

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9.

Note: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320/8(b)(3). Appear at the end of the instructions. The certification is to be made with reference to those regulatory provisions as set forth in the instructions.

The following is a summary of the topics, regarding the proposed collections of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It uses plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention periods for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of the information;
 - (iii) burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, or mandatory);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to collected (see note in item 19 of the instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of these provisions, identify the item below and explain the reason in item 18 of the Supporting Statement.

Signature of Program Official:

Date:

X
Kevin B. Perkins, Director, Organizational Policy, Planning and Analysis Division, HROA

Signature of Senior Officer or Designee:

Date:

X
Lillian Deitzer, Departmental Reports Management Officer,
Office of the Chief Information Officer

Supporting Statement for Paperwork Reduction Act Submissions
Application for the Transfer of Physical Assets
OMB Control Number 2502-0275
(HUD-92266)

A. Justification

1. The Department of Housing and Urban Development (HUD) has both the authority and the duty to closely monitor the operation of the properties encumbered by mortgages, which HUD insures or holds. The authority for this function can be found in Section 207 of the National Housing Act, 24 CFR Part 207.17, and in the Regulatory Agreements between the Secretary of HUD and the mortgagor of each HUD related project. The duty to perform this function stems from HUD's responsibility to the taxpayers to guard the insurance fund. The best way to prevent claims on the fund is to anticipate and identify problems (e.g., physical, financial, managerial, legal) with a project before they precipitate delinquencies and ultimately assignments of mortgages in the case of the insured projects or nonpayment in the case of HUD-held projects.
2. A transfer of physical assets is a significant event in the life of a HUD multifamily project and of the mortgage encumbering the project. It is also a point at which a great deal of money changes hands in connection with the transfer. HUD must be intricately involved at the time of the transfer to ensure that:
 - a.) the project is not placed in physical, financial or managerial jeopardy by the transfer;
 - b.) the changes effected at the project as a result of the transfer are not contrary to the interest of HUD and the tenants;
 - c.) the legal and operational terms of the transfer are not in violation of the statutes, regulations, HUD policies and binding legal contracts applicable to the particular project;
 - d.) the project is the recipient of its fair share of the money changing hands in consideration of the transfer; and
 - e.) the project and HUD are not exploited during the vulnerable period of transfer.

In order to ensure that its interest is adequately protected, HUD must review and approve the new owners and managers of its project prior to the point at which they become the owners and managers. Likewise, to protect its interest, the Department must have an opportunity to review and approve the terms and conditions of proposed transfers prior to their implementation. The transfer of physical assets application and supporting documentation provide the Department with a vehicle for reviewing all aspects of transfers of physical assets in an orderly efficient manner prior to the point at which they become effective. The Department has taken great care to limit the documentation to only that which it feels is absolutely necessary to enable it to protect its interest.

HUD reviews each transfer of physical assets proposal for legal and administrative sufficiency. Consequently, the Documents and information required for submission are both a legal and administrative nature. Most of these documents are already being prepared. The submission to HUD merely requires the task of photocopying.

The administrative information collection collected pursuant to the application provides HUD with an insight into the purchaser (e.g., Purchasers Resume) and his ability to own and operate the project (e.g., HUD-2530 (approved under OMB Control No. 2502-0118) and a Personal Financial Statement). The purchaser's resume is particularly useful in that it provides HUD with information concerning the purchaser experience and effectiveness in other real estate ventures. This can obviate many potential problems. For example, where the resume of a prospective purchaser of a troubled project indicates that he is inexperienced in that area, the HUD servicer reviewing that resume will suggest to the purchaser that he associate himself with one who is experienced in troubled projects, or at a minimum, hire management well versed in the area.

The administrative information required is also essential in describing to HUD the purchaser's plans for the project (e.g., purchaser's letter, pro forma balance sheet, MIO Plan, management agreement.) Also, the administrative information is useful to HUD in assessing the acceptability of a transfer proposal in that it provides HUD with the tool to know whether a project is being exploited by the transfer (e.g., sources and application of funds, affidavit, interim financial statements.)

A frequent point of confusion arises from the need for both an interim financial statement and a pro forma balance sheet. The pro forma shows the assets and liabilities of the project immediately following the transfer as projected by the purchaser, while the interim financial statement reflects the actual financial condition of the project between the time of the last annual financial statement and the submission of the application for transfer. Comparison of the two documents can reveal unauthorized, illegal, or excessive drains on the project accounts.

The information required by the Application for TPAs is to be submitted in written form to the HUD Field Office in the jurisdiction in which the subject project property is located. Copies of the material are forwarded to Headquarters. The information collected is always reviewed by HUD Field Office staff and, in many instances, by HUD Regional Office staff and Headquarters staff.

The information required for submission by the Application of TPAs is clearly necessary to enable the Department to determine whether:

- a.) The applicant purchaser is acceptable to own and operate a project encumbered by a HUD-insured or HUD-held mortgage;
- b.) The terms and conditions of the transaction are not in violation of applicable statutes, Federal Regulations, and published HUD policy; and
- c.) The physical and financial needs of the project are adequately addressed so as to minimize the risk of subsequent physical deterioration and financial damage at the project.

Much of the information required is submitted first in the proposed form and later in the executed and recorded form. This is done for the convenience of the purchaser. Where amendments to the documents are required, it is far easier for the parties to the transaction to make the amendments prior to execution and recordation than subsequent to execution and recordation. Of course, it is necessary for the Department to review the Documentation and other relevant information subsequent to execution and recordation to ensure that its rights and interests are protected.

3. Currently, there are no plans to automate collecting this information. The process of transferring physical assets requires several documents to be submitted as supporting documentation to including but not limited to the purchaser's letter, purchaser's certificate of previous participation (HUD-2530), purchaser's resume, sources and uses of funds, executed but unrecorded sale contract, option contract or land contract, un-audited financial statement, title report, etc. All parties submitting a TPA request must follow these procedures, therefore electronic reporting is not feasible.

Once the application is approved, the information for the purchaser will be available in HUD internal systems.

4. The information required by the Application for TPAs is unique to the particular transaction and thus is unlike other information on file with HUD, with two exceptions. They are:
 - a.) Some of the identifying information called for at the top of page one of the application (e.g., project name, number, date mortgage recorded); and

- b.) Information describing the purchaser (e.g., HUD-2530, Purchaser’s Financial Statement) when, and only when, the identical purchaser is purchasing more than one HUD project at the same time.

The collection of information falling under the first exception is clearly justified because of the obvious necessity of identifying the subject property.

Information coming under the second exception is most unusual and generally involves only a few pages of the document. When it does exist, the parties to the transaction need to merely copy the information already submitted or reference the information already submitted.

5. The collection of this information does not impact small businesses or other small entities.
6. If this information were collected less frequently, HUD will not be able to closely monitor the operation of the properties within its portfolio. HUD must closely monitor changes of ownership to avoid possible risk to the insurance fund.
7. No special circumstances apply to this collection.
8. Information collected is conducted in a manner consistent with the guidelines of 5 CFR 1320.6. The Notice announcing this collection of information appeared in the Federal Register July 24, 2006 (Vol. 71, No. 141) page 41827. No comments were received.
9. There will be no gifts or payments given to respondents.
10. The Department does not assure confidentiality to respondents.
11. There are no sensitive questions involved in this collection.

12. Annual Burden Estimate:

| Information Collection | Number of Respondents | Frequency of Response | Total Annual Responses | Burden Hours per Response | Total Annual Burden Hrs | Hourly Cost | Total Annual Cost |
|---------------------------|-----------------------|-----------------------|------------------------|---------------------------|-------------------------|-------------|-------------------|
| HUD-92266 and attachments | 350 | 1 | 350 | 92 | 32,200 | \$20 | \$644,000 |

*Estimated burden hours and hourly costs for respondents to complete and submit the requested information.

13. There are no additional costs to respondents

14. Annual Cost to the Federal Government:

| Number of Responses | Staff Hours Per Response | Total Annual Burden Hours | Cost Per Hour | Total Annual Cost |
|---------------------|--------------------------|---------------------------|---------------|-------------------|
| 8,400 | 60 | 504,000 | \$27.00 | \$13,608,000 |

*Estimated cost per hour for HUD staff (GS-12) to review and process the documents for this collection.

15. This is a request for extension of a currently approved collection. There have been no significant changes in the number of respondents, responses, or burden hours.
16. Collection of this information will be not published. Each form will be maintained with the HUD program office in individual case files.
17. HUD is not seeking approval not to display the expiration date for OMB approval of the information collection.
18. No exceptions to the certification statement identified in Item #19 on form OMB 83-I, “Certification for Paperwork Reduction Act Submissions.”

B. Collections of Information Employing Statistical Methods