should address one or more of the following four points:

(1) Evaluate 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) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

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

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Medical Certification for Disability Exceptions.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–648; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS uses the Form N–648 to substantiate a claim for an exception to the requirements of section 312(a) of the Act. Only medical doctors, doctors of osteopathy, or clinical psychologists licensed to practice in the United States are authorized to certify Form N–648.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection N–648 is 17,302 and the estimated hour burden per response is 2 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 34,604 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $912,681.

Dated: September 14, 2016.

Samantha Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2016–22519 Filed 9–19–16; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5173–N–09–B]

Affirmatively Furthering Fair Housing: Assessment Tool for Public Housing Agencies—Information Collection: Solicitation of Comment 30-Day Notice Under Paperwork Reduction Act of 1995

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

ACTION: Notice.

SUMMARY: This notice solicits public comment for a period of 30 days, consistent with the Paperwork Reduction Act of 1995 (PRA), on the Public Housing Agencies (PHA) Assessment Tool. On March 23, 2016, HUD solicited public comment for a period of 60 days on the PHA Assessment Tool. The 60-day notice commenced the notice and comment process required by the PRA in order to obtain approval from the Office of Management and Budget (OMB) for the information proposed to be collected by the PHA Assessment Tool. This 30-day notice takes into consideration the public comments received in response to the 60-day notice, and completes the public comment process required by the PRA. With the issuance of this notice, and following consideration of additional public comments received in response to this notice, HUD will seek approval from OMB of the PHA Assessment Tool and assignment of an OMB control number. In accordance with the PRA, the assessment tool will undergo this public comment process every 3 years to retain OMB approval. HUD is committed to issuing a separate Assessment Tool for Qualfied PHAs (QPHAs) that choose to conduct and submit an individual AFH or for use by Qualified PHAs that collaborate among multiple QPHAs to conduct and submit a joint AFH. For this reason, this Assessment Tool will be for use by non-Qualified PHAs, and for collaborations among non-Qualified PHAs and QPHAs.

DATES: *Comment Due Date:* October 20, 2016.

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* Web site 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 notice.

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: George D. Williams, Sr., Office of Fair

Housing and Equal Opportunity, Department of Housing and Urban Development, 451 7th Street SW., Room 5249, Washington, DC 20410; telephone number 866–234–2689 (toll-free). 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. The 60-Day Notice for the PHA Assessment Tool

On March 23, 2016, at 81 FR 15549, HUD published its 60-day notice, the first notice for public comment required by the PRA, to commence the process for approval of the PHA Assessment Tool. The PHA Assessment Tool was modeled on the Local Government Assessment Tool, approved by OMB on December 31, 2015, but with modifications to address the differing authority that PHAs have from local governments, and how fair housing planning may be undertaken by PHAs in a meaningful manner. As with the Local Government Assessment Tool, the Assessment Tool for PHA allows for collaboration with other PHAs. The 60-day public comment period ended on May 23, 2016, and HUD received 39 public comments. The following section, Section II, refers to submission requirements for Moving to Work (MTW) Public Housing Agencies. Section III highlights changes made to the PHA Assessment Tool in response to public comment received on the 60-day notice, and further consideration of issues by HUD, and Section IV provides guidance on the PHA region and regional analysis. Lastly, Section V responds to the significant issues raised by public commenters during the 60-day comment period, and Section IV provides HUD's estimation of the burden hours associated with the PHA Assessment Tool, and further solicits issues for public comment, those required to be solicited by the PRA, and additional issues which HUD specifically solicits public comment.

II. Submission Requirements for Moving to Work (MTW) Public Housing Agencies

For MTW PHAs submitting an individual AFH, the first AFH shall be submitted no later than 270 calendar days prior to the start of:

(A) For MTW PHAs whose service areas are located within the jurisdictional boundaries of a local government subject to the submission requirements outlined in § 5.160 of the AFFH rule, and are completing the AFH by themselves using the Assessment Tool for Public Housing Agencies, the program year that begins on or after January 1, 2019 for which the local government's new consolidated plan is due as provided in 24 CFR 91.125(b)(2).

(B) For MTW PHAs whose service ares are not located within the jurisdictional boundaries of a local government subject to the submission requirements outlined in § 5.160 of the AFFH rule, and are completing the AFH by themselves using the Assessment Tool for Public Housing Agencies, the fiscal year that begins on or after January 1, 2019 for which a new Annual MTW Plan is due as provided in the Moving To Work Standard Agreement (The Standard Agreement). The Standard Agreements are available at: *www.hud.gov/mtw*.

If either of the submission deadlines would result in the MTW PHA not having 9 calendar months with the final Assessment Tool for Public Housing Agencies, HUD will establish a new submission date for those MTW PHAs. MTW PHAs are encouraged to partner with their local governments and conduct a joint or regional AFH using the Assessment Tool for Local Governments and/or with a PHA, in which case the MTW PHA would follow the lead submitter's submission date. HUD intends on providing additional guidance to MTW PHAs on how to incorporate actions and strategies into Annual MTW Plans that address AFH goals.

Second and Subsequent AFHs

(A) After the first AFH, subsequent AFHs shall be submitted no later than 195 calendar days prior to the start of the fiscal year that begins five years after the fiscal year for which the prior AFH applied. All MTW PHAs shall submit an AFH no less frequently than once every 5 years, or at such time agreed upon in writing by HUD and the MTW PHA. 24 CFR 5.160(d). Given that MTW PHAs submit annual MTW Plans, the MTW PHA should only submit an AFH prior to the fiscal year that is 5 years after the prior AFH submission.

III. Changes Made to the PHA Assessment Tool

The following highlights changes made to the Assessment Tool for Public Housing Agencies in response to public comment and further consideration of issues by HUD.

Qualified PHA (QPHA) Insert. HUD has added an insert for use by QPHAs that collaborate with non-qualified PHAs. The insert is meant to cover the analysis required for the QPHA's service area. In addition to the QPHA insert, HUD is committed to creating a separate QPHA assessment tool.

Contributing factors. HUD has added several contributing factors based on recommendations from the comments from the public. HUD has also made slight changes to the descriptions of some of the existing contributing factors in light of comments received. These include: Inaccessible public or private infrastructure; Involuntary displacement of survivors of domestic violence; Lack of local or regional cooperation; Lack of public and private investment in specific neighborhoods, including services or amenities; Laws, policies, regulatory barriers to providing housing and supportive services for persons with disabilities; Nuisance laws; Restrictions on landlords accepting vouchers; Siting selection policies, practices and decisions for publicly supported housing; Source of income discrimination. The following contributing factors were removed from the appendix as they were not listed in any of the AFH sections: Inaccessible buildings, sidewalks, pedestrian crossings, or other infrastructure; Lack of assistance for housing accessibility modifications; Lending discrimination; Local restrictions or requirements for landlords renting to voucher holders

Disparities in Access to Opportunity. HUD has made changes to the structure of the questions in the Disparities in Access to Opportunity section, such as reducing the number of questions in the Disparities in Access to Opportunity section, making the use of the table that includes the opportunity indices optional, and removing portions of questions that referenced PHAs' waiting lists. HUD no longer specifically calls out the protected class groups for which it is providing data in the questions themselves. Instead, the specific protected class groups will be called out in the instructions for the particular question. HUD has also limited these questions to the protected class groups for which HUD is providing data. Furthermore, HUD has made clear that the policy-related questions at the end of each subsection should be informed by community participation, any consultation with other relevant government agencies, and the PHA's own local data and local knowledge.

Disability and Access. HUD has added two new questions to the Disability and Access section of the Assessment Tool. These questions relate to the PHA's interaction with individuals with disabilities.

Instructions. HUD has made clarifying changes to the instructions to the Assessment Tool, including with respect to the use of local data and local

knowledge, additional examples of groups to consult during the community participation process, and additional clarifying instructions in the disparities in access to opportunity section based on the changes made to the questions in that section. In the instructions related to the Disparities in Access to Opportunity section of the Assessment Tool, regarding the HUD-provided data, HUD has also made clear that PHAs should only rely on the maps, rather than the opportunity index table; however, the table will still be provided should PHAs wish to make use of its contents. HUD has also included additional guidance in the instructions with respect to data sources that may be particularly relevant for assessing disability and access issues in the PHA's service area and region. HUD has also provided general and question-by-question instructions for the QPHA insert.

Fair Housing Analysis of Rental Housing. HUD has clarified the analysis for this section that the analysis applies to PHAs that administer Section 8 Housing Choice Vouchers. This will reduce burden for public housing to only PHAs.

Enhancements for PHAs in the Data and Mapping Tool. While the AFFH Data and Mapping Tool will remain substantially similar in most respects for PHAs as currently provided for local governments, there are some specific enhancements that are planned. These include the addition of maps and tables specifically designed for PHAs as well as enhanced functionality for displaying information on the maps.

The enhanced functionality will allow a PHA to view the location of its own public housing developments and housing choice vouchers. Users will be able to identify individual PHAs and use the relevant maps to show the locations of the public housing developments and HCVs for that PHA, or to view all such HUD assisted units that are already currently provided in the tool (In the current Data and Mapping Tool, these are Maps 5 and 6. Map 5 shows the location of individual housing developments in four program categories (public housing, project-based section 8, Other HUD Multifamily (Section 202 and 811) and LIHTC). Map 6 shows the location of Housing Choice Vouchers by concentration).

PHAs and the public should be aware that program participants will not be required to begin conducting their assessments until the full array of online resources, including both the Data and Mapping Tool and the User Interface are complete and operational for PHAs.

To assist PHAs in their assessments, HUD will be adding two additional maps and two additional tables that are designed to assist with specific questions in the assessment tool. One map will show the percent of housing units that are occupied by renters (by census tract). This first map is based on existing maps in the CPD-Maps tool (*https://egis.hud.gov/cpdmaps/*). This map is being added for both local governments and for PHAs. A second map map will show the locations of private rental housing that is affordable for very low-income families. This is intended to inform the analysis of the location, or lack thereof, of private affordable rental housing. Finally, two new tables will be provided showing tenant demographics for the PHA's own assisted residents. Examples of these tables, showing the intended type and format of the information to be provided was included as part of the 60-Day PRA release.

IV. PHA Region

Please note that a regional analysis is required for all program participants. Under the AFFH rule, the region is larger than the jurisdiction. For PHAs, under the AFFH rule, the jurisdiction is the service area. Unlike local governments and States, PHAs, including QPHAs, have service areas that range from the size of a town to match the boundaries of a State. The region that PHAs will analyze under the AFFH rule thus depends on the service area. For purposes of conducting a regional analysis, HUD identifies the following potential approach regarding geographies as regions for PHAs:

PHA jurisdiction/ service area	PHA region
Within a CBSA	CBSA.
Outside of a CBSA and Smaller than a County or Statistically Equivalent (*e.g.,* Parish).	County or Statistically Equivalent (*e.g.,* Parish).
Outside of a CBSA and Boundaries Consistent with the County.	All Contiguous Counties.
State	State and Areas that Extend into Another State or Broader Geographic Area.

A regional analysis is of particular importance for PHAs' fair housing analyses because fair housing issues are often not constrained by service area boundaries. Additionally, PHAs may be limited by their available housing stock, and, in order to afford full consideration of fair housing choice and access to opportunity for residents in the service area, a larger regional analysis is necessary. For example, one PHA may identify segregation as a fair housing issue because their housing stock, and therefore their residents, who are members of a particular protected class group, are located in only one part of the service area. The PHA therefore may identify the location and type of affordable housing as a contributing factor for this issue because the only affordable housing in the jurisdiction is located in that particular part of the City. For the PHA to understand the options for addressing this fair housing issue, the PHA must not only assess where other affordable housing is located in the region, but also consider the regional patterns of segregation, racially or ethnically concentrated areas of poverty, disparities in access to opportunity and disproportionate housing needs, by protected class. In the context of public housing agencies, regional coordination can be especially important to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities. When considering a regional approach to addressing fair housing issues the PHA may consider Housing Choice Voucher portability and shared waiting lists; mobility counseling, increasing use of Small Area Fair Market Rents to set payment standards at the sub-market level; use of Project-Based Vouchers as siting mechanism in higher opportunity areas, including in conjunction with LIHTC; and use of expanded PHA jurisdictional authority to administer vouchers outside its boundaries. The public is invited to provide feedback on this proposed approach.

V. Public Comments on the PHA Assessment Tool and HUD's Responses

General Comments

General comments offered by the commenters included the following:

The structure of the tool is not suitable for PHAs. A commenter stated that the assessment tool for PHAs too closely mimics the Assessment Tool for local jurisdictions in the burden that it will place on entities that must use it to complete their AFHs. Another commenter stated that if a PHA partners with local housing PHAs across the State, ranging from very rural areas to urban areas, to administer day-to-day operations of the HCV program, the structure of the Assessment Tool is very complex and would require an analysis of a vast portion of the State. Another commenter stated that the tool is a centralized directive that does not take

into account a community's local needs or priorities in how the PHA or community wants to allocate its scarce resources. The commenter stated that PHAs have a mandate to continue meeting local needs but this forces them to prioritize fair housing activities. Another commenter stated that the tool ignores the real-world constraints under which entities operate. A commenter asked HUD to have PHAs identify and prioritize portions of the tool so that over a number of cycles, the entire tool could be completed. Another commenter stated that the tool should be a streamlined document that provides a broad overview of the AFH process to PHAs, illustrate their various options among the other tools, clarify that the AFH duty applies to Moving to Work Agencies, and do a quick walkthrough of the process of completing the PHA tool.

HUD Response: HUD appreciates the commenters' views and input. HUD will continue to evaluate ways to reduce burden for PHAs while also providing guidance, technical assistance and training to support PHAs in affirmatively further fair housing under the Fair Housing Act and complying with other fair housing and civil rights requirements. As such, HUD has made revisions to the Publicly Supported Housing, Disparaties in Access to Opportunity, and Disability and Access sections of the PHA Assessment Tool to guide PHAs in conducting a meaningful fair housing analysis while still being tailored to the operations and programmatic focus of PHAs and their respective service areas. HUD believes these revisions have eliminated duplicate analysis within the PHA tool.

Terminology clarification. Several comments focused on certain terms in the tool that commenters advised needed clarification. A commenter asked what is meant by ''proximity to employment.'' A commenter asked what is an ''adequate supply'' of accessible housing. A commenter stated that the word ''siting'' should only be used in reference to new developments, and not used to refer to existing developments. The commenter stated that therefore, the description of the contributing factor ''Siting selection policies, practices, and decisions for publicly supported housing, including discretionary aspects of Qualified Allocation Plans and other programs'' should not use ''siting'' to reference ''acquisition with rehabilitation of previously unsubsidized housing.''

HUD Response: HUD thanks these commenters for requesting clarification. HUD's AFFH Rule Guidebook, available at *https://www.hudexchange.info/resource/4866/affh-rule-guidebook/,* may provide some clarification on terms commenters felt needed clarification. HUD also notes that past siting decisions may be contributing factors to a fair housing issue—and is included as part of the explanation of the contributing factor ''Location and type of affordable housing.'' HUD agrees with the commenter that the siting selection policies contributing factor is meant to focus on new developments, but also includes the consideration of how those policies might target the ''acquisition and rehabilition of previously unsubsidized housing'' because it results in the creation of new affordable housing opportunities for which location should be considered. HUD notes that with regards to past siting decisions, the goal to overcome that contributing factor may not involve ''re-siting'' that development. In order to understand the fair housing issues affecting a community, it is important that past siting decisions be taken into consideration. While the past siting and zoning ordinances may have contributed to the concentration of Publicly Suported Housing in certain neighborhoods in a jurisdiction that are experiencing racial and ethnic concentration, the AFFH rule outlines how PHAs may undertake a balanced approach in considering place-based investments and mobility to deconcentate neighborhoods and help protected class group members that use PSH move into low-povery and integrated neighorhoods of opportunity. HUD's description of contributing factors in the appendix clarifies that existing publicly supported housing developments may be considered under the contributing factor ''Location and type of affordable housing.''

The tool is too burdensome. Commenters stated that the tool is too burdensome and PHAs do not have enough resources to complete an AFH. Commenters stated that PHAs will have to hire consultants because the assessment is too complex (which includes the analysis of the data and dissimilarity index) to be effectively completed by staff without specific statistical and mapping knowledge, and that it is hard to get a true estimate from a consultant at this point or figure out which consultant will provide high quality services. The commenters stated that this is an ineffective use of staff time. The commenters stated that resources that could be put into housing related tasks are being funneled into completing this tool. Another commenter stated that PHAs do not have the resources and run the risk of putting all of their energy and resources into doing the assessments, leaving nothing left to address the identified Fair Housing Issues. Another commenter asked that during the six weeks it will take to prepare the tool, how clients will be served, and what will happen if a PHA's high performance status drops because of the time being spent on the AFH.

HUD Response: HUD is sympathetic to all program participants who have limited capacity to conduct an AFH, and will continue to evaluate ways to reduce burden for PHAs, and all program participants, while still ensuring a meaningful fair housing analysis is conducted such that goals that will result in a material, positive change can be established. While HUD encourages PHAs and QPHAs to partner with Local Governments to jointly share the workload associated with the AFH fair housing analysis and planning requirements, HUD proposes a streamlined set of QPHA questions for analysis of their service areas independently and in collaboration with States, Local Governments and other PHAs in their vicinity whether they are within or outside of a CBSA. Moreover, HUD recognizes potential concerns program participants may experience due to devoting resources toward the AFH, and it is HUD's priority to provide guidance, technical assistance, and training to PHAs and all program participants as they workto conduct their AFHs as well as providing as much help it can in allaying other worries as a result of completing the AFH.

Funding is needed to complete the tool. Commenters stated that PHAs need funding to complete their AFHs. Commenters stated that the AFH does not recognize the zero-sum nature of a PHA's resource allocation, and that the President's FY 2017 budget proposal did not request additional money for PHAs and other participating entities to complete their AFH tools. Another commenter stated that it will have to spend subsidy or Capital Fund Program (CFP) money to complete the tool and this will take away from being able to maintain properties. A commenter stated that if HUD cannot provide additional funding, HUD needs to find ways to provide additional resources to all that need to complete an AFH.

HUD Response: HUD understands that program participants have limited resources and will continue to try to reduce burden. In addition, HUD will continue to provide guidance, technical assistance, and training to assist all program participants to as they work to conduct their assessments of fair housing. Additoinally, HUD will

provide guidance, technical assistance, and training to assist PHAs, as well as other program participants, in compliance with their fair housing and civil rights obligations.

Allow waivers of the AFH if the PHA has insufficient funding or staff. A commenter suggested that without additional funding, HUD should accept waivers from PHAs to provide time to complete AFHs, especially those seeking to join efforts with neighboring PHAs and local governments.

HUD Response: Unfortunately, HUD cannot provide waivers for certain program participants with respect to the submission of an AFH. However, HUD has built in flexibility for program participants to collaborate to submit a joint or regional AFH, provided for at 24 CFR 5.156 of the AFFH Rule. Program participants may be able to adjust their program or fiscal years to align with other program participants in order to collaborate on an AFH.

Exempt small and qualified PHAs (QPHAs) from submitting an AFH. A commenter stated that QPHAs should be exempt because they lack funds and staff. Another commenter stated that slightly more than half of all PHAs manage fewer than 250 units and nearly 88 percent manage fewer than 500. The commenter stated that small PHAs have become leaner over the years and do not have the capacity to undertake the requirements of an AFH. Another commenter stated that if HUD will not exempt small and qualified PHAs, HUD should offer a significantly streamlined and simplified AFH tool for use by agencies with 550 combined units or fewer that will be of some use to them as they analyze steps they can take to AFFH.

HUD Response: HUD recognizes the challenges small PHAs in undertaking the requirements of completing the Assessment of Fair Housing. In keeping with this, HUD has added an insert to the PHA and Local Government Assessment Tools that may be used by QPHAs that are conducting a joint AFH with other non-qualified PHAs and local governments. Use of this insert may reduce burden for the QPHA in completing an Assessment of Fair Housing. As HUD has stated previously, HUD will continue to evaluate ways to reduce burden for all program participants, including smaller PHAs and QPHAs in complying with fair housing and civil rights requirements. HUD also notes that it is committed to creating a separate QPHA tool.

Concerns with the use of local data. A commenter suggested local data that PHAs need to rely on may not exist, and cited as examples, education and school proficiency data that the commenter stated can be difficult to obtain because some PHAs serve in areas where students can attend schools in multiple school jurisdictions across the entire metropolitan region, including outside the jurisdiction of the PHA. The commenter stated that HUD does not include protections for PHAs that claim they cannot compile or obtain local data. Another commenter stated that local data should be optional because the burden of collecting it is immense. A commenter suggested that HUD's Office of Policy Development and Research provide greater technical assistance to PHAs to help them complete the AFH, including training and webinars on data analysis, along with a cadre of experts who can assist PHAs in meeting this requirement.

HUD Response: HUD appreciates these comments. HUD notes that program participants need only use local data when it meets the criteria set forth in the AFFH rule at 24 CFR 5.152 and in the instructions to the Assessment Tool. HUD has also included clarification in the instructions to the Assessment Tool to make clear when local data must be used and HUD's expectations with respect to the use of such data. Specifically, HUD states in the instructions that program participants must use reasonable judgment in deciding what supplemental information from among the numerous sources available would be most relevant to their analysis. HUD later explains in the instructions that where HUD has not provided data for a specific question in the Assessment Tool and program participants do not have local data or local knowledge that would assist in answering the question, PHAs should note this, rather than leaving the question blank.

Define the boundaries of a region. A commenter stated that when HUD finalizes the regional data, it should clearly define the boundaries of the regions so that PHAs know exactly the regional area that must be covered in their analyses and therefore the extent of the data necessary to answer the template questions.

HUD Response: HUD appreciates this comment and will work to ensure the final data provides these boundaries.

Burden estimates are too low. Commenters stated that HUD's estimate that it will take one person working 40 hours a week for 6 weeks to complete, is far too low due to the complexity of the AFH. A commenter stated that PHA staff are knowledgeable on program regulations and laws pertaining to Fair Housing and 504 requirements, but not providing complex statistical data analysis. A commenter stated that it estimates that it will take three or four times as much as the 240-hour estimate, equivalent to almost one full time staff person when only four staff members are dedicated to the entire Section 8 program. The commenter stated that it is not reasonable for the AFH to take up to 25 percent of the administrative budget, but this is likely to happen if the State cannot combine efforts with its CPD formula programs. Another commenter stated that it estimates that it will take 1,4440 hours or 180 working days to complete the AFH. Another commenter stated that it estimates that completing the AFH will take longer than 240 hours and collaborating will not save any time due to the need for meetings, identifying responsibilities, and coming to agreement on the meaning of data.

A commenter stated that since HUD funding is at an all-time shortage, current staff have too many responsibilities to maintain the level of effectiveness as is, and the challenge to stay as viable as possible under these circumstances (with the lack of ability to use funds as effectively as Moving to Work PHAs), the burden of proposed collection places the burden ''on a scale of 1 to 10 (10 being the backbreaker), 10!'' Another commenter stated that program participants will commit a total of just under 1,000,000 person hours to AFH completion every five years or so, and that based on the estimates given in the notice of how many PHAs will submit and how much time each one takes, this will consume more than 100 person years annually. A commenter stated that the outreach portion alone can easily take more than 100 hours. The commenter stated that 5 public meetings with 5 staff in attendance for three hours (set up and staying after to answer questions) is already 75 hours, and that does not include preparing materials, marketing, arranging space, etc. Another commenter stated that HUD has revised the estimates and has estimated without evidence the populations of PHAs that will collaborate and submit independently. The commenter stated that if only half the PHAs choose to collaborate, the estimated burden would rise by almost 50,000 hours to 150 of HUD's current estimate. The commenter stated that HUD does not know how long it will take to prepare an AFH using any of the 3 tools published so far, and that HUD's assumptions about collaboration are not based in fact, and so HUD's estimate of burden is unsupported and probably inadequate.

HUD Response: HUD understands the concerns of these commenters, and will

continue to evaluate ways to reduce burden for all program participants, including PHAs. In addition, HUD will also continue to provide guidance, technical assistance, and training as needed and appropriate, in an effort to build the capacity of program participants to undertake an Assessment of Fair Housing. In light of revisions being proposed for the AFH tools, HUD will continue to evaluate potential adjustments to burden estimates that are necessary for the applicable AFH Tools.

Electronic submission will help eliminate burden. Commenters stated that electronic submission is the only answer to eliminate any potential burden to provide the information by the agency. The commenters stated that this analysis seems to address all the areas of concern with the quality of information being asked for the agency to provide, but that too much information being asked could be a potential setback as in reviewing the maps in the tools, information can be confusing and difficult to find the information being sought because the maps become hard to read.

HUD Response: HUD agrees with these commenters and is continuing to work to provide PHAs with an electronic submission mechanism. HUD will continue to provide guidance, technical assistance, and training as needed and appropriate, to aid program participants in understanding how to read the HUD-provided maps.

Eliminate the local knowledge requirement. Commenter stated that it is a costly burden to obtain local knowledge and data because the PHA's service area covers most of the State. A commenter expressed concern about data availability or meaningfulness in rural areas. The commenter stated that the requirement to use local data here is burdensome. The commenter stated that there needs to be explicit instructions about what to do when there is no HUD provided data or no meaningful HUD provided data and local data or knowledge is not particularly useful.

HUD Response: HUD appreciates this commenter's suggestion, however, HUD notes that local knowledge is critical information that can provide context and clarity for the HUD-provided data, to supplement the HUD-provided data, and illuminate fair housing issues affecting a jurisdiction or region. However, HUD notes that the instructions to the Assessment Tool explain that where HUD has not provided data for a specific question in the Assessment Tool and program participants do not have local data or local knowledge that would assist in answering the question, PHAs should explain this, rather than leaving the question blank.

The Housing Choice Voucher (HCV) program does not fit an AFH analysis. Commenters stated that PHAs that primarily operate a voucher program, which promotes tenant choice and, under the HCV program, households ultimately choose their own housing, so many of the considerations of siting of future housing that could be addressed through a tool would not be germane. Another commenter stated that a PHA administering an HCV program can educate and provide information to voucher households about the characteristics of a neighborhood but that does not appear sufficient per the AFFH rule. The commenter stated that voucher households have the right to choose preferred rental housing unit despite information.

Other commenters stated that the HCV data is limited and does not allow AFH submitters to assess which PHAs have vouchers placed within a jurisdiction. The commenters stated that alternative data sets that include the number of vouchers by PHA is missing data for Moving to Work jurisdictions, which are often the larges PHAs in their region. Commenters stated that this data should be made available in the AFH data tool to permit a complete analysis of concentration patterns in the HCV program. The commenters stated that if a PHA jurisdiction contains a concentration of vouchers from other PHAs, this may be an important indicator of source of income discrimination in the other PHAs jurisdiction, and also that a PHA's mobility program is inadequate or that the PHA is steering voucher holders to specific areas in violation of the Fair Housing Act and its obligation to AFFH.

HUD Response: HUD respectfully disagrees with the commenters' assertion that the HCV program does not fit in the AFH analysis. HUD notes that program participants that are required to conduct and submit an AFH to HUD are specified by the AFFH rule at 24 CFR 5.154(b) and include PHAs receiving assistance under Sections 8 or 9 of the United States Housing Act of 1937. However, HUD will continue to evaluate different ways to portray data relating to the HCV program to assist PHAs in conducting a meaningful fair housing analysis. To operate the HCV program within a jurisdiction, PHAs undertake market analyses and rental reasonableness tests to understand the supply of available quality affordable housing units that are feasible for lease-up using the payment standards PHAs may set within the overall jurisdiction or in smaller FMR areas or neighborhoods within the PHA's jurisdiction.

The AFH has no practical utility. Commenters stated that the information asked by the PHA tool and required by the AFFH rule does not have practical utility and that it is not necessary to further the FHA's mandate to affirmatively further fair housing. A commenter stated that as an agency where the affordable housing has been in place for many, many years and the lack of funding to develop in areas of opportunity, the collection of data is not needed. The commenter stated that the PHA already understands the lack of affordable housing in areas of opportunity and obstacles to develop in these areas; any data collection will just support this argument for the need to develop in these areas. Commenters stated that the AFH requires PHAs to set fair housing goals for activities that are out of their control. Commenters stated that it does not make sense to have an entity that does not have authority to achieve these goals conduct the analysis both because the entity would not have specialized knowledge of the field and because equitable considerations would stress that the entity responsible for achieving the goals should be the one conducting the analysis. Commenters stated that the AFH requires them to set goals outside of their scope of control, and they may misjudge the extent to which achieving these goals is feasible since these goals may be in areas outside of their day-to-day experience. Other commenters stated that the tool requires PHAs to analyze factors that may have been decided decades ago (like siting decisions) and make conclusions about impediments to fair housing (like zoning and permitting) that are out of their control. Commenters advised that the following areas are outside of a PHA's experience or control: School assignment policy (HCV programs will need to create tools to discover the schools voucher holders' children attend to investigate, large agencies' participant households sent their children to a large number of school districts), employment opportunities (PHAs may know where participants work but do not have knowledge of access to employment opportunities and do not influence where employers choose to locate or where skillsets match up), access to transportation (PHA's have little to say in establishing or changing transit routes or schedules), geographic distribution of people with disabilities (HUD has acknowledged a lack of data), whether Olmstead plans have been implemented (PHAs exercise little or no

influence over institutions where people with disability may be housed and lack the expertise to evaluate appropriateness, and have no more control over the contents of a plan than any member of the public), and whether people with disabilities have access to public infrastructure (PHAs are in the same position as other members of the public when it comes to infrastructure outside of their physical assets).

HUD Response: HUD respectfully disagrees with these commenters. HUD acknowledges that PHAs may already understand the fair housing issues and contributing factors afffecting in their service areas, and have limited control over certain areas of analysis contained in the AFH; however, those areas are part of the community in which the PHA is located and may have an affect or impact on fair housing in the PHA's service area and region. In order to best understand the fair housing issues affecting the PHA's service area and region, PHAs must take a holistic approach in analyzing their fair housing landscape in order to set appropriate goals that will allow the PHA to take meaningful actions that affirmatively further fair housing, including identifying policies and activities that may or may not be within their control. HUD also notes that the community participation process that is part of conducting an AFH may yield important information from members of the community about these issues for the PHA to consider as it conducts its AFH. HUD encourages PHAs to think creatively in approaching goals. HUD will provide some examples of goals specifically for PHAs when it updates the AFFH Rule Guidebook, and will provide guidance, technical assistance, and training to support all program participants as they work to conduct their AFHs.

The tool should facilitate a broad range of approaches to affirmatively furthering fair housing. Commenters stated that the rule emphasizes the importance of a balanced approach, but does not allow for the assessment and inclusion of community revitalization efforts. The commenters stated that a two-pronged approach that both increases access to areas of opportunity and improves neighborhood conditions is best. The commenters stated that HUD should honor the value and even necessity of preservation of affordable housing, wherever it is located, to prevent displacement and further racial and economic segregation in cities with substantially tightening rental markets. Other commenters stated that the lack of preservation related questions and guidance in the PHA tool suggests that development in non-impacted areas is simply a more legitimate goal than preservation of existing housing that is not within an ''area of opportunity.'' The commenters stated that, for example, the PHA tool does not have questions directly assessing the preference of residents to remain in their own neighborhoods, even if segregated, or that help a PHA document that preservation and rehabilitation is the most appropriate way for the PHA to further fair housing while also respecting the rights of residents to remain in their homes and communities. The commenters stated that, in contrast, there is a preponderance of questions related to moving families away from the communities where they live, suggesting that HUD believes that preservation cannot be an important part of an acceptable strategy for meeting fair housing obligations. The commenters encouraged HUD to modify the tool to include more questions about preservation strategies and acknowledge that moving residents to areas of opportunity need not take precedence over providing existing, underserved communities with decent, safe, and sanitary affordable housing and improving neighborhood quality. The commenters stated that questions could include requests for information about community reinvestment and site-specific projects to restore deteriorated housing, and the instructions should also acknowledge that preservation is an appropriate fair housing tool for PHAs.

Another commenter stated that HUD should provide clearer directions in each of the ''additional information'' subsections to foster a more balanced assessment pertinent to the fair housing issue under consideration. The commenter stated that positive assets that should be listed include affordable housing preservation organizations and community-based development organizations that have long worked with residents to improve publicly supported housing and/or community living conditions. The commenter stated that fair housing choice must include residents' ability to choose to remain in their homes and communities, even if these are racially or economically concentrated areas of poverty (R/ECAPs).

A commenter stated that in Part V.D., questions for both the ''Public Housing Agency Program Analysis'' and the ''Other Publicly Supported Housing Programs,'' ask PHAs to compare the demographics of developments to the demographics of the service area and region. The commenter expressed concern on how this will be interpreted because sensitivity to the wishes of existing residents must be paramount. The commenter stated that PHAs should describe the actions taken to determine residents' desire to move and the resources (and in what amounts) that have been used to improve the neighborhood in which the public supported housing development is located. The commenter stated that the ''Additional Information'' questions should require PHAs to describe efforts that have been made, are underway, or are planned to preserve Project Based Section 8 at risk of opting out of the program or prepaying the mortgage and exiting the program, or of other HUD multi-family assisted developments leaving the affordable housing stock due to Federal Housing Administration (FHA) mortgage maturity. The commenter stated that PHAs should describe efforts that are made, underway, or planned to preserve Low Income Housing Tax Credits (LIHTC) developments, including at Year 15 and beyond Year 30.

HUD Response: HUD appreciates the commenters' recommendations and will consider adding questions on how to evaluate tenant viewpoints on relocation and mobility from neighborhoods of concentration to more integrated areas. This will include HCV families and residents living in publicly supported housing properties in R/ECAPs and segregated neighborhoods.

HUD encourages a balanced approach to fair housing planning, as it stated in the preamble to the final AFFH rule, which may include a variety of strategies to affirmatively further fair housing, as appropriate, depending on local circumstances. HUD includes questions and contributing factors in the Assessment Tool that relate to both place-based and mobility strategies in order to assist program participants in determining how to set goals that will lead to the program participant ultimately affirmatively furthering fair housing. Conducting an analylsis that compares the demographics of the residents of publicly supported housing to the area in which it is located is necessary for a fair housing anlaysis. Specifically, for this Assessment Tool, conducting a development-by-development analysis and comparing the demographics of developments to the areas in which they are located is critical when a PHA is conducting a fair housing analysis of its jurisdiction.

Finally, HUD appreciates the suggestions of commenters relating to particular subjects that should be added to the ''Additional Information'' questions. HUD believes that these are all important areas of analysis, and will

continue to consider whether they should be added to the questions, included in instructions, or provided for in guidance. HUD will consider questions on how to evaluate tenant viewpoints on relocation and mobility from neighborhoods of concentration to more integrated areas. HUD will also consider giving instructions in the PHA and Local Government Tools on community participation to solicit feedback on preservation of properties and resident relocation and mobility from R/ECAPs to more integrated neighborhoods of opportunity. These are issues PHAs may solicit feedback on in surveys, community participation meetings with residents of impacted developments, and public hearings.

The analysis of data is burdensome. A commenter stated that the sheer volume of data to be analyzed and the breadth of responsibility placed upon housing authorities are very troubling. The commenter stated that although there is discussion of housing authorities under 550 units, size alone cannot be the determining factor for the burden the rule will place; that PHAs with more units that operate in rural counties should be considered. The commenter also stated that the analysis and process is for naught when there is one high school and no public transportation, and the commenter asked about what happens if the town is under one census tract? The commenter stated that very rural towns and cities are not entitlement cities so there is no CDBG funding, and that many of these rural areas were hit hard in the recession and lost manufacturing jobs that are not coming back. The commenter stated that PHAs in these situations have limited resources and so do the communities, and that this time and money could be better spent addressing housing issues. Commenters stated that the instructions to Section VI of the tool acknowledge that PHAs may not be able to control all of these factors. The commenters asked HUD not to burden PHAs with extensive data collection and goal development for factors they cannot control and instead focus on those they can control. A commenter expressed concern that HUD provided data is not detailed enough to assess fair housing issues between rural and urban areas throughout its State and to complete the AFH. Another commenter expressed concern that there are significant gaps in HUD-provided national data that will impede PHAs in adequately assessing and addressing the fair housing needs of people with disabilities. The commenters stated that HUD should provide Federal data from the Medicaid program and from its own data collection. The commenter stated that while there may not be ''uniform'' data concerning people with disabilities similar to the data concerning race and ethnicity (especially those persons with disabilities who live in institutions or group homes), consideration of major sources of information should still be considered in order to include their consideration in fair housing planning.

Some commenters stated that much of the information requested through the tool exhibits practical utility but the significant data limitations (*e.g.* the ability to disaggregate ethnic groups, neighborhood level data, local data, etc.) preclude the ability to easily describe contextual factors that may demonstrate impacts to particular groups.

Several commenters stated that the HUD provided data is unwieldy and difficult to understand, and that, in some cases, it relies on complex social science indices whose meaning is largely unintelligible despite the guidance provided in the instructions and the AFFH Rule Guidebook. The commenters stated that the level of sophistication required to understand this information is at odds with the emphasis on public participation. Another commenter stated that the tool asks for data that does not exist and leaves agencies in danger of non-compliance when there is no way to comply.

HUD Response: HUD thanks these commenters for their views and recognizes that representitives of program participants may immediately feel overwhelmed; however, HUD will provide guidance, technical assistance, and training to assist all program participants in in building their capacity to analyze the data. As HUD has explained in an earlier response, it will continue to evaluate ways to reduce burden for program participants while still ensuring a meaningful fair housing analysis is conducted.

HUD also acknowledges the limits of the data it is providing to program participants, especially with respect to rural areas. HUD will continue to assess the feasibility of providing additional data sets that would assist program participants in conducting an analysis in rural areas. Similarly, HUD understands the limits of the data it is providing with respect to individuals with disabilities. HUD will also continue to assess the feasibility of providing additional data related to disability and access in the future. HUD will also continue to evaluate how it can provide data in as user-friendly a manner as possible and will continue to provide guidance, technical assistance, and training as needed and appropriate, to assist program participants in their use of HUD-provided data to complete an Assessment of Fair Housing.

HUD already has the information sought through the AFH: HUD should provide the analysis. Commenters stated that the tool requests information HUD already has. The commenters stated that demographics concerning public housing property residents and voucher holders is submitted through HUD Form 50058; HUD has participants' characteristics and the Census Bureau provides demographics of the jurisdiction's population so HUD can make comparisons with the income eligible population itself; HUD already has the locations of public housing properties and addresses of voucher holders so it should prepopulate the AFH tool with this data.

HUD Response: HUD thanks these commenters for their views, however, HUD believes it is important for PHAs to do their analysis to better understand the fair housing issues in their regions and service areas. Understanding the historical context, including policies that may have led to such issues will provide context for how program participants may seek to resolve them. HUD also notes the importance of program participants engaging with their communities in order to best understand the fair housing issues and contributing factors affecting their geographic areas of analysis. Thus, HUD is providing data that includes the demographics of residents and locations for certain categories of publicly supported housing to assist PHAs in conducting their fair housing analysis. PHAs must use the HUD-provided data, along with local knowledge and local data (when such local data and local knowledge meet the criteria set forth in 24 CFR 5.512 and the instructions to the Assessment Tool) when assessing fair housing issues.

Maps and tables are not easily workable. Several commenters expressed concern about the functionality of the maps and tables. Commenters stated that dot density maps do not work at a high level for every variable and HUD should reevaluate the type of mapping thematics. A commenter requested that AFFH data and mapping tools have the capability to group data based on the selection of numerous counties to build sub-State areas. Another commenter expressed concern that HUD provided data is not detailed enough to assess fair housing issues between rural and urban areas throughout its State and to complete the AFH. The commenter stated that HUD should include the

margins of error in the data set since there is a great difference in the accuracy between rural and urban areas.

Other commenters stated that maps tailored to the needs of States, insular areas, and PHAs outside of CBSAs remain unavailable, posing a serious problem for PHAs and their stakeholders and commenter cannot assess utility of missing maps. The commenters stated that this is a problem for PHAs that must make decisions concerning their approach to AFH tool completion, such as whether or not to pursue a collaboration. The commenters suggested that HUD rescind all AFH notices and information collections until such time as all of HUD's maps and tables appropriate for each kind of entity that may be submitting an AFH are available.

Commenters stated that without the full functionality of the tables and maps, it is difficult to fully evaluate how the draft AT would work in conjunction with this data. The commenters stated that many of the sample maps are hard to read due in large part to their static nature (unable to zoom in or out, or otherwise adjust map settings). The commenters stated that HUD should strive to finalize the maps and tables as soon as possible, ideally before the initiation of the 30-day comment period. The commenters stated that if HUD cannot finalize the maps and tables, as it waits to gather information about PHA service areas, at minimum it should reference the titles of the relevant maps and tables within the instructions for individual tool questions.

Other commenters stated that regional maps should consistently denote the PHA service area as a frame of reference. Commenters stated that the analyses of the indices by national origin and familial status cannot be done since the index scores are not currently organized by protected group categories other than race/ethnicity, and HUD should make this data available for review. Commenters stated that the comparisons with HUD-provided maps (such as looking side-by-side at the national origin demographics map and the school proficiency index map) are almost impossible because the maps are incredibly difficult to use. Commenters stated that in sample tables 9 and 10, it is unclear whether the ''% with problems:'' Reflects the percentage of individuals in a specific protected group or the percentage of overall households with housing/severe housing problems. Commenters also stated that the data for household type and size need to be broken down further to reflect families with three, four, and five household members because family households with more than five people are not an appropriate proxy for families with children. Commenters stated that it is very difficult to use sample Maps 7 and 8 to answer subpart Question 2 in Disproportionate Housing Needs. The commenters stated that the dots are very clustered and cover most of the PHA service area so the various desegregations are impossible to decipher. Commenters stated that it is unclear from the data in tables 9–11 how a PHA can make the deductions required by the instructions for Disproportionate Housing Needs in Question 3, which seems to indicate that PHAs should read the data in the tables together to compare the needs of families with children for housing units with two, three, or more bedrooms with the available existing housing stock in each category of publicly supported housing. The commenters stated that HUD must provide guidance on how a PHA is to interpret data given in these tables to provide the requested analyses. Commenters stated that a color spectrum should be used to classify census geographies of note as dot density maps, as presented, have too much flexibility in visualization and could mislead some agencies and members of the public to false conclusions. The commenters stated that HUD should publish entire series of maps for each jurisdiction as a set of PDFs to easily share with the public, incorporate ACS data to ensure more up to date data for future submissions, and address limitations of non-disaggregated data to tell accurate story for existing and emerging groups.

HUD Response: HUD appreciates these suggestions from commenters relating to the usability of the data HUD is providing. HUD will continue to evaluate how to provide the data in the most user-friendly manner in order to help facilitate a meaningful fair housing analysis. HUD also appreciates the suggestions for disaggregating certain data, making tables and maps clearer and easier to understand or interpret, and adding additional protected class groups to the HUD-provided data. HUD will continue to consider these recommendations as it provides updates to the AFFH data and mapping tool. HUD also recognizes that the data has certain limitations, and will continue to assess how to best provide data for rural areas. HUD will also continue to provide guidance, technical assistance, and training as needed and appropriate, to assist program participants in building capacity to use the HUD-provided data when conducting an AFH.

HUD should provide additional data relating to persons with disability. Commenters recommended the following three part approach to data on people with disabilities: (1) HUD should provide PHAs with data readily available in the federal system, including data from Money Follows the Person and Medicaid home and community-based waiver programs and options, available from the Center for Medicare and Medicaid Services (CMS), data on people with disabilities living in nursing facilities and intermediate care facilities for individuals with developmental disabilities, available from CMS, and data on people with disabilities experiencing homelessness available in the HUD Homeless Management Information System and/or Annual Homeless Assessment Report databases; (2) Where HUD-provided national data are unavailable, instead of HUD permitting PHAs to assert that ''data and knowledge are unavailable'' HUD should require PHAs to seek out and use local data and knowledge; (3) HUD should provide additional guidance to PHAs as to the types of local data and knowledge that are likely to be available and how to find these. Commenters also stated that all disability data should be provided by age group, and PHAs should be required to consider this distinction in their analyses. The commenters stated that due to the lack of nationally uniform data, the instructions to the Disability and Access analysis section should strongly encourage PHAs to solicit input from community stakeholders about sources of local data and local knowledge. The commenters stated that HUD should make suggestions of places that might have local data.

HUD Response: HUD appreciates the recommendations of these commenters and agrees that to the extent feasible, HUD should provide disability-related data to program participants and the public to better facilitate a meaningful fair housing analysis related to individuals with disabilities. HUD will continue to seek out data sources that are nationally uniform that can be provided in the AFFH data and mapping tool in the future. Additionally, HUD notes that program participants are required to use local data and local knowledge to complete their AFH where that information meets the criteria set forth at 24 CFR 5.152 and in the instructions to the Assessment Tool, but ne only indicate that the program participant does not have local data or local knowledge to supplement the HUD-provided data. HUD notes that CMS data may be particularly relevant

for program participants to consider and would welcome program participants' use of such data as they conduct their AFH. HUD notes that there are examples of sources of local data and local knowledge provided in the AFFH Rule Guidebook, and would encourage program participants and the public to evaluate whether those data may be useful in completing the AFH.

Demographic data for Low Income Housing Tax Credit (LIHTC) developments is needed. Commenters stated that tax credit units are vital to community development. The commenters stated that more important than completing an AFH is helping more people and building more tax credit units for families to live in. Commenters stated that LIHTC data does not include data on race, ethnicity, and other demographic data by project, which is collected by HUD annually pursuant to Section 2002 of the Housing Economic Recovery Act, and that without this data, PHAs cannot conduct a full assessment of the concentration of subsidized units and the demographics of those tenants. One commenter stated that PHAs and their subsidiary non-profits that are involved in the development and ownership of LIHTC developments have this data readily available, and their failure to include it should be a red flag.

Other commenters stated that the data provided on demographics of non-LIHTC assisted housing developments in Table 8 does not directly link to census tract demographics, creating an additional burden on submitters and undermining a key element of fair housing analysis.

HUD Response: HUD thanks the commenters for their input on LIHTC data. HUD acknowledges the limited availability of LIHTC data on tenant characteristics at the development level. HUD is continuing its efforts to collect and report on this data However,HUD notes that there are substantial barriers to providing LIHTC tenant data at the developmental level, including both the completeness of the data coverage and ongoing privacy concerns with releasing tenant information for small projects, which make up a significant portion of the LIHTC inventory. For example, commenters should also be aware that information at the development-level will often not be available due to federal privacy requirements and the small project sizes in a large portion of the LIHTC inventory. HUD encourages program participants to use local data and local knowledge, when such information meets the criteria set forth at 24 CFR 5.152 and in the instructions to the Assessment Tool, to complete this portion of the analysis.

The Assessment Tool's certification requirements create new legal liability for PHAs. Commenters expressed concern that the PHA Tool's Certification requirements may create new legal liability for PHAs. The commenters stated that by signing the Certification, PHAs may expose themselves to audits by HUD for failure to further the goals they set or they may be subject to lawsuits from parties who believe they have been injured by the fair housing impediments that the PHA described. The commenters stated that liability is created not by actual failure of the PHA to perform under the ACC or other agreements with HUD, but by virtue of the fact that the Assessment Tool requires PHAs to certify that they will take actions that they have neither the legal authority nor resources to take. Other commenters stated that liability exists in detailed levels within the Assessment Tool itself, and stated, as an example, the tool, in asking PHAs to assess past goals, effectively requires PHAs to make a public admission of wrongdoing which may promote litigation. The commenters stated that this question and the broader emphasis on failures should be removed. Commenters encouraged HUD to create a safe harbor standard for PHAs that act in good faith in determining the most relevant one (or two or three) data sets or political boundaries for use in completing the tool. Another commenter stated that the tool is not an effective means for HUD to enforce the AFH. The commenter stated that the tool runs the risk of punishing PHAs for lacking resources and may unintentionally create a spirit of animosity towards the concepts of fair housing instead of encouraging PHAs to be champions of fair housing.

HUD Response: HUD understands the concerns raised by these commenters, however, HUD notes that the AFH is a planning document., In order to effectively engage in fair housing planning, it is important for program participants to evaluate the past and current state of fair housing in their communities in order to set meaningful goals to overcome contributing factors and related fair housing issues. HUD also notes that the Assessment Tool provides opportunities for PHAs to identify past goals, strategies, and actions in order to allow the program participant to reflect on past progress or setbacks with respect to fair housing. The purpose of this portion of the assessment is to allow program participants to readjust their approach and make changes to any goals they may not have been able to achieve. Failure to achieve a goal set in an AFH does not necessarily mean the program participant has not met its statutory obligation to affirmatively further fair housing.

Consultation requirements. Commenters had a variety of comments on the consultation requirements. Commenters stated that the tool should require PHAs to consult with and reach out to a wide variety of organizations, including those that represent people who are members of the Fair Housing Act's protected classes because the regulations seek to have PHA plans informed by meaningful community participation. Other commenters stated that PHAs should be required to list all entities consulted and the dates consulted, so residents and advocates can assess if this was most appropriate. The commenters stated that a PHA should provide a written summary of the input offered through the consultation and attach this as an appendix to the Assessment Tool. Other commenters stated that since the tool is intended to be a guide for PHAs, and therefore residents and community participants, it should include examples of the types of groups PHAs could consider reaching out to. A commenter suggested that Resident Advisory Boards, resident councils, groups representing HCV households, people on waiting lists, community groups, affordable housing advocacy organizations, and legal services offices. Another commenter stated that PHAs should describe how community participation was both provided for and encouraged, and should present a detailed list (with date and time of day) of specific participation activities for various components of the stakeholder community. Another commenter stated that PHAs should be required to list organizations that submitted written comments and/or delivered remarks at public hearings, so that residents and advocates will be able to assess whether the groups that participated represent a balance of opinions.

Commenters stated that PHAs should be required to address the following: How meetings and events were held at times and places conducive to optimal participation (ex: Meetings on evenings and weekends); how PHAs assessed language needs and provided for translation of notices and vital documents, as well as provided interpreters for meetings and public hearings; how far in advance notice of meetings and events was provided, and the form of notification (mailings, postings in common areas of properties, easily identified notices on the PHA's

home page, Listserv, notices in newspapers oriented to neighborhoods where PHA properties are located and in appropriate language, notices in newsletters of organizations serving various populations, PSAs, provisions for LEP persons, provisions for people with visual, hearing, or other communications disabilities, social media); discussions with residents of public housing to determine whether residents want to remain in their homes and communities or relocate to areas that may offer other opportunities; summarize all local knowledge and comments and explained why they were accepted or why not, and included as an appendix; outreach to tenants beyond a Resident Advisory Board, particularly underserved populations such as HCV holders and single mothers: Many developments may not even have a Resident Advisory Board; and efforts to conduct outreach to residents of public housing, Section 8 HCV holders, and persons eligible to be served by the PHA, and to briefly describe how documents associated with the AFH, including the draft AGH, were provided to public housing tenants, voucher holders, and other interested parties. Another commenter stated that HUD should amend Question 2 on page one to require PHAs to provide a list of stakeholders working in the areas of public health, education, workforce development, environmental planning or transportation. A commenter stated that the accompanying instructions should reference 24 CFR 903.17 which requires, in part, that the PHA makes the draft AFH and other required documents available for public inspection. Another commenter stated that the instructions and guidance should provide PHA-specific suggestions regarding advertising public meetings and hearings and recommended making the draft documents easily accessible. Another commenter stated that the instructions accompanying Question 2 should provide examples of the types of organizations with which PHAs may consult.

A commenter stated that by focusing on a community participation process that seeks to reach the ''broadest audience possible,'' HUD forces PHAs to choose quantity over quality engagement by limiting the PHA's ability to focus engagement on those most impacted by impediments or barriers to fair housing as well as prioritize key demographics.

HUD Response: HUD appreciates these suggestions from commenters. PHAs are required to comply with the requirements for community participation, consultation, and coordination set forth in 24 CFR 5.158 and the requirements set forth at 24 CFR part 903. HUD has provided examples of groups that program participants may wish to reach out to in order to obtain certain information, input, or perspectives when conducting the community participation process in the AFFH Rule Guidebook. HUD will evaluate whether this guidance should be expanded in the future to include a list of statekholders the program participants should consult. Additionally, HUD notes that when conducting community participation, PHAs, and all program participants, must comply with the fair housing and civil rights requirements specified at 24 CFR 5.158, and encourages program participants to consider all audiences, especially those who may be impacted by their planning documents and who may not have had prior opportunities to share their feedback with the PHAs.

Waiting lists concerns. Commenters stated that most, if not all, housing authority developments exist in impacted areas so any waiting list applicant could be greatly impacted. The commenters opposed inclusion of data from families on the waiting list in completing the AFH since this information has not been verified and is limited, so it's difficult to make assumptions about any relevant factors related to the AFH. Commenters stated that some data is available for individuals on the waiting list, but commenter questions the relevancy as those on the list may need to wait years and circumstances may change. HUD should clarify the purpose it feels this serves. Other commenters stated that applicants apply for housing based on their desire to live in a specific area for a number of reasons, and data collected from the waiting list may not give all the needed information to provide an accurate analysis for fair housing. Another commenter stated that PHAs do not have historic waiting list data (data beyond the record retention period). The commenter stated that PHAs have data on households on waiting lists that include household members, disability status, student status, race, and ethnicity, and that waiting list household data is self-reported and not verified by PHA staff. A commenter stated that a PHA operates with multiple waiting lists, and that PHAs do not treat waiting list's data uniformly and have different amounts of information and may verify at different times. A commenter stated that it does not believe that analyzing individuals on the waiting list will yield useful information in fair housing planning because the demand for affordable and federally assisted housing far exceeds the supply, and families may be unable to move for reasons other than the PHAs action or inaction. Another commenter stated that certain types of tenant selection and waiting list management policies can have a discriminatory impact on persons in protected classes by making it more difficult for out-of-town families to gain admission or by creating barriers to people with disabilities. A commenter stated that if the tool is going to seek information on waiting lists, it should ask: If the PHA requires in-person applications at the PHA office or if applications can be obtained by mail or online or at multiple locations; if applications only accepted online, if the PHA uses a first-come first-served waiting list, or a lottery to determine placement on the waitlist; if the PHA keeps the waitlist open for a long enough time to permit applicants from outside the service area to apply; if the PHA applies any local preferences for program admission, and, if so, to describe; and how the PHA makes information available to people with limited English proficiency, and what accommodations it makes for people with disabilities.

HUD Response: HUD understands the limitations with respect to the information PHAs may have regarding the demographics of those individuals or households on the PHA's waiting list, and HUD has removed language related to this as a result of the commenters' suggestions. However, HUD notes that this information would be considered local data and local knowledge for purposes of conducting the AFH, and that information would have to meet the criteria set forth in 24 CFR 5.152 and the instructions to the Assessment Tool in order for its use to be required. Further, HUD notes that information about the PHA's waiting list may be provided as part of the community participation process. HUD appreciates the recommendations relating to information that should be sought with respect to waiting lists. While HUD is still requiring this analysis in parts of the Assessment Tool, HUD has reduced the number of questions that ask for analysis of the PHA's waiting list. Specifically, HUD has removed the waiting list references in the policy questions in the Disparities in Access to Opportunity section.

HUD will continue to consider whether additions of these sorts of questions to the Assessment Tool would be beneficial for conducting a meaningful fair housing analysis of the PHA's service area and region.

Suggestions for analyzing disparities in access to opportunity. Commenters offered several suggestions to the Disparities in Access to Opportunity section. With respect to Education, commenters stated that HUD should provide a clearer explanation of what the School Proficiency Index, stating that the AFFH data documentation fails to mention protected characteristics with respect to the School Proficiency index, so the relationship between it and the protected class status is left unclear. A commenter stated that HUD should define ''attendance areas'' and briefly explain how attendance areas are determined in the instructions, and that any explanation concerning the School Proficiency Index should differentiate between proximity to proficient schools and actual access to proficient schools. The commenter stated that the index has serious limitations since it is determined only by the performance of 4th grade students on state exams and, in some cases, in schools that are only within 1.5 miles of where individuals in protected groups are located. Another commenter stated that question iii(1)(a)(iii) should not be limited to prompting discussion about access to proficient schools by protected class members who are public housing residents, voucher tenants, and families families on the waiting lists for these programs for these programs, but instead should ask about those who still experience disparities in educational outcomes, such as graduation rates, test scores, and other performance measures. The commenter stated that instructions should specifically ask about disparities in educational outcomes for students who attend proficient schools.

With respect to employment, a commenter stated that the tool should ask PHAs to describe actions complying with Section 3 obligations and a description, if appropriate, of planned efforts to overcome underperformance. Another commenter stated that the job proximity index does not take into account the skill level needed for jobs or the jobs that are actually available so therefore just because individuals in a protected group may live in area close to jobs, it does not necessarily mean that they have better access to job opportunities. The commenter stated that HUD should find a means by which to measure other forms of human capital, such as prior job experience, skills, or training.

With respect to transportation, a commenter stated that it is unclear how the low transportation cost and transit trips indices provide information on access to transportation by protected groups because of several factors including the absence of key maps (such as a map of residency patterns of protected groups overlaid by shading showing transportation access at the neighborhood level) and a lack of clarity on what the low transportation cost index measures. The commenter stated that the two variables from the instructions (low transportation cost index measures the ''cost of transport and proximity to public transportation by neighborhood'') seem different from each other because it's possible for individuals have relatively low transportation costs (higher score) and no proximity to public transit (lower score), as when there is no public transit available and people drive short distances to work. The commenter asked that, in these situations, how one index score can measure two variables that can be very different from each other. The commenter stated that since the transit index scores only measures the frequency of transit use, these scores do not measure transportation access. Another commenter stated that in the transportation opportunities section, the language ''connection between place of residence and opportunities'' should be restored, since access to transit alone is not enough if it does not connect residents to opportunities.

With respect to access to low poverty neighborhoods, a commenter stated that there are limitations to the low poverty index because the calculation method compares national and tract-level data, making it unsuitable for judging the relative position of a tract in a city or region. The commenter stated that the instructions refer to a Question (1)(d)(iv) that does not exist. With respect to access to environmentally healthy neighborhoods, a commenter stated that this data is limited since it only covers air toxins, is outdated, and according to the EPA, is only valid for large geographic areas, like regions and States. Another commenter stated that in the access to environmentally healthy neighborhoods section, there should be a specific question about the access of families in PHA programs to environmentally healthy neighborhoods and whether they are disproportionately exposed to environmental hazards and undesirable land uses. PHAs should be required to discuss indicators of environmental health based on local data and knowledge because it is not burdensome to acquire. Another commenter stated that limiting the required analysis of environmental hazards to the air quality data provided by HUD renders the analysis incomplete and misleading, and participants must be required to analyze other indicators from local data. The commenter presented three specific examples within the State of Texas to illustrate this point. The commenter stated that vulnerability to the effects of a natural disaster should also be considered as part of the environmental hazards assessment.

HUD Response: HUD appreciates all of the suggestions related to the data on disparities in access to opportunity, and in response to these comments, HUD no longer requires that such indices be reviewed by PHAs, although they may choose to refer to the indices. HUD also recognizes that the data provided has certain limitations, which are explained in the instructions to the Assessment Tool, the AFFH Rule Guidebook, and the Data Documentation, available at *https://www.hudexchange.info/resource/4848/affh-data-documentation/.* HUD has rewritten the questions in the Disparities in Access to Opportunity Section to more specifically address the HUD provided data that will offer the most utility in conducting this analysis, specifically the HUD-provided maps. While the opportunity indices will still be available for PHAs to use, only the maps are now required to be analyzed to complete this analysis. Through using the maps, PHAs can see where areas of opportunity are for the various opportunity categories and how they relate to their residents by protected class groups (race/ethnicity, national origin, families with children).

Addtionally, HUD has changed the policy related questions to emphasize that PHAs' analysis will rely on community participation, any consultation with other relevant government agencies, and the PHA's own local data and local knowledge. HUD encourages program participants to use local data and local knowledge to supplement the HUD-provided data where such information meets the criteria set forth at 24 CFR 5.152 and in the instructions to the Assessment Tool. HUD will continue to evaluate whether it is feasible to provide additional or other data with respect to disparities in access to opportunity in manner that would be nationally uniform and facilitate a meaningful fair housing analysis.

With respect to the suggestion to include a question about educational outcomes for students who attend proficient schools, HUD believes that while this is an important analysis to undertake, it is beyond the scope of the Assessment of Fair Housing. HUD, however, encourages program participants who wish to include such information in their analysis to do so.

HUD has also re-phrased the question in the transportation section of the Disparities in Access to Opportunity section of the Assessment Tool raised by the commenters. That question now asks, ''For the protected class group(s) HUD has provided data, describe how disparities in access to transportation relate to residential living patterns.''

HUD also appreciates the commenters concerns about the environmental health index's limitations. In order to provide for a more robust assessment relating to access to environmentally healthy neighborhoods without imposing additional burden on program participants, HUD has included additional contributing factors for consideration, such as ''access to safe, affordable drinking water'' and ''access to sanitation services.'' HUD encourages program participants to include other relevant environmental hazards in their analysis or in identifying contributing factors.

Comments on Publicly Supported Housing. Commenters stated that in the section on ''Other Publicly Supported Housing Programs'' there should be a question or data reporting opportunity that looks at the overall concentration of assisted housing in particular neighborhoods. Other commenters stated that the Publicly Supported Housing Analysis section emphasizes questions concerning the location and occupancy of publicly supported housing, with limited questions about access to opportunity by residents, and no questions about disproportionate housing needs specific to the context of publicly supported housing. Another commenter stated that this section should ask about access to community assets (including proficient schools, transportation, employment, social services, green space, job training, and community centers) by residents of public housing, such as amenities within and in close proximity to publicly supported housing developments. Another commenter stated that this section does not touch on issues such as access to supportive or other services by residents of publicly supported housing. The commenter stated that currently, PHAs would put this information in the ''Additional Information'' section but featuring such questions more prominently is likely to get the it thinking about the ways in which the PHA and other publicly supported housing in the PHA's service area and region are themselves providing access to opportunity via promoting access to community assets and other necessary services. Another commenter stated that under the Publicly Supported Housing Analysis, the tool should ask how many individuals are turned away from public housing because of prior evictions and how many of these prior evictions are due to non-payment of rent or other factors that are not indicative of relevant qualifications.

HUD Response: HUD appreciates these suggestions from commenters, and will consider improved ways to structure this section that will solicit the appropriate level of information from PHAs and is the least burdensome. Also, since PHAs must conduct an analysis of disparities in access to opportunity and disproportionate housing needs in prior sections of the Assessment Tool, HUD did not want to add duplication of effort to the publicly supported housing section. HUD also notes that information relating to prior evictions, non-payment of rent, or other qualifications relating to admissions and occupancy policies of PHAs are assessed through the contributing factor of ''admissions and occupancy policies and procedures, including preferences in publicly supported housing.'' HUD also notes that information relating to whether eligible individuals or households are able to access publicly supported housing could be obtained through the community participation process.

Comments on Public Housing Agency Program. A commenter stated that in the section on ''Public Housing Agency Program Analysis'', PHAs should be asked whether tenants in RAD developments have been informed about their choice/mobility rights, and whether the PHA has offered tenants any assistance in making moves to lower-poverty areas. Another commenter stated that the location of project-based voucher developments should be analyzed separately from the location of tenant-based vouchers because of important fair housing issues related to site selection of PBVs. The commenter stated that the simplest approach would define the ''PHA's developments'' to include developments where the PHA has project-based vouchers in addition to properties the PHA owns. The commenter stated that this can be incorporated in Part D(1)(b)(i) on pg. 9 of the tool and the explanation of Publicly Supported Housing Analysis beginning on page 27 should also include specific references to PBVs.

A commenter stated that PHAs should be asked to evaluate their programs in terms of addressing sexual harassment, related to domestic violence, and the location of senior and family housing developments and demographics of these developments. Another commenter stated that even though sexual orientation, gender identity, and marital status are not unequivocally covered by the Fair Housing Act, they are protected from discrimination in HUD's Final Rule on Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity, so PHAs should be required to analyze barriers to fair housing choice affecting these populations. A commenter stated that PHAs should be required to do an analysis of their policies and procedures regarding persons re-entering from the criminal justice system, to evaluate the condition and maintenance needs of its properties by geographic area and demographics of each property, and to analyze their homeownership programs as well as their rental programs.

HUD Response: HUD appreciates the recommendation regarding mobility and RAD, and will consider whether they are appropriate to the analysis, while also considering the level of burden in completing the AFH. HUD also appreciates these comments and agrees with the commenter that an assessment of a PHA's programs in terms of addressing sexual harassment, related to domestic violence, and the location of senior and family housing, including the demographics of those developments is critical when conducting a fair housing analysis. HUD has added the contributing factors of ''involuntary displacement of survivors of domestic violence,'' ''nuisance laws,'' and ''lack of safe, affordable housing options for survivors of domestic violence.'' Additionally, HUD notes that some of the HUD-provided data includes the demographics of families with children and elderly households in certain types of assisted housing.

Comments on Fair Housing, Enforcement, Outreach Capacity and Resources Analysis. In the section on ''Fair Housing Enforcement, Outreach Capacity, and Resources Analysis'' the reporting of fair housing complaints and investigations should include any consent decrees, settlement agreements, or Voluntary Compliance Agreements that are still in effect. Another commenter stated that under Fair Housing compliance and infrastructure, include questions on enforcement of discrimination against victims of domestic violence under VAWA. Another commenter stated that Question (c)(v) of the Fair Housing Analysis of Rental Housing subsection should acknowledge the risk of losing access to opportunity for other publicly supported housing residents besides HCV households. The commenter stated that this question should also include a prompt that acknowledges the risk of

losing access to opportunity through unwanted displacement. The commenter stated that a third prompt should read, ''Are at risk of losing affordable rental housing units, including a landlord's choice to end participation in the Housing Choice Voucher program, or loss of affordability restrictions in other publicly supported housing programs (*e.g.,* opting-out from a project-based Section 8 contract).'' A commenter stated that HUD should require the PHA to briefly explain its efforts to comply with HUD's LEP guidance and to otherwise provide meaningful access to LEP populations. The commenter stated that this section should include questions that ask the PHA to briefly explain its efforts to serve domestic violence and sexual assault survivors, including steps it has taken to comply with VAWA.

HUD Response: HUD thanks the commenters for these recommendations. HUD notes that the question relating to civil rights compliance does include consent decrees, settlement agreements, or voluntary compliance agreements that are still in effect. HUD declines to add enforcement against discrimination against victims of domestic violence under the Violence Against Women Act to this section, but notes that it has added certain contributing factors to prior sections of the Assessment Tool, as noted above. HUD has also added the contributing factor of ''Lack of meaningful language access'' to the publicly supported housing section of the Assessment Tool to allow PHAs to assess their efforts to comply with HUD's LEP guidance and their efforts to provide meaningful access to LEP populations.

Comments on disproportionate housing needs. Commenters stated that the section on disproportionate housing needs should include data and analysis on the population of people experiencing homelessness that are currently un-housed. A commenter stated that specifically reference the commitments the US made during the Universal Periodic Review to invest further efforts in addressing the root causes of racial incidents and expand its capacity in reducing poverty in neighborhoods experiencing subpar services and amend laws that criminalize homelessness that are not in conformity with international human rights. Another commenter stated that under disproportionate housing needs the tool should ask for a description about laws that may impact victims of domestic violence. A commenter suggests that PHAs can use information regarding survivors that they are already required to report under federal and local laws, since VAWA mandates that PHAs are required to include address the housing needs of survivors in their planning documents. A commenter stated that when discussing affordability of housing units in the definitions section and throughout, it is important to clarify that it is not enough to have units that are affordable at 80% area median income or other moderate incomes.

HUD Response: HUD appreciates these comments. HUD has added the contributing factor ''Access to public space for people experiencing homelessness'' to the disproportionate housing needs section. HUD will continue to evaluate the feasibility of providing data on homelessness such that it will facilitate a meaningful fair housing analysis. As previously stated in this Notice, HUD has added three contributing factors relating to victims of domestic violence. HUD notes that certain data it is providing include demographic data based on income eligibility for certain HUD assisted housing, and those data are provided for 30%, 50%, and 80% AMI income levels.

Comments on Instructions. A few commenters stated the instructions that accompany the tool are adequate, but other commenters stated that the instructions are not effective as there are over 2 pages of instructions per page of the tool and they are repetitive and internally inconsistent. The commenters offered, as an example, that HUD quotes regulatory language concerning the character of acceptable local data without providing guidance on the standards HUD will use to determine its statistical validity or an objective standard. The commenters stated that the instructions are also hard to navigate and it is time consuming. Commenters offered various wording changes for specific instructions, but many commenters stated that what would be most helpful is for HUD to provide examples.

Commenters stated that the instructions should offer examples of likely sources of local knowledge important to residents, such as university studies and experiences of advocacy organizations, service providers, school districts, and health departments. Commenters stated that the instructions should provide examples of local knowledge such as efforts to preserve publicly-supported housing, community-based revitalization efforts, public housing Section 18 demolition or disposition application proposals, RAD conversion proposals, transit-oriented development plans, major redevelopment plans, comprehensive planning or zoning updates, source of income ordinance campaigns, and inclusive provision campaigns. Other commenters stated that the instructions should provide examples of real strategies that PHAs could employ to obtain the information necessary to answer the questions that require the use of local data and should draw connections between a specific opportunity indicator and the PHA where a particular indicator intersects with existing PHA operations. A commenter stated that would be most helpful is for thud to provide a complete sample AFH to show the level of analysis required.

Another commenter stated that the instructions should provide clear guidance on how PHAs should read the tables with indices that are organized by protected group. A commenter stated that a shorter pamphlet that explains the difference between the tools and provides links to other sources of information would be useful.

HUD Response: HUD thanks the commenters for their feedback. HUD has provided additional clarifying language to the instructions with respect to the use of local data and local knowledge. HUD also understands the difficulty with the format of the Assessment Tool and the instructions coming at the end. HUD notes that it intends to provide PHAs, as it has done for Local Governments, with an online portal (User Interface) that will allow for electronic submissions and will provide the instructions for each question immediately before the question itself. HUD anticipates that this format will be more user-friendly for PHAs.

HUD declines to provide additional examples of local data and local knowledge in the instructions at this time, but notes that examples are provided in the AFFH Rule Guidebook. The AFFH Rule Guidebook also offers guidance relating to the community participation process and may be useful to PHAs in soliciting views relating to the issues commenters raised above. HUD also notes that it will continue to provide guidance, technical assistance, and training, as needed and appropriate with respect to the use of HUD-provided data in order to build capacity of PHAs so that they may conduct a meaningful fair housing analysis.

QPHA Collaboration. Commenters stated that, in reviewing the goal of the assessment tool, the collaborating organizations need current data to enable them to fairly assess the data and provide a good plan in addressing the need for housing in areas of opportunity. A commenter stated that it believes small agencies will find collaboration generally the most

acceptable way to fulfill their AFH responsibilities although still notes the complexity and lack of current information. Another commenter stated that it plans to collaborate with the local government in submitting its tool so the collaborating organizations can plan and implement a comprehensive approach to fair housing. The commenter stated that since the PHA has no jurisdiction over certain conditions in the municipality, such as transportation and education, in the absence of a partnership a PHA would be limited in its ability to conduct meaningful fair housing planning. Another commenter stated that it believes that most PHAs will collaborate with local governments because they are most likely to have had pre-existing relationships with PHAs.

A commenter stated that it does not intend to submit a joint AFH, but that it will work with entities including the state Department of Housing and Community Development, local governments, and PHAs in the sharing of data resources and local knowledge. Another commenter stated that some of its PHA members would not be collaborating with other entities at all. The commenter stated that they are concerned about problems such as fear of free riders, the prospect of one entity slowing down the entire collaborative process, and the difficulty of collaborating in some rural areas where the entities may not be geographically proximate. Another commenter stated that it would take at least an additional 33 percent of the estimated time to complete an AFH for collaborative efforts. The commenter stated that HUD should account for the fact that if a PHA determines that it makes the most sense to complete the PHA tool on their own, they will still be expected to participate in their local jurisdiction's AFH for aspects related to PHA-specific issues which adds to the administrative hours.

HUD Response: HUD thanks the commenters for their views related to QPHA collaboration. HUD also appreciates the commenter sharing that it will work with entities including the state Department of Housing and Community Development, local governments, and PHAs despite not collaborating with another program participant. However, HUD maintains its position and encourages collaboration to the extent practicable. In fact, HUD has provided a sample agreement in the AFFH Guidebook that includes language stipulating what each entity will be responsible for, which may alleviate any confusion or lack of contributions within the collaboration.

Facilitating QPHA Collaboration. A commenter stated that HUD should do more to encourage PHAs to prepare joint AFHs by providing clearer guidance, incentives, and funding. The commenters stated that, in particular, HUD should clarify which PHAs should complete an AFH on their own and which PHAs should submit jointly with other neighboring PHAs or local government entities. The commenters stated that, for example, a PHA with less than 250 units who participates in a joint AFH might be eligible for additional technical assistance, time, and the ability to sync their PHA plan with neighboring PHAs to encourage cooperation and joint strategies. Another commenter stated that HUD staff would have to review and accept in a timely manner 3,153 PHAs' AFHs and over 1,200 local jurisdictions' AFHs, so having PHAs submit joint AFHs will assist HUD in reviewing them.

A commenter stated that increased data flexibility and integration across tables and maps would support individual and joint PHA analysis. Another commenter stated that it is the coordinating State agency for CPD formula HUD funding in the State and anticipates completing the AFH using the tool for States. The commenter stated that it is also a PHA and as a PHA it exceeds to the voucher limit noted in the rule for being a QPHA eligible for collaboration with the state. The commenter stated that in the event that the State would like to have its tool serve as a collaborative submission inclusive of itself as a PHA, it is not clear that this is possible. The definition of QHPA should be clarified to denote that states that are, themselves, PHAs are included as QPHAs regardless of voucher volume and are able to be collaboratively included in the state tool if the state desires in order to avoid a duplication of effort.

A commenter stated that HUD should incentivize collaboration by providing more resources and more time to complete a full assessment when collaborating with other entities. Another commenter stated that the most important issue here is the divergence of questions between the PHA Assessment Tool and the Local Government Assessment Tool. The commenter stated that if there is a proposed collaboration between a PHA or PHAs and a local jurisdiction, it should be made clear that the cumulative questions in both AFHs should be applied to the collaboration, so that key information is not omitted based on which entity is the ''lead.'' The commenter stated that an easy way to accomplish this would be a new AFH collaborative tool that incorporates all of the questions and data in both the PHA and local jurisdiction tools. Another commenter stated that a new collaborative tool will be useful and suggests that HUD should make it clear that all questions from the PHA Assessment Tool and the Local Government Assessment Tool must be answered in a collaborative AFH, but also that each entity does not have to do a separate analysis when questions are duplicative.

HUD Response: HUD appreciates all of the commenters' suggestions regarding how to best facilitate QPHA collaboration. HUD is not able to direct certain types of program participants to collaborate on an AFH, as the regulation, at 24 CFR 5.156, makes clear that such collaboration is entirely voluntary. HUD also clarifies that the use of the Assessment Tool for PHAs is meant for use by PHAs conducting and submitting an AFH alone or with other PHAs, including QPHAs. The Assessment Tool for Local Governments is intended for use by local governments conducting and submitting an AFH alone, or with other local governments, or with PHAs, including QPHAs. Finally, the Assessment Tool for States and Insular Areas is intended for use by States or Insular Areas conducting and submitting an AFH alone, with local QPHAs partnering with the State, with local governments that received a CDGB grant of $500,000 or less in the most recent fiscal year prior to the due date for the joint or regional AFH in a collaboration with the State, or with HOME consortia whose members collectively received less than $500,000 in CDBG funds or received no CDBG funding that partners with the State. HUD will continue to explore ways to facilitate meaningful collaborations among all types of program participants. The questions in each of those Assessment Tools are specifically designed to include the required analysis for each type of program participant, should that type of collaboration occur. HUD has also committed to issuing an Assessment Tool for QPHAs that choose to conduct and submit an AFH individually, or as part of a collaobartion with other QPHAs.

At this time, HUD is not able to offer specific incentives to entities that choose to collaborate, but notes that doing so could provide for burden and cost reduction when completing an AFH. Additionally, collaboration could result in more robust goals to tackle the fair housing issues affecting the jurisdictions and regions of all program participants in the collaboration.

Specific Issues for Comment

1—Content of the Assessment Tool

1a. Does the structure of adding a specific focus on PHA programs better facilitate the fair housing analysis PHAs must conduct, or should these questions be combined with the ''Other Publicly Supported Housing Programs'' subsection, using the structure that was similar to the Local Government Assessment Tool?

Several commenters stated that the two new subsections in the tool would provide better data for accurately identifying fair housing need within the PHA's county. The commenters stated that PHAs have the knowledge within their agencies to provide data on program operations, development, and assisted residents within their jurisdiction. The commenters also stated that information would definitely benefit the overall fair housing analysis. The commenters also stated that the tool should be as detailed as possible because it will be the working template and ultimate document that PHAs, residents, and advocates will be working with on a frequent, operational basis. The commenters stated that the assessment tool, along with detailed guidance, providing direction echoing the final rule would minimize the need for stakeholders to toggle between the final rule, guidance, and the tool. A commenter agreed with these commenters and stated that many of the questions should also be included in the local government tool.

A commenter stated that the tool does a good job focusing on all aspects of housing in a community, taking into account issues of segregation, concentrated areas of poverty, opportunity areas, transportation, health, education, disability services, and more. The commenter stated that while some items do not apply to its location and other items could be added, the tool overall is successfully arranged and allows for the input of local information, recognizing that not every community is the same. The commenter stated that assessment completed well and completely will be a meaningful document that PHAs can use to AFFH in their communities.

Another commenter expressed agreement with HUD's decision to include separate subsections because these programs raise different fair housing issues. The commenter stated that a PHA has considerable discretion in public housing admissions while its role as administrator of the Section 8 program limits its ability to affect private owner's rentals. The commenter stated that, although a PHA may urge voucher holders to see housing in areas of opportunity, it cannot ordinarily compel a private owner to rent to a voucher holder, so it is important to assess both of these programs separately from a fair housing planning perspective. Other commenters stated that there is significant overlap in the questions asked in these sections and HUD should revaluate both and consider condensing into one. One of the commenters stated that HUD must not add questions to the tool but should instead remove questions that are irrelevant to PHA's authorities, jurisdictions, and capacities, and streamline the tool.

HUD Response: HUD appreciates these comments relating to whether the PHA's program should be analyzed separately from the other publicly supported housing programs included in the Assessment Tool. At this time, HUD has decided to keep these two subsections separate to best facilitate the analysis for PHAs with respect to their programs. Additionally, HUD notes that in order to set appropriate and meaningful fair housing goal, PHAs must assess issues over which they may not have control in order to fully understand what fair housing issues are present, what contributing factors are present, and how the PHA can best overcome them.

1b. Will conducting the new ''Fair Housing Analysis of Rental Housing'' for all PHAs result in a more robust analysis of fair housing in the PHA's service area and region, even for PHAs that only administer public housing? Should this section only apply to PHAs that administer HCVs?

Commenters stated that a small PHA that has only an HCV program will not benefit from the tool and will not ultimately provide better services/opportunities for low-income families. A commenter stated that one of the most significant barriers to affirmatively furthering fair housing is the Fair Market Rent (FMR) system in which HUD's FMR is defined as the dollar amount below which 40 percent of the standard-quality rental housing units are rented in an area. The commenter stated that by definition, this limits the areas where HCV participants can move and confines them to areas where there may be fewer standard-quality rental housing. Another commenter stated that for PHAs operating public housing only their properties are where they are and were sited with HUD approval. The commenter stated that until federal resources become available for development or recapitalization of deeply affordable housing, a robust analysis will have no outcomes of interest. The commenter stated that PHAs may already have deep knowledge of the rental housing in their communities although a PHA may not meet HUD's data standards or formats. The commenter stated that HUD already has knowledge of Federally supported assisted housing properties. A commenter agrees since PHAs that only administer public housing have only fixed units so the utility of doing an analysis of the surrounding renal market is negligible.

Other commenters stated that to better define and provide accurate information for a Fair Housing Analysis of Rental Housing in a PHA's service area, there should be data collection for both public housing and HCV. The commenters stated that, in some cases, the PHA administers both programs with the HCV units outnumbering PH units, and that HCVs can be used anywhere within the jurisdiction of the county and by analyzing both programs, the data will show where is a need to increase fair housing opportunities. The commenters stated that requiring PHAs that only administer public housing to complete this is consistent with other sections of the AFH that may not directly relate to public housing specifically, doing so is informative to the rest of the analysis and may further inform identification of contributing factors, and asking these PHAs to answer five additional questions is not an undue burden. Another commenter stated that the request to ''describe how rental housing, including affordable rental housing in the service area and region, has changed over time'' in this section should be removed since the utility gained is marginal. The commenter stated that change in affordable rental housing over time is not nearly as important as the current status of the market and location of rental housing, and the time spent answering this question will be excessive.

HUD Response: HUD appreciates these comments related to the fair housing analysis of rental housing subsection. HUD has decided that the section will apply only to PHAs that administer Section 8 Housing Choice Vouchers. HUD will continue to consider comments and suggestions for improving this section of the analysis that was intended to be tailored specifically to inform PHA program operations.

1c. Has HUD identified the most relevant contributing factors for PHAs for purposes of conducting a fair housing assessment and setting fair housing goals and priorities?

Several commenters affirmed that HUD had identified the relevant

contributing factors for PHAs. A commenter stated that it ''firmly believes the new contributing factors added by HUD for the fair housing analysis are excellent.'' Another commenter stated that these are the main questions that need to be answered as to why housing options can be limited for voucher holders and the need to expand housing options to low-income people.

A commenter recommended adding the following contributing factors to ensure PHAs consider the same major barriers to opportunity for people with disabilities as for other protected classes: Community opposition; Location and type of affordable housing; Occupancy codes and restrictions; Private discrimination; Access to financial services; Access to federally qualified health clinics and other healthcare settings often used by low-income individuals; Availability, type, frequency and reliability of public transportation; Lack of state, regional or other intergovernmental cooperation; Admissions and occupancy policies and procedures including preferences in publicly supported housing; Impediments to mobility; Lack of private investment in specific areas within the State; Lack of public investment in specific areas within the State including services and amenities; Siting selection policies, practices and decisions for publicly supported housing; Source of income discrimination; Access to schools that are accessible to students and parents with disabilities and proficient in educating students with disabilities in integrated classrooms; Access to employment opportunities; Access to low poverty areas; Access to environmentally healthy areas within the PHA. Another commenter expressed concern that the contributing factor in Section 7 regarding access to proficient schools for persons with disabilities will be interpreted to refer to segregated schools for individuals with disabilities, and suggests it be revised to read: Access to schools that are accessible to students and parents with disabilities and proficient in educating students with disabilities in integrated classrooms. The commenter stated that for each set of CFs, add ''local governments or the state unwilling to promote source of income legislation, or poor enforcement where source of income ordinances exist.'' The commenter further made the following recommendations: For the segregation and R/ECAP CFs, add: Impediments to mobility, impediments to portability, policies related to payment standards, FMR, and rent subsidies; for ''Publicly Supported Housing'' add: ''past and present'' to the site selection factor after asking for ''policies, practices, and decisions,'' and ''displacement of residents due to economic pressures, causing landlords to exit the HCV or Section 8 Programs.'' Another commenter stated that it believes the new contributing factors (such as restriction on landlords accepting vouchers, impediments to portability, policies related to payment standards, FMR, rent subsidies, etc.) in the Publicly Supported Housing section are appropriate because they are related to housing. The commenter stated that HUD should add ''complexity of federal regulations'' as a contributing factor since this one of the primary reasons that many landlords do not participate in the HCV program. The commenter stated that PHAs should be asked directly the extent to which they are contributing to segregation and concentration of poverty in the service area and region (in the initial CF section on page 3), even though PHAs are already required to do this to truthfully certify that they are eligible for federal funds. The commenter stated that HUD should require analysis of data and certain types of laws and policies that impact homeless and high need populations as part of the factors that contribute to segregation/integration, R/ECAPs, disparities in access to opportunity, and disproportionate housing needs because these laws and policies that criminalize homelessness and zoning or other regulatory laws facilitate segregation. The commenter further recommended the following: ''Access to public space for people experiencing homelessness'' should be added as a contributing factor; HUD should create a factor that mirrors ''regulatory barriers to providing housing and supportive services for persons with disabilities'' to address laws that restrict or allow provision of services to persons experiencing homelessness; add ''nuisance laws''; add ''reliance on eviction history to make acceptance decisions.''

A commenter stated that contributing factors should be modified so they are more closely tied to an analysis that is relevant for PHAs. The commenter stated that the reference to vouchers in the community opposition should be expanded to include opposition to proposed measures to prohibit source of income discrimination. The commenter stated that the description for ''lack of regional cooperation'' should reference any existing failure among PHAs within a region to cooperate in facilitating the portability of HCV holders who seek to relocate from the jurisdiction of one PHA to another, or the ''impediments to mobility'' and to ''portability'' should be included in the sections focusing on R/ECAPs, segregation, and disproportionate housing needs. The commenter further stated that the ''location and type of affordable housing'' description should reference the location of HCV households.

A commenter stated that impediments to portability should include reference to the fact that family members can be terminated from the voucher program upon moving to a new jurisdiction based on a member's criminal history record. The commenter recommended that HUD should add, ''policies related to payment standards, FMR, and rent subsidies'' for both segregation and R/ECAPs. The commenter stated that the description of this contributing factor should include reference to PHA policies and practices regarding rent reasonableness determinations in the context of the Voucher program. The commenter requested that the ''restrictions on landlords accepting vouchers'' contributing factors should be re-named ''Barriers imposed upon Landlords who wish to rent to Voucher holders.''

Another commenter expressed support for the addition of the three new contributing factors in disparities in access to opportunity. The commenter stated that low FMRs and payment standards in costly rental markets can prohibit mobility and portability so this should be reflected in the definitions of ''impediments to portability and ''policies related to payment standards, FMR, and rent subsidies.'' The commenter made the following recommendations: That HUD add to the disparities in access to opportunity contributing factors—source of income discrimination, lack of job training programs, and lack of affordable childcare; HUD add to the disproportionate housing needs contributing factors—involuntary displacement of survivors of domestic violence, source of income discrimination, high housing costs on the private market, and policies related to payment standards, FMR and rent subsidies; for the disabilities and access section, add ''failure to provide reasonable accommodations as a new contributing factor with its own description instead of just referenced in the ''private discrimination'' factor; add the following possible contributing factors to the Publicly Supported Housing Analysis section: (1) Lack of meaningful language access; (2) Discrimination against LGBT

individuals and families; (3) Lack of safe, affordable housing options for survivors of domestic violence; and (4) Displacement of residents due to economic pressures (existing contributing factor appearing in other analysis sections of the Draft PHA Tool). The commenter stated that the description for the contributing factor ''Land Use and Zoning laws'' lists inclusionary zoning alongside policies which can be used to limit housing choice which is confusing, so it should read ''lack of inclusionary zoning practices'' instead.

Several commenters stated that the contributing factors analysis should be removed from the tool. The commenters stated that it is not possible to answer these questions with statistical validity on the relationship between possible contributing factors and the impact on fair housing issues. They said that this will result in highly speculative and subjective answers. Another commenter suggested leaving this for local governments instead of PHAs. The commenter stated that PHAs have no influence on local zoning or planning policies. A commenter stated that unless the PHA works in collaboration with a municipal or state partner, analyzing these factors may be of limited utility. Another commenter stated that the tool should only suggest contributing factors that are housing-related because other ones are outside of the PHA's expertise.

HUD Response: HUD appreciates all of the commenters' recommendations relating to contributing factors. HUD has added several new contributing factors, ''lack of public and private investment in specific neighborhoods'' (previously two separate factors, and includes access to santition services, among others), ''nuisance laws,'' ''lack of meaningful language access,'' ''lack of access to opportunity due to high housing costs'' and ''lack of job training programs''.'' HUD has also included certain contributing factors that were previously listed in other sections of the Assessment Tool in the Disability and Access section. HUD has added to some of the existing descriptions of contributing factors, including language related to homelessness, domestic violence, environmental health (*i.e.,* safe and clean drinking water) lack of source of income protections, and FMRs or other payment standards.

HUD again notes that in order to best understand the fair housing issues affecting the PHA's service area and region, PHAs must take a holistic approach in analyzing their fair housing landscape in order to set appropriate goals that will allow the PHA to take meaningful actions that affirmatively further fair housing. This approach includes the identification of contributing factors that are creating, contributing to, perpetuating, or increasing the severity of one or more fair housing issues in the PHA's service area and region. HUD acknowledges that PHAs may not be able to overcome all contributing factors due to their limited scope of operations and resources; however, PHAs must still have an understanding of those contributing factors in order to set goals for overcoming the related fair housing issues.

1d. Does the reordering of the sections, so that Disability and Access comes before the analysis of Publicly Supported Housing better facilitate the PHA's fair housing analysis?

A commenter stated that by reordering the sections so that Disability and Access comes before the analysis of Publicly Supported Housing, it will benefit HUD to show where this type of housing is needed and if the PHA's provide sufficient housing options for the disabled population, but another commenter expressed a firm no to this question.

Another commenter stated that HUD needs to add additional questions to the Disability and Access section of the Tool to facilitate the PHA's fair housing analysis. The commenter stated that HUD regulations at 24 CFR part 8 require programmatic access to HUD assisted housing and 24 CFR 8.25(c) requires PHAs to assess the need for accessible units. The commenter stated that HUD should add questions to ascertain that the PHA has met the specific requirements of these sections, including asking related to whether data provided by HUD indicates that people with disabilities have equal access to PHA programs, whether the PHA completed a needs assessment and transition plan, whether the PHA has a written accommodation policy, whether the PHA makes its application process accessible, whether the PHA encourages participation by owners, whether PHAs provide a list of accessible units to families receiving a voucher when a family member has disabilities, and whether the PHA requires applicants who do not require the accessibility features of a unit to sign an agreement to move to a non-accessible unit when available.

Other commenters stated that under the Integration of Persons with Disabilities Living in Institutions and Other Segregated Setting section, HUD should include the following: under Question 3c, ''describe any pending or settled Olmstead-related law suits, settlements or Olmstead initiatives not involving litigation''; Question C(2) should include a question about PHA compliance with the requirement to provide effective communication to persons who experience disabilities, and the question should read, ''How do PHA personnel and building staff engage in effective communication with applicants and residents who experience disabilities?'' The commenter stated that the accompanying instructions should ask the PHA to answer this question using any available local data or local knowledge, and that Question C(2) should include a question about wait list times for accessible units that are administered by the PHA, which should read as follows: Is there a wait list for units accessible to people with different types of disabilities? If so, describe the average wait times for each type of accessible unit.'' The commenter stated that the accompanying instructions should ask the PHA to answer this question using any available local data or local knowledge.

HUD Response: HUD appreciates the recommendations of the commenters related to the Disability and Access section of the Assessment Tool. Currently, HUD has left the ordering of the sections unchanged, and the Disability and Access section will continue to precede the Publicly Supported Housing section of the analysis.

HUD has added two questions to the housing accessibility subsection of the Disability and Access section, which both relate to how PHAs and their staffs engage with persons with disabilities and how waiting list policies affect persons with disabilities, including preferences, program selection, placement determination, application method, length of time the application window is open, and the average wait list time.

2—Identifying PHA Service Areas

2a. HUD seeks comment on an efficient manner in which HUD could use to obtain information about each PHA's service area without causing unnecessary burden.

A commenter stated that as long as the information in the AFFH Data and Mapping Tool is kept up-to-date and is accurately tracked, the commenter believes it can provide the information without too much stress on the agency, though it cannot speak for other agencies. The commenter stated that a reduction of funding has caused stress on agencies and possible staff agencies could cause unnecessary burdens to smaller authorities. Other commenters stated that regional analysis should be

optional for PHAs with large service areas operating in rural areas. One of the commenters stated that PHA operates in 29 counties, sometimes in non-contiguous areas, and that, in addition, through the Project Access Program which utilizes up to 140 of the commenter's HCVs to assist persons with disabilities who are exiting institutions or avoiding re-institutionalization, the PHA operates outside of those 29 jurisdiction areas because individuals assisted with this program can locate outside of those areas but are generally transferred to and absorbed (''ported'') by the local PHA that does have jurisdiction for that area.

Another commenter sought guidance on how a PHA whose service area is most of the state should be analyzed—for the State as a whole or for jurisdictions in which it operates. A commenter stated that regional analyses are overly burdensome and irrelevant because PHAs do not exercise influence over these broad areas, and it is even more complex for agencies outside of a core based statistical area or CBSAs or regions that cross state borders. The commenter stated that the regional analysis should be removed.

A commenter stated that many PHAs operate in jurisdictions that are not equivalent to Metropolitan Statistical Areas (MSAs) and that are also not identical to city or county borders. The commenter stated that, instead, these service areas are defined by State statute and are based on a variety of factors in addition to political boundaries. The commenter stated that HUD should explicitly defer to PHAs' selection of the most relevant dataset for their needs if HUD cannot provide all of the necessary data. A commenter stated that HUD field offices should facilitate collection of this data.

Another commenter stated that for agencies chartered by States, service areas correspond to jurisdictions and the alternative terminology HUD uses may be confusing. A commenter stated that HUD has indicated that it will require a single submission for agencies describing their jurisdiction. The commenter stated that it is surprising that HUD lacks a record of jurisdictions since HUD has conducted business with HAs since 1937, and these institutions may own properties subsidized by HUD and execute ACCs.

A commenter stated that HUD should use its own records to establish agencies' jurisdictions and permit PHA's to submit any necessary corrections to those jurisdictions on an exception basis, since requiring all agencies to submit this information will require almost 2 person years of time to complete, even though HUD has estimated that this task will consume 1 hour of administrative time.

Commenters stated that HUD should add a section titled ''Service Area'' and ask PHAs to describe its service area using readily identifiable indicators such as geographic boundaries and the census tracts that roughly approximate the geographic boundaries. The commenters stated that PHAs should also briefly explain how State law determines the size and scope of PHA service areas with a citation to relevant legal authority under State law. The commenters stated that since there is no uniform means by which PHA service areas are determined, stakeholders who are assessing the adequacy of a PHA's AFH would benefit from an understanding of how a specific PHA's area is defined.

Other commenters stated that HUD should ask PHAs for this information directly, separate and apart from the AFH in a uniform format the permits GIS mapping. The commenters stated that the data received through the AFH should be entered into a national database. The commenters also stated that a ''service area'' definition should also be requested in the AFH.

HUD Response: HUD appreciates all of the feedback it received related to how HUD could obtain information about each PHA's service area. HUD notes that a regional analysis is required for a fair housing analysis, and therefore it cannot be made optional for PHAs. As noted above, HUD intends to provide data that PHAs will use to conduct their AFH. HUD acknowledges that PHAs' service areas are determined by State legislation and their scope may vary. HUD does not currently have data for all PHAs' service areas. In order to provide data to assist PHAs in conducting their AFH, HUD will need to obtain information about each PHA's service area in order to provide relevant data to the PHA.

HUD will provide an online geospatial tool, either in the existing AFFH Data and Mapping Tool (AFFHT) or in a related online web portal that will provide PHAs the ability to select from a variety of geographic units, the one unit or combination of units that most closely fits their service area. Geographic units include the most commonly used administrative geographic units mapped by the U.S. Census Bureau. These may include geographic entities such as census tracts, incorporated places or minor civil divisions (collectively known to HUD as units of general local government), entire counties, the balance of counties after incorporated entities have been removed, entire states, or the balance of states after incorporated local government jurisdictions have been removed. In many cases, PHA service areas will be the same as local governments that are already identified in the AFFHT, while in others PHAs would have the ability to identify their unique service area borders using the online tool. Specific solicitation of comment: HUD seeks comment on an efficient manner in which HUD could use to obtain information about each PHA's service area without causing unnecessary burden.

HUD intends to provide PHAs with additional guidance on how to analyze their service areas and regions, with respect to the scope of each at a later date. HUD is evaluating the feasibility of obtaining the geographic location of each PHA's service area from the PHA directly, but notes that if it were to do so, would undergo the proper procedures for information collection under the Paperwork Reduction Act. HUD understands that each PHA covers a different geography and that each State's law authorizes the PHAs' operations differently. HUD will take this into account when obtaining the services areas of PHAs.

3—PHA Wait Lists

3a. HUD seeks comment on how fair housing issues may affect families on a PHA's waiting list.

A commenter stated that most, if not all, housing authority developments exist in impacted areas so any waiting list applicant could be greatly impacted. Another commenter opposed the inclusion of data from families on the waiting list in completing the AFH since, as the commenter stated, this information has not been verified and is limited, which, according to the commenter makes it difficult to make assumptions about any relevant factors related to the AFH. The commenter stated that some data is available for individuals on the waiting list, but questioned the relevancy as those on the list may need to wait years and circumstances may change. The commenter stated that HUD should clarify the purpose it feels this serves. Another commenter stated that it does not believe that analyzing individuals on the waiting list will yield useful information in fair housing planning because the demand for affordable and federally assisted housing far exceeds the supply and families may be unable to move for reasons other than the PHAs action or inaction.

A commenter stated that certain types of tenant selection and waiting list management policies can have a discriminatory impact on persons in protected classes by making it more difficult for out of town families to gain admission or by creating barriers to people with disabilities.

HUD Response: HUD thanks the commenters for their feedback. HUD agrees that it is important to analyze waiting list policies in order to have a better understanding of their impact on fair housing. Therefore, HUD believes that an analysis of the PHA's policies, practices, and procedures related to its application and waiting list process is necessary so that the PHA can set appropriate goals to ensure that these practices promote fair housing choice for all.

3b. Do PHAs have relevant information related to these families? To what extent to PHAs have information to inform answers to the questions related to families on PHA waiting lists?

Commenters stated that applicants apply for housing based on their desire to live in a specific area for a number of reasons, and data collected from the waiting list may not give all the needed information to provide an accurate analysis for fair housing. A commenter stated that PHAs do not have historic waiting list data (data beyond the record retention period).

A commenter stated that PHAs have data on households on waiting lists that include household members, disability status, student status, race, and ethnicity. Another commenter stated that a PHA program operates with multiple waiting lists. Other commenters stated that PHAs do not treat waiting list data uniformly and have different amounts of information and may verify at different times.

HUD Response: HUD appreciates the information provided by these commenters and has taken it into consideration.

3c. Is HUD asking the appropriate questions with regard to this population or are there alternative considerations PHAs should be asked to consider as part of the analysis?

Commenters stated that to consider alternative considerations in analyzing fair housing, a question may be needed as to where the applicant wants to live and if there is sufficient housing options in this area. Another commenter stated that any analysis should note that the waiting list household data is self-reported and not verified by PHA staff. Other commenters stated that HUD should ask if the PHA requires in-person applications at the PHA office or if applications can be obtained by mail or online or at multiple locations. The commenters stated that HUD should ask the following questions: Are applications only accepted online? Does the PHA use a first-come first served waiting list, or a lottery to determine placement on the waiting list? Does the PHA keep the waiting list open for a long enough time to permit applicants from outside the service area to apply? Are there any local preferences for program admission, and if so, please list the preferences? Is there a local residency preference? How does the PHA make information available to people with limited English proficiency, and what accommodations it makes for people with disabilities?

HUD Response: HUD appreciates the feedback from these commenters. HUD notes that the contributing factor of ''admissions and occupancy policies and procedures, including preferences in publicly supported housing,'' includes many of the suggestions made by commenters above. HUD has also included a question relating to the waiting list with respect to persons with disabilities in the disability and access section of the Assessment Tool. In addition, HUD has removed references to waitlist analysis in the Disparities in Access to Opportunity Section.

V. Overview of Information Collection

Under the PRA, HUD is required to report the following:

Title of Proposal: Assesemnt Tool for Public Housing Agencies.

OMB Control Number, if applicable: N/A.

Description of the need for the information and proposed use: The purpose of HUD's 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 AFH. In the AFH, program participants must identify and evaluate fair housing issues, and factors significantly contributing to fair housing issues (contributing factors) in the program participant's jurisdiction and region.

The PHA Assessment Tool is the standardized document designed to aid PHA program participants in conducting the required assessment of fair housing issues and contributing factors and priority and goal setting. The assessment tool asks a series of questions that program participants must respond to in carrying out an assessment of fair housing issues and contributing factors, and setting meaningful fair housing goals and priorities to overcome them.

Agency form numbers, if applicable: Not applicable.

Members of affected public: PHAs of which there are approximately 3,942.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: HUD has made a number of revisions to its burden estimate based on both public feedback received during the 60-Day public comment period as well as a number of key changes made by HUD in response to public comment.

The public reporting burden for the PHA 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. Information on the estimated public reporting burden is provided in the following table:

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	814	240	195,360
PHA as Joint Participant	*400	1	400	120	48,000
Subtotal	**1,214				243,360

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 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.

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, to match the approach already presented in the State Assessment Tool as issued for the 60-Day PRA Notice, to facilitate joint partnerships with Local Governments or other PHAs using a streamlined ''insert'' assessment. Using this option, it is expected that the analysis of the QPHA's region would be met by the overall AFH submission, provided the QPHA's service area is within the jurisdictional and regional scope of the local government's Assessment of Fair Housing, with the QPHA responsible for answering the specific questions for its own programs and service area included in the insert.

(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:

	QPHA outside CBSA	QPHA inside CBSA	PHA (non-Q)	Total
PHA Assessment Tool:				
(PHA acting as lead entity)			814	814
Joint partner using PHA template		300	100	400
Local Government Assessment Tool (# of PHA joint collaborations)		900	200	1,100
State Assessment Tool (# of PHA joint collaborations)	665			665
Subtotal	665	1,200	1,114	2,979
QPHA template	358	605		963
Total	* 1,023	* 1,805		** 3,942

* These totals (1,023 and 1,805 QPHAs) are the total number of QPHAs that are located inside and outside of CBSAs.

** The total of 3,942 represents all PHAs, not the sum of QPHAs (*i.e.* this is the total for this vertical column, not the horizontal row across).

Solicitation of Comment Required by the PRA

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.

(5) Are there other ways in which HUD can further tailor this Assessment Tool for use by PHAs? If so, please provide specific recommendations for how particular questions may be re-worded while still conducting a meaningful fair housing analysis, or questions that are not relevant for conducting a meaningful fair housing analysis, or other specific suggestions that will reduce burden for PHAs while still facilitating the required fair housing analysis.

(6) Whether HUD should include any other contributing factors or amend any of the descriptions of the contributing factors to more accurately assess fair housing issues affecting PHAs' service areas and regions. If so, please provide any other factors that should be included or any additional language for the contributing factor description for which changes are recommended.

(7) Whether the inclusion of the ''insert'' for Qualified PHAs (QPHAs) will facilitate collaboration QPHAs and non-qualified PHAs, and whether these entities anticipate collaborating to conduct and submit a joint AFH. Please note any changes to these inserts that (a) would better facilitate collaboration; (b) provide for a more robust and meaningful fair housing analysis; and (c) encourage collaboration among these program participants that do not anticipate collaborating at this time.

(8) Whether HUD's change to the structure and content of the questions in the Disparities in Access to Opportunity section with respect to the protected class groups that PHAs must analyze is sufficiently clear and will yield a meaningful fair housing analysis. Additionally, HUD specifically solicits comment on whether an appropriate fair housing analysis can and will be conducted if the other protected class groups are assessed only in the ''Additional Information'' question at the end of the section, as opposed to in each subsection and question in the larger Disparities in Access to Opportunity section. HUD also requests comment on whether it would be most efficient for PHAs to have the protected class groups specified in each question in this section. If so, please provide an explanation. Alternatively, HUD requests comment on whether each subsection within the Disparities in Access to Opportunity section should include an additional question related to disparities in access to the particular opportunity assessed based on all of the protected classes under the Fair Housing Act.

(9) What sources of local data or local knowledge do PHAs anticipate using with respect to their analysis? Please specify which sections of the Assessment Tool PHAs anticipate using local data and local knowledge. For example, what sources of local data or local knowledge, including information obtained through the community participation process and any consultation with other relevant governmental agencies, do PHAs anticipate using for the service area as compared to the region regarding disparities in access to opportunity? Are there any different sources of local data or local knowledge for the question on disparities in access to opportunity in the publicly supported housing section?

(10) Whether the instructions to the Assessment Tool provide sufficient detail to assist PHAs in responding to the questions in the Assessment Tool. If not, please provide specific recommendations of areas that would benefit from further clarity.

(11) How can HUD best facilitate the anlaysis PHAs must conduct with repsect to disparities in access to opportunity? For example, are questions based on the overall service area and region of the various opportunity indicators the best way for PHAs to identify access to opportunity with respect to their residents, including voucher holders? With regards to disparities in access to opportunity, how might the PHA identify contributing factors and set goals for overcoming disparities in access to opportunity?

(12) What additional guidance would be useful to PHAs to assist in conducting the fair housing analysis in the Assessment Tool? In particular, which fair housing issues and contributing factors would benefit from additional guidance? For example, in the disparities in access to opportunity section, what guidance would PHAs benefit from?

(13) In the publicly supported housing section, there are several questions related to assisted housing programs that are not owned or operated by the PHA. Are these questions sufficiently clear, or would additional instructions beyond those that are provided be helpful to PHAs in answering these questions? Are there other or different questions that would facilitate the PHAs' analyses of publicly supported housing, specifically for the other categories of publicly supported housing included in this Assessment Tool?

(14) There have been new questions added to the Disability and Access Analysis section, under ''Housing Accessibility'' (Questions 2(d) and 2(e)). Are these questions sufficiently clear, or would additional instructions beyond those that are provided be helpful to PHAs in answering these questions? Are there other or different questions that would facilitate the PHAs' analyses of disability, specifically related to housing accessibility?

(15) Are there other ways HUD can clarify the questions in the Assessment Tool, for example, through the provision of additional instructions, or different instrcutinos from those that have been provided? Additionally, are there other or different questions or instructions that would better assist State PHAs in conducting their fair housing analysis? Please specify whether a particular section, question, or set of instructions requires clarification. 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 October 20, 2016 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–09–A). HUD encourages interested parties to submit comment in response to these questions.

Dated: September 14, 2016.

Inez C. Downs,

Department Reports Management Officer, Office of the Chief Information Officer.

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