

# Supporting Statement for Paperwork Reduction Act Submissions

## Multifamily Project Construction Contract, Building Loan Agreement, & Construction Change Request OMB Control Number 2502-0011 (Forms HUD-92437, HUD-92441, HUD-92442, HUD-92442-A, HUD-92442-CA, HUD-92442-A-CA)

### A. Justification

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

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

**Form HUD-92441, Building Loan Agreement.** This form is used to establish responsibilities, conditions, operations, and terms between the mortgagee and mortgagor, including the basis in which insured advances may be made during the construction period. Paragraph 3 of form HUD-92441 reads as follows:

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

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

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**Form HUD-92442-A, Construction Contract Cost Plus.** This form is used by contractors and mortgagors to obtain approval from the FHA Commissioner to document the terms of any contract document, or order for extra work, or changes by altering or adding to the work, of which will change the design concept. Form HUD-92442-A may be used in any case, and shall be used when there is an identity of interest between the mortgagor and contractor.

*Article I.E. of forms HUD-92442 and HUD-92442A reads as follows:  
Changes in the Drawings and Specifications, or changes by altering or adding to the work contemplated, or orders for extra work, or which change the design concept, may be effected only with prior written approval of the Lender and the Commissioner and under such conditions as either the Lender or the Commissioner may establish.*

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

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

3. Reengineering efforts are being made to replace the DAP system, which would improve the functionality and replacement of technology, and the online implementation of automated underwriting processing from the beginning to end of completion, including the e-signature. The target date of 9/30/2013 was given for implementation. The information was based on the 2009 FHA Multifamily IT Strategy Plan, modernization of IT. This information was submitted to Congress. Procurements are involved so the projected date is 9/2013 for implementation assuming all goes well with procurements.”
4. This information is not collected elsewhere. A review of Development and construction costs varies with each project; general or modified information is not acceptable. No other forms exist that can be substituted to obtain the required information for construction contract administration.
5. There are no small businesses or other small entities involved in collection of this information.
6. Collection of information occurs as changes in contract documents occur at a construction site. If the information were collected less frequently, there would be a discrepancy that could lead to possible mechanic’s liens against the property, bankruptcy of the general contractor, and defaults under the terms of the Building Loan Agreement, foreclosure, and repossession by the Department.
7. Other than requiring that the original and six copies be filed for Form HUD-92437 (Request for Construction Changes on Project Mortgages), there are no special circumstances that apply to this collection of information. Form HUD 92437 Request for Construction Changes on Project Mortgages- each party involved in the construction of the project receives a copy of the change order including HUD, mortgagor, mortgagee, architect, and contractors.

8. In accordance with 5 CFR 1320.8(d) this collection was announced in the Federal Register on April 11, 2013, Vol. 78, No. 70, page 21617.

The following individuals were solicited regarding the collection:

Yvette B. Jackson Baltimore Multifamily Hub US Department of Housing and Urban Development 10 South Howard Street Baltimore, Maryland 21202 (410)209-6550	Elizabeth Arteaga US Department of Housing and Urban Development San Antonio Office 106 South St. Mary's Street Suite 405 (210) 475-6800	Bhek S. Simmons Baltimore Multifamily Hub U.S. Department of Housing and Urban Development 10 South Howard Street Baltimore, Maryland 21202 (410) 209-6544
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All individuals concluded that the information collection is still necessary to conduct business. No problems were indicated from any of these individuals relative to our present construction contract procedures and the forms associated therewith.

9. No payments or gifts are provided to respondents.
10. Forms HUD-92437, 92441, 92442, 92442A, 92442-CA, 92442A-CA are for the Department's use only and respondents are assured that the material is held in confidentiality unless a release order is issued under the Freedom of Information Act.
11. The collection does not contain information of a sensitive nature about sexual behavior or attitudes, religious beliefs, or private matters.
12. The number of respondents for each form represents estimated levels for an annual period. Respondents using Forms HUD-92441, 92442, 92442A, 92442-CA, 92442A-CA are distinct from respondents for Form HUD-92437. Due to the inherent complexity in planning and constructing a multifamily project, work may require multiple changes in the contract drawings and specifications. This form, HUD9-2437 may be used more than once during the construction period. This number is representative of the average number of change orders a project will have.

The 150 respondents fill out form HUD-92437 to request and document project change orders. On average there are approximately 3 change orders per project for a total of 450 responses. Forms HUD-92441, HUD-92442, HUD-92442-A, and HUD-92442-CA, HUD-92442-A-CA are contracts between the mortgagee, mortgagor, and contractor. These forms must be executed before construction commences. The HUD-92441 is only used for projects where the mortgagor is also serving as the general contractor. HUD-92442 is used when there is no identity of interest between the mortgagor and, the contractor. 92442A is used when there is an identity of interest between the mortgagor and contractor. The identity interest between the mortgagor and contractor determines which form /contract is used. The number of respondents hasn't changed and reflects an accurate estimate. For forms (92442, 92442A, and 92442-CA) there is still a response time of 16 hrs. Forms HUD-92442-CA and HUD-92442-A-CA are used only for the 202/811 Capital Advance Programs. HUD-92442-CA has 260 respondents and is used where the bidding procedures are not being used and HUD-92442-A-CA has 260 respondents and is used where competitive bidding is being used. Form HUD-92442-CA is used more often than HUD-92442-A-CA because a majority of the bidding is non-competitive.

Information Collection	Number of Respondents	Frequency of Responses	Responses Per Annum	Burden Hour Per Response	Annual Burden Hours	Hourly Cost Per Response	Annual Cost
HUD-92437	157	3	471	2	942	\$ 40.00	\$ 37,680
HUD-92441	157	1	157	16	2512	\$ 40.00	\$ 100,480
HUD-92442	157	1	157	16	2512	\$ 40.00	\$ 100,480
HUD-92442-A	157	1	157	16	2512	\$ 40.00	\$ 100,480
HUD-92442-CA	265	1	265	2	530	\$ 40.00	\$ 21,200
HUD-92442-A-CA	265	1	265	2	530	\$ 40.00	\$ 21,200
<b>Totals</b>	<b>1158</b>		<b>1472</b>	<b>54</b>	<b>9538</b>	<b>\$240.00</b>	<b>\$ 381,520</b>

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

14. Annual Cost to the Federal Government: Estimated cost based on the annual salary of a GS 12/Step 5 Salary of \$68,310.

Information Collection	Number of Responses	Frequency of Responses	Responses Per Annum	Burden Hour Per Response	Annual Burden Hours	Hourly Cost Per Response	Annual Cost
HUD-92437	157	3	471	2	942	\$ 32.00	\$ 30,144
HUD-92441	157	1	157	16	2512	\$ 32.00	\$ 80,384
HUD-92442	157	1	157	16	2512	\$ 32.00	\$ 80,384
HUD-92442A	157	1	157	16	2512	\$ 32.00	\$ 80,384
HUD-92442-CA	265	1	265	2	530	\$ 32.00	\$ 16,960
HUD-92442A-CA	265	1	265	2	530	\$ 32.00	\$ 16,960
<b>Totals</b>	<b>1158</b>		<b>1472</b>	<b>54</b>	<b>9538</b>	<b>\$192.00</b>	<b>\$305,216</b>

15. This is an extension of a currently approved collection. There has been no program change. The increase in the number of responses reflects an increased use of the program which is a direct reflection on the declining housing economy which leaves HUD a top selection for funding.

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

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

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

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

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

