

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 submissions of responses.

#### Analysis

*Agency:* Department of Homeland Security, National Protection and Program Directorate.

*Title:* Technical Assistance Request and Evaluation.

*Form:* Not Applicable.

*OMB Number:* 1670-NEW.

*Frequency:* Annual.

*Affected Public:* State, local, or tribal government.

*Number of Respondents:* 350.

*Estimated Time Per Respondent:* 15 minutes.

*Total Burden Hours:* 175 annual burden hours.

*Total Burden Cost (capital/startup):* \$0.

*Total Burden Cost (operating/maintaining):* \$4,273.50.

Signed: February 12, 2010.

**Thomas Chase Garwood, III,**

*Chief Information Officer, National Protection and Programs Directorate, Department of Homeland Security.*

[FR Doc. 2010-4345 Filed 3-2-10; 8:45 am]

**BILLING CODE 9110-9P-P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5298-N-02]

### Low-Income Housing Tax Credit (LIHTC) Tenant Data Collection: Responses To Advance Solicitation of Comment on Data Collection Methodology

**AGENCY:** Office of the Assistant Secretary for Policy Development and Research, HUD.

**ACTION:** Notice.

**SUMMARY:** This notice follows the publication, on March 30, 2009, of an advance notice soliciting public comment on methodology for the collection of data on low-income housing tax credit housing, as required by statute. HUD received public comments on that advance notice, and, after considering the public comment, is now issuing the specific information collection requirements. This notice

references the publication in the **Federal Register** (75 FR 8392, February 24, 2010), of a notice of proposed information collection. Copies of the actual revised forms may be viewed by contacting the **FOR FURTHER INFORMATION CONTACT** listed in this notice. The proposed information collection is published pursuant to HUD's procedures for obtaining Office of Management and Budget (OMB) approval for information collections, and, as such, there is a provision for public comment. However, please be advised that if you commented on the March 30, 2009 notice, your comments have already been considered and there is no need to resubmit them.

**DATES:** *Effective Date:* April 2, 2010.

**FOR FURTHER INFORMATION CONTACT:** For questions on LIHTC tenant data collection, contact Michael K. Hollar, Senior Economist, Economic Development and Public Finance Division, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8234, Washington, DC 20410-6000, telephone number 202-402-5878, or send an e-mail to [Michael.K.Hollar@hud.gov](mailto:Michael.K.Hollar@hud.gov). For specific legal questions pertaining to Section 42 of the Internal Revenue Code, contact Branch 5, Office of the Associate Chief Counsel, Passthroughs and Special Industries, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, telephone number 202-622-3040, fax number 202-622-4451. Additional copies of this notice are available through HUD User at 800-245-2691 for a small fee to cover duplication and mailing costs.

*Copies Available Electronically:* This notice and additional information about the LIHTC program are available electronically on the Internet at <http://www.huduser.org/datasets/lihtc.html>.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 2835(d) of the Housing and Economic Reform Act of 2008 (Pub. L. 110-289, approved July 30, 2008) (HERA) amends Title I of the U.S. Housing Act of 1937 (42 U.S.C. 1437 *et seq.*) (1937 Act) to add a new section 36 (to be codified as 42 U.S.C. 1437z-8) that requires each State agency administering tax credits under section 42 of the Internal Revenue Code of 1986 (low-income housing tax credits or LIHTC) to furnish HUD, not less than annually, information concerning the race, ethnicity, family composition, age, income, use of rental assistance under section 8(o) of the 1937 Act or other similar assistance, disability status, and

monthly rental payments of households residing in each property receiving such credits through such agency. New section 36 of the 1937 Act further provides that to the extent feasible, collect such information through existing reporting processes and in a manner that minimizes burden on property owners.

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

On March 30, 2009, HUD published a notice at 74 FR 14149 seeking early input from State agencies and other interested stakeholders on a methodology or approach to meet the statutory requirement to furnish HUD the required information. HUD received approximately 25 comments on this notice by the comment due date of May 29, 2009, from entities including State housing finance and tax credit agencies; tax credit property managers; housing trade associations; research institutes; and nonprofit organizations. The following summary of public comments addresses the significant issues raised and the approach HUD is taking in response. Additionally, interested members of the public may view and respond to the notice of information collection published in the **Federal Register** (75 FR 8392); however, there is no need to resubmit comments HUD already received in connection with the March 30, 2009 notice.

## II. Public Comments

### 1. Tenant Data Collection

*Comment:* A number of commenters supported the general idea of using the National Council of State Housing Agencies (NCSHA) Tenant Income Certification (TIC) for tenant data collection, but also suggested that States retain flexibility to make modifications. It was suggested that a separate page be added to collect racial, ethnic, and disability status data, along with a statement that responding is voluntary. Other commenters opposed the use of these forms on various grounds. Other commenters stated that Housing Finance Agencies (HFAs) should be given the flexibility to design their own forms, but use the NCSHA TIC to obtain uniform definitions of the required data, which can be adapted. Some

commenters stated that data should be collected on the head of household only or only in an aggregated form. Some commenters stated that the disability status questions were overly detailed and intrusive. Some commenters objected to the collection of social security numbers (SSNs), citing privacy concerns and lack of a secure way to store the information. Other commenters stated that data collected should be limited to items specifically identified by Congress. Some commenters, on the other hand, asked for additional data, such as zip codes.

*Response:* Generally, HUD will collect the data required by the statute, along with a minimal amount of additional information needed to assist in collection of the data while minimizing the public burden. Accordingly, HUD declines to add questions about zip codes and additional breakdowns by type of assistance. The statutory direction to seek information about "disability status" seems in its plain meaning to simply be seeking information on whether a family has a member with a disability, and HUD accordingly is modifying that particular request for information. However, collecting data for only the head of household or in the aggregate would not enable HUD to report on family composition, as required by statute.

As to forms, while HUD is submitting forms for approval and use if desired, HUD is not requiring the use of specific forms. The forms are provided as a way to convey the standards and definitions of the required data. Thus, States may incorporate the required data elements into their existing forms, provided that the definitions are consistent with those put forth by HUD.

As to SSNs, HUD is balancing legitimate privacy concerns against the statutory direction to "establish procedures to minimize duplicative reporting requirements for properties assisted under multiple housing programs" and to minimize paperwork burdens on funding recipients. HUD has decided to request partial SSNs. In so doing, HUD is protecting privacy but also obtaining partial SSNs that will be used for data matching with existing HUD databases. Thus, HUD can obtain information, for example about assistance types, without adding to the burden on funding recipients. HUD plans to require reporting on project-based assistance, HOME, HOPE VI, Community Development Block Grant, and Rural Housing Service assistance, and use the partial SSNs to match data from other assistance programs, to obtain the needed data while

minimizing the burdens of data collection.

*Comment:* Commenters asked that the collection of information be limited in frequency, such as at initial move-in and annual updates. Racial, ethnic, and disability status data should only be collected at move-in. Some commenters stated that all personal data should only be collected once, as HFAs will learn of updates at recertification or if a tenant's assistance is modified; conversely, insofar as the Internal Revenue Service no longer requires income recertification, there is no need to continue collecting this data after move-in and it would not be third-party verified.

*Response:* The tenant data will be collected annually as required by statute. HUD is taking steps to minimize the compliance burden to the extent possible given statutory requirements. After the initial data collection, in which data on all tenants is required, only data on re-certifications and new tenants will be required. Consistent with statutory changes in HERA, tenants residing in 100 percent low-income unit properties are not subject to re-certification. The racial and ethnic data will only need to be collected once, but since disability status can change, this will need to be collected with re-certification.

*Comment:* Some commenters asked that information collected be limited in scope. Some commenters asked that HUD specify that data will not be collected on tenants not residing in LIHTC units. Some commenters asked that the age information be limited to the number of residents above and below the age of 18.

*Response:* Pursuant to the statute, which covers "State agencies administering tax credits," HUD will not require the collection of data on tenants in non-LIHTC units. The statutory requirement to collect race and ethnicity is not limited to head of household and thus the best reading of the statute is that the information must be collected for all tenants. The statutory requirement to collect household composition and age does not indicate a restriction to "the number of persons over/under 18 years old," but rather, the plain language of the statute refers only to "age."

*Comment:* Some commenters addressed data elements on the forms proposed by HUD. A commenter stated that data elements should include whether a project is "family," "elderly," or "other" in order to "assist in assessing the role of exclusionary land use requirements on LIHTC development." One commenter generally had the

following suggestions: (1) Full tenant-level data on rental assistance are provided except where a project has 100 percent project-based tenants; (2) the project-level data are updated periodically to show changes in subsidy status; and (3) information on the specific type of rental assistance is available either on the form or through data matching with other subsidy programs.

*Response:* HUD's proposed project data collection form asks whether a project is targeted to a particular group, including families and elderly. The data collection will be consistent with recertification changes in HERA, which no longer requires re-certification for properties consisting of 100 percent low-income properties. While property-level data will not need to be updated annually, HUD will ask States to update any changes. HUD will match tenant data to other HUD administrative databases to identify assistance from other subsidy programs.

*Comment:* Commenters suggested alternate data transfer formats. Two commenters stated that HUD should adopt the State Housing Finance Agency-LIHTC Data Transfer Standard as the methodology for collecting data because it is was created by affordable housing owners and trade associations, is open, accessible, and available to any user, and less costly than using a non-standard format.

*Response:* HUD agrees that the LIHTC Data Transfer Standard is widely adopted and accessible. HUD's current Tenant Rental Assistance Certification System (TRACS) system, which is used to collect data on Section 8 tenants, uses this data transfer standard. HUD will be using a system similar to, and based on, TRACS.

*Comment:* A number of commenters stated that data uploads in Extensible Markup Language (XML) format should be allowed, because XML files are easily produced by common software and most HFAs are familiar with XML. Commenters stated specifically that the National Affordable Housing Management Association (NAHMA) XML standard or a reasonable variation should be adopted or used as a starting point, as the industry has already invested effort in this standard and it has broad acceptance. One commenter stated that data transmission should flexibly allow Excel files or XML format files, as some HFAs may have issues and/or budget constraints in converting data to XML. Some commenters favored expanding the existing TRACS system, or cross-referencing TRACS, to include tax credit projects, but one commenter stated that TRACS is not a workable

system as it is not used by many States, unless it could be modified to allow XML upload and aggregate-only data.

*Response:* XML is beneficial since it is a commonly used method of electronically encoding documents, usable over the Internet, and compatible with many programming interfaces that can be used to extract data. HUD will be using a system similar to TRACS to accept data files from the State housing finance agencies. This system accepts a variety of file formats, including XML. HUD plans to modify the system for this data collection effort to ensure that it accepts the requested file formats.

*Comment:* HUD should make clear that responses to race, ethnicity, and disability status data are voluntary; whether the requirement to collect data exists for the 15-year tax credit compliance period or the extended period as well, arguing that the data collection should not apply after the initial 15 year period; and that, since there is no built-in enforcement mechanism, a good-faith effort to collect the data should suffice for compliance. One commenter stated that HUD should address how the data collection methodology will be coordinated with the authority HERA grants for State tax credit agencies to waive annual recertification requirements.

*Response:* Data collection will include all low-income units monitored for compliance as long as they remain in the program, including those in the extended-use period. Tying the collection of information to the actual technical use of the credit makes little sense as most tax-credit owners actually sell or syndicate their credits at the outset. The key, rather, is that the units have received the benefit of tax credits and continue to remain in the program as low-income units, and it is those complying units that Congress seeks information about.

Data collection will be consistent with new HERA re-certification rules for 100 percent low-income unit properties. As to the race, ethnicity, and disability questions, a household cannot be forced to provide this information. If the household does not provide the information, the State agency shall make its best efforts to report the information based on observation or derived from other sources.

*Comment:* Commenters stated that HUD should make available a guidebook, procedures manual, or other informational guidance.

*Response:* HUD is specifying the data it is collecting in this notice and in the paperwork approval request published in the **Federal Register**. In addition, the information contact listed in this rule

can provide copies of the actual revised notices. HUD may publish additional guidance in the near future.

*Comment:* HUD should make development-level data available as soon as possible after it is collected so that it can be analyzed, for example, to determine Fair Housing Act compliance or whether families with incomes below the poverty line are being served.

*Response:* The statute requires HUD to compile and make the information collected available "not less than annually." HUD plans to fulfill that statutory requirement.

*Comment:* One commenter stated that data elements should be precisely defined so there is no variability from State to State. For example, all States should follow the same rounding rules.

*Response:* HUD believes that most of the data being collected, such as age, ethnicity, family composition, disability status and age, is expressible in whole integers and will not require rounding. If it appears that rounding rules could affect the data in a statistically significant way, HUD may provide further guidance as needed.

*Comment:* One commenter sought additional data collections for civil-rights related purposes. This commenter stated that HUD should collect racial and ethnic data on applicants for LIHTC housing to better assess affirmative marketing compliance. This commenter also stated that when initial data is released, HUD should contract with "reputable and independent research organizations to analyze the civil rights performance of LIHTC State agencies and project managers/developers" to identify possible patterns of civil rights violations for further action by HUD's Office of Fair Housing and Equal Opportunity. This commenter states that there has been a "longstanding failure" to collect racial and ethnic data in the LIHTC program.

*Response:* HUD does not have statutory authority to collect data on applicants. While generally HUD supports improved civil rights performance in assisted housing, this particular statute is limited to collecting specified information. This information includes race, ethnicity, and disability status on households residing in properties receiving credits under the low-income housing tax credit program. Congress has not currently provided HUD with the authorization or funding to conduct the study suggested.

*Comment:* Some commenters state that there should be transition periods of various times to give State agencies time to launch their new systems. Commenters also stated that compliance costs would be significant and that HUD

should provide or petition Congress to provide additional funding to cover the extra costs.

*Response:* HUD understands that States may encounter difficulty in completing the data collection requests. HUD will address on a State-by-State basis the need for additional time and is procuring services to assist States in their transition. However, while Congress has authorized funds for this data collection, funds were not appropriated for this specific purpose in Fiscal Year (FY) 2009. The authorized funding amounts are limited to \$2,500,000 for FY 2009 and \$900,000 for each of FYs 2010 through 2013. States should be aware of this limited funding.

### III. Information Collection

Parties interested in viewing and commenting on the information collection requirements may do so by responding to the separate notice of information collection published in the **Federal Register** (75 FR 8392).

Dated: February 22, 2010.

**Jean Lin Pao,**

*General Deputy Assistant Secretary for Policy Development and Research.*

[FR Doc. 2010-4386 Filed 3-2-10; 8:45 am]

**BILLING CODE 4210-67-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[LLMT926000-10-L19100000-BJ0000-LRCM08RS4045]

#### Notice of Filing of Plats of Survey: Montana

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of filing of plats of survey.

**SUMMARY:** The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, thirty (30) days from the date of publication in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Steve Toth, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101-4669, telephone (406) 896-5121 or (406) 896-5009.

**SUPPLEMENTARY INFORMATION:** This survey was executed at the request of the Superintendent, Fort Peck Agency, through the Rocky Mountain Regional Director, Bureau of Indian Affairs, and was necessary to determine boundaries of Trust or Tribal Interest lands.