

Dated: September 8, 2016.

**Katherine M. O'Regan,**

*Assistant Secretary, Office of Policy  
Development and Research.*

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5910-N-12]

### 60-Day Notice of Proposed Information Collection: Public Comment Request: Notice on Equal Access Regardless of Sexual Orientation, Gender Identity, or Marital Status for HUD's Community Planning and Development Programs

**AGENCY:** Office of Community Planning  
and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act (PRA), HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** *Comments Due Date:* November 21, 2016.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410-5000; telephone 202-402-3400 (this is not a toll-free number) or email at [Colette.Pollard@hud.gov](mailto:Colette.Pollard@hud.gov) for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

#### 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](http://www.regulations.gov). HUD strongly encourages commenters to submit comments electronically. Electronic

submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the [www.regulations.gov](http://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). Persons who are deaf or hard of hearing or have speech impairments may access this number via TTY by calling the toll-free Federal Relay Service at 800-877-8339. Copies of all comments submitted are available for inspection and downloading at [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410-7000; telephone number 202-708-4300 (this is not a toll-free number). Persons who are deaf or hard of hearing or have speech impairments can access this number via TTY by calling the toll-free Federal Relay Service at 800-877-8339.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

As noted in the Summary, elsewhere in today's **Federal Register**, HUD is publishing its final rule entitled "Equal Access in Accordance with an Individual's Gender Identity in Community Planning and Development Programs." Through this final rule, HUD ensures equal access to individuals in accordance with their gender identity in programs and shelter funded under programs administered by HUD's Office of Community Planning and Development (CPD). This rule builds

upon HUD's February 2012 final rule entitled "Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity" (2012 Equal Access Rule), which aimed to ensure that HUD's housing programs would be open to all eligible individuals and families regardless of sexual orientation, gender identity, or marital status. The 2012 Equal Access Rule, however, did not address how transgender and gender non-conforming individuals should be accommodated in temporary, emergency shelters and other buildings and facilities used for shelter that have physical limitations or configurations that require and that are permitted to have shared sleeping quarters or shared bathing facilities.<sup>1</sup> This final rule published in today's **Federal Register** follows HUD's November 20, 2015 proposed rule, which addressed this issue after soliciting public comment. The final rule requires that recipients and subrecipients of CPD funding, as well as owners, operators, and managers of shelters, and other buildings and facilities and providers of services funded in whole or in part by any CPD program to grant equal access to such facilities, and other buildings and facilities, benefits, accommodations and services to individuals in accordance with the individual's gender identity, and in a manner that affords equal access to the individual's family.

The notice set out in the appendix presents an additional measure by HUD to ensure that individuals seeking placement or accommodation in a shelter or other building or facility and housing funded under a program administered by CPD are aware of HUD's equal access policy, as established in HUD's 2012 Equal Access Rule, and elaborated upon in the final rule published in today's **Federal Register**. Through this PRA notice, HUD proposes to require owners and operators of CPD-funded shelters, housing, buildings and other facilities to post this notice on bulletin boards and in other public places where individuals staying in the shelter, building, housing or facility or seeking placement or accommodation in the shelter, building, housing, or facility would see this information. HUD strives to reduce burden by providing the content of the notice to be posted and estimates it will take about six minutes for owners and operators to print and post this notice. All existing and new owners would be required to post the notice only once,

<sup>1</sup> Shared sleeping quarters and shared bathing facilities are those for simultaneous use by more than one person.

and ensure that it remains visible to those accessing the shelter, housing, or facility.

## II. Overview of Information Collection

*Title of Proposal:* Notice on Equal Access Regardless of Sexual Orientation, Gender Identity, or Marital Status for HUD's Community Planning and Development Programs.

*OMB Control Number, if applicable:* 2506–new.

*Description of the need for the information and proposed use:* As noted above, the purpose of the notice set out in the appendix to this PRA notice is to ensure that individuals seeking placement or accommodation in a shelter, building, housing or facility funded under a program administered by CPD are aware of HUD's equal access requirements, as established in HUD's 2012 Equal Access Rule, and elaborated upon in the final rule published in today's **Federal Register**.

*Agency form numbers, if applicable:* Not applicable.

*Members of affected public.* Owners and operators of a shelter, building, housing or facility funded under programs administered by CPD.

*Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* Please see table below.

### REPORTING AND RECORDKEEPING BURDEN

Information collection	Number of respondents *	Response frequency (average)	Total** responses	Burden hours per response	Total annual hours	Hourly rate ***	Burden cost per instrument
A	B	C	D	E	F		
HOME Investment Partnerships program .....	25,350	1	25,350	.10	2535	21.73	\$55,085
Community Development Block Grant program (State and Entitlement) .....	2430	1	2430	.10	243	21.73	5,280
Housing Opportunities for Persons with AIDS program .....	100	1	100	.10	10	21.73	217
Emergency Solutions Grants program & Continuum of Care ...	6,750	1	6,750	.10	675	21.73	14,667
Total .....	34,630	.....	34,630	.....	3,463	.....	75,249

\* No response is required—only the public posting of the notice within the facility.

\*\* This is a one-time burden and does not need to be reposted annually, so long as the original posting remains intact.

\*\*\* Annualized Cost @ \$21.73/hr (Rate for a Social Worker in Individual Family and Services. <http://www.bls.gov/oes/current/oes211029.html>).

## II. Solicitation of Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

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

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

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

HUD encourages interested parties to submit comment in response to these questions.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 14, 2016.

**Harriet Tregoning,**

*Principal Deputy Assistant Secretary for Community Planning and Development.*

### Appendix

#### Notice on Equal Access Regardless of Sexual Orientation, Gender Identity, or Marital Status for HUD's Community Planning and Development Programs

This [shelter/building/housing/facility] receives funding from the U.S. Department of Housing and Urban Department's (HUD) Office of Community Planning and Development (CPD) and MUST comply with the following REQUIREMENTS:

- Determine your eligibility for housing regardless of your sexual orientation, gender identity, or marital status, and must not discriminate against you because you do not conform to gender or sex stereotypes (i.e., because of your gender identity);
- Grant you equal access to CPD programs or facilities consistent with your gender identity, and provide your family with equal access;
- MUST NOT ask you to provide anatomical information or documentary (like your ID), physical, or medical evidence of your gender identity; and
- Take non-discriminatory steps when necessary and appropriate to address privacy

concerns raised by any residents or occupants, including you.

If you think this program has violated any of these requirements, including any denial of services or benefits, contact your local HUD office for assistance with alleged violations of HUD program regulations. Local offices can be found at: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/field\\_policy\\_mgt/localoffices](http://portal.hud.gov/hudportal/HUD?src=/program_offices/field_policy_mgt/localoffices)

If you believe you have experienced housing discrimination because of race, color, religion, national origin, disability, or sex, including discrimination because of gender identity, contact 1–800–669–9777 or file a written complaint with HUD at: [www.hud.gov](http://www.hud.gov) “file a discrimination complaint”. Persons who are deaf, hard of hearing, or have speech impairments may file a complaint via TTY by calling the Federal Information Relay Service at (800) 877–8339.

To better understand HUD's requirements, the following definitions apply:

- *Sexual orientation* means one's emotional or physical attraction to the same and/or opposite sex (e.g. homosexuality, heterosexuality, or bisexuality).
- *Gender identity* means the gender with which a person identifies, regardless of the sex assigned to that person at birth and regardless of the person's perceived gender identity.
- *Perceived gender identity* means the gender with which a person is perceived to

identify based on that person's appearance, behavior, expression, other gender related characteristics, or sex assigned to the individual at birth or identified in documents.

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5969-N-01]

### Eligibility of Independent Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Additional Supplementary Guidance

**AGENCY:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner, and Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** On December 30, 2005, HUD published a final rule (FR-5036-F-01), "Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937", implementing section 327 of the agency's Fiscal Year 2006 appropriations, Title III of Public Law 109-115, 119 Stat. 2936, approved November 30, 2005 (2006 HUD Appropriations Act). Section 327 requires that if an individual is enrolled at an institution of higher education (*i.e.*, student) is under the age of 24, is not a veteran, is unmarried and does not have a dependent child, is individually ineligible for assistance under section 8 of the United States Housing Act of 1937 (section 8 assistance), or the student's parents are, individually or jointly, ineligible for assistance, no section 8 assistance can be provided to the student.

On April 10, 2006, HUD published supplemental guidance to assist providers in implementing the final rule. That supplemental guidance provided a list of items that Public Housing Agencies, Owners, and Managers are required to verify when determining whether a student's income alone should be used to determine section 8 eligibility, and this notice updates that list of items to remain consistent with the U.S. Department of Education's definition of "independent student," and reduce barriers for vulnerable youth to receive assistance and continue their education.

**FOR FURTHER INFORMATION CONTACT:** Rebecca L. Primeaux, Director, Housing Voucher Management and Operations Division, Office of Public and Indian Housing, Room 4214, U.S. Department of Housing and Urban Development,

451 7th Street SW., Washington, DC 20410-8000, telephone (202) 402-6050 (this is not a toll-free number), or Danielle D. Garcia, Branch Chief, Multifamily Housing, Assisted Housing Oversight Division, Room 6148, U.S. Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410-8000, telephone (202) 402-2768 (this is not a toll-free number). Persons with hearing or speech impairments may access these numbers through TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

### SUPPLEMENTARY INFORMATION

#### I. Background

Section 327 of HUD's Fiscal Year 2006 appropriations, Title III of Public Law 109-115, 119 Stat. 2936, approved November 30, 2005 (2006 HUD Appropriations Act), introduced new restrictions on providing housing assistance to students of higher education under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) (1937 Act). On December 30, 2005, at 70 FR 77742, HUD published a final rule implementing section 327 of the Act (Section 327) in accordance with the statutory requirement that HUD issue a final rule no later than 30 days following enactment of the 2006 HUD Appropriations Act. HUD's rule implementing the statute prohibits section 8 assistance to an individual who is enrolled at an institution of higher education (*i.e.*, students), is under the age of 24, is not a veteran, is unmarried, does not have a dependent child, and is individually ineligible for section 8 assistance or has parents who are, individually or jointly, ineligible on the basis of income to receive assistance.

On April 10, 2006, at 71 FR 18146, HUD issued supplementary guidance to further assist Public Housing Agencies (PHAs) and multifamily project owners and management agents (Owners and Managers) with the implementation of the new eligibility restrictions (2006 supplementary guidance). HUD's 2006 supplementary guidance provided certain exceptions to the requirement that the eligibility of a student seeking section 8 assistance would be determined based on income eligibility for the assistance by both the student and the student's parents. HUD's 2006 supplementary guidance explained that a student, under the age of 24 who meets the additional criteria of Section 327, may still be income eligible for assistance in circumstances where the student can demonstrate independence from parents, where the student can

demonstrate the absence of parents, or where an examination of the student's parents' income may not be relevant. The 2006 supplementary guidance instructs PHAs, Owners, and Managers to consider certain criteria, including but not limited to, whether:

(1) The individual is of legal contract age under state law.  
(2) The individual has established a household separate from parents or legal guardians for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education's definition of an "independent student." Section 480(d) of the Higher Education Act of 1965, as amended (the HEA), 20 U.S.C. 1087vv(d).

(3) The individual is not claimed as a dependent by parents or legal guardians pursuant to IRS regulations.

(4) The individual obtains a certification of the amount of financial assistance that will be provided by parents, signed by the individual providing the support, even if no assistance will be provided.

The 2006 supplemental guidance also provided a list of items that PHAs, Owners, and Managers must verify to determine whether a student is independent for purposes of using the student's income alone for determining Section 8 eligibility (Student's Independence Verification Requirements). Those items include:

(1) Previous address information to determine evidence of a separate household, or verifying the student meets the U.S. Department of Education's definition of "independent student";

(2) prior year income tax returns to verify if a parent or guardian has claimed the student as a dependent, except if the student meets the Department of Education definition of "independent student"; and

(3) written certification by a parent of the amount of financial support that parent provides to the student, or written certification that the parent provides no financial support to the student.

HUD also adopted in Appendix A of the 2006 supplementary guidance the U.S. Department of Education's (ED) definition of "independent student" from the HEA. ED's definition provided that an "independent student" is a student who meets one or more of the following criteria: (a) Is at least 24 years old by December 31 of the award year for which aid is sought; (b) is an orphan or a ward of the court through the age of 18; (c) is a veteran of the United States Armed Forces; (d) has legal dependents other than a spouse (for