFFH certification with its Consolidated Plan, in accordance with the requirements that existed prior to August 17, 2015. Those requirements obligate a program participant to certify that it will affirmatively further fair housing, which means that it will conduct an analysis of impediments (AI) to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain

records reflecting the analysis and actions.

For Consolidated plan program participants that are starting a new 3–5-year Consolidated plan cycle that begins before their due date for an AFH, the AI should continue to be updated in accordance with the HUD, Fair Housing Planning Guide (1996), available at <https://www.hud.gov/sites/documents/FHPPG.PDF>. The data HUD has developed in order to implement the AFFH rule will remain available for program participants to use in conducting their AIs. HUD encourages program participants to collaborate to develop a regional AI, as regional collaborations provide an opportunity for program participants to share resources and address fair housing issues that cross jurisdictional boundaries.<sup>22</sup>

Program participants that have already submitted an AFH which has been accepted by HUD must continue to execute the goals of that accepted AFH and are not required to conduct a separate AI. HUD will discontinue the review of AFHs submitted by local governments that are currently under review and will not render a decision to accept or not accept. In cases where HUD denied acceptance of an AFH submission that used the withdrawn Local Government Assessment Tool and the program participant(s) were preparing to re-submit an AFH, the participant(s) should not submit a revised AFH. Finally, local governments prepared to submit their first AFH should not submit an AFH to HUD. Local governments that have not received an accept or non-accept determination from HUD, or that have received a non-accept but will no longer be required to resubmit their AFH, are still required to prepare an AI, as described above in this notice. Program participants must continue to fulfill their legal obligations to affirmatively further fair housing.

**IV. Request for Public Comment on Improvements to the Local Government Assessment Tool**

This notice offers the opportunity for the public to provide information and recommendations on revisions to the Local Government Assessment Tool. HUD welcomes and will consider all

<sup>22</sup> Please refer to HUD's 2017 interim guidance for additional information on collaboration, specifically the Q&A captioned: "How can States Collaborate with Local Governments or PHAs?". The guidance is available at: <https://www.hudexchange.info/resources/documents/Interim-Guidance-for-Program-Participants-on-Status-of-Assessment-Tools-and-Submission-Options.pdf>. This guidance is generally applicable to all types of program participants.

<sup>21</sup> 82 FR 4373.

responses to this notice when reconsidering the Assessment Tool

Dated: May 18, 2018.

**Anna Maria Fariás,**

*Assistant Secretary for Fair Housing and Equal Opportunity.*

[FR Doc. 2018–11146 Filed 5–21–18; 4:15 pm]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5173–N–18]

### Affirmatively Furthering Fair Housing (AFFH): Responsibility To Conduct Analysis of Impediments

**AGENCY:** Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

**ACTION:** Notice.

**SUMMARY:** By notice published elsewhere in today's **Federal Register**, HUD has withdrawn the current version of the information collection device used by local government program participants to assess fair housing issues as part of their planning for use of housing and community development block grants. The device is referred to as the Local Government Assessment Tool; the resulting assessment is referred to as an Assessment of Fair Housing (AFH). As explained in that notice, the withdrawal of the lack of a working information collection device means that a program participant that has not yet submitted an AFH using that device that has been accepted by HUD must continue to carry out its duty to affirmatively further fair housing by, inter alia, continuing to assess fair housing issues as part of planning for use of housing and community development block grants in accordance with pre-existing requirements. The pre-existing requirements referred to the fair housing assessment as an "analysis of impediments to fair housing choice" (AI). This notice reminds program participants of the requirements and standards for completing the AI.

**DATES:** *Applicability Date:* May 23, 2018.

**FOR FURTHER INFORMATION CONTACT:**

Krista Mills, Deputy Assistant Secretary, Office of Policy, Legislative Initiatives, and Outreach, Office Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 7th Street SW, Room 5246, Washington, DC 20410; telephone number 202–402–6577. Individuals with hearing or speech impediments may access this number via TTY by calling the toll-free

Federal Relay Service during working hours at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:** On July 16, 2015, HUD published in the **Federal Register** its Affirmatively Furthering Fair Housing (AFFH) final rule.<sup>1</sup> The AFFH final rule provides HUD program participants with a revised planning approach to assist them in meeting their legal obligation to affirmatively further fair housing. To assist HUD program participants in meeting this obligation, the AFFH rule provides that program participants must conduct an Assessment of Fair Housing (AFH) using an "Assessment Tool." The AFFH regulations are codified in 24 CFR part 5, subpart A (§§ 5.150–5.168).

Through notice published elsewhere in today's **Federal Register**, HUD announces its withdrawal of the Local Government Assessment Tool (OMB Control No: 2529–0054). As explained in that notice, the AFFH regulations at 24 CFR 5.160(a)(1)(ii) provide that if the specified AFH submission deadline results in a submission date that is less than 9 months after the Assessment Tool designed for the relevant type of program participant is available for use, "the participant(s)' submission deadline will be extended . . . to a date that will be not less than 9 months from the date of publication of the Assessment Tool." As a result of the withdrawal of the Local Government Assessment Tool and the lack of available HUD data for the PHA Assessment Tool, currently no type of program participant has an Assessment Tool available for use.<sup>2</sup> Pursuant to 24 CFR 5.160(a)(1)(ii), the deadline for local government program participants to submit a first AFH is thus extended to a date not less than 9 months following the future publication of a revised and approved Local Government Assessment Tool.

In the meantime, as explained in the notice withdrawing the Local Government Assessment Tool, Consolidated Plan program participants that have not yet submitted an assessment using a HUD-provided assessment tool that must be accepted, must nonetheless continue to comply with existing, ongoing legal obligations to affirmatively further fair housing. Congress has repeatedly reinforced this mandate, requiring in the Housing and Community Development Act of 1974 and the Cranston-Gonzalez National Affordable Housing Act, for example, that covered HUD program participants certify, as a condition of receiving Federal funds, that they will

affirmatively further fair housing.<sup>3</sup> Pursuant to 24 CFR 5.160(a)(3), until a Consolidated Plan program participant submits its first accepted AFH, it will continue to provide the AFFH certification with its Consolidated Plan, in accordance with the requirements that existed prior to August 17, 2015.<sup>4</sup> Those requirements obligate a program participant to certify that it will affirmatively further fair housing, which means that it will conduct an analysis of impediments (AI) to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions.

Program participants are hereby reminded that the legal obligation to affirmatively further fair housing remains in effect, and that HUD places a high priority upon the responsibility of program participants to ensure that their AIs serve as effective fair housing planning tools. For Consolidated Plan program participants that are starting a new 3–5-year Consolidated Plan cycle that begins before their due date for an AFH, the AI should continue to be updated in accordance with the HUD Fair Housing Planning Guide (1996).<sup>5</sup> The data HUD has developed in order to implement the AFFH rule will remain available for program participants to use in conducting their AIs. HUD encourages program participants to collaborate to develop a regional AI, as regional collaborations provide an opportunity for program participants to share resources and address fair housing issues that cross jurisdictional boundaries.<sup>6</sup>

Further, program participants are hereby reminded that if HUD believes the AI or actions taken to affirmatively further fair housing to be inadequate, HUD may require submission of the full AI and other documentation. If HUD concludes that the AI is substantially incomplete, or the actions taken were plainly inappropriate to address the identified impediments, HUD may

<sup>3</sup> See, e.g., 42 U.S.C. 5304(b)(2), 5306(d)(7)(B), 12705(b)(15).

<sup>4</sup> See, e.g., 24 CFR 91.225(a)(1) (2014); 24 CFR 91.325(a)(1) (2014).

<sup>5</sup> Available at <https://www.hud.gov/sites/documents/FHPG.PDF>.

<sup>6</sup> Please refer to HUD's 2017 interim guidance for additional information on collaboration, specifically the Q&A captioned: "How can States Collaborate with Local Governments or PHAs?". The guidance is available at: <https://www.hudexchange.info/resources/documents/Interim-Guidance-for-Program-Participants-on-Status-of-Assessment-Tools-and-Submission-Options.pdf>. This guidance is generally applicable to all types of program participants.

<sup>1</sup> 80 FR 42357.

<sup>2</sup> See 82 FR 4373.