

Supporting Statement for Paperwork Reduction Act Submissions
HUD 92541 Builder's Certification, HUD 935.2, HUD 92544, Project Certification (96017), Loan Level Certification (96018), Pre-Sale Certification (96019), Condominium Project Approval Cover Document/Checklist (96027), Condominium Project Annexation Checklist (96028), Condominium Rider (96029)

A. Justification

1. The Housing and Economic Recovery Act of 2008 (HERA) moved the insurance of a single condominium unit from Section 234 to Section 203 of the National Housing Act (NHA) with the exception of those units that will be insured in a condominium project that is insured under FHA blanket mortgage insurance. Due the required legislative change, it is important that all condominium collection requirements be included under one collection number; thus, the development of this collection action.
2. FHA insures mortgages made on a single unit within approved condominium projects. FHA requires that the condominium project in which a unit is located be approved because the financial viability of a project can impact the stability of the project and the single unit insurance and pose a risk to the Mutual Mortgage Insurance (MMI) fund. Over a period of time, FHA has developed a set of documents that are critical for the evaluation of the financial viability and stability of individual condominium projects. These documents are produced in the general course of business for Homeowners Associations, Developers and Builders.

The information will be used by FHA to support condominium project and single unit loan approvals. To support the approvals, it is necessary that FHA collect certain documents and data to properly analyze the project stability, support the loan approval and reduce the risk to the MMI fund.

This collection includes documents that have been typically collected by FHA under other collections, including forms that are being discontinued. Information formerly collected on forms that are being discontinued will continue to be collected in other documents. This collection combines several collections and additional required documents into one collection that addresses all documents required for condominium project approval or an individual single unit condominium loan approval.

FHA requires submission of different documents depending on the stage of development of the condominium project. FHA has specific documents defined for:

- Existing properties
- Proposed; under construction; newly completed projects less than 12 months old; annexations of additional units; or condominium gut-rehabilitation conversion projects
- Change in ownership; projects with completed foreclosure actions; projects with completed bankruptcy actions; projects in or with completed receivership actions; or those projects for which there has been a sale
- Affordable housing; or rent controlled projects

Although there are several new documents FHA will be collecting most are considered industry standard. The Government Sponsored Enterprises (GSEs), Fannie Mae and Freddie Mac, and the Veteran's Administration (VA) require similar documents to be provided for review. However, there are differences in some of the standards by which the GSE's and the VA evaluate the financial viability and stability of the project.

Information will be used by both FHA staff and the participating DELRAP lender staff to evaluate individual condominium projects to determine whether they meet FHA requirements for approval and use as collateral for mortgages to be insured by FHA.

FHA receives project approval submissions from a number of industry stakeholders and other interested parties: attorneys, independent project consultants, homeowners associations, management companies and lenders. Qualified lenders meeting the requirements using the DELRAP option perform a project analysis and approve or deny the project and enter the results in FHA Connection (FHA's mortgage loan information system). If lenders choose this option, they must provide all the data electronically via a .pdf document and upload the required information within 5 business days of final disposition. All other submitters must submit the project to FHA directly by mail or overnight carrier, in a .pdf document, on a compact disc, or on paper.

FHA approved lenders may access and review certain information entered in the FHAC. The information is collected every 2 years which is the term of approval; however, it may be updated at any time if warranted.

Standard Documents under Development

The below documents are under development or will be converted to standard required forms required to obtain FHA condominium project approval and/or insurance endorsement of a single condominium unit. These forms are specifically required for FHA insured condominium mortgages.

Project Certification, 96017:

This certification is required to obtain condominium project approval. Currently, there is no standard certification form. Submitters of condominium project application requests are required to include the executed (signature and date) certification on letterhead as part of the package. This certification will be converted to a standard form.

Loan Level Certification, 96018:

This certification is required for each single condominium unit approval issued. It is executed at the time of loan approval by the underwriter or other authorized lender staff with signatory authority to bind the company. The executed (signature and date) certification must be included with each condominium loan submitted for insurance endorsement. This certification will be converted to a standard form.

Pre-Sale Certification, 96019:

This certification is required for proposed or under construction projects to support the required pre-sale percentage. The executed (signed and dated by builder/developer or their authorized representative) certification must be included with each condominium loan submitted for insurance endorsement (as applicable). This certification will be converted to a standard form.

Condominium Project Approval Cover Document/Checklist, 96027:

This checklist is a required document included in every new condominium project application package submitted for approval or recertification. The document collects general information about the project that is considered in the analysis to determine project eligibility. This checklist will be converted to a standard form.

Condominium Project Annexation Checklist, 96028:

This checklist is a required document included with each request for approval of an annexation application request to add additional phases to an existing approval. The document collects general information about the project that is considered in the analysis to determine approval of an annexation request. This checklist will be converted to a standard form.

Condominium Rider, 96029:

The Condominium Rider is a required document that is incorporated into and amends and supplements the Mortgage, Deed of Trust or Security Deed (Security Instrument). This document is a required document for each condominium loan submitted for insurance endorsement. The document required revision and will be converted to a standard form.

Proposed, Under Construction, Existing less than 12 months old, Existing Condominium Projects

Condominium Documents:

Condominium regimes are established by complying with state statutes. This includes but is not limited to information required to be recorded in the tax records and provided to buyers of new, existing and or conversion condominium projects. FHA requires that all documents required by the state to establish the condominium regime also be provided. Since these documents are required to be prepared by state law, FHA ascribes no burden to the requirement that copies of this information be provided.

Condominium legal documents include:

- Recorded plat map indicating legal description;
- Recorded covenants, conditions and restrictions (CC&Rs)/Declaration/Master Deed;
- All amendments to the CC&Rs
- Signed and adopted bylaws (if State law does not require signed bylaws, a copy of the applicable State statute must be provided);
- Articles of Incorporation, Articles of Association or Condominium Trust filed with the State (if State law does not require incorporation, a copy of the applicable State statute must be provided);
- Recorded condominium site plans

Insurance Documents Required for Condominium Projects:

- Except for proof of fidelity insurance, these documents are required for other property type loans insured by FHA and are not specific to condominiums
- FEMA Flood Map, LOMA, LOMR or Elevation Certificate as appropriate – these documents are required for other property type loans insured by FHA and are not specific to condominiums

Evidence of Insurance Coverage:

Condominium homeowners associations collect significant sums of monthly assessments that are intended to be used for the maintenance and improvement of the condominium project. Requiring insurance against theft is a prudent risk management practice and is standard in the industry.

- Master flood insurance policy (if applicable)
- Proof of Liability and Hazard insurance
- Proof of Fidelity (employee dishonesty) Insurance (for projects with more than 20 units)
- Evidence of Flood Insurance

Budget and Financial Documents:

The financial documents FHA requires to determine the fiscal health of a condominium project include documents created in the normal course of business and contain the information collected by Office of

Multifamily Housing on form HUD-93201 (OMB Collection 2502-0141). As risk mitigation for the MMI fund, FHA may require additional documents. The documents FHA intends to collect are:

- Current year or projected (proposed construction) budget
- Actual year-to-date budget
- Current balance sheet (to be dated within the last 90 days)
- Actual income and expense statement (previous year's actual year-end results)
- Bank statements (as needed)
- Reserve study performed or updated within the last 24 months (as needed)
- Management Agreement (agreement between the homeowners association and a management company providing services on their behalf)

Special Assessments:

If a project is subject to a special assessment, FHA will require specific information regarding the special assessment. Typically, when the homeowner's association board determines that a special assessment is necessary the project provides homeowners with an explanation regarding why the assessment is necessary, the assessment's impact on financial stability, value and marketability of the units and the terms for collection. FHA requires the same information be provided.

Litigation:

If a project is the subject of ongoing litigation or alternative dispute resolution proceedings, a letter from the homeowner's association attorney must be provided indicating the extent of the litigation and the potential liability of the association in the event of a loss. While this information may not be prepared by the association in the normal course of business, the information is critical to determining whether the project is financially stable and a reasonable risk for mortgages insured by FHA.

Project Certification:

A Project Certification is required and must be submitted with each request for condominium project approval, including annexation requests. The certification must be submitted on letterhead and must be executed (signed/dated – signature stamps or electronic signatures are not permitted) by the lender's authorized representative, the homeowners association representative, the builder, the developer, a management company, attorney or an independent project consultant representing the homeowners association. Required certifications include that the authorized individual has reviewed the project; confirmed that it meets all State and local laws and all FHA condominium approval requirements; that all statements are true and correct; and that the submitter has no knowledge of circumstances or conditions that would adversely affect the project.

Affordable Housing:

Affordable housing must meet the requirements of 24 CFR 203.41(c) and (d) or the recorded condominium declarations contain the affordable housing program requirements, including defining the specific units that are covered under the program. If the units are not defined within the recorded condominium declarations, an amendment to the legal documents must be prepared and recorded or an executed (signed and dated) document identifying the affordable units must be issued by the affordable housing program staff and recorded. FHA requires this information be specified including which units is encumbered by the affordable housing provisions.

2-4 unit projects:

FHA reduced the requirements for 2-4 unit condominium projects. The only documents required are those required by state law to create, operate, or maintain the condominium project. Such documents include Memorandums of Understanding (MOU's), Homeowner's agreement or Declarations. As such, they are created in the normal course of business and there is no burden ascribed to submitting them to FHA.

New Construction:

In addition to meeting the document requirements stated above, proposed, under construction, existing less than 12 months old and gut-rehabilitation conversion projects must also be supported by the following documents:

Projected Budget:

A projected budget may be substituted for a current year budget if the condominium does not yet have owners paying association dues.

Phase I Environmental:

A Phase I Environmental Report will be required for all new construction projects in which the stage of construction is not yet past the point where the construction can be influenced by FHA requirements. FHA requires a Phase I Environmental Report for insurance of a single unit condominium. Phase I reports are typically developed for the initial financing by a construction lender of a project well before the project is approved by FHA. Since this document is available in the normal course of business it not considered a burden for the builder/developer to provide the document.

Change in Ownership Documents:

If there is a change in the ownership of a project, FHA requires that the ownership change be documented. A letter providing the details of the ownership change and all applicable legal documents related to the change is required. As a result of the rapid change in the economy builder/developers who plan to develop condominium units are failing at an unprecedented rate. As these communities transfer to lenders, other builder/developers, or other parties, it is critical that FHA be aware of parties who are responsible for the development until it is turned over to the homeowners association. This is less of a burden than the Personal Financial and Credit Statement of Sponsors required by form HUD-93201 (OMB Collection 2502-0141).

Builder's Certification and Warranty of Completion of Construction:

When the property is new construction the builder/developer must provide a Builder's Certification, form HUD-92541 (OMB Collection 2502-0496). The builder/developer also must provide a Warranty of Completion of Construction; form HUD-92544 (OMB collection 2502-0059). The builder/developer must provide a building permit, certificate of occupancy and inspection reports as required by the local jurisdiction. If the builder/developer is submitting the project as eligible based on meeting the specified presale percentage of units in the project, the builder/developer must include either evidence of contracts and mortgage approvals for the units that are pre-sold or a spreadsheet indicating which units have been pre-sold.

Affirmative Fair Housing Marketing (AFHM) Plan – Condominiums or Cooperatives

Builders and developers of single family housing or condominium or cooperative units that intend to sell five or more properties in the next year, or sold five or more properties in the past year, and where a lender is submitting initial applications for HUD mortgage insurance, must submit one of several agreements or statements, among which is an AFHM Plan on a prescribed form.

Condominium/cooperative developers complete their AFHM Plan only during the application process and the AFHM Plan is in effect through full initial occupancy.

To minimize the burden on single family homebuilders/developers, HUD has provided these small entities an exemption from completing the AFHM Plan - Condominium or Cooperatives (HUD-935.2C), Single Family homebuilders/developers can check block 11 on the Builder's Certification of Plans, Specifications, and Site form (HUD-92541) to self-certify compliance with HUD's Affirmative Fair Housing Marketing Regulation. Single family homebuilders/developers must also maintain records of their affirmative fair housing marketing activities and make them available to HUD upon request. If a builder opts to check block 11, they no longer need to submit an individual AFHM Plan – Condominium or Cooperative (HUD-935.C) to HUD for approval.

Newly Converted Conversions Only

Newly Converted Condominium Package:

The documents FHA is collecting are typically created under the normal course of business for a developer that is converting a residential and/or mixed use building to individual condominium units. Most of these documents must be provided to potential buyers during the marketing of the property. Additional information required is industry standard data regarding proof that units are sold or under bona fide contract to meet presale percentages. The GSEs require documentation of presale on Form 1029 Warranty of Project Presales. These properties do not require building permits or occupancy permits but do require financial information to be disclosed. These disclosures are similar to those required by form HUD- 93201 (OMB Collection 2502-0141) which is required by Multifamily for the financing of these projects and which was required for condominium project approval when project approval regulations were part of Section 234 of the NHA.

New Converted Gut Rehabilitation Package:

The documents FHA requires are typically created under the normal course of business for a developer that is converting a non-residential building to individual condominium units. These projects require the developer to obtain both building and occupancy permits. FHA has always required these documents to be collected as required by the Builder's Certification, form HUD- 92541 (OMB Collection 2502-0496).

Loan Level Documents

Some documents are required when a single unit condominium will be insured with a HUD-insured mortgage. These following documents ensure that some of the project level requirements continue to be met at the time the loan is made.

Loan Level Certification:

Prior to insurance of an eligible loan on a single unit condominium, the lender must complete a loan level certification of certain requirements. The lender must certify that the property which is collateral for the FHA insured loan is in fact located in an approved project. The lender must further certify that the lender has no knowledge of circumstances or conditions that would adversely affect the project and that the investor ownership, percentage of owners in arrears and owner occupancy meet FHA requirements and that to the best of their knowledge the information provided is true and correct.

Loan Level Insurance Requirements:

Proof of insurance for the FHA insured mortgaged property is required for each single unit condominium loan; specifically, referred to in the industry as an HO-6 policy.

Increased HUD Concentration

FHA will allow increased FHA concentration in some projects when certain eligibility standards are met. Currently only .07% of condominiums projects approved by FHA have been approved for increased concentration. The only additional information required for these projects is a cover letter indicating that the project meets the additional eligibility standards. The burden of this requirement is considered de minimis and necessary given the increased risk to the MMI fund associated with increased concentration.

3. The collection will be by means of electronic communication as often as possible. FHA is planning to use a portal to collect all the documents electronically. In the interim, FHA will accept the documents in a single .pdf document from lenders who are qualified to approve condominium projects and in a single .pdf document on a compact disc from submitters who do not have the authority to process, review and approve projects. Documents are prepared by developers, builders, attorneys, lenders, homeowners associations and independent project consultants in the normal course of business in electronic formats. Most documents will be prepared in Microsoft Office or Excel while some may be prepared using basic financial software. The documents will be predominantly collected electronically and transmitted to FHA electronically or via a compact disk. FHA will also accept paper copies of these documents.
4. Because of the uniqueness of each case, information gathered or applicable to another property or properties cannot be used. No duplication was found to exist.
5. A number of developers, lenders and condominium associations operate as small businesses. However, the documents that are required are prepared in the normal course of business and are available in the files they keep. FHA has attempted to minimize the burden on small businesses by collecting information that already exists and is prepared by or collected by small businesses in the normal course of business. FHA only requires additional information that might have to be specifically prepared if the lender, developer or other party is requesting special concessions and that may make the project add risk to the FHA loan portfolio.
6. FHA considers this information to be critical to the insurance of single condominium units within FHA-approved projects. Without sufficient information about individual condominium projects, FHA is unable to determine the risk the project might pose to the MMI insurance fund. Condominium projects require that unit owners rely on one another's cooperation to maintain the project – their success is interdependent on all unit owners and successful operation by the homeowner's association board. Since condominium projects include multiple individual units that might be the subject of FHA insurance, multiple units in the same project could possibly multiply the risk to the insurance fund by this number of the units. Without the ability to collect sufficient information, FHA would not be able to properly examine the risk of individual units to the insurance fund and would therefore not be able to continue insuring loans for borrowers who wish to purchase or refinance condominium units.
7. Some of the documents required as a result of this collection are time sensitive and will be required to be updated every 30 (thirty) days. A report of delinquent association fees is required to be updated every 30 days because these fees are collected monthly. Income and expense statements, balance sheets, and percentage of units that are owner occupied also change with enough frequency to warrant their collection more often than once a quarter. The viability of a condominium project is based on the financial stability of the project and that information changes monthly based on dues collected, expenses incurred and the resolution or commencement of legal activities. The volatility of condominium projects makes it prudent for FHA to require the most up-to-date information when issuing an approval that will make units in the project eligible for FHA insurance for two years.

8. The agency notice soliciting comments on the information collection was published in the Federal Register on May 31, 2013, (Volume 78, Number 105, Page 32681). No comments were received.

The agency consulted with Fannie Mae and Freddie Mac regarding requirements for condominium project and loan level approval at the Government Sponsored Enterprises. Additionally, FHA contacted lenders, industry consultants and representatives from trade associations representing builders, developers, homeowners associations and condominium management companies. Specifically, FHA solicited information from:

Lenders/Project Consultants

Kelly Scott Borda, Bank of America
 Phil Sutcliffe, Project Approvals, LLC
 Brian Johnson, Wells Fargo Bank

Homeownership Center Staff

Dan Ellis, Atlanta HOC
 Andrew Eckel, Denver HOC
 Darlene Shannon, Philadelphia HOC
 Bill Shuler, Santa Ana, HOC

9. There will be no remuneration provided to any respondent. No financial relationships exist between respondents and FHA.
10. The collection allows developers, builders and other parties to provide confidential information under certain circumstances. The builder/developer will be asked to provide contracts or other proof that enough units are presold in order to qualify for FHA condominium approval. FHA expects that builders/developers will choose not to provide contracts and loan commitments but will provide a spreadsheet listing the units that are sold. Since FHA allows the respondent to provide non-confidential information in lieu of confidential information, and FHA expects that respondents will not provide confidential information, no assurance of confidentiality is necessary and is not provided to respondents.
11. This information collection does not contain any questions of a sensitive nature or other matters that are commonly deemed private.

12. Tabulation of Reporting Burden

Information Collection	Number of Respondents	Frequency of Response	Total Annual Responses	Hours per Response	Total Annual Hours	Cost Per Hour	Total Annual Cost
Package preparation	15,000	1	15,000	2	30,000	35	\$1,050,000
Package Review	15,000	1	15,000	1	15,000	35	\$525,000
AFHM Plan Review – 935.2C (2529-0013)	30	1	30	3	90	35	\$3,150

Information Collection	Number of Respondents	Frequency of Response	Total Annual Responses	Hours per Response	Total Annual Hours	Cost Per Hour	Total Annual Cost
92541 (2502-0496)	3,900	1	3,900	0.25	975	35	\$34,125
92544 (2502-0059)	3,900	1	3,900	0.05	195	35	\$6,825
Project Certification (96017)	15,000	1	15,000	0.1	1,500	35	\$52,500
Loan Level Certification (96018)	50,000	1	50,000	0.3	15,000	35	\$525,000
Pre-Sale Certification (96019)	3,900	1	3,900	1	3,900	35	\$136,500
Condominium Project Approval Cover Document/Checklist (96027)	14,500	1	14,500	1	14,500	35	\$507,500
Condominium Project Annexation Checklist (96028)	500	1	500	0.3	150	35	\$5,250
Condominium Rider (96029)	50,000	1	50,000	0.1	5,000	35	\$175,000
TOTALS	50,000		171,730	11.93	86,310	35	\$3,020,850

Package preparation can be performed by homeowners associations, management companies, independent project consultants, attorneys or lenders. Project review can only be performed by FHA staff or participating lenders with DELRAP authority. The burdens to those lenders who complete DELRAP reviews are noted above, as is the preparation burden for other parties. When the forms are completed HUD will submit a change request for final versions.

Preparation of the AFHM Plan, form HUD-935.2C and accompanying documentation may be performed and submitted by a builder, developer or contracted representative. The number of respondents has been estimated at 30 per year and the burden to these parties is noted above. The total cost to the public as a result of this collection is \$3,000,795.

Information Collection	Number of Respondents	Frequency of Response	Responses Per Annum	Burden Hour Per Response	Annual Burden Hours	Hourly Cost Per Response	Annual Cost
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Package review	15,000	1	15,000	1	15,000	\$35	\$1,050,000
Quality Assurance	15,000	.2	3,000	1	3,000	\$35	\$105,000
Total	15,000	1.2	18,000	2	18,000	\$35,000	\$1,100,000

13. This information is required to retain or obtain benefits. In order to manage the risk to the MMI insurance fund, FHA must collect this information and approve a condominium project before a loan can be insured in that project.
14. The cost to the Federal Government is based on a \$35 per hour estimate, which includes overhead, staff preparation time, review time, etc. The estimate is based on the work being performed by the equivalent of a GS-12 staff person as reviews are performed by individuals at this level. This cost involves the time it takes to review the submitted packages, complete the reviews and enter the required data into the database. FHA staff performs quality assurance reviews on 20% of project approval packages that are processed by lenders who are authorized to perform complete reviews and approvals of projects under DELRAP authority. The total cost to the government is \$1,100,000.
15. This is a new collection. FHA has collected this information in part in previous collections. However, there are new forms being developed for this condo program and will be submitted when they are final.
16. There are no plans to publish the results of the information collection.
17. FHA is not seeking approval to avoid displaying the expiration date of the OMB approval.
18. There are no exceptions of the certification statement identified in item 19 of the OMB 83-I.

B. Collections of Information Employing Statistical Methods

Not applicable. The collection of information does not employ statistical methods.