

# Paperwork Reduction Act Submission

Please read the instruction before completing this form. For additional forms or assistance in completing this forms, contact your agency's Paperwork Reduction Officer. Send two copies of this form, the collection instrument to be reviewed, the Supporting Statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 Seventeenth St. NW, Washington, DC 20503.

1. Agency/Subagency Originating Request: <b>U.S. Department of Housing and Urban Development</b> <b>Office of Multifamily Housing Development</b>		2. OMB Control Number: a. <b>2502-0011</b> b. None	
3. Type of information collection: (check one) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input checked="" type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, <b>without change</b> , of previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, <b>with change</b> , of previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note item A2 of Supporting Statement instructions.		4. Type of review requested: (check one) a. <input checked="" type="checkbox"/> Regular b. <input type="checkbox"/> Emergency - Approval requested by c. <input type="checkbox"/> Delegated 5. Small entities: Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 6. Requested expiration date: a. <input checked="" type="checkbox"/> Three years from approval date      b. <input type="checkbox"/> Other (specify)	
7. Title: <b>Request for Construction Change</b>			
8. Agency form number(s): (if applicable) <b>HUD-92437, HUD-92441, HUD-92442, HUD-92442-A, HUD-92442-CA, HUD-92442-A-CA</b>			
9. Keywords: <b>Housing, Mortgages, Mortgage Insurance</b>			
10. Abstract: <b>Contractors, mortgagors, and mortgagees submit the information to HUD to obtain approval of the changes in approved contract drawings and/or specifications. The forms are needed by HUD to obtain compliance with the construction contract.</b>			
11. Affected public: (mark primary with "P" and all others that apply with "X") a. Individuals or households      e. Farms b. <b>P</b> Business or other for-profit      f. Federal Government c. <b>X</b> Not-for-profit institutions      g. State, Local or Tribal Government		12. Obligation to respond: (mark primary with "P" and all others that apply with "X") a. Voluntary b. <b>P</b> Required to obtain or retain benefits c. Mandatory	
13. Annual reporting and recordkeeping hour burden: a. Number of respondents      1,600 b. Total annual responses      2,200 Percentage of these responses collected electronically      0% c. Total annual hours requested      9,800 d. Current OMB inventory      20,700 e. Difference (+,-)      -10,900 f. Explanation of difference: 1. Program change: 2. Adjustment:      -10,900		14. Annual reporting and recordkeeping cost burden: (in thousands of dollars) Do not include costs based on the hours in item 13. a. Total annualized capital/startup costs b. Total annual costs (O&M) c. Total annualized cost requested d. Total annual cost requested e. Current OMB inventory f. Explanation of difference: 1. Program change: 2. Adjustment:	
15. Purpose of Information collection: (mark primary with "P" and all others that apply with "X") a. <b>P</b> Application for benefits      e. <b>X</b> Program planning or management b. Program evaluation      f. Research c. General purpose statistics      g. <b>X</b> Regulatory or compliance d. Audit		16. Frequency of recordkeeping or reporting: (check all that apply) a. <input type="checkbox"/> Recordkeeping      b. <input type="checkbox"/> Third party disclosure c. <input checked="" type="checkbox"/> Reporting: 1. <input checked="" type="checkbox"/> On occasion      2. <input type="checkbox"/> Weekly      3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly      5. <input type="checkbox"/> Semi-annually      6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially      8. <input type="checkbox"/> Other (describe)	
17. Statistical methods: Does this information collection employ statistical methods? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		18. Agency contact: (person who can best answer questions regarding the content of this submission) Name: <b>Carmelita A. James</b> Phone: <b>202-708-1142 ext. 2579</b>	

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## 19. Certification for Paperwork Reduction Act Submissions

On behalf of the U.S. Department of Housing and Urban Development, 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) appears 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.

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Signature of Program Official:

Date:

X  
Michael E. Winiarski, Acting Director, Organizational Policy, Planning and Analysis Division

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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

## Request for Construction Change

OMB Control Number 2502-0011

(Forms HUD-92437, HUD-92441, HUD-92442, HUD-92442-A, HUD-92442-CA, HUD-92442-A-CA)

### A. Justification

1. Section 207(b) of the National Housing Act (Public Law 479, 48 Stat. 12 U.S.C. 1701, et. seq.), authorizes the Secretary of the Department of Housing and Urban Development to insure mortgages for construction of rental housing projects. Regulations can be found at 24 CFR 200 Subpart A. Regulations authorize the Secretary to conduct periodic inspections and observations of the construction site of a multifamily housing project for the purposes of protecting the Department interests. Contractors, mortgagors, and mortgagees use the information to obtain approval of changes in contract drawings and specifications from the FHA Commissioner. Changes to the scope or the design of a project occur for a variety of reasons. Information from this collection is used by HUD to determine that the respondents are in compliance with Article 1.E of the construction contract, which states “Changes in Drawings and Specifications of any terms of the contract documents, or orders for extra work, or changes by altering or adding to the work, or which will change the design concept, may be effected only with the prior approval of the mortgagor and the FHA Commissioner under such conditions as either the mortgagor or the FHA Commissioner may establish
2. Inspections are conducted to evaluate the contractor and architect’s performance, to obtain construction in accordance with contract documents, and to report on conformance with prevailing wage and other contract requirements. HUD must review all requested changes that may affect the marketability, value, income, maintenance, or operating cost of the project. The Department must also identify and explain any estimated increase or decrease in net project income.

**Form HUD-92437**, Request for Construction Changes on Project Mortgages. This form serves as the project’s change order involving changes to contract work, contract price, or contract time. All on-site construction changes are submitted on this form. The contractor, architect, mortgagor, and mortgagee must approve the proposed changes before the request is submitted to HUD for approval. The form ensures that viable projects are developed.

**Form HUD-92441, Building Loan Agreement.** This form is used to establish responsibilities, conditions, operations, and terms between the mortgagee and mortgagor, including the basis in which insured advances may be made during the construction period. The use of this form is applicable only to those insured projects where the mortgagor is also serving as the general contractor. Paragraph 3 of form HUD-92441 reads as follows:

*Changes in Drawings and Specifications, or changes by altering or adding to the work contemplated, or orders for extra work, or which change the design concept, may be effected only with prior written approval of the Lender and the Commissioner and under such conditions as either the Lender or the Commissioner may establish.*

HUD-92442 – This form is used to obtain approval from the FHA Commissioner for contractors and mortgagors to document the terms and conditions of any contract document, or order for extra work, or changes by altering or adding to the work, of which will change the design concept. Form HUD-92442 may be used when there is no identity of interest between the mortgagor and the contractor.

HUD-92442-A – This form is used by contractors and mortgagors to obtain approval from the FHA Commissioner to document the terms of any contract document, or order for extra work, or changes by

altering or adding to the work, of which will change the design concept. Form HUD-92442-A may be used in any case, and shall be used when there is an identity of interest between the mortgagor and contractor.

*Article I.E. of forms HUD-92442 and HUD-92442A reads as follows:*

*Changes in the Drawings and Specifications, or changes by altering or adding to the work contemplated, or orders for extra work, or which change the design concept, may be effected only with prior written approval of the Lender and the Commissioner and under such conditions as either the Lender or the Commissioner may establish.*

HUD-92442-CA - Contactors and mortgagors use this form to obtain approval from the FHA Commissioner for any changes in the terms of the contract documents, or order for extra work, or changes by altering or adding to the work, or which will change the design concept of the construction contract. This form is used by projects insured under Section 202/811 Program only and where the bidding procedures are not being used.

HUD-92442-A-CA – Contractors and mortgagors use this form to document the terms and conditions of the construction contact, i.e. changes for extra work or changes by altering or adding to the work, of which will change the design concept of the construction document for approval of the FHA Commissioner. This form is used by projects insured under Section 202/811 Program only and were competitive bidding is being used.

3. Electronic submission is not feasible at the present time. The mortgagee and contractor complete the documents, which are approved by the project architect and reviewed by the mortgagee with regard to funds required to construct the project and to cover extra costs due to construction changes. The mortgagee submits the completed forms to HUD for its review and determination of acceptability or unacceptability. Information about the changes is specific to each property, requiring specialized information unique to each property, thereby causing cost of automation to be excessive for relatively low number of respondents.
4. Development and construction costs vary with each project; general or modified information is not acceptable. No other forms exist that can be substituted to obtain the required information for construction contract administration.
5. The collection of information does not impact small businesses or other small entities.
6. Collection of information occurs as changes in contract documents occur at a construction site. If the information were collected less frequently, there would be a discrepancy that could lead to possible mechanic's liens against the property, bankruptcy of the general contractor, and defaults under the terms of the Building Loan Agreement, foreclosure, and repossession by the Department.
7. Other than requiring that the original and six copies be filed for Form HUD-92437 (Request for Construction Changes on Project Mortgages), there are no special circumstances that apply to this collection of information. Form HUD 92437 Request for Construction Changes on Project Mortgages- each party involved in the construction of the project receives a copy of the change order including HUD, mortgagor, mortgagee, architect, and contractors.

8. In accordance with 5 CFR 1320.8(d) this collection was announced in the Federal Register on (February 2, 2007, Vol 72, No. 22, page 5071). The following individuals provided comments regarding the collection:

<p>Larry W. Ferguson, Construction Analyst          Atlanta Multifamily Hub          US Department of Housing and Urban Development          Georgia State Office          Richard B. Russell Federal Building          75 Spring Street, S.W.          Atlanta, GA 30303          (404) 331-5001, ext. 2405</p>	<p>Elaine Wheels, Senior Project Manager          Denver Multifamily Hub          US Department of Housing and Urban Development          Colorado State Office          633 – 17<sup>th</sup> Street           Denver, CO 80202          (303) 672-5427</p>	<p>Roger Kramer, Architect          Office of Multifamily Development          Technical Support Division          U.S. Department of Housing and Urban Development          451 7<sup>th</sup> St, SW, Room 6156          Washington, DC 20410          (202) 708-2866</p>
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All individuals concluded that the information collection is still necessary to conduct business. However, it was recommended that the title “Chief Architect” be changed to “Construction Manager” since a majority of the offices no longer have Chief Architects. Otherwise, no problems were indicated from any of these individuals relative to our present construction contract procedures and the forms associated therewith.

9. No payments or gifts are provided to respondents.
10. Forms HUD-92437, 92441, 92442, 92442A, 92442-CA, 92442A-CA are for the Department’s use only and respondents are assured that the material is held in confidentiality unless a release order is issued under the Freedom of Information Act.
11. The collection does not contain information of a sensitive nature about sexual behavior or attitudes, religious beliefs, or private matters.
12. The number of respondents for each form represents estimated levels for an annual period. Respondents using Forms HUD-92441, 92442, 92442A, 92442-CA, 92442A-CA are distinct from respondents for Form HUD-92337. Due to the inherent complexity in planning and constructing a multifamily project, work may require multiple changes in the contract drawings and specifications. These forms may be used more than once during the construction period. This number is representative of the average number of change orders a project will have.

The 300 respondents fill out form HUD-92437 to request and document project change orders. On average there are approximately 3 change orders per project for a total of 900 responses. Forms HUD-92441, HUD-92442, HUD-92442-A, and HUD-92442-CA, HUD-92442-A-CA are contracts between the mortgagee, mortgagor, and contractor. These forms must be executed before construction commences. The HUD-92441 is only used for projects where the mortgagor is also serving as the general contractor. HUD-92442 is used when there is no identity of interest between the mortgagor and, the contractor. 92442A is used when there is an identity of interest between the mortgagor and contractor. The identity interest between the mortgagor and contractor determines which form /contract is used. The number of respondents hasn’t changed and reflects an accurate estimate. For forms (92442, 92442A, and 92442-CA) there is still a response time of 16 hrs. Forms HUD-92442-CA and HUD-92442-A-CA are used only for the 202/811 Capital Advance Programs. HUD-92442-CA has 300 respondents and is used where the bidding procedures are not being used and HUD-92442-A-CA has 100 respondents and is used where competitive bidding is being used. Form HUD-92442-CA is used more often than HUD-92442-A-CA because a majority of the bidding is non-competitive.

Information Collection	Number of Respondents	Frequency of Responses	Responses Per Annum	Burden Hour Per Response	Annual Burden Hours	Hourly Cost Per Response	Annual Cost
HUD-92437	300	3	900	8	7200	\$40.00	\$ 288,000
HUD-92441	300	1	300	2	600	\$40.00	\$ 24,000
HUD-92442	300	1	300	2	600	\$40.00	\$ 24,000
HUD-92442-A	300	1	300	2	600	\$40.00	\$ 24,000
HUD-92442-CA	300	1	300	2	600	\$40.00	\$ 24,000
HUD-92442-A-CA	100	1	100	2	200	\$40.00	\$ 8,000
<b>Totals</b>	<b>1600</b>		<b>2200</b>		<b>9800</b>		<b>\$392,000</b>

13. There are no new capital or start-up costs that apply to these collections of information. There are no annual operation or maintenance costs resulting from these collections of information.

14. Cost to the Federal government is based on an annual burden of 3 hours per response and a cost per hour of \$36.38 (GS 12/Step 5 Salary of \$75,671), which includes staff salary and overhead for an annual cost of \$240,108.

Information Collection	Number of Responses	Frequency of Responses	Responses Per Annum	Burden Hour Per Response	Annual Burden Hours	Hourly Cost Per Response	Annual Cost
HUD-92437	300	3	900	3	2700	\$36.38	\$ 98,226
HUD-92441	300	1	300	3	900	\$36.38	\$ 32,742
HUD-92442	300	1	300	3	900	\$36.38	\$ 32,742
HUD-92442A	300	1	300	3	900	\$36.38	\$ 32,742
HUD-92442-CA	300	1	300	3	900	\$36.38	\$ 32,742
HUD-92442A-CA	100	1	100	3	300	\$36.38	\$ 10,914
<b>Totals</b>	<b>1600</b>		<b>2200</b>		<b>6600</b>		<b>\$240,108</b>

15. The number of responses for Form HUD-92437 was incorrectly stated as 900. The correct number of responses is 300; frequency of responses is 3, for a total of 900 annual responses. The number of burden hours for Form HUD-92437 was increased due to the amount of information collection required. The number of burden hours for forms HUD-92442, 92442, 92442-A, and 92442-CA was reviewed; as a result, the burden hours were decreased due to the minimal amount of information required completing these contracts.

16. The collection of information is not scheduled for publication.

17. OMB expiration data will be displayed on the appropriate forms.

18. There will be no exceptions to the “certification statement” on OMB 83-I.

## **B. Collections of information Employing Statistical Methods.**

There will be no statistical methods used in this collection of information.

