

Supporting Statement for Paperwork Reduction Act Submissions
Operating Fund Energy Incentives: Energy Performance Contracting Program, Rate Reduction Incentive
2577-NEW

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.

Section 9(e)(2)(C) of the United States Housing Act of 1937 (1937 Act) authorizes Public Housing Agencies (PHAs) to “receive the full financial benefit from any reduction in the cost of utilities or waste management resulting from any contract with a third party to undertake energy conservation improvements in one or more of its public housing projects.” Energy Conservation Measures include improvements to other utilities such as water and gas. Under 24 CFR 990.185, PHAs may qualify for conservation incentives when undertaking ECMs that are financed by a third-party entity other than HUD.

This third-party financing of energy consumption improvements is termed an Energy Performance Contract (EPC). A PHA uses a loan from a third party to finance initial improvements (energy and water conservation measures (ECMs) in PHA infrastructure that will reduce a PHA’s energy and/or water consumption. HUD will continue to provide the PHA operating subsidy based on a PHA’s energy consumption before the improvements were made. The PHA will then use the energy savings to pay for the debt service on the loan.

There are three energy consumption incentives that are available to a PHA:

1. The Frozen Rolling Base -where HUD freezes the PHA’s pre-EPC Rolling Base Consumption Level (RBCL) following the installation of ECMs so that the PHA can retain the savings from the decreased energy and/or water consumption for the term of the contract.
2. The Add-on Subsidy - an Additional Operating Subsidy (or “add-on”) is an increase in total operating subsidy eligibility provided by HUD as a conservation incentive, as described in 24 CFR § 990.185(a)(3). The additional subsidy is for amortization of the loan of the EPC and other direct costs related to the energy and/or water conservation project during the term of the contract.
3. The Resident-Paid Utility incentive (24 CFR §990.185(a)(2)). PHAs undertaking energy and/or water conservation measures that are financed by a third-party entity other than HUD may include resident-paid utilities under the consumption reduction incentive. This approach allows a PHA to exclude from its Operating Fund rental income calculations any rents received that are a result of decreased utility allowances resulting from decreased consumption.

In addition to consumption incentives, PHAs are also eligible for a Rate Reduction Incentive (24 CFR §990.185(b)) which also allows PHAs to retain 50% of the annual savings attributable to taking specific actions to reduce the cost of their energy consumption, such as well-head purchase of natural gas, administrative appeals, or contract negotiation with a utility company. The lower rate cannot be a result of factors that do not require the PHA to take an action and/or are beyond a PHA’s control including, but not limited to, market changes, legislative changes, rate changes for all customers, or consuming energy at a different time of day.

These incentives are not automatically offered, and must be applied for. In addition, PHAs must measure and verify their savings and submit that information to correctly calculate subsidy.

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.

Applicants for an EPC program submit the following documents at the time of submission:

- A letter applying for an EPC incentive, identifying the project location, any PHA units that would fall under the EPC contract, the type of incentive that a PHA is applying for and whether or not the project will be

managed by the PHA, using a consultant, and/or using an Energy Services Company (ESCO) to manage the EPC on their behalf. If applicable, PHAs should also note in this letter if they are pursuing the Rate Reduction Incentive in conjunction with the EPC (24 CFR § 990.185(b); Notice PIH 2019-24).

- Completed an investment grade energy audit per ASHRAE (American Society of Heating, Refrigeration, and Air-conditioning Engineers) standard that supports the proposal.
- The Request for Proposals (RFP) used to solicit proposals from third-party lenders or ESCOs.
- A Cost summary sheet showing ECMs by project, funding type and measurement and verification (M&V) type
- Detailed utility baseline data summary sheet showing the RBCL and any adjustments to the data:
 - Copies of the HUD 52722 and 52723¹ forms by Asset Management Project (AMP) for each year of the required rolling base years.
 - Copy of the most recent HUD 52722 and 52723 forms by AMP.
- A detailed Cash flow Summary, showing:
 - That the energy savings are sufficient to cover the project costs including replacement costs;
 - That 75% of the annual energy savings are utilized for payment of the debt for the contract; and
 - Any Bureau of Labor and Statistics historical documentation supporting any utility rate escalations.
- Resident Paid Utility Allowances:
 - Copies of EXISTING utility allowances with supportive documentation;
 - Copies of the Pre-EPC utility allowances with supportive documentation; and
 - Copies of what the post-EPC utility allowances will be with supportive documentation.
- A copy of the Energy Services Agreement contract between the PHA and their third party lender/ESCO Energy Services Agreement (ESA)
- A certification that the PHA has performed a cost analysis per 2 CFR part 200, and that costs associated with the EPC are reasonable;
- HUD-5369A Representations, Certifications, and Other Statements of Bidders
- A repayment certification that the PHA will pay for any debt using cost savings from implementing ECMs; and
- A letter from the PHA's legal counsel that states that the ESA complies with State and Local laws and the legal interests of the PHA are fairly represented in the ESA.

HUD uses collected information to determine whether applications meet eligibility requirements and application submission requirements. Applicants provide information about the proposed contract to enable HUD to evaluate the applicant's response to the criteria for rating the application and approving or disapproving the contract.

Applications for the RRI must include the following information:

1. PHA Name and PHA code;
2. Asset Management Project (AMP) number for each AMP included in the proposed RRI;
3. A brief description of the action the PHA undertook to reduce the utility rate and supporting documentation;
4. An explanation of how the PHA will calculate savings; and
5. Identification of the incentive the PHA will claim, whether it is 50 percent or 100 percent of the actual savings.

RRIs executed at the same time as an EPC are eligible to retain up to 100 percent of the savings (rather than 50 percent of the savings with the RRI alone) during the EPC repayment period when the EPC and RRI impact the same AMP and utility. The requirements for a PHA to be eligible to retain 100 percent of the RRI savings are as follows:

¹ The burden for these forms has been approved under OMB Control No. 2577-0029. As a result, the burden from these forms is not included in the current collection.

- The PHA must be eligible for both EPC incentives and RRI incentives (1) at the same AMP, (2) for the same utility, and (3) in the same funding period. For an EPC and an RRI to be considered executed at the same time, the RRI action needs to be submitted to HUD for review after the PHA submits the EPC package to HUD for review and before HUD approves the EPC.
- The PHA's RRI submission must state that it is requesting a 100 percent RRI benefit because it is being executed in conjunction with an EPC. A PHA's EPC submission must state that the PHA is pursuing an RRI in conjunction with an EPC.
- Both the RRI and EPC approval letters from HUD must indicate that the PHA is pursuing both approvals in conjunction with each other.
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As part of an EPC, the PHA or the ESCO is required to generate a Measurement and Verification Report on an annual basis. The report must contain the actual usage amount of each utility under the EPC, the actual unit of measure, the consumption savings, and the cost savings, as well as any other information that is specified by the contract (which may differ from PHA to PHA). PHAs are required to provide this report to HUD annually.

For the EPC program, in addition to the Measurement and Verification report, PHAs will be required to submit an Energy Savings Calculator Excel spreadsheet. This calculator will contain utility usage data like the Measurement and Verification report; however the calculator will compare the usage data against the HUD generated approval letter to ensure that the EPC savings have been calculated correctly.

In the case of PHAs that have a resident paid utility (RPU) incentive as part of their EPC, the PHA must also submit the Resident Paid Utility Worksheet annually.

The monitoring, measurement and verification information collected allows HUD to audit program performance accurately. The quality of reported data is critical for ensuring an accurate distribution of the Operating Fund subsidy.

For the RRI, PHAs must annually submit documentation on energy cost savings attributed to the reduction in the rate. This data is submitted on an Asset Management Project (AMP) basis and must be submitted by the PHA in order to determine the amount to the incentive included in its Operating Subsidy calculation each year.

3. Describe whether, and to what extent, the collection 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.

HUD allows the PHA to submit all materials for applications and measurement and verification electronically.

Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used

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 information collected. The information collected is the application for either the RRI or the EPC, which is not duplicated in another program, and is the calculation of the amount of the RRI incentive each year or the measurement and verification of the EPC energy savings attained.

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.

For EPCs, the collection of information impacts the companies used to assist a PHA in implementing the EPC, and measuring and verifying the contract's performance. Burden is minimized by requiring verification on a yearly basis, as opposed to a quarterly or semi-annual basis. For the RRI, the information does not affect any small businesses.

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.

EPCs: The information is collected at the time of the application for the EPC program and during the performance period is required to identify the applicant, describe the contract terms and the financial stability of the project, and determine ongoing compliance with requirements. If no records are collected, it will not be possible for HUD to undertake the program compliance assessments needed to approve EPCs for PHAs or assess program performance and compliance throughout the term of the EPC.

RRI: The information collected at the time of the application for the RRI is required to identify the applicant, describe the contract terms and the eligibility of the PHA's actions to reduce the utility rate. During the term of the RRI, the information is needed to determine the amount of incentive the PHA is eligible for each year. If no records are collected, it will not be possible for HUD to undertake the program compliance assessments needed to approve RRIs or to approve the amount of incentive the PHA was able to claim each year.

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; **Not Applicable**
 - requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it; **Not Applicable**
 - requiring respondents to submit more than an original and two copies of any document; **Not Applicable**
 - requiring respondents to retain records other than health, medical, government contract, grant-in-aid, or tax records for more than three years; PHAs are expected to keep copies of the HUD letter approving the EPC for the life of the contract, as the letter contains the terms of the HUD approval of the EPC incentives in the Operating Fund grant, and Measurement and Verification Reports are also expected to be kept for the life of the contract. For the RRI, PHAs are expected to keep copies of the HUD letter approving the RRI for the duration of the incentive.
 - 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; **Not Applicable**
 - requiring the use of a statistical data classification that has not been reviewed and approved by OMB; **Not Applicable**
 - 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; **Not Applicable** 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. **Not Applicable**
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 3 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.

HUD published a Notice of Proposed Information Collection for Public Comments in the *Federal Register*, Volume 87, No.132 Page 41344, on July 12, 2022. The public was given until September 12, 2022, to submit comments on the proposed collection. HUD received three comments on this proposed collection about the addition of the EPC Savings Calculator to HUD's requirements. All comments were concerned about imposing an additional burden on PHAs, and stating that the reporting requirements could be duplicative of other requirements. HUD has reviewed the requirements and has determined that current reporting requirements and systems do not provide PHAs or HUD the ability to adequately validate accurate EPC Operating Fund incentives on an annual basis.

Accordingly, HUD is not making changes to the information collection at this time. However, to reduce burden and duplicate entering of information, at a future point, HUD will work to incorporate this requirement as a module in the Operating Fund Web Portal. Where data exists in HUD systems, at that time, HUD will utilize that data in a manner so as not to require re-entry of the data by the PHA, reducing burden.

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

There are no provisions to provide any payments or gifts to respondents, other than remuneration of contractors or grantees.

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

There is no assurance of confidentiality. This information is available under the Freedom of Information Act. However, the information collected under this request does not include information on individuals.

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 included in the information to be collected.

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 hour burden, 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 OMB Form 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 13.

HUD receives approximately 10 applications for Energy Performance Contracts annually. HUD estimates that each application takes approximately 560 hours to prepare for an EPC review, including finalizing the energy audit to identify ECMs, and project development and preparing the application form. The price per hour is based on the average cost of an engineer qualified for this work.

In addition, there are approximately 200 contracts under active management that must send in Measurement and Verification Reports and EPC Savings Calculation annually. The annual contractor time to generate and submit Measurement and Verification Reports and EPC Savings Calculation is 88 hours. The price per hour is based on the average cost of an engineer qualified for this work.

HUD receives approximately 20 RRI applications annually. HUD estimates that each application takes approximately 2 hours to submit an RRI application. The price per hour is based on the average cost of an engineer qualified for this work.

In addition, there are approximately 60 RRI contracts under active management that must send RRI savings calculations annually. The annual time to generate and submit an RRI savings calculation is 10 hours. The price per hour is based on the average cost of an engineer qualified for this work.

Estimated Number of Respondents, Responses, and Burden Hours Per Annum

<i>Type of Submission/Information Collection</i>	<i>Number of Respondents</i>	<i>Frequency of Submissions</i>	<i>Total Responses</i>	<i>Estimate Average Time (Hours)</i>	<i>Estimate Annual Burden (Hours)</i>	<i>Hourly Cost</i>	<i>Total Annual Cost</i>
EPC Application, Copy of HUD 52722 Copy of 52723 and other supporting documentation	10	1	10	559.75	5,597.50	\$125	\$699687.50

HUD-5369A,	10	1	10	.09	.9	\$125	\$112.50
Copy of HUD 52722	10	1	10	.08	.8	\$125	\$100
Copy of HUD 52723	10	1	10	.08	.8	\$125	\$100
EPC Measurement and Verification Report and	200	1	200	10	2,000	\$125	\$250,000
EPC Savings Calculator	200	1	200	10	2,000	\$125	\$250,000
RRI Application and supporting documentation	30	1	30	2	60	\$125	\$7,500
RRI annual savings calculations	60	1	60	10	600	\$125	\$75,000
Totals	300		300		10,260		\$1,282

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 other than what is reported above.

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.

The estimated levels of effort for EPC applications are based on recent discussions with EPC staff and their time to review. The estimated hours rate of \$50/hour represents the mean in the FY 2021 GS-13 Step 1 schedule for HQ.

The estimated levels of effort for EPC Measurement and Verification and savings calculations are based on recent discussions with EPC staff and their time to review. The estimated hours rate of \$50/hour represents the mean wage the FY 2021 GS-13 Step 1 schedule for HQ.

The estimated levels of effort for RRI applications are based on recent discussions with RRI staff and their time to review. The estimated hours rate of \$50/hour represents the mean in the FY 2021 GS-13 Step 1 schedule for HQ.

The estimated levels of effort are based on recent discussions with RRI savings calculation staff and their time to review. The estimated hours rate of \$50/hour represents the mean wage the FY 2021 GS-13 Step 1 schedule for HQ.

Estimated Annualized Cost to the Federal Government

Type of Submission	Number of Respondents	Frequency of Submissions	Total Responses	Estimate Average Time Receiving, Reviewing, and Awarding (Hours)	Estimate Annual Burden (Hours)	Hourly Rate*	Total Annual Cost
EPC Application	10	1	10	400	400	\$ 50	\$20,000
EPC Measurement and Verification and EPC Savings Calculation	200	1	200	5	1000	\$ 50	\$ 50,000
RRI Application	30	1	30	2	60	\$50	\$3,000
RRI savings calculation	60	1	60	1	60	\$50	\$3,000
TOTAL			300		1420		\$ 76,000

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

N/A, this is a new information collection.

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 information collected is not for statistical use nor does its collection use statistical methods.

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.

N/A, The OMB number and expiration date of the information collection will be displayed on the forms.

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

There are no exceptions to the certification identified in Item 19 of the OMB 83-I.

B. Collections of Information Employing Statistical Methods

N/A

