

# **Supporting Statement for Paperwork Reduction Act Submissions**

## **Title: Use Restriction Agreement Monitoring and Compliance**

**OMB Control Number: 2502-0577**

**(HUD-90060, HUD-90061, HUD-90065, HUD-90066, HUD-93140, HUD-93142, HUD-93143,  
HUD-93144, HUD-90067, HUD-90068, HUD-90069, HUD-90070, HUD-93150, HUD-93155,  
HUD-90075)**

### **A. Justification**

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

This information collection is authorized by Section 250 of the National Housing Act (12 U.S.C. 1715z-15), 12 U.S.C. 1715n(f)(3), and Section 219 of the 1999 Appropriations Act (12 U.S.C. 1715n).

**Section 250(a) of the National Housing Act** states “During any period which an owner of a multifamily rental housing project is required to obtain the approval of the Secretary for prepayment of the mortgage, the Secretary shall not accept an offer to prepay the mortgage on such project or permit a termination of an insurance contract ... “ unless certain restrictions are met.

Owners must obtain the appropriate Use Agreement contract from their local Program Center.

When a Use Agreement contract has been completed, the Project Manager will forward it to the local Office of General Counsel for review. Once Counsel has approved the final document, the owner will submit a fully executed copy of the Use Agreement contract along with an Attorney’s Opinion statement that the Use Agreement contract will be recorded in the first position, superior to all other liens.

After recording, the owner must provide the Hub/Program Center with a recorded copy of the Use Agreement. HUD will not issue a release

of the regulatory agreement until all Use Agreement contract recording requirements have been satisfied.

Statutory reference for **Section 223(f)(3) is 12 U.S.C. 1715n(f)(3)** which authorizes the Secretary to insure or make commitments to insure refinanced mortgages. With a few exceptions, the Secretary may not accept an offer to prepay without committing the borrower to utilize the property as a rental property for a period of time from the date on which the insurance was provided.

**Section 219 of the 1999 Appropriations Act** provides clarification of the owner's right to prepay mortgages insured with the Department. The owner of the project may prepay the mortgage on the project subject to certain conditions, one of which is that the owner will ensure that the project will continue to operate, at least until the maturity date of the loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan was made prior to the proposed prepayment or termination.

Follow-up and confirmation that the owner continues to comply with these requirements is accomplished through periodic completion of form HUD-90075.

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

HUD-90060, HUD-90061, HUD-90065, HUD-90066, HUD-93140, HUD-93142, HUD-93143, HUD-93144, HUD-90067, HUD-90068, HUD-90069, HUD-90070, HUD-93150, HUD-93155, - When an owner is allowed to prepay, or for various other reasons such as extended financing, HUD is obligated to regulate rents for certain protected tenants living in the project. All other applicable occupancy requirements of the Multifamily Housing Programs, must also be met. Each of the Use Agreements addressed in the Title section above is designed to continue specific requirements of a HUD subsidy or insurance program when applicable regulatory agreements no longer apply.

This form HUD-90075 "Use Restriction Compliance Review" is used to ensure the preservation of affordable, low-income housing. If HUD determines that a Use Agreement contract is required, the appropriate Use Agreement contract will be executed between the owner and the Department and recorded. In addition, HUD will periodically monitor the Use Agreement contract to ensure owner compliance with the terms and conditions as agreed and executed with the Department. Monitoring Use Agreements will be performed by a HUD contractor, due to limited staff resources.

**3. Describe whether, and to what extent the collections of information involves the use of automated, electronic, mechanical, or other the technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.**

Automation of this information collection is not feasible because the Use Agreements require the owner's original signature and must be recorded with the local jurisdiction. The Use Restriction Agreement Compliance Review requires the on-site inspection of random units and a percentage of use restricted tenant files.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

There is no duplication of other sources for this information.

**5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB form 83-I) describe any methods used to minimize burden.**

The collection of information may involve small business or other small entities. Owners or managers of affected properties must comply with the statutory requirements, and reducing the degree of compliance review is not feasible.

**6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

If this information were not collected or collected less frequently, HUD would be unable to ensure preservation of affordable multifamily housing units and owner compliance with the terms of the Use Agreement.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- **requiring respondents to report information to the agency more than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results than can be generalized to the universe of study;**
- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**

- that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

There are no special circumstances for respondents.

**8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

- Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping disclosure, or reporting format (if any) and the data elements to be recorded, disclosed, or reported.
- Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years – even if the collection of information activity is the same as in prior periods. There may be circumstances that preclude consultation in a specific situation. These circumstances should be explained.

Information collected is conducted in a manner consistent with the guidelines of 5 CFR 1320.8 (d). The Use Agreement contracts are styled and approved by HUD counsel, and not subject to modification. The *Federal Register* announcing this collection of information was posted on **June 25, 2014** (Volume **79**, Number **122**, Page **36087**). No comments were received.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

There are no payments or gifts to respondents.

**10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation or agency policy.**

No assurance of confidentiality, statute, regulation, or agency policy is provided. These documents are recorded in local jurisdiction land records.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency**

considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a sensitive nature.

**12. Provide estimates of the hour burden of the collection of information. The statement should:**

- indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated burden hours, and explain the reasons for the variance. Generally estimates should not include burden hours for customary and usual business practices;
- if this request covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of form OMB 83-I; and
- provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.

**Estimates of the hour burden of the collection of information**

<b>Number of Respondents</b>	<b>Frequency of Response</b>	<b>Total Annual Responses</b>	<b>Burden Hours per Response</b>	<b>Annual Burden Hours</b>	<b>Hourly Cost</b>	<b>Total Annual Cost</b>
848	1	848	2	1,696	\$ 21	\$ 35,053

**Item 1** - Number of respondents is based on data obtained from HUD systems for processed prepayment transactions resulting in Use Agreements. Estimated burden hours are based on time for owner (or owner’s staff) to review and execute the Use Agreement. Owners are not salaried employees and receive benefits based on a return on their investment; however the hourly costs is used as an estimate for owner’s staff to prepare the document, if applicable.

**Item 2** - Number of respondents is based on number of use agreements in item 1. HUD contracts for the compliance and monitoring services; however the hourly estimate was obtained from payscale.com for a Compliance Specialist paid by contract. Estimated burden hours include the time required for the contractor to conduct the on-site review, review tenant files, and obtain tenant comments.

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information (do not include the cost of any hour burden shown in items 12 and 14).

- The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s) and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities;
- If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10) utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- Generally, estimates should not include purchases of equipment or services, or portions thereof made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

There are no additional costs to respondents.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

Total Annual Responses	Burden Hours per Response	Total Annual Burden Hours	Hourly Cost	Total Annual Cost
848	0.5	424	\$ 29	\$ 12,287

Estimated hourly cost is based on the annual salary of a GS-13 Project Manager for reviewing the information.

**15. Explain the reasons of any program changes or adjustments reported in Items 13 and 14 of the OMB form 83-I.**

This is an extension of a currently approved collection. Fluctuations due to releases and new contracts.

**16. For collection of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

The results of this collection will not be published.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

HUD is not requesting approval to avoid displaying the expiration date.

**18. Explain each exception to the certification statement identified in item 19.**

There are no exceptions to the certification statement identified in Item #19 on form OMB 83-I, "Certification for Paperwork Reduction Act Submissions."

**I. B. Collections of Information Employing Statistical Methods**

This information collection does not employ statistical methods.