

Supporting Statement for Paperwork Reduction Act Submissions

Budget-Based Rent Adjustment Requests and Appeals OMB Control Number 2502-0324 (HUD-92547-A)

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.**

Rent Adjustment Request

Title II of the National Housing Act requires that HUD regulate rents for certain cooperative and subsidized rental projects. Section 207(b)(2) of Title II states that "...The Secretary may, in the Secretary's discretion, require any such mortgagor to be regulated or restricted as to rents or sales ..." Further, this section states "insurance for mortgagees under this section is intended to facilitate particularly the production of rental accommodations, at reasonable rents, of design and size suitable for family living..." In addition, Section 236(e) of the National Housing Act states, "As a condition for receiving the benefits of interest reduction payments, the project owner shall operate the project in accordance with such requirements with respect to tenant eligibility and rents as the Secretary may prescribe..." Under Section 236(f) "For each dwelling unit there shall be established with the approval of the Secretary (A) a basic rental charge determined on the basis of operating the project with payment of principal and interest due under a mortgage bearing interest at the rate of 1 per centum per annum; and (B) a fair market rental charge determined on the basis of operating the project with payment of principal, interest, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage covering the project. Also, Section 221(d)(3) requires that projects be "regulated or supervised ... by the Secretary under a Regulatory Agreement or otherwise, as to rents, charges, and methods of operation, in such form and in such a manner as in the opinion of the Secretary will effectuate the purposes of this section..."

In developing regulations for the exercise of this HUD authority, the Department formulated the processes by which owners could request rent adjustments. The requirement for tenant participation in the rent adjustment process, which is included in Section 202(b) of the Housing and Community Development Amendments of 1978, necessitated that the Department design procedures to give consideration to tenant comments. The resultant rule for Tenant Participation in Multifamily Housing Projects, 24 CFR 245, specifies the information to be collected for a rent adjustment request. Specifically, 24 CFR 245.310 requires notice to tenants at least 30 days before submitting a request to HUD for approval of an increase in maximum permissible rents. In addition, 24 CFR 245.320 requires copies of documentation to accompany the rent adjustment request including copies of all written comments submitted by the tenants to the mortgagor.

Appeals

HUD's Handbook "Multifamily Asset Management and Project Servicing" 4350.1 REV-1, Chapter 7, Sections 7-52 through 7-57, provides the process for owners to appeal denials of budget-based rent adjustment requests. HUD is charged with the responsibility of determining the method of budget-based rent adjustments and with facilitating these adjustments. Because budget-based rent adjustments are advantageous to project owners, HUD wants to provide some means for owners to appeal the decisions made by the Department or the Contract Administrator. This appeal process, and the information collection included as part of the process, play an important role in preventing costly litigation and ensuring the accuracy of the overall budget-based rent adjustment process.

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.

Rent Adjustment Requests

Owners are required to submit the following documents to HUD for review and approval:

- Cover letter summarizing the reasons a rent adjustment is needed;
- Copy of notice to tenants;
- A rent adjustment worksheet (form HUD-92547-A) providing an income and expense budget for the 12 months following the anticipated effective date of the proposed rent adjustment;
- A brief statement explaining the basis for the expense lines on the rent adjustment worksheet;
- If tenants receive utility allowances, the mortgagor's recommended utility allowance for each unit type and brief statement explaining the basis for the recommended adjustment, and;
- A status report on the project's implementation of its current Energy Conservation Plan.

Upon expiration of the tenant comment period, the owner must submit the following documents in addition to the documents listed above:

- Copies of all written comments submitted by the tenants to the owner;
- The owner's evaluation of the tenants' comments with respect to the request;
- A certification by the owner that:
 - It has complied with all of the requirements of 24 CFR 245, Subpart D;
 - The copies of the materials submitted in support of the proposed increase were located in a place reasonably convenient to tenants in the project during normal business hours and that requests by tenants to inspect the materials, as provided for in the notice, were honored;
 - All comments received from tenants were considered by the owner in making its evaluation; and
 - Under penalties and provisions of Title 18 U.S.C. Section 1001, the statements contained in this request and its attachments have been examined by me and, to the best of my knowledge and belief, are true, correct, and complete.

Form HUD-92547-A, Budget Worksheet will be used by HUD Field staff, along with other information submitted by owners, as a tool for determining the reasonableness of rent adjustments. The purposes of the worksheet and the collection of budgetary information are to allow owners to plan for expected increases in expenditures.

Appeals

Owners of Section 8-assisted multifamily housing projects eligible for budget-based rent adjustments are allowed two appeals under the Section 8 budget-based rent adjustment appeal process.

- At the first level, the appeal is reviewed by HUD staff at least one administrative level above the reviewer who made the contested rent adjustment decision. For example, if the account executive branch chief approves the contested rent decision, then the director of the Asset Management Division reviews the first level of appeal.

The owner must submit its first-level appeal in writing and postmark it within 30 days of the date the owner received the notification letter regarding the denial of the rent adjustment. At a minimum, the owner must include the following in the written appeal:

1. An explanation of why the owner disagrees with HUD's decision and a statement identifying the rents sought in the appeal; and
2. All information required in the initial rent adjustment request.

- If HUD denies the first-level appeal, upholding the initial rent adjustment decision, and the owner does not agree, it can submit a second-level appeal request to the director of the Multifamily Housing regional center. Any decision rendered by the regional Center director is final. The second-level appeal must be in writing and postmarked within 30 days of the date of the first-level appeal decision letter. The owner must send the regional director the following:
 1. A copy of the original budget-based rent adjustment decision letter, accompanied by any supporting documentation sent with the original request or involved in the original decision;
 2. A copy of the first-level appeal request and denial; and
 3. A letter explaining why the owner disagrees with the decision reached in the first-level appeal.

HUD has used these letters and supporting documentation to determine if an appeal is warranted. This information is both the minimum and most appropriate information for HUD to use to determine if an appeal should be approved. No change is proposed to this process.

Pursuant to section 7.54.C of the Asset Management Handbook 4350.1, “if the appeal results in an increase to the Tenant Rent, the owner must give the tenant 30 days advance written notice of the increase. The Notice must specify the new Tenant Rent and date it will be effective.” This provision applies only to tenants living in unassisted units in Section 236 properties. Tenants in units assisted with Section 8 or Project Rental Assistance Contract funds do not have to be notified of a rent adjustment, since their rent payments will not change.

3. Describe whether, and to what extent the collections of information involves the use of automated, electronic, mechanical, or other 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.

Rent Adjustment Requests

Owners will have the option to submit requests and appeals electronically, pursuant to a forthcoming program Notice on electronic signature, transmission, and retention of documents. Electronic submission will be made primarily by e-mail or electronic file upload. The HUD-92547-A is available in electronic format on HUDClips. The budget-based rent adjustment worksheet is used by the owner and submitted to the local HUD field office for review and approval. Computer-generated representations of the information included in the 92547-A will also be accepted in place of the worksheet. Analyses were conducted to determine the cost effectiveness and feasibility of automating this collection. At this time, however, there are no available resources that can be used for developing electronic submission procedures.

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.

The data collected is unique to the requirement to ensure reasonable rents. This information is not available elsewhere.

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.

There is no impact on small businesses or small entities, as project owners already prepare budgets for projects in support of their own business practices.

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 the information were collected less frequently, HUD would be unable to monitor rent adjustments for the projects subject to this requirement. **Owners would not have an opportunity to appeal HUD's decisions and HUD would have insufficient information to support approving an appeal. The information is collected, at the owner's discretion, when**

it wishes to appeal a rent increase decision. The information collection could not be conducted less frequently. Failure to collect this information would hinder the Department's ability to provide owners with an opportunity to appeal rent adjustments.

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;**

There is no requirement for respondents to prepare a written response to a collection more than quarterly.

- **requiring respondents to submit more than an original and two copies of any document;**

There is no requirement for 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;**

There is no requirement for 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;**

This collection is not made in connection with a statistical survey.

- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**

There is no use of a statistical data classification with this collection.

- **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**

There is no pledge of confidentiality that is not supported by authority established in statute or regulation.

- **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 is no requirement for respondents to submit proprietary trade secrets, or other confidential information.

- 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.

In accordance with 5CFR 1320.8(d), this information collection soliciting public comments was announced in the Federal Register on *February 25, 2020*, Volume 85, No. 37, Pages 10710. (0) Comment received.

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

No payments or gifts of any kind are provided to respondents.

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

The Department does not assure confidentiality to respondents.

- 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

Information Collection	Number of Respondents	Frequency of Response	Total Annual Responses	Burden Hours per Response	Annual Burden Hours	Hourly Cost	Total Annual Cost
HUD-92547-A	974	1	974	5.33	5196.75	\$19.86	\$103,207.46
Appeal Letter	100	1	100	1.5	150	\$19.86	\$2,979
Total	974		0		0		0

Estimated burden hours are a count of projects subject to budget-based rent adjustments, and cooperative housing. Hourly cost for respondent's staff to review and provide the requested information are based on estimates provided by Payscale.com. The estimated number of respondents providing appeal letters is 100 out of the total 974, so the numbers are not added together.

13. Provide an estimate of the total annual cost burden to respondents or record keepers 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.

No additional costs to respondents are anticipated.

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.

Estimates of Annualized Cost to the Federal Government

Information	Number	Frequency	Total	Burden	Annual	Hourly	Total
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Collection	of Respondents	of Response	Annual Responses	Hours per Response	Burden Hours	Cost	Annual Cost
HUD-92547-A	974	1	974	0.33	321	\$ 30.05	\$9,659
Appeal Letter	100	1	100	.33	33	\$30.05	\$992
Total	974		1,074		354		\$10,650

Estimated annual cost to the Federal Government assuming a GS-12 Project Manager reviews and processes the information. The estimated number of respondents providing appeal letters is 100 out of the total 974, so the numbers are not added together.

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

This is a revision of a currently approved collection to incorporate OMB 2502-0446. With this action, 2502-0446 will be eliminated. The combination now includes the estimate of yearly rent adjustment requests made by owners and the number of annual appeal actions taken to redress denials of such requests. Since two PRA packages have been combined into one, all data shown in items 12 and 14 have increased and show the summed total for data in both packages.

The number of burden hours for rent adjustment requests represent the number of projects that make budget based rent adjustment requests across the portfolio and the aging out of old closed programs such as Section 236. HUD is also encouraging project owners to utilize a standardized set of rent tables provided by HUD to owners and managers annually.

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 not display the expiration date on the HUD Form-92547-A.

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."

B. Collections of Information Employing Statistical Methods

There are no plans to use statistical methods for collection of this information.