SUPPORTING STATEMENT

Housing Finance Agency Risk-Sharing Program

Part A – Justification

1. Section 542(c) of the Housing and Community Development Act of 1992 (HCD) authorized the Secretary of the Department of Housing and Urban Development (HUD), acting through the Federal Housing Administration (FHA), to carry out the Risk-Sharing Program with State and local housing finance agencies (HFAs) independent of the National Housing Act. The regulatory authority for this program is set forth in 24 CFR 266, published in final form on December 5, 1994. This regulation was amended on February 29, 1996, as part of the Presidents' regulatory reinvention effort. Section 235 of HUD's Fiscal year 2001 Appropriations Act, Public Law 106-377, converted the pilot program under Sections 542 (b) and 542 (c) of the HCD to permanent multifamily insurance programs. As a result, unit allocation provisions and credit subsidy requirements were eliminated (12 U.S.C. 1715z-22).

   The purpose of the Risk-Sharing Program is to provide new forms of Federal credit enhancement for multifamily loans. Qualified HFAs are authorized to underwrite and process loans. HUD provides full mortgage insurance on affordable multifamily housing projects processed by HFAs under this program. By entering into Risk-Sharing Agreements with HUD, HFAs contract to reimburse HUD for a portion of the loss from any defaults that occur while HUD insurance is in force. HUD directs qualified HFAs regarding their underwriting standards and loan terms and conditions is related to the proportion of the risk taken by the HFA. An HFA that contracts to accept less than 50 percent of the risk on a loan is subject to regulation by HUD as described in Section 24 CFR 266.305. An HFA that accepts 50 percent or more of the risk on a mortgage will be subject to regulation by HUD described in 24 CFR 266.300. Under this program, qualified HFAs are vested with the maximum amount of processing responsibilities. Program regulations provide primary decision-making on part of the HFA in selecting projects to receive financing.

2. The information collection was erroneously cancelled based on the number of applications from Housing Finance Agencies seeking to participate in the Risk-Sharing Program (less than 10 annually) and not the ongoing program requirements of those HFAs currently approved to participate in the Program, which includes but not limited to, the number of mortgage insurance applications processed and monitoring requirements.

   Burden requirements are in place for both current and new HFA participants. HUD is requesting that this information collection be reinstated with change. The Department requires information about the HFAs operating procedures and their loan origination, loan closing, loan management, and property disposition activities in accordance with 24 CFR 266 and HUD Handbook 4590.1. This information must be available to the Department in order to assess whether the HFAs are complying with program regulations and guidelines. HUD requires HFAs to collect specific information from projects in their risk-sharing portfolio. Justification for that information collection is included. In the process of providing financing for individual projects, HFAs may require more information than HUD directly requires. HFAs have their own processing and other requirements for information collection, which varies from agency to agency.

   Waivers to the risk-sharing program requirements, regulatory or not, are not delegated to HUD field offices. The Federal Housing Commissioner may waive any provision of the requirements subject only to statutory limitations, except that no waivers will be granted with respect to financial requirements for participating HFAs or underwriting standards required for Level II participants. Waiver requests must be in writing supported by documentation of the facts and reasons that formed the basis for the waiver. Waiver requests must be sent to HUD's Headquarters office for processing.

Breakdown of Collection Requirements:

The following paragraphs discuss the various information collection and record-keeping burdens required from participating risk-sharing HFAs. The information collection is divided into four burden categories describing the HFAs reporting requirements: **(1) HFA Application and Approval; (2) Mortgage Insurance Processing and Endorsement; (3) Program Monitoring and Evaluation; (4) Mortgage Insurance Terminations, Defaults, and Claims.** Any paperwork burden imposed on the risk sharing program by other programs, and which have been cleared through other paperwork justifications, are mentioned only briefly.

The abovementioned burdens are divided into two categories: Category A collection requirements are related to information required of the HFAs. Category B collection requirements relate to specific projects or mortgagors. The categories relate to the source of the burden, not the party responsible for submitting the documentation. For example, physical inspections reports are considered Category B because they are project related (i.e., the source) even though they are prepared and submitted by HFAs. The following information is collected throughout the life of the program and is collected by HFAs from mortgagors and projects.

PART I
HFA APPLICATION AND APPROVAL REQUIREMENTS:

I. Category A – HFA Application and Approval Requirements:

a. Qualified Housing Finance Agency (HFA):

Qualified HFAs are authorized to underwrite and process loans. HUD provides full mortgage insurance on affordable multifamily housing projects processed by such HFAs under the Risk-Sharing Program. By entering into Risk-Sharing Agreements with HUD, HFAs contract to reimburse HUD for a portion of the loss from any defaults that occur while HUD insurance is in force. The extent to which HUD will direct qualified HFAs regarding underwriting standards, loan terms, and conditions is related to the proportion of risk taken by the HFA. Under this program, qualified HFAs are vested with the maximum amount of processing responsibilities.

Participation in the Risk-Sharing Program requires that HFAs must meet basic qualification requirements. The HFA must be a HUD-approved mortgagee under 24 CFR Part 202 – Approval of Lending Institutions and Mortgagees. These requirements are approved under OMB control number 2502-0005 and no burden hours are included in this collection. The HFA must apply and be specifically approved for the program and must maintain eligibility by continuing to comply with the requirements set forth in the Risk-Sharing Agreement and Section 266.100. HFAs applying for the Risk-Sharing Program must meet basic qualifications, an HFA must:

(1) Carry the designation of “top tier or its equivalent;
(2) Receive an overall rating of “A” for the HFA for its general obligation bonds;
(3) Demonstrate its capacity as a sound and experienced HFA;
(4) Be a HUD-approved multifamily mortgagee in good standing;
(5) Have a least 5 years of experience in multifamily underwriting;
(6) Certify that the Department of Justice has not brought civil rights suits against the agency, or have any outstanding issues;
(7) HFAs that are not rated “A” are required to establish a reserve account.

b. HFA Application Requirements:

HFAs seeking approval to participate in the program must submit applications that contain the following information:

(1) Documentation satisfactory to the Commissioner that it meets the qualification requirements set forth in Section 266.100(a);
(2) Evidence of the $10,000 application fee;
(3) opinion of legal counsel that the HFA has the necessary powers to participate in the program;
(4) agency procedure manual;
(5) plan describing HFA compliance with program regulations;
(6) identification of individuals responsible for processing loans;
(7) description of oversight by State and local government agencies;
(8) copy of administrative manual;
(9) statement proposing the number of units the HFA plan to process to Firm Approval letter stage;
(10) HFA declaration of risk selected;
(11) evidence of bond ratings;
(12) certification that HFA will maintain reserves in dedicated account if not rated A;
(13) audited financial statements;
(14) sample debenture,
(15) certification that the HFA has no outstanding civil rights issues;
(16) evidence of 5 years' multifamily experience,
(17) questionnaire if HFA is not rated A.

c. Risk Levels: HFAs may be approved as follows:

(1) Level I – approval to originate, service, and dispose of multifamily mortgages where the HFA uses its own underwriting standards and loan terms and conditions, and assumes 50-90 percent of the risk (increments of 10 percent).

(2) Level II – approval to originate, service, and dispose of multifamily mortgages where the HFA uses underwriting standards and loan terms and conditions approved by HUD;

(a) when the loan-to-replacement cost ratio for new construction and substantial projects or loan-to-value ratio for existing projects are greater than or equal to 75 percent, the HFA shall assume at least 25 percent of the risk.

(b) when loan-to-replacement cost ratio for new construction and substantial rehabilitation or loan-to-value ratio for existing projects are less than 75 percent, the HFA shall assume 10 percent, or 25 percent, at the HFA's option, of the risk.

(3) Combined Levels I/II – for HFAs which plan to use Level I and Level II processing, the underwriting standards and loan terms and conditions to be used on Level II loans must be approved by HUD.

d. Review of HFA Underwriting Procedures:

The statute permits HFAs taking 50 percent or more of the risk to use their own underwriting standards and loan terms and conditions as disclosed and submitted with their application. HUD has no authority to modify these procedures as part of the approval process, but will use the HFA's procedures submitted as a part of the application in the monitoring process to determine that an HFA is underwriting in accordance with its own standards.

HUD will review the underwriting standards and loan terms and conditions of any HFA taking less than 50 percent of the risk (for all or a portion of its loans). Underwriting procedures will be incorporated into the Risk-Sharing Agreement. The HFA must notify HUD of changes to procedures by submitting an Addendum to the Risk-Sharing Agreement.

Amendment of regulation 24 CFR 266.200(d) – (HFA additional underwriting requirements): The proposed rule would amend 24 CFR 266.200(d) to authorize the refinancing of Section 202 loans with project-based Section 8 assisted units (or with assisted units under other rental assistance agreements) with mortgages that are supported by the actual unit rents being or to be collected, even though such rent **<u>may exceed market rents.</u>** Current regulations under 266.200(d), projects receiving Section 8 project-based or other rental subsidies are eligible for mortgage insurance only if the amount of the mortgage **<u>does not exceed</u>** an amount supportable by the lower of the unit rents collection under the rental assistance agreement or the market rent for comparable units. The proposed rule amendment would permit rents to be based on current project-based Section 8 contract unit rents under rental agreements or other rental subsidies. The regulatory change would place the state and local housing finance agencies under the same rules as FHA mortgagees under the National Housing Act, thereby improving the underwriting of risk sharing for Section 202/8 direct loans to allow refinancing of properties to permit repairs and improvements. To lessen the risk to the FHA mortgage insurance funds, the proposed regulatory amendment would apply to Level I HFAs immediately upon the effective date of the final rule. On the other hand, Level II HFAs will be required to submit their underwriting guidelines for Section 202/8 refinancing in addition to their standard underwriting guidelines and receive prior approval. In addition the proposed regulatory change would provide options to Section 202 borrowers to refinance 202/8 projects with an HFA insured mortgage or under the HFA Risk Sharing Program.

e. Reserve Requirements:

HFAs must maintain certain reserves to participate in the Risk-Sharing Program. HFAs with Top-Tier designation or overall rating of “A” on general obligation bonds are not required to have additional reserves so long as they maintain that designation or rating, unless HUD determines that an higher level of reserves is necessary. HFAs that are not rated “A”, must establish and maintain a specifically identified dedicated account consisting entirely of liquid assets in a financial institution acceptable to HUD. The account must be established prior to execution of the Risk-Sharing Agreement in an initial amount of not less than $500,000. Thereafter, the HFA must deposit at each loan closing and maintain thereafter.

f. Execution of Risk-Sharing Agreement:

Execution of a Risk-Sharing Agreement (RSA) is a prerequisite to participate in the Risk-Sharing Program. The RSA governs the rights and obligations of HUD and the HFA. The RSA includes, among other things, the risk-sharing level or levels at which the HFA has been approved to participate in the program. An addendum to the RSA is required in several circumstances, including, identifying new principal staff or individuals with authority to sign loan documents, changes in existing underwriting standards, or any other required changes to the RSA.

PART II
<u>MORTGAGE INSURANCE PROCESSING AND ENDORSEMENT</u>

<u>I. Category B – Firm Approval Letter Processing:</u>

HUD requires HFAs to collect specific information from projects insured under this program. Justification for that information collected is included. In the process of providing financing for individual projects, HFAs may require more information that HUD directly requires. HFAs have their own processing and other requirements for information collection, which varies from agency to agency. The following information is collected throughout the life of the program and is collected by HFAs from mortgagors and projects applying for mortgage insurance.

a. HFAs Request for HUD-Retained Processing:
As a part of its request for issuance of a firm approval letter, the HFA, on behalf of the mortgagor, will submit a request for HUD-retained reviews and other findings to the local HUD office with jurisdiction for the location of the project. The request includes: (1) Form HUD-7015.15, Request for Release of Funds and Certification (OMB control number 2506-0087) indicating that the HFA agrees to abide by the special conditions, procedures and requirements of the environmental review and to advise the Responsible Entity by letter and request a supplemental review of any proposed change in the scope of the project or any change in environmental conditions; (2) sufficient information about the project for the HUD Office to conduct the previous participation, intergovernmental, and other HUD-retained reviews.

b. HUD-Retained Review functions:
The successful completion of HUD-retained reviews results in the assurance by HUD of a firm approval letter. HUD has delegated the majority of the processing required for issuing mortgage insurance to the HFAs, however; there are some functions that have been retained by HUD. The HFA must submit a Request for HUD-Retained Processing form as indicated in Appendix 4 of Handbook 4590.01 to request the Department to undertake the following reviews and processing as required by 24 CFR 266.210:

(1) Previous Participation Review:
Principals participating in a planned project or existing multifamily project must disclose all past participation in HUD-FHA programs and the nature of their proposed interest by filing form HUD-2530, Previous Participation Certificate (OMB control number 2502-0118). Completed forms HUD-2530 for principals should be included in the request for Firm Approval Letter. If HUD rejects one or more of the principals, the mortgagor may substitute new principals. A principal may request reconsideration by HUD by sending a request with a statement and supporting exhibits explaining the grounds for approval to HUD Headquarters.

(2) Environmental Review: (where such reviews are not performed by responsible entities):
To determine compliance with the requirements of the National Environmental Policy Act of 1969 and related laws and authorities, the HUD field office (or other responsible entity through such delegation) will visit each project site proposed for insurance and prepare the applicable environmental review.

HUD must approve the HFA's Request for Release of Funds and Certification form HUD-7015.15(RROF), prepared and executed by the Responsible Entity (RE) who carried out the environmental review, stating that the HFA has complied with all environmental obligations in accordance with 24 CFR 58, prior to issuance of a Firm Approval Letter under the program. All projects must include a Request for Release of Funds or a finding of exempt activity made by the Responsible Entity. HUD may disapprove a requests for release of funds if HUD becomes aware that any activities that had an adverse environmental impact or limited the choice of reasonable alternatives prior to HUD's issuance of a Firm Approval Letter. HUD will approve the request for release of funds by separate letter or by providing an executed HUD-7015,16, Notice of Removal of Grant Conditions, as an attachment to the Firm Approval Letter. A Firm Approval Letter cannot be issued conditioned on subsequent approval of the RROF and must be completed before HUD may issue the Firm Approval Letter.

(3) Intergovernmental Review:

The HFA is responsible for sending the SF-424 to the appropriate State Single Point of Contact (SPOC) if the State has selected the mortgage insurance programs for review under the intergovernmental State Review Procedure (SRP) and the project proposes insured advances. Many States do not review insured projects under these procedures. If the State has not selected the mortgage insurance programs for review, the HFA should submit a statement to that effect. When the SRP results in favorable comments or a recommendation for approval the local field office may issue the Firm Approval Letter if all other HUD-retained review requirements are met, the local field office must apply the "Non-accommodation" procedures by notifying the State and provide a 15-day period before the Office may approve (issue a Firm Approval Letter) or disapprove (reject) a project . HUD will notify the HFA at the same time, stating when the 15-day period ends and that a Firm Approval Letter may be issued or the project rejected after the 15-day period ends.

If negative comments are received from the SPOC, and HUD agrees, HUD will tell the HFA what changes are necessary before the Firm Approval Letter may be issued or that no Firm Approval Letter will be issued. If HUD disagrees with the negative comments from the SPOC, HUD will advise the HFA that the Firm Approval Letter will be held until the 15-day "non-accommodation" period ends. HUD must notify the State and provide a 15-day accommodation period before HUD issues a Firm Approval Letter if HUD does not accept an SRP recommendation or if the HFA notifies HUD that it elects not to approve the project. All notifications between the HFA and HUD must be in writing.

(4) Subsidy Layering Review: (if not delegated to Housing Credit Agency where the project is located): Except to the extent that the subsidy layering reviews have been delegated to the Housing Credit Agency in the State in which the project is located, and that Housing Credit Agency has accepted that delegation, the HFA must submit the required documentation to HUD for review prior to its own approval of the loan in accordance with the subsidy layering guidelines outstanding at the time. In cases where the subsidy layering review is not delegated to the Housing Credit Agency and HUD review is required, the Firm Approval Letter will require the HFA to submit the required documentation for that review before the HFA approves the loan under its own procedures if that documentation was not submitted with the request for HUD-retained reviews.

c. Functions delegated by HUD to HFAs:

The HFA is responsible for the performance of all the following functions except the HUD-retained functions. After acceptance of an application for a loan to be insured for risk-sharing, the HFA must process the application and underwrite the project. The following functions are delegated by HUD to the HFA:

(1) Affirmative Fair Housing Marketing Plan :

The mortgagor must certify to the HFA that it is in compliance with the Fair Housing Act. The review and approval of the Affirmative Fair Housing Marketing Plan, a function usually performed by HUD, is delegated to the HFA. The mortgagor's burden of preparing the marketing plan as a requirement for obtaining HUD mortgage insurance has been cleared separately for all HUD mortgagors (OMB control number 2529-0013).

(2) Economic and Market Analysis:

The HFA is responsible for determining that a market exists for the proposed project. However the local HUD office must provide comments to assist the HFA relative to any existing or proposed Federally insured or assisted projects and must also determine that the proposed project is not in a military impact area.

(3) Labor Standards and Prevailing Wage Requirements:

HUD has delegated the administrative and enforcement functions relative to Davis-Bacon Act requirements to the HFAs. HFAs are required to prepare and submit reports to HUD based on documentation from each mortgagor's compliance with the Davis Bacon Act. HFAs will follow the instructions in HUD Handbook 1344.1 - *Federal Labor Standards Compliance in Housing* *and Community* to carry out their tasks. Approximately 50 percent of the projects insured under this program are subject to Davis Bacon. There is no new burden imposed on the mortgagors since they would be subject to Davis Bacon Act requirements under normal FHA mortgage insurance programs. The burden of collecting the payroll forms and monitoring labor standards during construction is a new burden to HFAs. Compliance with the Davis-Bacon Act is a requirement of this program only for cases involving insured advances.

(4) Insurance of Advances:

In cases where HUD-insured funds are required during the construction phase of a project, the loan must be kept in balance and advances approved only if warranted by construction progress evidenced through HFA inspection, as well as in accord with plans, specifications, work write-ups and other contract documents. HFAs must make certain that mortgageable items are approved with proper bills and/or receipts before funds can be approved and advanced for insurance. Any funds that are disbursed under the insured mortgage create risk for HUD and, therefore, it is imperative that HUD be able to monitor the use of such disbursements. There are no additional burden hours imposed by this requirement since the documentation is usually prepared as a part of standard practice.

(5) Cost Certification:

Cost Certification is required to ensure that the final amount of mortgage insurance is supported by certified costs. Each mortgagor must submit a certification of the actual costs incurred during the project construction. The cost certification documents must be audited by a Certified Public Accountant. Collection and review of cost certifications is a standard practice of public agencies. Consequently, this requirement does not impose a new burden upon the mortgagor or the HFA, and HUD ascribes no burden hours to it.

HFAs must approve or revise the mortgagor's cost certification documents and submit them to HUD for review prior to endorsement of the mortgage note. HUD is retaining the authority to reduce the amount of the insured mortgage if the cost certification documents demonstrate that the actual costs expended for construction do not merit the full estimated amount of the mortgage.

(6) Lead-Based Paint:

Risk-sharing projects must comply with the lead-based paint requirements in 24 CFR Part 35. HFAs are responsible for monitoring and for ensuring that lead-based paint requirements are followed.

d. Issuance of Firm Approval Letter:

Upon positive completion of the HUD-retained reviews (see below), HUD will issue a Firm Approval Letter that will identify the risk level to be assumed by the HFA and endorse the project mortgage upon receipt of the complete closing docket. The Firm Approval Letter may contain certain conditions for approval. The HFA and the mortgagor must evidence their acceptance of the Firm Approval Letter by signing and returning the Firm Approval Letter to HUD.

A copy of the executed Form HUD-7015.16, Notice of Removal of Grant Conditions, documenting HUD approval of the RROF shall be an attachment to the Firm Approval Letter. Form HUD 7015.16 serves as the notice of environmental clearance and authority to use funds and undertake physical activities for the project covered by the applicable environmental certification. The HFA shall forward a copy of the HUD 7015.16 to the Responsible Entity's Certifying Officer for inclusion in the Environmental Review Record for the project.

The Firm Approval Letter will expire after one year if the project has not reached endorsement (initial endorsement for insured advances; final endorsement for existing projects) or construction start (for insurance upon completion). The HFA may send a written request to have the Firm Approval Letter extended, and HUD may extend it upon receipt of the written request with supporting documentation.

The Firm Approval Letter will transmit an addendum to the RSA reflecting the risk share to be borne by the HFA and HUD for the project.

HUD must notify the HFA in writing if the project is not approvable due to location in a military impact area or for an adverse environmental condition that cannot be mitigated.

II. HFA Processing, Underwriting, and Construction :

HFAs have maximum possible responsibility for processing and underwriting under the Risk-Sharing Program. An HFA taking 50 percent or more of the risk on loans may use its own underwriting standards and loan terms and conditions (as disclosed and submitted with its application) to underwrite and approve loans without further review by HUD. HUD underwriting standards and loan terms and conditions for HFAs taking less than 50 percent of the risk may be imposed in whole or in part by HUD as a condition of approval.

The HFA is responsible for performance of all functions except the HUD-retained functions and environmental review. After acceptance of an application for a loan, the HFA must process the application and underwrite the project and must, among other things:

a. Determine that a market for the project exists;
b. Establish the maximum insurable mortgage and review plans and specifications for compliance with HFA standards;
c. Determine the acceptability of the proposed mortgagor and management agent;
d. Approve an Affirmative Fair Housing Marketing Plan;
e. Make any other determinations necessary to ensure acceptability of the proposed project;
f. Ensure that the environmental review is conducted in accordance with 24 CFR Part 58 prior to the request for HUD-retained reviews;
g. Ensure that any required subsidy layering review is completed by the applicable Housing Credit Agency or HUD prior to loan approval.

a. Construction Period:
The HFA is responsible for inspections during construction, processing and approving advances or mortgage proceeds during construction, routine labor standards, administrative and enforcement functions, review and approval of cost certification, and closing of the loan.

(1) Inspections During Construction:
The HFA must inspect projects at such times during construction or substantial rehabilitation as the HFA determines. The inspections must be conducted to ensure compliance with the contract documents.

(2) Federal Labor Standards Provisions and Responsibilities:
HFAs are responsible for routine labor standards administration and enforcement functions. Each HFA responsible to HUD for ensuring compliance with Federal labor standards requirements on covered projects as follows:

a. Designating appropriate staff before start of construction;
b. Establishing a construction contract management system that meets the standards of 24 CFR 85;
c. Obtaining from the local HUD Office staff the appropriate Federal labor standards contract provisions;

d. Ensuring that the prime contractor(s) and any subcontractors are not debarred, suspended or other ineligible to perform work on Federally assisted projects;
e. Conducting preconstruction conferences to inform all contractors and subcontractors performing contract construction work of their labor standards obligations;
f. Conducting on-site project inspections that include interviews with laborers and mechanics engaged in the construction work, and ensuring that the applicable Federal wage rate determination and Notice to Employees (WH-1321) are displayed at the job site and are accessible to all construction employees;
g. Collection weekly certified payroll reports from all contractors and subcontractors;
h. Receiving any complaints concerning labor standards requirements from construction labors and mechanics;
i. Referring to local HUD Office Labor Relations staff for investigation of any labor violations;
j. Maintaining full documentation attesting to all administrative and enforcement activities;
k. Preparing and submitting to HUD, as needed, reports of labor standards enforcement pursuant to 29 CFR 5.7(a);
l. Complying with other requirement that may be imposed by HUD concerning Federal labor standards.

b. Lead-Based Paint:
Risk-sharing projects must comply with the lead-based paint requirements in 24 CFR Part 35. HFAs are responsible for monitoring and for ensuring that lead-based paint requirements are followed.

c. Insurance of Advances:
Periodic advances are permitted in the risk-sharing program. In periodic advances cases, progress payments approved by the HFA and both an initial and final endorsement on the mortgage are required. In approving advances, the HFA must ensure that the loan is kept in balance, and advances are approved only if warranted by construction progress evidenced by HFA inspections and in accordance with plans, specifications, work write-ups, and other contract documents.

d. Cost Certification:
To ensure that the final amount of insurance is supported by certified costs, the mortgagor and (general contractor, if there is an identify of interest with the mortgagor) must execute a certificate of actual costs, in a form acceptable to the HFA, when all physical improvements are completed to the satisfaction of the HFA. The cost certification provided by the mortgagor must be audited by an independent public accountant in accordance with requirements established by HUD.

e. Other Requirements:
The mortgagor must furnish assurance of completion in accordance with any requirements of the HFA as to form and amount and provide latent defects escrow or other form of assurance required by the HFA to ensure that latent defects can be remedied.

f. Recordkeeping:
The mortgagor and the builder, if there is an identity of interest with the mortgagor, must keep and maintain records of all costs of any construction or other cost items not representing work under the general contract and to make available such records for review by the HFA or HUD, if requested.

g. Project Information:

HFAs are responsible for providing information about risk-sharing projects to HUD for statistical, programmatic, and monitoring purposes. The project information is submitted with the closing docket prior to construction with a cover letter specifying the start date of construction.

III. HFA Closing and HUD Endorsement of Loan;

a. HFA Closing:

Before the disbursement of loan advances in periodic advance cases, and in all cases after completion of construction, repairs or substantial rehabilitation (or completion of processing for existing projects requiring no repairs), the HFA must hold a closing with the mortgagor and submit a closing docket with required documentation to the local HUD Office with jurisdiction for the project's location. The submission will include, among other things, the mortgage note which the local HUD office director will endorse for insurance. Prior to closing, the HFA must ensure that the following property and mortgage requirements have been met:

(1) Documentation that property requirements have been met;
(2) evidence of title and eligibility thereof;
(3) the mortgage and note meet HUD requirements and be executed by the mortgagor;
(4) documentation that the mortgage is a single first lien on the property and that the mortgagor is a single asset, sole purpose mortgagor;
(5) the terms for complete amortization of the loan over the term of the mortgage;
(6) documentation of any use restrictions;
(7) evidence of hazard insurance, with a clause making the loss payable to the HFA;
(8) for insured advances cases, a schedule of advances in a form acceptable to HUD or form HUD-92023 (OMB control number 2502-0016);
(9) a provision in the mortgage requiring that, in the event that the HFA and owner agree to a modification of the terms of the mortgage, Section 8 rents would be reduced in accordance with HUD guidelines in effect at the time;
(10) a provision in the mortgage incorporating the Regulatory Agreement by reference;
(11) a provision in the mortgage permitting declaration of a default if a mortgagor fails to remit excess mortgage proceeds;
(12) certification by the mortgagor that the property is free of all liens except the insured mortgage or inferior liens as approved by the HFA;
(13) certification by the mortgagor that all contractual obligations in connection with the mortgage transaction are paid unless approved by the HFA;

b. Execution of Regulatory Agreement:

The HFA and the mortgagor must execute and record a Regulatory Agreement in a form acceptable to the HFA. The Regulatory Agreement must include an addendum requiring the mortgagor to comply with the requirements of the Risk-Sharing Program for as long as the Commissioner insures the mortgage.

c. Submission of the Closing Docket:

The HFA must submit the closing docket, representations and certifications as required to the local HUD office, transmitted by letter signed by an authorized official identified in the Risk-Sharing Agreement. The closing docket includes the HFA's project data, an amortization schedule, a copy of the Risk-Sharing Agreement with prior amendments or addendum, certified copies of the mortgage deed of trust or note specifying the percentage of risk of loss assumed by the HFA, a copy of the HFA-approved cost certifications, a copy of the regulatory agreement, and hazard insurance. The above project information must be submitted with the cover letter stating the project has started construction and start date, for new construction/substantial rehabilitation projects that will be insured upon completion (i.e. no initial endorsement), if applicable.

(1) Project Information: Project information concerning the mortgage amount, location, number and type of units, income and expenses, rents, project occupancy percentage, value/replacement cost, interest rate, type of financing, tax credit use, and similar statistical information will be recorded on the project information sheet.

(2) Initial Closing: The initial closing docket submitted by the HFA must include the project information and certifications.
(3) Final Closing: After physical completion of the project or completion of critical repairs and execution of a certificate of actual cost (for both insurance advances and insurance upon completion), the HFA will submit a closing docket to the local HUD office for final endorsement. The final closing docket must include project and certifications.

The local field office has primary responsibility for review of closing dockets and ensuring that project are endorsed for insurance. Multifamily Housing staff will review all closing dockets for completeness, including the HFA's certifications that:

(1) written approval was obtained for all HUD-retained reviews;
(2) the environmental review was obtained in accordance with 24 CFR Part 58.
(3) All equal employment opportunity requirement were followed;
(4) the HFA reviewed and approved the mortgagor's Affirmative Fair Housing Marketing Plan;
(5) processing, underwriting (including a determination that a market exists for the project). cost certification (at final closing only) and closing were all performed according to the HFAs standards and requirements (or for projects processed under Level II, with the underwriting standards, loan terms, and conditions as approved by HUD;
(6) for insurance of advances cases, advances were made proportionate to construction progress;
(7) the property is free of all liens other than the first mortgage except for inferior liens approved by the HFA;
(8) all contractual obligations are paid;
(9) the dedicated account, if required, has been increased;
(10) laborers and mechanics employed in the construction of the project and subject to the requirements of the Davis-Bacon Act
(11) all principals have received 2530 clearance as required by outstanding procedure.

d. Byrd Amendment - Disclosure of Lobbying Activities:

The Byrd Amendment requires disclosure by mortgagors of lobbying activities for programs involving loan guarantees by the Federal government, Form SF-LLL must be submitted with the closing docket so that HUD can compile the material under the annual report required by the Byrd Amendment.

e. HUD Endorsement:

After review of the closing docket and other materials, the Director of Multifamily Hub or Program Center will endorse the credit instrument within 5 workdays after accepting the closing docket.

f. Recordation of Documents:

At the time of initial endorsement, in the case of insurance of advances, or at the time of final endorsement in the case of insurance upon completion, the HFA shall make certain that the mortgage, the Regulatory Agreement, and the Uniform Commercial Code financing statements are properly recorded, and filed in all required locations.

<u>IV. Mortgage Insurance Premiums and Financial Systems:</u>

a. Establishing the Insurance in force:

HFAs are responsible for processing Risk-Sharing project applications and approving them for HUD mortgage insurance. The HFA is responsible for collecting the MIP payment at initial and initial/final endorsement. The HFA prepares the closing docket that includes the mortgage note, amortization schedule, and risk-sharing agreement. The HFA will mail the MIP along with the closing docket to the local HUD office for endorsement of the note. The HFA is required to remit annual MIP until the mortgage reaches maturity or is terminated through one of the following actions: (1) the mortgage is paid in full; (2) a deed is filed for record; (3) an application for initial claim payment is received by the Commissioner; or (4) the contract of insurance is otherwise terminated.

b. Payment of Mortgage Insurance Premiums, Late Fees, Interest Charges:
HFAs are billed for all annual premiums due after the initial premium. All payments are made by check or through the Automated Clearing House (ACH).

c. Post Final Endorsement Modifications:
The HFA will provide HUD with a copy of any modification agreement along with a copy of the revised amortization schedule.

d. Mortgage Servicer Changes:
The HFA will notify HUD of any change in the project-servicing mortgagee by forwarding form HUD-92080 to HUD.

e. Termination of Insurance:
The HFA is required to remit annual mortgage insurance premiums until the mortgage reaches maturity or is terminated through one of the following actions: (1) the mortgage is paid in full; (2) a deed is filed for record; (3) an application for initial claim payment is received by the Commissioner; (4) the contract of insurance is otherwise terminated. The obligation to pay MIP will cease upon receipt by HUD of either of the following: (1) a completed Request for Termination of Multifamily Mortgage Insurance, form HUD-9807; (2) an Application for Initial Claim Payment; (3) the Contract of Insurance is otherwise terminated.

f. Record Retention Requirements:
The mortgagor and the builder (if there is an identity of interest between the builder and mortgagor) must keep and maintain records of all construction costs and make them available for review by the HFA or HUD, if requested. This requirement is necessary to ensure that construction funds are being expended as represented. HUD has retained the right to reduce the mortgage amount if the construction costs do not warrant the size of the insured mortgage.

Mortgagors must maintain records and books that are to be established solely for the insured property. Financial information must be maintained to ensure timely collection of rents and payment of the mortgage as well as to assess the financial stability of the property. Record maintenance for each project is essential to monitor or investigate program violations.

PART III
PROGRAM MONITORING

I. Category A – Program Monitoring and Evaluation Requirements

The following paragraphs discuss the various information collection and record-keeping burdens of HFAs to comply with HUD's monitoring and program evaluation requirements. Monitoring and evaluation activities are focused on compliance with program requirements and performance of the HFA in meeting program objectives of providing affordable housing. Any paperwork burden imposed on the risk sharing program by other programs, and which have been cleared through other paperwork justifications, are mentioned only briefly.

Program monitoring is crucial because the authority to commit the Federal government to insuring multifamily project loans is delegated to the State and Local agencies. HUD is required to conduct compliance monitoring in accordance with the HFA's own or approved procedures for origination, underwriting, processing, servicing, management and disposition procedures, and compliance with HUD regulations and guidelines. Program monitoring is performed on two levels – HUD Headquarters and local Multifamily Hubs and Program Centers. Monitoring is performed on a remote and on-site basis primarily consisting of post-endorsement compliance reviews. Periodic on-site monitoring determines overall compliance with program requirements are performed primarily by local HUD office. Remote monitoring is performed primarily by Headquarters staff to review documentation pertaining to the continued compliance of HFAs with program eligibility requirements, including monitoring the HFA dedicated account, financial requirements and overall program evaluation. These requirements enable HUD to evaluate the effectiveness of the program.

a. Orientation Meeting:
Within 30 days after Headquarters approves an HFA's application to participate in the risk-sharing program, the local HUD office should schedule and conduct an orientation meeting with the HFA. The HFA and HUD officials should review program requirements, responsibilities of the HFA, local HUD office, and Headquarters and how and for what purpose monitoring activities will be conducted. This meeting should also be an opportunity for the HFA to describe its processing, underwriting and servicing procedures to familiarize the local HUD office with the basis of future monitoring. The orientation meeting should be attended by principal HFA staff and HUD staff responsible for remote and on-site monitoring. Both development and asset management disciplines should be represented.

b. Remote Monitoring:
Remote monitoring will be performed by the local HUD office primarily on a post-endorsement basis. Remote monitoring will be based on documentation contained in project closing dockets, including underwriting and other project information submitted and initial and final endorsement. Remote monitoring will consist of reviewing the following:

- Project underwriting information files provided by the HFA with the closing docket;
- Project management and servicing information submitted to HUD after the project reaches the management stage;
- Information contained in the closing docket relative to compliance with underwriting standards and procedures;
- The HFA's annual audited financial statements;
- The HFA's maintenance of "top-tier" and "A" ratings, as appropriate;
- Establishment and/or maintenance of dedicated accounts in a financial institution acceptable to HUD;
- Updates from Moody's and Standard and Poor's as to pending and actual significant financial or portfolio problems;
- Compliance with the HFA's investment policies and overall business and financial practices;
- Annual certification that there was no basic change in the organization, business activities, or financial status or other information submitted with the HFA's application;
- The HFA semi-annual report on its insured portfolio;

- The default ratio consistent with the default ratio for the HFA's entire multifamily portfolio;
- Proper billings for proper remittance and collection of mortgage insurance premiums; and the claims process, including issuance of debentures by the HFA.

c. On-Site Reviews:
To meet statutory reporting requirements, the local HUD office will schedule periodic (but not less than annually) and as-needed on-site reviews. The basis for these reviews will be the trends determined through remote monitoring and elements that do not lend themselves to remote reviews. If the performance of the HFA has been less than satisfactory or marginally satisfactory, HUD may determine if more frequent reviews are warranted. On-site monitoring will involve, but not be limited to, the following:

- How the HFA complies with its own, or HUD-approved, procedures for project underwriting;
- Review of the adequacy of the HFAs market determinations;
- Review of the HFA's project records for compliance with any special environmental conditions of the environmental review;
- Construction administration procedures;
- Insurance of advances and cost certification procedures;
- The HFA's procedures and implementation of the quality control plan submitted with its application for participation in the program;
- Verification that appraisals are performed by Certified General Appraisers licensed in the state in which the property is located;
- Verification that loan origination records are properly maintained and that loan processing decisions are made by personnel identified in the Risk-Sharing Agreement; and
- Verification that the HFA is performing the following requirements:
  1. Complying with its own procedures for project management, loan servicing, and property disposition;
  2. Complying with applicable regulations and guidelines, the Risk-Sharing Agreement, subsidy contracts, and other legal agreements between HUD and the HFA;
  3. Monitoring the performance of the owner and the management agent;
  4. Enforcing the provisions of the Regulatory Agreement, including the affordability requirements of the program and affirmative fair housing marketing and other equal opportunity requirements;
  5. Performing the required annual physical inspections;
  6. Performing the required review of the project's annual audited financial statement;
  7. Providing HUD with an annual audited financial statement of the HFA; and
  8. Retaining mortgage loan origination documents, loan servicing documents, and mortgage default and claim records in accordance with HUD procedures.

d. HFA Annual Certifications:
The Department relies heavily on the certifications required of an HFA. An HFA continued participation in the program is predicated upon compliance with these certifications and its recommendation to endorse mortgages that comply with program requirements. HFAs must submit the following to HUD to continue participation in the Risk-Sharing Program:

<u>(1) Semi-Annual Project Status Reports:</u>
Each HFA is required to submit semi-annual reports of all projects in the HFA's portfolio insured under this program. HUD reviews the report to monitor and analyze the HFA's project management and servicing capabilities. Reports must include the original mortgage amount, outstanding principal balance for all projects underwritten, the status of all projects (current, in default, workout, foreclosure, etc.) and, if applicable, the date (s) bankruptcy was filed and the date(s) the HFA requested dismissal. Each HFA must summarize any unresolved issues arising from the project audited financial statements to the HFA by the mortgagor (See Category B below). The report must also include a summary of actions planned and target dates to correct unresolved findings. The project status reports are crucial to keeping HUD aware of potential

problems and to minimize losses by the limiting future insuring authority to HFAs with troubled portfolios.

(2) Annual Audited Financial Statement:
Each HFA must submit the agency's annual audited financial statements to Headquarters to demonstrate its capacity as a sound and experienced agency. These financial statements must disclose the agency's fund balances, investments, internal controls, and financial management.

(3) Annual Certification:
Each HFA must submit an annual certification that there has been no basic change in organization, business activities, financial status, or other information submitted with its application for approval (or if there have been changes, the nature of those changes), and that the HFA complied with all eligibility requirements during the past year. Headquarters staff review proposed changes and provide written approval to the HFA. This information is necessary to ensure compliance with program requirements and performance of the HFA in meeting program objectives.

(4) Loan Processing Procedures:
The HFA must notify HUD before implementing any change to its underwriting standards and procedures, loan terms and conditions and provide HUD with copies of any such change within 5 days after it has been approved by the HFA. HUD will review changes proposed by the HFAs proposing to approve Level II loans and provide its written approval to the HFA before the HFA can implement the change. All changes must be incorporated by reference in an addendum to the RSA. Copies of the addendum must be sent to the HFA.

e. Notification of Deviations and Noncompliance:
Deviations and noncompliance with the program will be communicated to the HFA in writing. The HFA must respond to the notification within the time frame specified in the letter, but no later than 30 days after the date of the letter, as to how it has or proposes to resolve the issue.

f. Sanctions and Sanctions Reports:
The Department may impose sanctions for noncompliance with program regulations. HFAs found in violation of the program are subject to sanctions. Among the sanctions is the requirement that the HFA provide HUD with any reports necessary for more intensive monitoring. The nature of the report or information collection will depend on the violation. The HFA has a right to an informal hearing on any sanction imposed. The HFA may request such a hearing within 10 working days of the date it receives HUD's letter imposing the sanction, and the informal hearing must be conducted within 10 working days of HUD's receipt of the HFA's request for an informal hearing. The hearing will be recorded and a transcript of the recording will be made available to the HFA at the HFA's request and expense. The hearing officer will render his/her opinion within 10 working days of the informal hearing. The decision of the hearing officer constitutes final HUD action. Sanctions are handled through HUD's Mortgagee Review Board.

g. Record Retention Requirements:
HFAs are required to keep records pertaining to loan origination and servicing for as long as the mortgage insurance is in force. Maintenance of records relating to the insured mortgage is essential for audit purposes. Each HFA must also retain all records pertaining to a mortgage default and claim from the date of default through the final settlement of the insurance claim and for no less than three years after the final settlement. Maintenance of these records is necessary to ensure that any dispute regarding the settlement of the insurance claim can be resolved or any investigation conducted.

h. Recordation of Documents:
At the time of initial endorsement, in the case of insurance of advances, or at the time of final endorsement in the case of insurance upon completion, the HFA shall make certain that the mortgage, the Regulatory

Agreement, and the Uniform Commercial Code financing statements are properly recorded, and filed in all required locations.

Category B- Projects and Mortgagors Collection Requirements:

I. Project Management and Servicing :

The HFAs have full responsibility for managing and servicing projects insured under the Risk-Sharing Program in conformance with HUD regulations and the Risk Sharing Agreement. The HFA must provide oversight management of the project owner and management agent to assure compliance with the terms of the required Regulatory Agreement. HUD will directly monitor the performance of the HFA, not the project owner, to determine its compliance with the requirements of this program.

The HFA responsibilities as it relates to project management and loan servicing, include, but are not limited to:

a. Regulatory Agreement Requirements:

Execution and enforcement of a Regulatory Agreement between the mortgagor and the HFA that is in recordable form. The Regulatory Agreement must include a description of the property, The Regulatory Agreement must be incorporated by reference into the mortgage and recorded with the mortgage. The Regulatory Agreement must be binding upon the mortgagor and any of its successors and assigns and upon the HFS and any of its successors for so long as the mortgage is insured by HUD, requires the project owner to make all payments due under the mortgage and, where necessary establish escrows and reserves for future capital needs, requires the project owner to maintain the project as affordable housing, requires the project owner to maintain the project in good physical and financial condition, requires the project owner to maintain complete project books and financial records and provide the HFA with an audited financial statement, requires project owner to comply with the Affirmative Fair Housing Marketing Plan and all other FHEO requirements, requires the project owner to operate as a single asset mortgagor, requires the owner to make project books and financial records available to HUD.

b. Project Audited Financial Statements:

HUD requires all mortgagors to provide HFAs with annual audited financial statements for each project insured under the Risk Sharing Program. The HFAs must analyze these statements and provide HUD with a summary of any unresolved findings and a summary of corrective actions planned, including target dates. Compilation of such reports is a standard industry practice for publicly financed projects and most of the HFAs currently request such information from their mortgagors already. The project audited financial statements are necessary to monitor the financial well being of the insured property.

c. Annual Physical Inspection:

The HFA must perform annual physical inspection of all projects in its portfolio and provide a copy of the inspection report to the local HUD Office. If the project receives less than a satisfactory rating and/or if the project is not in safe and sanitary condition, the HFA must provide a summary to HUD of actions required, with target dates, to correct unresolved issues. Annual inspections are a customary and standard practice for income property loan servicing.

II. Record Retention Requirements:
The mortgagor and the builder (if there is an identity of interest between the builder and mortgagor) must keep and maintain records of all construction costs and make them available for review by the HFA or HUD, if requested. This requirement is necessary to ensure that construction funds are being expended as represented. HUD has retained the right to reduce the mortgage amount if the construction costs do not warrant the size of the insured mortgage.

Mortgagors must maintain records and books that are to be established solely for the insured property. To be eligible for mortgage insurance under this program, properties must meet certain eligibility requirements. Each requirement includes a low-income occupancy requirement and compliance with Fair Housing and Equal Opportunity laws. Financial information must be maintained to ensure timely collection of rents and payment of the mortgage as well as to assess the financial stability of the property. Record maintenance for each project is essential to monitor or investigate program violations.

PART IV
MORTGAGE INSURANCE TERMINATIONS, DEFAULTS, AND CLAIMS REQUIREMENTS;

I. Category B: Mortgage Defaults and Claims
HFAs are responsible for filing Notices of Default and Reinstatements, claims for insurance benefits (including partial payment of claim (PPC)), issuing debentures, paying annual accrued interest on debentures, retiring bonds, returning excess funds to HUD, and submitting HUD's share of repayments to HUD.

a. Termination of Insurance:
Mortgage insurance is terminated when (1) the mortgage is paid in full; (2) a deed is filed for record; (3) an application for initial claim payment is received by the Commissioner; or (4) the contract of insurance is otherwise terminated. The obligation to pay MIP will cease when HUD receives either (1) a completed Request for Termination of Multifamily Mortgage Insurance, form HUD-9807 (OMB control number 2502-0416); (2) an Application for Initial Claim Payment; or (3) the Contract of Insurance is otherwise terminated.

b Notice of Default and Filing Insurance Claim:
The HFA must notify HUD when a mortgage is in default by submitting form HUD-92426, Notice of Default Status within 10 calendar days thereafter, unless the default is cured within the 30-day period. The HFA must submit monthly a Form HUD-92426 until the default has been cured or an application for initial claim payment is filed. For HFAs that hold or service fewer than 10 multifamily mortgages are permitted to continue to use form HUD-92426. HFAs with 11 or more insured mortgage loans must notify HUD using the Multifamily Delinquency and Default Reporting System (MDDR).

c. Application for Initial Claim:
The HFA must file for an initial claim payment or partial payment claim (PPC) by completing and mailing Form HUD-94195, Application for Initial Claim Payment to Headquarters. The application for initial claim payment or for a PPC must be filed within 75 calendar days from the date of default or within the extended time granted by HUD. HFA must request in writing an extension of time to file an initial claim or PPC. Upon request, HUD may extend, in writing up to 180 calendar days, the deadline for filing a claim. The 180 days includes the initial 75 days. The deadline may be extended beyond 180 days, not to exceed 360 days, when the HFA certifies that the project owner is in the process of transacting a bond refunder, refinancing the mortgage, or changing the ownership for the purpose of curing the default and bringing the mortgage current.

d. Bond Retirement:
The HFA retires bonds and wires excess funds to HUD. The Form HUD-94193, Excess Funds for Redemption of Bonds Part I, must be completed and sent to the Multifamily Claims Branch.

e. Partial Payment of Claim (PPC):
Only one PPC may be made under a contract for insurance. The amount of the PPC is equal to the amount of relief provided by the HFA in the form of a reduction in principal and a reduction of delinquent interest due on the insured mortgage times the lesser of HUD's percentage of risk of loss or 50 percent. Repayment of the relief provided by the HFA must be secured by a second mortgage to the HFA. This second mortgage may provide for postponed amortization and may not be assigned to HUD by the HFA. This second mortgage is not insured under any HUD program. The HFA must notify HUD of the amount by which the HFA will reduce the principal on the insured mortgage and the amount of delinquent interest on the insured mortgage that the HFA will defer. The HFA must also certify that the amount of the principal reduction does not exceed 50 percent of the unpaid principal balance of the insured first mortgage; the relief resulting from the PPC is sufficient to restore the financial viability of the project; the project is or can be made structurally sound; the management of the project is satisfactory, and the default of the insured mortgage was beyond the control of the mortgagor.

The HFA must notify HUD when the second mortgage is closed. The HFA must remit to HUD a percentage of all amounts collected on the HFA's second mortgage within 15 calendar days of receipt by the HFA. Late payments must include a 5 percent late charge plus accrued interest at the debenture rate. As long as the second mortgage remains of record, the HFA must submit to HUD an annual certified statement of the amounts collected by the HFA. The HFA must submit a final certified statement within 30 calendar days after the second mortgage is paid in full, foreclosed, or otherwise terminated.

As a condition to receiving an initial claim payment, the HFA must issue an instrument in the form of a debenture to HUD within 30 calendar days of the initial claim payment. The debenture must be in the full initial claim amount, have a term of 5 years, and shall be made payable to HUD upon maturity. HUD may provide a written extension of the 5-year term if the HFA certifies and provides documentation that the project owner has filed bankruptcy and the HFA is taking action to have the project discharged from the bankruptcy. The HFA must pay interest annually on the anniversary date.

f. Withdrawal of Claim/Reinstatement of Contract of Insurance:
If a default is cured after the claim is made but before the initial claim is paid, the HFA may, in writing, withdraw the claim, and insurance will continue as if the default had not occurred. The HFA must file form HUD-92426 (OMB Number 2502-0041) to request reinstatement.

After the initial claim payment, HUD may reinstate the contract of insurance if the HFA has not acquired the project, the mortgagor has cured the default, and the HFA requests that HUD reinstate the contract of insurance. The reinstatement payment is equal to the initial claim amount, plus accrued and unpaid interest on the HFA debenture, plus any mortgage insurance premium required.

g. **Issuance of HFA Debenture:**
As a condition to receiving an initial claim payment, the HFA must issue an instrument in the form of a Debenture to HUD within 30 calendar days of the initial claim payment. The HFA Debenture must meet program requirements and shall be in form that has been approved by HUD. The HFA is required to mail the Debenture to HUD where it is held until the Debenture matures or is cancelled.

h. Foreclosure and Acquisition:
The HFA is not required to foreclose the insured mortgage. The HFA may accept a deed-in-lieu of foreclosure. The HFA must ensure that the project is free of all liens and the owner must have provided a final certified financial accounting of all project funds.

i. Appraisals:
When actions taken by the HFA have the effect of the recovery of less than the face amount of the HFA debenture held by HUD, an appraisal must be done (1) within 45 days immediately preceding the date when the HFA files an application for final claim settlement; (2) at the time of final claim settlement and the HFA has not sold the project; (3) when the HFA files a claim for final settlement and a foreclosure is

not anticipated within 180 calendar days of the claim filing; or (4) if the property is not disposed of within one year of the date of the appraisal. An appraisal must be must be performed by an independent appraiser chosen from a panel of fee appraisers approved by the HFA. Appraisal fees may not exceed the customary fees paid for an appraisal of a project of similar type and size. These values are used to determine the claim amount.

j. Claim for Final Settlement:

The HFA must file a claim for final settlement no later than 30 days after (1) sale of the property after acquisition by deed-in-lieu or foreclosure; or (2) expiration of the term of the HFA debenture. The HFA must file the following with HUD.

- There is a low number of risk sharing claims processed annually (there has been less than 5 claims since the inception of the program in 1994) Therefore, an OMB # is not required for the series of forms that HFAs use to report claims.
- Form HUD-94196, Application for Benefits and Fiscal Data in Support of Final Claim Settlement. This form summarizes all of the components of the claim except accrued interest.
- Form HUD-2744A, Allocation of Mortgage Receipts and Disbursement (Schedule A) (OMB control number 2502-0418), and supporting documentation. This form lists and describes all mortgage transactions (receipts and disbursements), including any advances for principal, interest, mortgage insurance premiums, hazard insurance, water charges, ground rents, reserve for replacements, and any other items the mortgage requires the mortgagor to pay.
- Form HUD-2744B, Mortgagee's Report of Project Collections (Schedule B) (OMB control number 2502-0418), and supporting documentation. This form lists all rent collections, forfeited tenant security deposits, and other income collected on behalf of the project.
- Form HUD-2744C, Mortgagee's Report of Project Disbursements (Schedule C) (OMB control number 2502-0418), and supporting documentation. This form lists in chronological order all disbursements for reasonable operating expenses that the HFA made during its control or ownership of the project.
- Form HUD-27009D, Other Disbursements by Mortgagee (Schedule D), and supporting documentation. This form lists all reasonable disbursements made by the HFA from its own funds for the acquisition, preservation, protection, repair, and disposition of the project. Expenses reported on Schedule A or Schedule C must not be shown on this schedule.
- Form HUD-2744E, Mortgagee's Report of Special Escrow (Schedule E) (OMB control number 2502-0418), and supporting documentation. This form shows the original amount, amounts disbursed, and balance for completion escrow or letter of credit, operating deficit escrow or letter of credit, MIP that HUD has refunded to the lender, and residual receipts.
- Form HUD-94194 – Mortgagee's Report of Net Sales Proceeds (Schedule F) and supporting documentation, is used for claims – Since there are less than 10 respondents annually an OMB # is not required. This form shows the net proceeds from the sale of the project. Generally, the HFA must prorate income and expenses in the matter customary for real estate sales transactions. However, the HFA may not deduct any real estate commission or other disposition costs. These amounts are shown on Schedule D. The HFA must use the appraised value in lieu of the sales price if (1) the HFA sold the project through a negotiated sale and the sales price was less than the appraised value, or (2) five years have elapsed since the issuance of the HFA debenture.
- Form HUD-94192, Certification for Sale by Competitive Bid, and supporting documentation. The HFA must use this form only if the property was sold by competitive bid, and certifies that it has complied with HUD's procedures for competitive sales.
- Documentation of Receivership. If a receiver has operated the property, the HFA must retain the following: (1) the court order appointing the receiver; (2) the receiver's accounting reports or reports to the court; (3) the court order(s) approving the receiver's accounting; and (4) the court order(s) discharging the receiver, fixing fees, and canceling the receiver's bond.

k. Final Claim Settlement and Debenture Redemption:

If the initial claim amount is less than HUD's share of the loss, HUD shall make a final claim payment to the HFA for the difference and shall return the HFA debenture to the HFA for cancellation. If the initial claim payment is more than HUD's share, HUD shall notify the HFA of the difference, and the HFA shall, within 30 calendar days, remit to HUD an amount that is equal to the difference between the initial claim amount and HUD's share of the loss.

l. Supplemental Claims and Recovery Costs after Final Claim Settlement:
The HFA must file any supplemental claim within 1 year after the date of the final claim settlement. A supplemental claim must include a letter that explains the reason for filing the supplemental claim, along with supporting documentation.

If, after final claim settlement, the HFA recovers additional sums as a result of the sale of the project or otherwise, the total amount of such recovery shall be shared by HUD and the HFA in accordance with the prescribed percentage. When this occurs, the HFA must contact HUD for instructions.

3. Electronic submission is used to the extent feasible. HFAs participating in the Risk Sharing Program are given the maximum amount of processing and decision making responsibilities that are typically performed by HUD staff. HFAs are permitted to process, underwrite, service, and manage loans, and dispose of properties. With this greater responsibility, a higher level of oversight is required. HUD must closely monitor HFAs and be able to authenticate the source and accuracy of information submitted with original signatures. As a prerequisite for participating in the program, HFAs must certify in Exhibit B of the Risk Sharing Agreement the individuals, whose name, title, and specimen signatures will appear on loan documents and have the authority to commit the HFA under Section 542(c). This certification ensures that HUD's assessment is based on legitimate information in determining if HFAs are in compliance with program requirements and performance objectives. This requirement will protect the insurance fund from financial risk.

4. This information is not collected elsewhere. A review of Multifamily Housing information collections confirms that no other information collection provides this particular information.

5. The HFAs are not small entities. Some of the insured multifamily projects may be small entities. HUD requires HFAs to collect specific information concerning projects insured under this program. This is the minimum information HUD requires to determine HFA compliance and to insure loans. In the process of providing financing for individual projects, HFAs may require more information than HUD directly requires. HFAs have their own processing and other requirements for information collection, which varies from agency to agency.

6. Less frequent data collection would operate against the intent of the statute, which is to assess the feasibility of entering into partnerships with qualified housing finance agencies. Such information collection is imperative to minimize the financial risks posed by the program and to monitor the program's continued success.

7. There are no special circumstances involved in this collection.

8. This information collection was published in the *Federal Register* to solicit comments from the public in accordance with 5 CFR 1320.8(d). The announcement was published in the *Federal Register* on November 28, 2008 (Vol. 73, No. 230, pages 72502). No comments were received. We consulted three participating HFAs to obtain their comments regarding the collection of information. No negative comments were received.

9. There will be no payments or gifts given to respondents.

10. The information requested through this program is not generally of a confidential nature. HUD will not be collecting information regarding the credit worthiness of mortgagors, which would be confidential, because information is collected by the HFA. Normal practices of both HUD and the HFAs should assure adequate privacy.

11. There are no sensitive questions requested through this paperwork collection.

12. Collection Burden for Respondents - The following estimates are conservative because some of what is required by HUD is standard industry practice and are already being collected or reviewed by HFAs and multifamily mortgagors with or without risk sharing. We are including it in this burden statement; however, because these collections are specifically required for this program.

There are currently 33 HFAs in the program. As of January 8, 2008, there are 915 insured projects. Based on initial endorsements for the last three years, HUD anticipates 92 new project applications annually.

Explanation of estimated number of respondents:

Category A, Housing Finance Agencies:

*33 - The total number of HFAs participating in the program. In 2006 the Department approved participation for one HFA and terminated another since the original 33 HFAs were initially approved in 1994.

Category B, Projects and Mortgagors

**** 915 – The total number of projects insured in HUD's risk sharing portfolio.

*****66 – 2 semi-annual reports are submitted by 33 HFAs.

Estimation of Claim Burden

The Risk Sharing Program has had a low number of HFAs filing insurance claims. The Department has received approximately 5–6 claims since the inception of the program in 1994. The estimated annual number of respondents is 0.

	Number of Respondents	Frequency of Responses	Total Annual Responses	Hours per Response	Total Annual Burden Hours	Hourly Rate	Total Annual Cost
Category A, Housing Finance Agencies							
Application*	2	1	2	24	48	$41.00	$1,968
Execution of Risk-Sharing Agreement*	1	0	1	1	1	$41.00	$41
Semi-annual Project Status Reports	*33	2	66	8	528	$41.00	$21,648
HFA Annual Audited Financial Statements	*33	1	33	1	33	$41.00	$1,353
Notification of Change in Processing Procedures	11	1	11	1	11	$41.00	$451
HUD On-Site Monitoring	*33	1	33	16	528	$41.00	$21,648
HFA Annual Certification	*33	1	33	1	33	$41.00	$1,353
Notification of Deviations; Sanctions and Reports	2	1	2	2	4	$41.00	$164
Recordkeeping Requirements	*33	12	396	1	396	$41.00	$16,236
Firm Approval Letter Processing	**92	1	92	4	368	$41.00	$15,088
HUD-Retained Reviews	**92	1	92	40	3680	$41.00	$150880
Affirmative Fair Housing and Marketing Plan	**92	1	92	2	184	$41.00	$7,544
Davis-Bacon Act (Labor Standards and Prevailing Wage Requirements)**	***46	1	46	35	1,610	$41.00	$66,010
Insured Advances Schedule	***46	1	46	1	46	$41.00	$1,886
Cost Certification	***46	1	46	8	368	$41.00	$15,088
Closing Docket Preparation and Submission	**92	1	92	8	736	$41.00	$30,176
Project Annual Financial Statement	****915	1	915	2	1,830	$41.00	$70,030
HFA Review of Project Annual Audited Financial Statement	****915	1	915	1	915	$41.00	$37,515
Annual Physical Inspections	****915	1	915	8	7,320	$41.00	$300,120
Recordkeeping Requirements	****913	12	10,944	1	10,944	$41.00	$450,180
Application for Initial Claim	0	0	0	0	0	0	0
Claim for Final Settlement	0	0	0	0	0	0	0
Supplemental Claims/Recovery Costs	0	0	0	0	0	0	0
Termination of Insurance	0	0	0	0	0	0	0
Total	**915**	**41**	**14808**	**165**	**29619**		**$1,209,379**

The hourly rate is based on an estimate of the annual salary of mid-level housing finance agency personnel of approximately $84,451 or $41.00 per hour. This figure was also used to estimate the cost of burden to mortgagors.

13. There are no other costs to respondents.

14. Estimated Annual Cost to the Federal Government:

Category A, Housing Finance Agencies					
Semi-annual Project Status Reports	*****66	3	198	$41.00	$8,118
Notification of Change in Processing Procedures	11	1	11	$41.00	$451
HUD On-Site Monitoring	*33	8	264	$41.00	$10,824
HFA Annual Certification	*33	1	33	$41.00	$1,353
Notification of Deviations; Sanctions and Reports	2	1	2	$41.00	$82
Recordkeeping Requirements	*33	1	33	$41.00	$1,353
HFA Annual Audited Financial Statements	*33	2	66	$41.00	$2,706
Category B, Projects and Mortgagors					
Firm Approval Letter Processing	**92	4	368	$41.00	$15,088
HUD-Retained Reviews	**92	8	736	$41.00	$30,176
Closing Docket	**92	4	368	$41.00	$15,088
Project Audited Financial Statements	****915	1	915	$41.00	$37,515
Annual Physical Inspections	**** 915	1	915	$41.00	$37,515
Recordkeeping Requirements	****915	1	915	$41.00	$37,515
Application for Initial Claim	0	0	0	0	0
Claim for Final Settlement	0	0	0	0	0
Supplemental Claims/Recovery Costs	0	0	0	0	0
Termination of Insurance	0	0	0	0	0
Total	**915**	**36**			**$197,784**

The hourly rate is based on HUD Headquarters and Field Office review of information at an average salary of GS 12, Step 5, $79,068 or approximately $41.00 per hour.

15. This is a request for reinstatement with change of a previously approved collection for which approval has expired. The increase in the burden estimate from the previous OMB submission is due primarily to an increase in the number of projects insured and the conversion of the pilot program to a permanent multifamily insurance program, plus inclusion of HUD monitoring and the claims/termination of insurance process. The information collection was erroneously cancelled based on the number of applications from Housing Finance Agencies seeking to participate in the Risk-Sharing Program (less than 10 annually) and not the ongoing program requirements of those HFAs currently approved to participate in the Program, which includes but not limited to, the number of mortgage insurance applications processed and monitoring requirements.

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

17. HUD is not seeking to display the expiration date for OMB approval. However, there is no standard format for collecting portions of this information, i.e., no HUD form is used for this purpose. Accordingly, the expiration date of the OMB approval will not be displayed in certain instances.

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

B. Collection of Information Employing Statistical Methods.

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

There are no sensitive questions requested through this paperwork collection.