

Supporting Statement for Paperwork Reduction Act Submissions

MONTHLY REPORT OF EXCESS INCOME AND ANNUAL REPORT OF USES OF EXCESS INCOME OMB Control Number 2502-0086

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.**

The Secretary of the Department of Housing and Urban Development is authorized to make periodic interest reduction payments on behalf of owners of rental housing projects (12 U.S.C. 1715z-1). A project owner may retain some or all of excess rental collections for project use if authorized by the Secretary (12 U.S.C. 1715z-1(g)). The Housing and Community Development Act of 1987 authorizes HUD to collect Employer Identification Numbers (EINs) (42 U.S.C. 3543). HUD regulations at 24 CFR 236 establishes regulations for recordkeeping and reporting of excess income.

- 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.**

The owners/management agents of Section 236-assisted projects complete a web-based form on pay.gov, Monthly Report of Excess Income, to compute any excess rents that are payable to HUD and to report Excess Income that is retained by them with HUD's prior approval no later than the tenth day of each month. Approximately half of these owners request to retain excess income, and are required to submit the Annual Report of Uses of Excess Income. It has come to the attention of the respondent that a currently active program known as "decoupling", which involves the sale and refinancing of Section 236 properties, continues to require the collection of Monthly Report of Excess Income and Annual Report of Uses of Excess Income. These properties continue to be considered "236" projects for reporting purposes. Consequently, their numbers have been incorporated into this Paperwork Reduction Act Submission.

The project-based calculations performed on pay.gov are derived from the unit-by-unit basis calculations performed by the owner and/or management agent. The owner/manager must be able to provide ancillary information to support the calculations on a unit-by-unit basis to HUD, upon request, for possible HUD or GAO audit. HUD monitors owner submission requirements and checks to assure that required excess rents are remitted to the Department and/or retained by the owner.

These offices provide to the local HUD Office, on a monthly basis, proof of payment or evidence of amounts retained, through pay.gov. Without the monthly and annual descriptions, the local HUD Offices would not be able to ascertain general compliance by the owner regarding the owner's intended uses of Excess Income.

Annually, approximately 843 project owners submit a request to retain excess income for project use, and annually submit two copies of a brief narrative description of the amount of Excess Income retained during the prior Fiscal Year of the project and the uses made of that retained Excess Income.

- 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.**

Approximately 80% of management agents now use privately developed software packages that:

- (a) Automate the project rent roll or the tenant accounts receivable subsidiary ledger,
- (b) Quickly calculate the amounts of Excess Income generated.

HUD has moved Departmental Accounts Receivable Tracking/Collection to pay.gov. HUD is submitting the monthly Excess Income electronically through pay.gov.

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 information collection is not duplicated by requirements imposed by other regulatory or State and Local governments.

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.

This information collection does not involve a significant impact on small businesses or other small entities.

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.

Tenant rent collection and occupancy data is the responsibility of the owner/management agent and are not available to HUD from any other sources. The information must be available from the project books and records kept by the owner or agent. HUD could not ensure statutory compliance if the information is not collected.

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 report the information more than quarterly. Each monthly submission reports updated, current information.
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
There is no requirement for respondents to prepare a written response to a collection in fewer than 30 days.
- **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 classifications 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.

Both HUD regulations and the project regulatory agreement signed by the project owner require monthly submissions of Excess Income reports. HUD would be unable to assure that all excess rents due the Department were properly remitted if information collection were conducted less frequently.

- 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.**

In accordance with 5 CFR 1320.8(d), this information collection soliciting public comments was announced in the *Federal Register* on Wednesday March 27, 2013 (Volume 78, Number 59, Page 18622) No comments were received.

- **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.**

HUD contacted several Program Centers and management companies for direct feedback on use of the web-based format for reporting excess income. HUD's Detroit hub responded that owner/agents have provided proof to us that they submitted information via pay.gov, but this information did not get relayed to the CFO's office. Two management companies were contacted: Interstate Realty Management and Monarch Properties Inc. expressed no concerns with the current electronic reporting process.

- 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.**

Assurance of confidentiality is provided to respondents under the Privacy Act of 1974. Pay.gov is a secure website requiring identification and passwords to access individual data.

- 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.**

Although no questions of a sensitive nature were asked, the EIN is collected. The collection of EINs is essential to the effective monitoring of project owners/management agents excess income remittances and potential offsets, and forma basis for recovery and enforcement actions.

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.

Number of Respondents	Frequency of Response	Total Annual Responses	Burden Hours per Response	Annual Burden Hours	Hourly Cost	Total Annual Cost
834	1	834	0.75	626	27	\$ 16,628
834	12	10,008	0.25	2,502	27	\$ 66,512
Totals	13	10,842		3,128		\$ 83,140

Hourly costs are based on an estimate of the owner or owner’s staff (Property Manager) to review the instructions and complete the form. The hourly cost has been adjusted to \$22.00 per hour based on information gathered from payscale.com. Payscale.com is an online salary and benefit information resource which provides compensation data for various occupations. The hourly costs provide a good estimate for costs to the respondent as to this data, which was obtained in November 2009.

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.

There are no costs other than those itemized in item 12.

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.

Annualized cost to the Federal Government.

Total Annual Responses	Burden Hours per Response	Total Annual Burden Hours	Hourly Cost	Total Annual Cost
834	0.33	275	\$ 29	\$ 7,975
10,008	0.1	1,001	\$ 29	\$ 29,001
10,842		1,276		\$ 36,976

*Estimated cost per hour for HUD staff (GS-12) to review and process the documents for this collection

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. The decrease in use of this data collection reflects the decline of active loans in the 236 program portfolio. These loans are thirty and forty years old, and paying out or refinancing at a rapid rate. Owners are permitted to retain some or all of excess income generated by market rate tenants whose rent exceeds local Fair Market Rents, on the condition that the excess funds be used for necessary and reasonable operating expenses of the project. A mortgagor must submit a written request to retain Excess Income for project use to the local HUD Field Office. Occasionally, the need to retain excess income changes for a project, and the owner may modify the request by renewing a request for retention, or discontinuing the request and forwarding subsequent excess income monthly to Pay.Gov.

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 information 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.

The form HUD-93104 has been retired.

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

There are no exceptions to the certification statement in item 19 of the OMB 83-I.

B. Collection of Information Employing Statistical Methods.

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