

**U.S. DEPARTMENT OF  
HOUSING AND URBAN DEVELOPMENT**

**PRIVACY THRESHOLD ANALYSIS (PTA)**

**Mark-to-Market Extension  
2502-0533**

**Office of Recapitalization  
(formerly Office of Affordable Housing Preservation)**

Instruction & Template

**September 18, 2017**

## PRIVACY THRESHOLD ANALYSIS (PTA)

The PTA is a compliance form developed by the Privacy Branch to identify the use of Personally Identifiable Information (PII) across the Department. The PTA is the first step in the PII verification process, which focuses on these areas of inquiry:

- Purpose for the information,
- Type of information,
- Sensitivity of the information,
- Use of the information,
- And the risk to the information.

Please use the attached form to determine whether a Privacy and Civil Liberties Impact Assessment (PCLIA) is required under the E-Government Act of 2002 or a System of Record Notice (SORN) is required under the Privacy Act of 1974, as amended.

Please complete this form and send it to your program Privacy Liaison Officer (PLO). If you have no program Privacy Liaison Officer, please send the PTA to the HUD Privacy Branch:

Marcus Smallwood, Acting, Chief Privacy Officer  
Privacy Branch  
U.S. Department of Housing and Urban Development

[privacy@hud.gov](mailto:privacy@hud.gov)

Upon receipt from your program PLO, the HUD Privacy Branch will review this form. If a PCLIA or SORN is required, the HUD Privacy Branch will send you a copy of the PCLIA and SORN templates to complete and return.

**PRIVACY THRESHOLD ANALYSIS (PTA)**

**SUMMARY INFORMATION**

<b>Project or Program Name:</b>	Mark-to-Market Program Extension		
<b>Program:</b>	<input type="text"/>		
<b>CSAM Name (if applicable):</b>	<input type="text"/>	<b>CSAM Number (if applicable):</b>	<input type="text"/>
<b>Type of Project or Program:</b>	<input type="text"/>	<b>Project or status:</b>	<input type="text"/>
<b>Date first developed:</b>	2007	<b>Pilot launch date:</b>	Click here to enter a date.
<b>Date of last PTA update:</b>	Click here to enter a date.	<b>Pilot end date:</b>	Click here to enter a date.
<b>ATO Status (if applicable)</b>	<input type="text"/>	<b>ATO expiration date (if applicable):</b>	Click here to enter a date.

**PROJECT OR PROGRAM MANAGER**

<b>Name:</b>	Katonja Jackson		
<b>Office:</b>	Office of Recapitalization	<b>Title:</b>	Systems Support Manager
<b>Phone:</b>	(202) 402-8380	<b>Email:</b>	<a href="mailto:katonja.l.jackson@hud.gov">katonja.l.jackson@hud.gov</a>

**INFORMATION SYSTEM SECURITY OFFICER (ISSO) (IF APPLICABLE)**

<b>Name:</b>	Not Applicable		
<b>Phone:</b>	<input type="text"/>	<b>Email:</b>	<input type="text"/>

## SPECIFIC PTA QUESTIONS

<b>1. Reason for submitting the PTA:</b> <input style="width: 100px; height: 15px;" type="text"/>
<p>The Mark to Market Program is authorized under the Multifamily Assisted Housing Reform and Affordability Act of 1997, modified and extended from time to time, including by the Mark to Market Extension Act of 2001. The information collection is used to determine the eligibility of FHA-insured or formerly insured multifamily properties for participation in the Mark to Market (M2M) program and the terms on which such participation should occur. The program reduces Section 8 rents to market and restructures debt as necessary.</p> <p>The information collection is also used to structure the closing of debt restructures that are finalized under the program, to track the post-closing performance of the restructures, and to evaluate the performance of the Agency's Participating Administrative Entities (PAEs) in undertaking restructures on the Agency's behalf as the Agency agent.</p>

<b>2. Does this system employ the following technologies?</b> <i>If you are using these technologies and want coverage under the respective PIA for that technology, please stop here and contact the HUD Privacy Branch for further guidance.</i>	<input type="checkbox"/> Social Media <input type="checkbox"/> Web portal <sup>2</sup> (e.g., SharePoint) <input type="checkbox"/> Contact Lists <input type="checkbox"/> Public website (e.g. A website operated by HUD, contractor, or other organization on behalf of the HUD) <input checked="" type="checkbox"/> None of these
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<b>3. From whom does the Project or Program collect, maintain, use, or disseminate information?</b> <i>Please check all that apply.</i>	<input checked="" type="checkbox"/> This program collects no personally identifiable information <sup>3</sup> <input type="checkbox"/> Members of the public <input type="checkbox"/> HUD employees/contractors (list programs): <input type="checkbox"/> Contractors working on behalf of HUD <input type="checkbox"/> Employees of other federal agencies
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<sup>2</sup> Informational and collaboration-based portals in operation at HUD and its programs that collect, use, maintain, and share limited personally identifiable information (PII) about individuals who are “members” of the portal or “potential members” who seek to gain access to the portal.

<sup>3</sup> HUD defines personal information as “Personally Identifiable Information” or PII, which is any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual, regardless of whether the individual is a U.S. citizen, lawful permanent resident, visitor to the U.S., or employee or contractor to the Department. “Sensitive PII” is PII, which if lost, compromised, or disclosed without authorization, could result in substantial harm, embarrassment, inconvenience, or unfairness to an individual. For the purposes of this PTA, SPII and PII are treated the same.

Other (e.g. business entity)

#### 4. What specific information about individuals is collected, generated or retained?

##### **INFORMATION COLLECTION – OWNERS.**

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

##### Owner’s Package.

- A. Owner’s Data Release Authorization Letter
- B. Checklist of Related Party Agreements

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

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

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

Certification of Ownership Entity, with required attachments.

Additional Owner’s Documentation that May Be Required.

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

HUD’s Restructuring Commitment.

HUD’s rejection of the Restructuring Plan and Commitment.

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

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

Request for Administrative Review. An owner may request an administrative review of a final decision of an appeal. Any request for administrative review must be in writing and be submitted to HUD within 10 days of receipt of the final determination.

##### Outyear Requirements.

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

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

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

Documentation Required for Mark-to-Market.

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

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

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

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

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

Closing Documents. Execute closing documents.

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

### **INFORMATION COLLECTION – THIRD PARTY LENDERS, ESCROW AGENTS, ETC.**

#### **Mortgagee Attorney**

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

#### Closing Escrow Agent

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

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

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

### **INFORMATION COLLECTION- CONTRACTORS (PAES), THEIR ATTORNEYS AND OTHER SUBCONTRACTORS**

PAEs Participating Administrative Entities under contract with HUD to perform underwriting and other services on HUD's behalf. There are only 3 PAEs, however there is some burden on their subcontractors so to the extent that an information collection potentially burdens more than 9 entities, it is included on this package.

PAE attorneys prepare loan documents and perform due diligence for PAEs as subcontractors

PCNA providers perform inspections and prepare reports as PAE subcontractors	
<b>4(a) Does the project, program, or system retrieve information from the system about a U.S. Citizen or lawfully admitted permanent resident aliens by a personal identifier?</b>	<input checked="" type="checkbox"/> No. Please continue to next question. <input type="checkbox"/> Yes. If yes, please list all personal identifiers used:
<b>4(b) Does the project, program, or system have an existing System of Records Notice (SORN) that has already been published in the Federal Register that covers the information collected?</b>	<input checked="" type="checkbox"/> No. Please continue to next question. <input type="checkbox"/> Yes. If yes, provide the system name and number, and the Federal Register citation(s) for the most recent complete notice and any subsequent notices reflecting amendment to the system
<b>4(c) Has the project, program, or system undergone any significant changes since the SORN?</b>	<input checked="" type="checkbox"/> No. Please continue to next question. <input type="checkbox"/> Yes. If yes, please describe.
<b>4(d) Does the project, program, or system use Social Security Numbers (SSN)?</b>	<input checked="" type="checkbox"/> No. <input type="checkbox"/> Yes.
<b>4(e) If yes, please provide the specific legal authority and purpose for the collection of SSNs:</b>	Not Applicable
<b>4(f) If yes, please describe the uses of the SSNs within the project, program, or system:</b>	Not Applicable
<b>4(g) If this project, program, or system is an information technology/system, does it relate solely to infrastructure?</b>  <i>For example, is the system a Local Area Network (LAN) or Wide Area Network (WAN)?</i>	<input checked="" type="checkbox"/> No. Please continue to next question. <input type="checkbox"/> Yes. If a log kept of communication traffic, please answer this question.
<b>4(h) If header or payload data<sup>4</sup> is stored in the communication traffic log, please detail the data elements stored.</b>	Not Applicable

<b>5. Does this project, program, or system connect, receive, or share PII with any other HUD programs or systems?</b>	<input checked="" type="checkbox"/> No. <input type="checkbox"/> Yes. If yes, please list:
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<sup>4</sup> Header: Information that is placed before the actual data. The header normally contains a small number of bytes of control information, which is used to communicate important facts about the data that the message contains and how it is to be interpreted and used. It serves as the communication and control link between protocol elements on different devices.

Payload data: The actual data to be transmitted, often called the payload of the message (metaphorically borrowing a term from the space industry!) Most messages contain some data of one form or another, but some actually contain none: they are used only for control and communication purposes. For example, these may be used to set up or terminate a logical connection before data is sent.

	Click here to enter text.
<b>6. Does this project, program, or system connect, receive, or share PII with any external (non-HUD) partners or systems?</b>	<input checked="" type="checkbox"/> No. <input type="checkbox"/> Yes. If yes, please list: Click here to enter text.
<b>6(a) Is this external sharing pursuant to new or existing information sharing access agreement (MOU, MOA, etc.)?</b>	<input type="text"/> Please describe applicable information sharing governance in place: Not Applicable
<b>7. Does the project, program, or system provide role-based training for personnel who have access in addition to annual privacy training required of all HUD personnel?</b>	<input checked="" type="checkbox"/> No. <input type="checkbox"/> Yes. If yes, please list:
<b>8. Per NIST SP 800-53 Rev. 4, Appendix J, does the project, program, or system maintain an accounting of disclosures of PII to individuals/agencies who have requested access to their PII?</b>	<input checked="" type="checkbox"/> No. What steps will be taken to develop and maintain the accounting: Not Applicable <input type="checkbox"/> Yes. In what format is the accounting maintained:
<b>9. Is there a FIPS 199 determination?<sup>5</sup></b>	<input checked="" type="checkbox"/> Unknown. <input type="checkbox"/> No. <input type="checkbox"/> Yes. Please indicate the determinations for each of the following:  Confidentiality: <input type="checkbox"/> Low <input type="checkbox"/> Moderate <input type="checkbox"/> High  Integrity: <input type="checkbox"/> Low <input type="checkbox"/> Moderate <input type="checkbox"/> High  Availability: <input type="checkbox"/> Low <input type="checkbox"/> Moderate <input type="checkbox"/> High

<sup>5</sup> FIPS 199 is the [Federal Information Processing Standard](#) Publication 199, Standards for Security Categorization of Federal Information and Information Systems and is used to establish security categories of information systems.



**PRIVACY THRESHOLD ANALYSIS REVIEW**

**(TO BE COMPLETED BY PROGRAM PLO)**

<b>Program Privacy Liaison Reviewer:</b>	Click here to enter text.
<b>Date submitted to Program Privacy Office:</b>	Click here to enter a date.
<b>Date submitted to HUD Privacy Branch:</b>	Click here to enter a date.
<b>Program Privacy Liaison Officer Recommendation:</b> <i>Please include recommendation below, including what new privacy compliance documentation is needed.</i>	
Click here to enter text.	

**(TO BE COMPLETED BY THE HUD PRIVACY BRANCH)**

<b>HUD Privacy Branch Reviewer:</b>	Click here to enter text.
<b>Date approved by HUD Privacy Branch:</b>	Click here to enter a date.
<b>PTA Expiration Date:</b>	Click here to enter a date.

**DESIGNATION**

<b>Privacy Sensitive System:</b>	<input type="text"/> If "no" PTA adjudication is complete.
<b>Category of System:</b>	<input type="text"/> If "other" is selected, please describe: Click here to enter text.
<b>Determination:</b>	<input type="checkbox"/> PTA sufficient at this time. <input type="checkbox"/> Privacy compliance documentation determination in progress. <input type="checkbox"/> New information sharing arrangement is required. <input type="checkbox"/> HUD Policy for Computer-Readable Extracts Containing Sensitive PII applies. <input type="checkbox"/> Privacy Act Statement required. <input type="checkbox"/> Privacy and Civil Liberties Impact Assessment (PCLIA) required. <input type="checkbox"/> System of Records Notice (SORN) required. <input type="checkbox"/> Paperwork Reduction Act (PRA) Clearance may be required. Contact your program PRA Officer. <input type="checkbox"/> A Records Schedule may be required. Contact your program Records Officer.
<b>PIA:</b>	<input type="text"/> If covered by existing PCLIA, please list: Click here to enter text.
<b>SORN:</b>	<input type="text"/>

	If covered by existing SORN, please list: <a href="#">Click here to enter text.</a>
<b>HUD Privacy Branch Comments:</b>	
<i>Please describe rationale for privacy compliance determination above.</i>	
<a href="#">Click here to enter text.</a>	

**DOCUMENT ENDORSMENT**

<b>DATE REVIEWED:</b>
<b>PRIVACY REVIEWING OFFICIALS NAME:</b>

By signing below, you attest that the content captured in this document is accurate and complete and meet the requirements of applicable federal regulations and HUD internal policies.

<b>SYSTEM OWNER</b>  << INSERT NAME/TITLE >> <<INSERT PROGRAM OFFICE>>	<b>Date</b>
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<b>CHIEF PRIVACY OFFICER</b>  <<INSERT NAME/TITLE>> <b>OFFICE OF ADMINISTRATION</b>	<b>Date</b>
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