

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: U.S. Department of Housing and Urban Development Office of Affordable Housing Preservation		2. OMB Control Number: a. 2502-0533 b. <input type="checkbox"/> 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, without change , of previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change , 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 type="checkbox"/> No 6. Requested expiration date: a. <input checked="" type="checkbox"/> Three years form approval date b. <input type="checkbox"/> Other (specify)	
7. Title: Multifamily Housing Mortgage and Housing Assistance Restructuring Program (Mark to Market)			
8. Agency form number(s): (if applicable) 9624,9625			
9. Keywords: Housing, Mortgages, Rent subsidies, Section 8 Housing			
10. Abstract: Information to analyze and reduce rents to market and restructure mortgages on multifamily properties with FHA insurance and Section 8 project-based assistance whose Section 8 rents exceed market rents. The program reduces Section 8 rents to market and restructures debt as necessary.			
11. Affected public: (mark primary with "P" and all others that apply with "X") a. <input checked="" type="checkbox"/> Individuals or households e. <input type="checkbox"/> Farms b. <input checked="" type="checkbox"/> Business or other for-profit f. <input type="checkbox"/> Federal Government c. <input checked="" type="checkbox"/> Not-for-profit institutions g. <input type="checkbox"/> State, Local or Tribal Government		12. Obligation to respond: (mark primary with "P" and all others that apply with "X") a. <input checked="" type="checkbox"/> Voluntary b. <input checked="" type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory	
13. Annual reporting and recordkeeping hour burden: a. Number of respondents 96 b. Total annual responses 360 Percentage of these responses collected electronically 50% c. Total annual hours requested 240 d. Current OMB inventory 663 e. Difference (+,-) -423 f. Explanation of difference: 1. Program change: 2. Adjustment: -423		14. Annual reporting and recordkeeping cost burden: (in thousands of dollars) a. Total annualized capital/startup costs \$0.00 b. Total annual costs (O&M) \$0.00 c. Total annualized cost requested \$0.00 d. Total annual cost requested \$0.00 e. Current OMB inventory \$0.00 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. <input checked="" type="checkbox"/> Application for benefits e. <input type="checkbox"/> Program planning or management b. <input type="checkbox"/> Program evaluation f. <input type="checkbox"/> Research c. <input type="checkbox"/> General purpose statistics g. <input checked="" type="checkbox"/> Regulatory or compliance d. <input type="checkbox"/> Audit		16. Frequency of recordkeeping or reporting: (check all that apply) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure b. <input type="checkbox"/> Reporting: 1. <input 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 type="checkbox"/> No		18. Agency contact: (person who can best answer questions regarding the content of this submission) Name: Claude C Dickson Phone: 202-708-0614 x 8372	

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.

Signature of Program Official: X Mike Winiarski, Director, Organizational Policy, Planning and Analysis Division, HROA	Date:
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Signature of Senior Officer or Designee: X Lillian Deitzer, Departmental Reports Management Officer, Office of the Chief Information Officer	Date:
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Supporting Statement for Paperwork Reduction Act Submissions

Multifamily Housing Mortgage and Housing Assistance Restructuring (Mark-to-Market) OMB Control Number 2502-0533

A. Justification

1. The Mark to Market Program is authorized under the Multifamily Assisted Housing Reform and Affordability Act of 1997 as extended by the Mark to Market Extension Act of 2001. The information collection is used to determine the eligibility of FHA-insured multifamily properties for participation in the Mark to Market (M2M) program and the terms on which such participation should occur. The program reduces Section 8 rents to market and restructures debt as necessary.

The information collection is also used to structure the closing of debt restructures that are finalized under the program, to track the post-closing performance of the restructures, and to evaluate the performance of the Agency's Participating Administrative Entities (PAEs) in undertaking restructures on the Agency's behalf as the Agency agent.

The program "FHA Multifamily Housing Mortgage and Housing Assistance Restructuring Program" was originally authorized by Title V of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act of 1998 (P.L. No. 105-65, 111 Stat. 1384, October 27, 1997). A copy of Title V is attached. Title V provides that HUD can implement a statutory permanent program directed at FHA-insured multifamily projects that have project-based Section 8 contracts with above-market rents. Currently, authority for this program sunsets September 30, 2011. However, it is expected that the program will again be extended for three years beyond that sunset date. Eligible properties that have Section 8 contracts expiring after the program authority sunsets may continue the restructure process provided that a binding commitment exists to allow a debt restructuring after sunset.

For many project owners, if the current level of Section 8 assistance is reduced and all else remains constant, the likelihood is that the property will be unable to continue to meet its financial obligations, including mortgage debt service payments. This could lead to mortgage defaults and possible displacement of thousands of low-income families and senior citizens nationwide. The purpose of the program, therefore, is to preserve low-income rental housing affordability while reducing the long-term costs of Federal rental assistance and minimizing the adverse effect on the FHA insurance funds.

2. In order to continue receiving benefits, entry into the program is required for all owners of Section 8 properties if the property's rents are above market rent levels. Owners of potentially eligible properties or their agents provide the required information directly to a contracted PAE through interviews and existing documentation. Submissions are reviewed by a contracted PAE (generally a State Housing Finance Agency or a Local Housing Agency). Owners benefit by being eligible to continue receiving Section 8 Housing Assistance Payments (HAP) from the Federal government. In most cases these payments can be reduced to levels resulting in savings to the Federal government. To continue receiving this benefit the owner must request renewal of the HAP contract 120 days prior to the expiration of the existing HAP contract. An owner may request the property be referred to HUD's Office of Affordable Housing Preservation (OAHP) for (1) reduction of rents to comparable market rents without restructuring ("Lite" restructuring) or (2) for reduction of rents to comparable market rents with a restructuring of the property's mortgage ("Full" restructuring).

Residents of properties that have been accepted into the program provide information to OAHP for the purpose of determining whether the PAE has undertaken its responsibilities to them in accordance with OAHP's guidelines. The PAE also provides residents with information on the program and the terms of any proposed restructure of the property. Third party mortgage lenders and their agents provide information to OAHP and/or the PAE in order to facilitate the closing of the debt restructure transaction. Some restructures

provide for the establishment of a rehabilitation escrow account, which is used to fund rehabilitation work on the property that is prescribed by the PAE and OAHP. After the closing of the restructure, third-party rehabilitation escrow administrators are required to report to OAHP on the progress of the rehabilitation work and to submit requests for OAHP's approval for changes in the scope of this work or to extend the period for completion of the rehabilitation. This ensures that rehabilitation escrow funds are spent appropriately and that required rehabilitation work is completed within the timeframes prescribed by OAHP.

During the course of a restructure, information must be provided to tenants and their feedback is considered with regard to the transaction. Because the information is provided primarily by HUD's PAE, no burden is attributed to that activity. Information may be provided by tenants, but it is not solicited in any standard structure, and responses are voluntary. Therefore, no burden is attributed to tenants' response. Required information is as follows.

Residents of properties participating in the M2M program, and interested community groups, must be provided the opportunity for meaningful participation in the restructuring process. Notices of the First Tenant Consultation Meeting must be delivered directly or by mail to each tenant and other interested parties, and must be posted within the building and made available at the office. At that meeting, the PAE addresses tenant concerns about M2M, supplies the tenants with information about the M2M process, and provides residents with the opportunity to comment. Sign-in sheets are collected and maintained in the PAE's file. The Second Tenant Consultation Meeting provides tenants with the opportunity to offer comments on the draft Restructuring Plan. All tenant comments are addressed in the restructuring plan by indicating how they were responded to, or that they cannot be addressed, or that the concern was investigated and was without merit. Tenants and interested community groups must be given access to relevant documents in order to participate effectively in M2M restructurings. Within 10 calendar days after closing of the restructuring or expiration of the appeal rights, the PAE must provide notice to the tenants and other interested parties that either describes the closed transaction or indicates why the transaction will not be restructured. Owners are required to give a 12-month and a 120-day notice to tenants prior to opting out at the end of the Section 8 contract period.

Information collection – Owners.

Form HUD-9624, Contract Renewal Request Form, Multifamily Section 8 Contracts, is used by owners to notify HUD of their desire to participate in the program.

Owner's Package.

Owner's Data Release Authorization Letter

Checklist of Related Party Agreements

Loan History Statement, and (for persons or entities with a substantial interest in the project) copies of bankruptcies; litigation; judgments; explanations of delinquencies, defaults, foreclosures, or deeds-in-lieu of foreclosure; and a description of any known environmental problems.

Evaluation of physical condition, either by obtaining one or adopting the PAE's.

Owner provides copy of Operating and Maintenance Plan addressing environmental issues, if needed.

Certification of Ownership Entity, with required attachments.

Additional Owner's Documentation that May Be Required.

Appeals. Any appeal must be in writing and be submitted to HUD within 30 days of receipt of the notification from the PAE or HUD. An owner may appeal the following determinations.

HUD's Restructuring Commitment.

HUD's rejection of the Restructuring Plan and Commitment.

HUD's determination that the property or the owner is ineligible for the M2M program.

HUD's determination that the Restructuring Process will be discontinued.

Request for Administrative Review. An owner may request an administrative review of a final decision of an appeal. Any request for administrative review must be in writing and be submitted to HUD within 30 days of receipt of the final determination.

Outyear Requirements.

In the case of multiple Section 8 contracts, or stages, where some or all contracts, or stages, expire after the closing of the Restructuring occurs (“outyear”), if the outyear contract or stage originated prior to the enactment of MAHRA, the owner may request that the outyear contract or stage(s) remain in place without rescission of the Section 8 funds.

Recapture Agreement. If an outyear contract will remain in place, the owner is required to sign a Recapture Agreement that provides that excess Section 8 payments be applied to (a) the second mortgage, (b) the Reserve for Replacement account, or (c) other uses approved by HUD.

Rider to the Section 8 Contract. The owners of properties with outyear contracts must also execute a rider to the Section 8 contract (when they request restructuring), agreeing to cooperate in the restructuring process and other terms.

Documentation Required for Mark-to-Market.

Rehabilitation Escrow Deposit Agreement and/or Operating Deficit Escrow (when applicable)

Use Agreement is a covenant running with the land and must be in effect at least 30 years.

Restructuring Commitment reflects the terms and conditions of the Restructuring Plan approved by HUD.

Section 8 Housing Assistance Payments (HAP) Watchlist Contract and Rent Reduction Certification.

Owners whose HAP Contracts or HAP contract extensions expire, or who do not sign and return the Restructuring Commitment, must sign a Section 8 HAP Watchlist Contract and provide a new rent schedule in order to continue receiving funds.

Closing Documents. Execute closing documents.

Owner’s Attorney. Issues Opinion of Owner’s Counsel and (if applicable) FHA Opinion of Owner’s Counsel.

Information collection – Third party lenders, escrow agents, etc.

Mortgagee Attorney

For modification of existing loan, existing mortgagee attorney prepares takeout financing documents. Standard business practice; no burden hours ascribed.

Closing Escrow Agent

Fax to HUD copies of final settlement statement, current property tax bill, M2M note, mortgages, 236 grant agreement (if applicable), IRS form W-9 and OAHF Transmittal and Certification of Interim/Final Settlement Statement and Closing. Provide recording instructions to the title company. Prepare and submit to PAE and HUD a disbursement statement and/or settlement statement reflecting the flow of funds through the closing escrow. Prepare and execute Transmittal and Certification and final settlement statement. Signs certification that final disbursement is correct. Standard business practice; no burden hours ascribed.

Existing Mortgagee or Loan Servicer provides PAE with information necessary to compare existing mortgage information to HUD’s system. Prepares and assembles any information needed to explain or resolve any discrepancy. If applicable, executes loan modification and forwards to Closing Escrow Agent. If existing mortgage is to be paid off, executes and forwards to Closing Escrow Agent a release of mortgage; certification of current mortgage balance; if requesting Section 541(b) claim payment, prepares Section 541(b) claim and authorization letter and corporate resolution to allow claim to be paid through closing escrow; closes out all escrow balances and forwards to closing escrow agent or new lender; and deducts escrow balances from final payoff figure and provides breakout of netting from payoff to HUD the day of closing

Title Company provides preliminary title report; provides pro forma title policy prior to closing pursuant to HUD guidelines; records documents pursuant to closing escrow instructions; issues final title policy prior to Section 541(b) payment disbursed. Standard business practice; no burden hours ascribed.

3. The process for collecting information from tenants is not automated nor is the information collected electronically; it is collected from the tenants orally at the First and Second Tenant meetings referenced above. The process for collecting information from the owner is not automated nor is it collected electronically; it is obtained via a direct interview of the project owner/agent. OAHF has not considered the use of improved technology in collecting information from those respondents because from inception this program was intended to be a temporary program of limited duration. The program was originally scheduled

to sunset in 2002 and again in 2006, when it was extended to 2011. Generally information from third-party lenders is submitted and collected electronically. Information from third-party rehabilitation escrow administrators is also submitted and collected electronically.

4. There will be no duplication of information. There is no similar information already available which could be used or modified for use for the purposes described in item 2 above.
5. This collection is not anticipated to burden small businesses, however, we attempted to minimize the burden on respondents by using standard forms wherever possible and by providing recommended sample formats but leaving exact format (narrative/description) of the required information up to the respondent.
6. The information cannot be collected less frequently.
7. There are no special circumstances that require the collection to be conducted in a manner which is inconsistent with the guidelines in 5 CFR 1320.8(d)
8. In accordance with 5 CFR 1320.8(d), the Agency's notice soliciting public comments, was announced in the Federal Register on June 2, 2009 (Volume 74, No.104, Pages 26420).
26420 Federal Register / Vol. 74, No. 104 / Tuesday, June 2, 2009 / Notices
 The Agency consulted with Mark to Market owners, mortgagees and rehabilitation escrow administrators via e-mail correspondence regarding the availability of data, frequency of collection, reporting format and other issues relevant to the collection of information from these third parties.
9. There has been no decision to provide any payment or gift to respondents other than the payment of claims to mortgagees on behalf of the mortgagor as required by statute.
10. No assurance of confidentiality is provided.
11. No such sensitive questions are asked.
12. Estimated hour burden to the respondents: Currently, authority for this program sunsets September 30, 2011. It is expected that the program will be extended after sunset, however. Nevertheless the number of potentially eligible projects (Section 8 properties with above-market rents that have not already gone through an M2M restructure) is declining due to the maturity of the program. The following chart shows the declining activity.

		Number of Respondents	Frequency of Response	Total Annual Responses	Hours Per Response	Total Annual Burden Hours	Hourly Rate	Total Estimated Cost
INFORMATION FROM PROJECT OWNER								
	HUD 9624 Request for Full Restructure	45	1	45	1.00	45.00	\$55	\$2,475.00
	HUD 9624 Request for Lite Restructure	15	1	15	1.00	15.00	\$55	\$825.00
	Request to Owner for related party agreements	45	1	45	1.50	67.50	\$55	\$3,712.50
	Request to Owner_for financial history	45	1	45	1.00	45.00	\$55	\$2,475.00
	Evaluation of physical condition	45	1	45	1.00	45.00	\$55	\$2,475.00
	Ownership certification	45	1	45	3.00	135.00	\$55	\$7,425.00
	Determination to Discontinue Restructuring Process	3	1	3	3.00	9.00	\$55	\$495.00
	Certification of Mortgagor Information	34	1	34	0.25	8.50	\$25	\$212.50
	Request to owner's Counsel for opinion	34	1	34	2.00	68.00	\$100	\$6,800.00

Restructuring Commitment	9	1	9	2.00	18.00	\$55	\$990.00
Green Restructuring Commitment	25	1	25	2.00	50.00	\$55	\$2,750.00
M2M Use Agreement	9	1	9	1.00	9.00	\$55	\$495.00
Green Initiative Use Agreement	25	1	25	1.00	25.00	\$55	\$1,375.00
Section 236 Use Agreement	5	1	5	1.00	5.00	\$55	\$275.00
Section 236 Rehab Grant Agreement	5	1	5	1.00	5.00	\$55	\$275.00
Green Operating & Maintenance Plan	25	1	25	3.00	75.00	\$55	\$4,125.00
Section 8 Recapture Agreement	1	1	1	1.00	1.00	\$55	\$55.00
HUD 9625 OCAF Adjustment Worksheet	45	1	1	0.75	33.75	\$55	\$1,856.25
Subtotal	460		460		659.75		\$39,091.25
INFORMATION FROM EXISTING MORTGAGEE							
Request for Mortgagee for mortgage loan history	45	1	45	1.00	45.00	\$25	\$1,125.00
Application for 541(b) payment	34	1	34	1.00	34.00	\$25	\$850.00
Request to Mortgagee for document release	34	1	34	1.00	34.00	\$25	\$850.00
Consent to Mortgage Restructuring Commitment	34	1	34	0.50	17.00	\$25	\$425.00
Release of Mortgage	34	1	34	0.50	17.00	\$25	\$425.00
Release of Regulatory Agreement	34	1	34	0.50	17.00	\$25	\$425.00
Release of Security Agreement	34	1	34	0.50	17.00	\$25	\$425.00
Subtotal	249		249		181		\$4,525
INFORMATION FROM REHAB ESCROW ADMINISTRATOR							
REAT Multipurpose Form	24	1	24	1.00	24.00	\$45	\$1,040.00
REAT Multipurpose Form	24	1	24	1.00	24.00	\$45	\$1,040.00
Request to Rehab Escrow Administrator for detailed accounting of expenditures on completed Rehab	24	1	24	2.00	48.00	\$45	\$2,160.00
Request to Rehab Escrow Administrator for submission of status updates on Resource Desk	24	12	288	0.50	144.00	\$45	\$6,480.00
Total	96		360		240		\$10,720.00

- Costs assumes (a) a blended hourly rate for owners of Section 8 properties who request entry into the Mark to Market program equivalent to a GS 15- step 5 federal employee; (c) a blended hourly rate for mortgagee's agents equivalent to a GS 9- step 3 federal employee; (d) a blended hourly rate for mortgagee's equivalent to a GS 10-step 8 federal employee; (e) a blended hourly rate for rehab escrow administrators equivalent to a GS15 – 5 step federal employee.
- Number of annual responses is based on estimated annual project referral into OAHP for the period September 1st to September 30th 20012.

13. There are no additional costs to the respondents.

14. Estimated annualized cost to the federal government.

The bulk of the restructuring work is done by the PAEs working under contract to HUD. Based on average costs, HUD projects the following costs:

Total		360 Responses		\$27.00		\$9,720.00
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15. There are no program changes reported in items 13 or 14 of OMB Form 83-1. There is an adjustment due to continued participation in the program resulting from the program being extended beyond its sunset of September 30, 2006.
 16. The collection of this information is not intended to be published.
 17. We are not seeking approval to not display the expiration date for OMB approval of the information collection.
 18. There are no exceptions to the certification statement of OMB form 83-1.
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