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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5173-N-11]

Affirmatively Furthering Fair Housing: Extension of Deadline for Submission of Assessment of Fair Housing for Consolidated Plan Participants That Receive a Community Development Block Grant of \$500,000 or Less

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

ACTION: Notice.

SUMMARY: This notice advises that HUD is extending the deadline for submission of an Assessment of Fair Housing (AFH) by consolidated plan program participants that received in Fiscal Year (FY) 2015 or receive in a subsequent fiscal year a Community Development Block Grant of \$500,000 or less, or in the case of a HOME consortium, whose members collectively received a CDBG grant of \$500,000 or less, from the program year that begins on or after January 1, 2018, to the program year that begins on or after January 1, 2019 for which a new consolidated plan is due, the same date that qualified public housing agencies (PHAs) are to submit their AFHs.

DATES: Effective Date: **[Insert date of publication.]**

FOR FURTHER INFORMATION, CONTACT: Adam Norlander, Special Assistant, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street, SW, Room 7100, Washington, D.C. 20410; telephone number 202-402-3778 (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. Background

On July 16, 2015, at 80 FR 42357, HUD published in the Federal Register its Affirmatively Furthering Fair Housing (AFFH) final rule. The AFFH final rule provides HUD program participants with a new approach for planning for fair housing outcomes that will assist them in meeting their statutory obligation to affirmatively further fair housing as required by the Fair Housing Act, 42 USC 3608. To assist HUD program participants in meeting this obligation, the AFFH rule provides that program participants must conduct an Assessment of Fair Housing (AFH) using an “Assessment Tool.”

HUD’s AFFH regulations codified in 24 CFR part 5 provide, in § 5.160, for a staggered AFH submission deadline for its program participants. For example, § 5.160 provides that for their first AFH, consolidated program participants, except for program participants that received a FY 2015 CDBG grant of \$500,000 or less, must submit an AFH no later than 270 calendar days prior to the start of their program year that begins on or after January 1, 2017 for which a new consolidated plan is due. Section 5.160 provides that consolidated program participants that received a FY 2015 CDBG grant of \$500,000 or less must submit their first AFH no later than 270 calendar days prior to the start of the program year that begins on or after January 1, 2018 for which a new consolidated plan is due. Section 5.160 provides that qualified public housing agencies (PHAs)¹ must submit their first AFH no later than 270 calendar days prior to the start of the fiscal year that begins on or after January 1, 2019 for which a new 5-year plan is due.

By notice published in the Federal Register on January 15, 2015, at 80 FR 2062, prior to

¹ “Qualified PHA,” is defined in section 2702 of title VII of the Housing and Economic Recovery Act (HERA) (Public Law 110-289, approved July 30, 2008). Section 2702 of HERA defines “qualified PHA” as a PHA: (1) for which the sum of (i) the number of public housing dwelling units administered by PHA, and (ii) the number of vouchers under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) administered by the PHA is 550 or fewer; and (2) that is not designated under section 6(j)(2) of the United States Housing Act as a troubled PHA, and does not have a failing score under the Section 8 Management Assessment Program during the prior 12 months. HUD codified this statutory definition in its regulations on Public Housing Agency Plans at 24 CFR part 903, and the definition of “qualified PHA” is found at § 903.3(c).

publication of the AFFH final rule, HUD announced its intention to provide a later AFH submission deadline for certain program participants that are typically small entities, such as qualified PHAs, or in the case of consolidated program participants that receive a small CDBG grant of \$350,000 or less. HUD solicited public comment with the notice for a period of 30 days, on its January 15, 2015, and public feedback was favorable to HUD's proposal to provide later AFH submission deadlines for smaller program participants and program participants that received a smaller CDBG grant. In consideration of public comment received on the January 15, 2015, notice, and, as noted above, in the AFFH final rule, HUD provided a separate submission deadline for QPHAs; that is, their first AFH is due no later than 270 calendar days prior to the start of the fiscal year that begins on or after January 1, 2019 for which a new 5-year plan is due. For consolidated program participants that received an FY 2015 CDBG grant of \$500,000 or less, their first AFH must be submitted not later than 270 days prior to the start of the program year that begins on or after January 1, 2018 for which a new consolidated plan is due. In response to public comment, HUD raised the dollar amount of the CDBG grant from \$350,000 to \$500,000.

Through this notice, HUD is extending the AFH submission deadline for the first AFH submission for consolidated program participants that received an FY 2015 CDBG grant of \$500,000 or less, or in the case of HOME consortia, whose members collectively received an FY 2015 CDBG grant of \$500,000 or less, to the same AFH submission deadline as QPHAs. For consolidated program participants that received an FY 2015 CDBG grant of \$500,000 or less, their first AFH is due no later than 270 calendar days prior to the start of the program year that begins on or after January 1, 2019, for which a new consolidated plan is due.

Through this notice, HUD also advises that the AFH submission deadline for program

participants that received an FY 2015 CDBG grant of \$500,000 or less also applies to new consolidated program participants that received a small CDBG grant in FY 2016, or receive a small CDBG grant in FY 2017 or FY 2018.

Consolidated Plan program participants that receive this extension must continue to comply with existing, ongoing obligations to affirmatively further fair housing. Until a consolidated plan program participant has submitted its first AFH, it will continue to provide the AFFH Consolidated Plan certification in accordance with the regulations that existed prior to August 17, 2015. (See 24 CFR 5.160(3).) The prior certification provides that program participants will conduct an analysis to identify impediments (AI) to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions. For Consolidated Plan program participants that are starting a new 3-5 year Consolidated Plan cycle that begins before their due date for an AFH or for Consolidated Plan program participants that otherwise have old or out-of-date AIs, the AI should continue to be updated in accordance with the Fair Housing Planning Guide until those Consolidated Plan program participants convert to the new AFFH process.

Dated: October 13, 2016

Gustavo Velasquez, Assistant Secretary for Fair Housing
and Equal Opportunity

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