

October 3, 2022

NSTC Subcommittee on Equitable Data
Office of Science and Technology Policy
Eisenhower Executive Office Building
1650 Pennsylvania Ave. NW
Washington, DC 20504

Submitted electronically through www.regulations.gov

Re: Docket No. 2022-19007 Request for Information; Equitable Data Engagement and Accountability

The following comments are submitted on behalf of the National Housing Law Project (NHLP), the National Consumer Law Center (NCLC) and the undersigned organizations regarding the White House Office of Science and Technology Policy (OSTP) request, on behalf of the Subcommittee on Equitable Data of the National Science and Technology Council, for information about how Federal agencies can better support collaboration with other levels of government, civil society, and the research community regarding the production and use of equitable data.

The National Housing Law Project (NHLP) is a legal advocacy center focused on increasing, preserving, and improving affordable housing; expanding and enforcing rights of low-income residents and homeowners; and increasing housing opportunities for underserved communities.

Since 1969, the nonprofit National Consumer Law Center® (NCLC®) has worked for consumer justice and economic security for low-income and other disadvantaged people in the U.S. through its expertise in policy analysis and advocacy, publications, litigation, expert witness services, and training.

Thank you for your engagement of the public on the production and use of equitable data.

1. What are *examples of successful collaborations* involving equitable data between the Federal government and (a) Tribal, territorial, local, and State governments, or (b) local communities?

The American Rescue Plan Act provides up to \$9.961 billion for states, the District of Columbia, U.S. territories, Tribes or Tribal entities, and the Department of Hawaiian Home Lands to provide relief for our country's most vulnerable homeowners. The program, the Homeowners Assistance Fund (HAF), involves several aspects of data collection, analysis and reporting that have resulted in some successful federal/local collaboration, but HAF also starkly highlights the lack of federal data on the mortgage market, the atomized nature of existing data, and the reliance of government entities on the private sector for such information.

The statute required the Department of the Treasury to make allocations for each state, the District of Columbia, and Puerto Rico based on homeowner need, determined by reference to (1) the average number of unemployed individuals; and (2) the number of mortgagors with mortgage payments that are more than 30 days past due or mortgages in foreclosure.¹ In order to determine the number of delinquencies, Treasury had to rely upon data provided by the Mortgage Bankers Association and Haver Analytics.²

¹ [U.S. Department of Treasury, Homeowner Assistance Fund, Data and Methodology for State and Territory Allocations](#)

² [Id.](#)

Treasury then required eligible entities³ (“entities”) to submit a plan for their use of HAF funding describing in detail the needs of homeowners in their jurisdictions.⁴ More specifically, entities needed to provide data about financial hardships of targeted homeowners and socially disadvantaged individuals, including data on mortgage delinquencies, defaults, foreclosures, post-foreclosure evictions, and the loss of utilities or home energy services, containing trends over time disaggregated by demographic categories and geographic areas.⁵ The plans were also required to include a review of quantitative data or studies regarding which demographic segments in the respective jurisdictions have historically experienced discrimination in the housing or housing finance market.

The submitted plans relied upon a wide range of data sources including other governmental entities.⁶ The majority of entities⁷ relied upon the Federal Reserve Bank of Atlanta’s Mortgage Analytics and Performance Dashboard (MAPD) to estimate forbearance rates.⁸ The data set went into effect in March 2021, but received its final update in December 2021.

Many entities had to rely upon data from non-profit organizations,⁹ researchers,¹⁰ academic institutions,¹¹ mortgage servicers,¹² industry groups,¹³ or private data providers,¹⁴ or conduct their own surveys. For example, Alaska Housing Finance Corporation conducts the Survey of Lenders to collect and compile mortgage data as well as the Alaska Housing Unit Survey, a survey of local governments and housing agencies.¹⁵

For information on demographic segments in their jurisdictions have historically experienced discrimination in the housing or housing finance market, entities relied on a wide array of studies rather than any particular data source. While these efforts allowed the entities to develop their programs, they also revealed glaring gaps in the government’s collection and provision of relevant data.

³ Eligible entity means (1) a State, (2) the Department of Hawaiian Home Lands, (3) each Indian Tribe (or, if applicable, the tribally designated housing entity of an Indian Tribe) that was eligible for a grant under Title I of the Native American Housing Assistance and Self Determination Act of 1996 (25 U.S.C. 4111 et seq.) for fiscal year 2020, and (4) any Indian Tribe that opted out of receiving a grant allocation under the Native American Housing Block Grants program formula in fiscal year 2020.

⁴ [U.S. Department of the Treasury, Homeowner Assistance Fund Guidance](#)

⁵ Id. at 8.

⁶ Centers for Disease Control and Prevention Indexes, Congressional Research Service, Consumer Financial Protection Bureau, U.S. Treasury, U.S. Census Bureau American Community Survey and Participant Analysis, U.S. Bureau of the Census’ Household Pulse surveys, U.S. Bureau of Labor Statistics, U.S. Department of Housing and Urban Development, National Mortgage Database

⁷ California, Colorado, Connecticut, Delaware, Georgia, Idaho.

⁸ [MAPD](#) utilizes Black Knight’s McDash Flash daily mortgage performance data to identify forbearance as well as Equifax and Black Knight McDash Credit Risk Insight Mortgage Servicing data set to estimate forbearance rates. This dataset comprises roughly two-thirds of mortgage markets and includes flags for delinquency and forbearance. Data is filtered for active loans for owner-occupied residences that are secured by first liens. Zip codes with under 50 active loans are excluded from the sample.

⁹ Center for Heirs Property Preservation, National Fair Housing Alliance (NFHA) 2020 Fair Housing Trends Report, National Consumer Law Center and NeighborWorks.

¹⁰ Policy Institute, Social Science Research Council, Urban Institute.

¹¹ Owner Vulnerability Index (OVI) by UCLA; census microdata from the University of Minnesota; Joint Centers for Housing Studies of Harvard University; University of Pennsylvania, Department of City Planning.

¹² AFV Loan Portfolio, Banco Popular, CELINK, Champion, Dovenmucle Mortgage, Inc., First Bank of Virgin Islands, Freedom Mortgage, Oriental Bank, ServiSolution, US Bank, Wells Fargo.

¹³ National Association of Realtors Research Group, National Council of State Housing Agencies, Mortgage Bankers Association, State Mortgage Market Profiles, Federal Financial Institutions Examinations Council, National Reverse Mortgage Lenders Association.

¹⁴ CoreLogic MarketTrends, Data Dynamics, First American Data Tree, Lereta Tax Services, [MAPD](#), The Warren Group.

¹⁵ [HAF Grantee Plan - HAFP-0197 - Alaska Housing Finance Corporation](#) p. 4

2. Among examples of existing Federal collaborations with (a) Tribal, territorial, local, and State governments or (b) local communities involving equitable data, *what lessons or best practices have been learned from such collaborations?*

The submitted HAF plans demonstrate the needs of entities, the federal government, and the public, to have more and better data. Many entities were unable to obtain quantitative data from authorities charged with assessing and collecting property taxes,¹⁶ which was essential for determining how best to serve eligible homeowners at risk of displacement. Colorado had to consult with stakeholders in focus groups and in a survey.¹⁷ Many states, including Kentucky, had to gather the raw data of delinquent property taxes.¹⁸ South Carolina tried to do the same but could get responses from only 41 out of 46 counties and Michigan obtained delinquency data from only 64 of 83 counties.¹⁹ New York determined that property tax foreclosure data was not collected or compiled centrally, and data available varied greatly by county.²⁰

Entities also had difficulties obtaining data on reverse mortgages²¹ and contracts for deed,²² which directly impacted program design. For example, the Arkansas HAF Plan excluded reverse mortgages and contracts for deed stating it would “assess the need for any exclusions and propose a modification to program types if data becomes available indicating significant needs in excluded programs.”²³ Reverse mortgage data is challenging to obtain and is often not included in the private data sources because reverse mortgages accounts are not furnished to credit reporting agencies. Kentucky chose to exclude land contracts or contracts for deeds in its HAF program stating it would be a “great challenge to document past due/arrearages and could lead to fraud.”²⁴

Data challenges identified by entities included homeowner association fee delinquencies²⁵ as well as data on manufactured housing loans.²⁶ Due to the lower barrier for entry to ownership of manufactured homes compared to site-built homes, chattel loans for manufactured homes are disproportionately used by Black, Indigenous, people of color, and lower income home buyers. The demographics of manufactured home ownership and those who experienced negative economic impacts have significant overlap and are much less likely than traditional mortgages to be refinanced.²⁷ Yet, Vermont had to rely on a 2011 academic survey of nine mobile home parks to assess its homeowners’ needs.²⁸

In addition to the challenges obtaining these specific data points, the data collection process highlighted the glaring lack of public data on mortgage performance and demographics. The lack of data

¹⁶ Alabama, Colorado, Hawaii, Louisiana, Massachusetts, Minnesota (sample), Montana, Nevada, New Hampshire, Oregon (sample), Pennsylvania, Rhode Island, South Carolina (sample), South Carolina, South Dakota, Tennessee, Texas, Virgin Islands, Virginia, Washington, West Virginia, Wyoming.

¹⁷ [HAF Grantee Plan - HAFP-0081-State of Colorado](#) p. 4

¹⁸ [HAF Grantee Plan - HAFP-0062-Kentucky Housing Authority](#)

¹⁹ [HSF Grantee Plan - HAFP-0111-SC State Housing Finance and Development Authority p. 3](#), [HAF Grantee Plan - HAFP-0075-State of Michigan Department of Treasury](#) p. 3.

²⁰ HAF Grantee Plan – HAFP-0066-New York State p. 3.

²¹ Alabama, Arkansas, Vermont.

²² Arkansas, Hawaii.

²³ [HAF Grantee Plan - HAFP-0066-New York State](#) p. 11

²⁴ Kentucky, *supra* note 18.

²⁵ [Colorado](#), Minnesota, Texas.

²⁶ Arizona, Idaho, Iowa, Louisiana, Montana, North Carolina, Vermont, Wyoming.

²⁷ [HAF Grantee Plan - HAFP=0040-Agency of Commerce and Community Development](#)

²⁸ [Baker, Hamshaw & Beach, Journal of Rural and Community Development 6, 2 \(2011\) 53-70](#). Virginia relied upon VA DOT Manufactured Homes, Locality, July 2021

undermined efforts to assess loss risks presented by the COVID national emergency and to develop policies that could serve homeowners and communities most vulnerable to foreclosure.

As part of their HAF plan submission, each entity was able to identify what ongoing data was most needed and the most cited request was monthly data on loan delinquency.²⁹ The many sources of mortgage data currently available, private and federal, offer a varied range of information, making it difficult to put together a comprehensive picture of the problems facing homeowners.³⁰ First, some data is only available for purchase, limiting access. Other data is difficult to access, organize, and analyze. Mortgage performance and borrower demographic data is largely absent from freely available data sources, making an assessment of disparate impact and specific challenges faced by homeowners of color difficult to accomplish.

Regulators and policymakers, along with the public, need to know the particularities of mortgage challenges faced by homeowners of color to better stem the tide of foreclosures and address the racial homeownership and wealth gaps. However, most publicly available data sources do not include any demographic information on borrowers, making it impossible to assess the extent of the problem and the special efforts needed to prevent avoidable foreclosures in communities of color. As widely documented, Black and Latinx communities were hardest hit by the foreclosure crisis of a decade ago, and have been disproportionately impacted by the COVID-19 pandemic, both with regard to physical health and economic stability.

The lack of uniform reporting requirements affects data quality as well. For example, though mortgage delinquencies rose sharply, servicers reported markedly different delinquency statistics, in part due to differences in defining and classifying mortgages in forbearance. Wells Fargo, which counts loans in forbearance as delinquent, reported a delinquency rate *eight times* higher than Chase, which does not count loans in forbearance toward the reported delinquency rate.³¹ Other sources of data, such as the Census Household Pulse Survey, make no distinction between mortgages that are delinquent and not in a forbearance plan and those in forbearance (although it does provide demographic insights based on a randomly sampled survey of consumers, the kind of information that is sorely lacking as described below). There is also very limited public data about the nature of post-forbearance “solutions” homeowners have accepted. Without consistent, more comprehensive loan-level reporting it is difficult to determine how many borrowers are accessing forbearance and the adequacy of loss mitigation options available to them.

In some cases, data collected by the government is not shared publicly or at the loan level, such as, it appears, much of the data collected on GSE loan performance. Further, while the National Mortgage Database created by Dodd-Frank provides some information, it is only a sample and lacks certain critical information. FHA’s Neighborhood Watch data does provide helpful insights into FHA loan performance. However, the data is refreshed each month, making it difficult to track trends, and it lacks detail on what types of loss mitigation offers homeowners receive or analysis of what trends are

²⁹ Alaska, Arizona, Arkansas, District of Columbia, Georgia, Idaho, Iowa, Louisiana, Maine, Massachusetts, Montana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, Oklahoma, Pennsylvania, Puerto Rico, South Carolina, South Dakota, Texas, Utah, Vermont, and Wyoming. Maryland entered into a MOU with its state division of financial regulation to obtain real time data on Notices of Intent to Foreclose. See HAF Grantee Plan – HAFP-0034 p. 4.

³⁰ [HAF Grantee Plan - HAFP-0096 - Texas Department of Housing and Community Affairs, p. 4](#) “Due to challenges posed by a lack of data compatibility among various sources and the difficulty locating reliable data for non-traditional mortgage loans in Texas (outside the traditional channels of FHA, VA, USDA-RD, Freddie Mac, and Fannie Mae), assumptions were made.” Maryland HAF Grantee Plan – HAFP-0034: “DCHD retained the services of a consultant to perform a multi-variant data analysis.”

³¹ Brandon Ivey, “[Delinquency Trends Far From Uniform Among Servicers, Loan Types](#),” *Inside Mortgage Finance* (Aug. 20, 2020).

developing. Data is also limited or unavailable on sales of non-performing loans (limited) or reperforming loans (unavailable) by FHFA and FHA.

3. What resources, programs, training, or other tools *can facilitate increased data sharing between different levels of government (Tribal, territorial, local, State, or Federal) related to equitable data?*

There are many government sources of mortgage data, including those described below. The Consumer Financial Protection Bureau (“CFPB”) should combine data, add additional collection and reporting, and provide comprehensive loan-level mortgage performance data that can be linked to HMDA and be made available in the aggregate to the public and at the loan level for government analysis and to researchers along the lines of how social security data is used for research and closely monitored for security and privacy.

HMDA Data Publication: This federal database is freely accessible and offers detailed data on individual loans from 2017 to the present. Loans are reported both by institution and nationwide by borrower characteristics. This database focuses on loan applications and origination. Some borrower demographic data is included. Furthermore, HMDA data files are difficult to work with.

The National Mortgage Database is a random sample of mortgages in the US tracking the credit scores, mortgage performance, and non-mortgage credit performance of sample borrowers, including household demographic data and borrower income.

The Census Household Pulse Survey began April 23, 2020 and provides a weekly report on a sample size of thousands of households, reporting mortgage status by race, income, and education. It does not distinguish between mortgages in forbearance and not in forbearance.

The FHFA Foreclosure Prevention & Refinance Report, released quarterly, reports foreclosure prevention actions, forbearance plans, loan modifications, refinances, delinquencies, and foreclosures. Delinquency rates are reported by state.

Making Home Affordable reported HAMP data and other loan modifications by servicer, by state, by year, by metropolitan statistical area, but provides no demographic data. The project is now closed; the latest report is from 2017, but some HAMP performance data is still updated by servicers.³²

The OCC Mortgage Metrics Report provides quarterly data on mortgage performance, foreclosures, and modifications, as well as a “borrower risk category.” Some data is available by state, but no demographic data is included. Unlike the OCC reports provided a decade ago, the current reports lack details about how loss mitigation is working.

The Mortgage Analytics and Performance Dashboard (“MAPD”), maintained by the Federal Reserve Bank of Atlanta, was updated monthly and used a servicer data set developed in part by Black Knight. Forbearance and delinquency rates were tracked by state, county, and zip code. No other borrower information is available and it has not been updated since December 2021.

³² [Troubled Assets Relief Program](#).

However, most discussions of mortgage performance rely on private sector data, including a significant amount of analysis published by agencies such as the Federal Reserve Bank of Philadelphia.³³ The government needs to collect, analyze and publish its own data.

4. What resources, programs, training, or other tools can expand opportunities for historically underrepresented scholars and research institutions to access and use equitable data across levels of government?

Many of the HAF plans relied upon academic studies to determine homeowner needs and develop their program plans. In fact, Colorado stated it would be helpful to have academics study the efficacy of programs funded through HAF.³⁴

Without access to free data sources, academics must purchase data from private entities. For example, Hawaii is collaborating with the University of Hawaii Economic Research Organization (UHERO) to analyze data for implementation and subsequent updates to the state's HAF plan. However, UHERO had to contract with Black Knight to receive high-frequency microdata on mortgage delinquencies and forbearance. Purchasing this data is costly.³⁵ Until the federal government collects its own comprehensive mortgage performance data, as it does under HMDA, these problems will remain.

5. What resources, programs, training, or tools can increase opportunities for community-based organizations to use equitable data to hold government accountable to the American public?

The public availability of mortgage market data is too limited. Available data, primarily generated in aggregate data tables produced by private industry, provides certain key metrics about mortgage performance but leaves many unanswered questions about who is facing the greatest challenges and the nature of the problems they face. As discussed further below, the federal government, through the CFPB, must collect, analyze and publish comprehensive, timely data on mortgage/chattel loan/property tax performance, including foreclosure status and loss mitigation options, at a sufficiently granular geographic level and with important demographic data included.

In the context of HAF, without a robust data set, entities had to consolidate variables from the above-described data sets into a single iterative index to align with program goals and eligibility criteria.³⁶ For example, California combined MAPD, Notices of Default, and other court records from pay-to-use datasets, all of which needed to be updated regularly, with Census Tract income information to determine potential eligibility for the program.³⁷ The full extent of the challenges facing homeowners is obscured both by missing data and by differences in how metrics are used and defined in data collection.

6. What resources, programs, training, or tools can make equitable data more accessible and useable for members of the public?

See previous response.

³³ Relies on Black Knight Data

³⁴ <https://home.treasury.gov/system/files/136/HAFP-0081-Colorado-GranteePlan.pdf> page 8

³⁵ One private data provider charges \$36,000 per year to purchase foreclosure and neighborhood data for one state, quote on file at National Housing Law Project.

³⁶ <https://home.treasury.gov/system/files/136/HAFP-0108-California-Submitted-Plan-Narrative.pdf> page 12

³⁷ <https://home.treasury.gov/system/files/136/HAFP-0108-California-Submitted-Plan-Narrative.pdf> at 15.

7. In which agencies, programs, regions, or communities *are there unmet needs, broken processes, or problems related to participation and accountability* that could be remedied through stronger collaborations and transparency around equitable data?

The CFPB should collect loan-level data and provide aggregate reporting free to the public regarding market-wide mortgage performance and loss mitigation, including demographic data and property location, to better monitor developments, develop policies and identify impacts on homeowners. Loan-level data with protections for individual privacy should also be publicly available to allow researchers to engage in further examination. Data published by the private sector is helpful but incomplete and does not provide universal access to key information.

The CFPB should work with federal banking and housing regulators and the Government Sponsored Enterprises to conduct and make public fair lending analyses related to the availability of loss mitigation and studies to better understand demographic differences in mortgage performance. In-depth analysis is needed of how policies affect populations and localities, including immigrant borrowers and homeowners with limited English proficiency, as well as Black, Latinx, Asian and Indigenous communities.

Policies must respond to data findings to ensure hard-hit communities and homeowners can increase their access to sustainable homeownership and exercise all available options for loss mitigation. Regulators also would be able to use this data to step up oversight of the mortgage market and to improve protections for homeowners and communities. Over a decade after the Great Recession's foreclosure crisis and as COVID hardships for homeowners linger, quality data on key aspects of mortgage performance is still unavailable to the public, keeping shrouded key questions about the loss mitigation system and impacts in communities of color.

Thank you for your consideration of our comments and recommendations. We look forward to working with OSTP and are happy to further discussion our suggestions. Please contact Stacey Tutt (stutt@nhlop.org) should you wish to clarify our position on these important issues.

Respectfully submitted:

National Housing Law Project
National Consumer Law Center
Americans for Financial Reform Education Fund
Consumer Action
Consumer Credit and Budget Counseling, Inc. d/b/a National Foundation for Debt Management
Jacksonville Area Legal Aid, Inc.
SeniorLAW Center
Woodstock Institute