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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket Number FR- 5623-N-04]

**Federal Housing Administration (FHA) Healthcare Facility Documents:
Notice of Information Collection –Proposed Documents Eligible for Electronic Submission**

AGENCY: Office of the Assistant Secretary for Housing--Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: On March 14, 2013, HUD published in the Federal Register a notice that announced that FHA's healthcare facility documents completed the notice and comment processes under the Paperwork Reduction Act of 1995, and had been assigned a control number, 2502-0605, by the Office of Management and Budget. The assignment of a control number concluded a 10-month process through which HUD solicited public comment to update 115 healthcare facility documents to reflect current policy and practices, to improve accountability by all parties involved in FHA's healthcare facility transactions and strengthen risk management.

Through this notice, HUD solicits public comment solely on the issue of which healthcare facility documents are eligible for electronic submission. HUD did not address this issue as part of the previous notice and comment process, but recognizes the importance, efficiency, and reduction of burden that electronic submission of documents can achieve, and now solicits public comment on the healthcare facility documents that HUD has determined may be submitted, but are not required to be submitted, electronically.

DATES: Comment Due Date: **[Insert date that is 60 days from the date of publication.]**

ADDRESSES: Interested persons are invited to submit comments regarding this notice.

Communications must refer to the above docket number and title. There are two methods for submitting public comments:

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500.

2. Electronic Submission of Comments. Comments may be submitted electronically through the Federal eRulemaking Portal at www.regulations.gov. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the www.regulations.gov website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the notice.

No Facsimile Comments. Facsimile (fax) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications will be available for public inspection and downloading at www.regulations.gov under the docket number for this notice.

FOR FURTHER INFORMATION CONTACT: John M. Hartung, Director, Policy and Risk Management Division, Office of Residential Care Facilities, Office of Healthcare Programs,

Office of Housing, U.S. Department of Housing and Urban Development, 1222 Spruce Street, Room 3.203, St. Louis, MO 63103-2836; telephone (314) 418-5238 (this is not a toll-free number). Persons with hearing or speech disabilities may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Background – Prior Public Comment on Substance of Healthcare Facility Documents

On May 3, 2012, at 77 FR 26304, and consistent with the Paperwork Reduction Act of 1995 (PRA), HUD published a notice in the Federal Register seeking public comment for a period of 60 days (60-day Notice) on HUD's proposed update and revisions to a set of production, underwriting, asset management, closing, and other documents used in connection with transactions involving healthcare facilities, excluding hospitals (collectively, the healthcare facility documents), that are insured pursuant to section 232 of the National Housing Act (Section 232). In conjunction with publication of the 60-day Notice, the proposed revised healthcare facility documents (115 documents) were made available at: www.hud.gov/232forms. In addition to presenting unmarked versions of the documents, this website, to the extent applicable, presented the proposed healthcare facility documents as a redline/strikeout against the updated multifamily rental project closing documents to highlight the changes made to facilitate a healthcare transaction. Where the proposed healthcare facility documents were based on existing healthcare facility documents, the proposed healthcare facility documents, in addition to being presented in an unmarked format, were presented in redline/strikeout format so that reviewers could see the changes proposed to the existing healthcare facility documents.¹

¹ Along with the 60-day Notice, HUD published in the Federal Register on May 3, 2012, at 77 FR 26218, a proposed rule that proposed to strengthen regulations for HUD's Section 232 program to reflect current policy and practices, and to improve accountability and strengthen risk management. A final rule following the May 3, 2012, proposed

As a special outreach to the public on proposed changes to the healthcare facility documents and Section 232 program regulations, HUD hosted a forum on May 31, 2012, in Washington, DC. (See <http://portal.hud.gov/hudportal/HUD?src=/press/multimedia/videos>.) While comments were raised and discussed at the forum, HUD encouraged forum participants to file written comments through the www.regulations.gov website so that all comments would be more easily accessible to interested parties. All comments, whether submitted through www.regulations.gov or raised at the forum, were considered in the development of the revised documents which were published on November 21, 2012 (77 FR 69870), and for which, consistent with the PRA, comment was solicited for an additional 30 days (30-day Notice).

In the 30-day Notice, HUD identified substantive changes that were made to the healthcare facility documents in response to public comments submitted on the 60-day Notice, responded to significant issues raised by the commenters, and identified proposed additional changes based on further consideration of certain issues. As was the case with the 60-day Notice, HUD posted on its website the further revised healthcare facility documents in (1) a clean format, and (2) in redline/strikeout format, to show the changes made from the versions posted with issuance of the 60-day Notice.

On March 14, 2013, at 78 FR 16279, HUD published in the Federal Register a notice that announced the approval of the healthcare facility documents under the PRA and an assignment of a control number, 2502-0605, by the Office of Management and Budget (OMB). In addition to announcing the assignment of an OMB control number, HUD advised in the May 14, 2013, notice that additional changes were made to the healthcare facility documents in response to comments submitted on the 30-day Notice. In the March 14, 2013, notice, HUD highlighted

rule, and taking into consideration public comment received on the proposed rule, was published on September 7, 2012, at 77 FR 55120.

additional changes made to the healthcare facility documents, and once again, provided on HUD's website at www.hud.gov/232forms, the final versions of the documents in clean and redline/strikeout formats so that reviewers could see the final changes made to the documents and the clean final versions of the documents.

II. Solicitation of Comment on Electronic Submission of Healthcare Facility Documents

As a result of the significant solicitation of public comment on the substance of the healthcare facility documents, this solicitation of public comment is devoted solely to the issue of which healthcare facility documents may be submitted electronically. Consistent with current practice, HUD requires applications for mortgage insurance be submitted electronically. Any healthcare facility documents submitted as part of an application for mortgage insurance must be submitted electronically. Of the other healthcare facility documents, HUD has identified 13 documents that HUD has determined must be submitted with original signatures, in hard copy format. These documents are the following: Healthcare Regulatory Agreement – Borrower (HUD-92466-ORCF); Healthcare Regulatory Agreement – Operator (HUD-92466A-ORCF); Management Certification – Residential Care Facility (HUD-9839-ORCF); Lender Certification (HUD-92434-ORCF); Offsite Bond— Dual Obligee (HUD-92479-ORCF); Performance Bond – Dual Obligee (HUD-92452-ORCF); Payment Bond (HUD-92452A-ORCF); Request for Endorsement (HUD-92455-ORCF); Request for Final Endorsement (HUD-92023-ORCF); Guide for Opinion for Mater Tenant's Counsel (HUD-92335-ORCF); Healthcare Regulatory Agreement—Master Tenant (HUD-92337-ORCF); Guide for Opinion of Borrower's Counsel (HUD-91725-ORCF); and Guide for Opinion of Operator's Counsel and Certification (HUD-92325-ORCF). For any of the remaining healthcare facility documents other than application

documents or these 13 documents, HUD does not require that any of these remaining documents be submitted electronically, but presents electronic submittal as an option.

In HUD's 30-day Notice, HUD listed in a table all the documents for which approval under the PRA was sought and provided the burden hours and costs calculated for preparation of and submission of each of documents and provided a total aggregate annual cost of \$4,393,301. (See 77FR 69887-69889).

In the table below, HUD provides a breakdown of the estimated costs involved in hard copy preparation and shipping, and estimates a \$450,000 annual savings in costs if documents are submitted electronically rather than in hard copy.

Item	Cost per Item	Costs
Printing by Lender	1,500 pages at \$.04 per page	\$60.00
Lender Box Preparation	\$50 per hour and two hours per box	\$100.00
Shipping by Lender to HUD in Field	1 – 40 lb. box	\$20.00
HUD processing preparation (Field and HQ)	\$50 per hour and 1 hour per box	\$50.00
Shipping by HUD Field to HQ	1 – 40 lb. box	\$20.00
Total		\$250.00 per box
Estimated # Boxes per project	3	
Estimated # of projects per year	600	
Total Annual Costs	(# of boxes x # of projects x cost per box)	\$450,000.00

Therefore, in accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and interested parties on:

(1) Whether the documents identified by HUD for originally signed, hard copy submission are necessary in such format for proper performance of the transactions in which the documents are used;

(2) Whether any of the documents not identified as necessary for originally signed, hard copy submission should be submitted only in originally signed, hard copy;

(3) The accuracy of the agency's estimate of the reduced burden and reduced costs for submission of documents electronically;

(4) Whether electronic submission of application documents enhances the utility and efficiency of the transactions in which the documents are used;

(5) Whether electronic submission of other documents enhances the utility and efficiency of the transactions in which the documents are used; and

(6) Additional ways, through information technology, to minimize the burden of the collection of information on those who are to respond.

Interested persons are invited to submit comments regarding the information collection requirements in this proposal. Comments must be received by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Comments must refer to the proposal by name and docket number (FR-5354-N-01) and must be sent to:

HUD Desk Officer
Office of Management and Budget
New Executive Office Building
Washington, DC 20503
Fax number: (202) 395-6947

and

Colette Pollard
Office of the Chief Information Officer
Department of Housing and Urban Development
451 Seventh Street, SW
Room 4178
Washington, DC 20410

Dated: September 4, 2013

Laura M. Marin, Associate General Deputy Assistant Secretary
for Housing – Associate Deputy Federal Housing Commissioner

[FR-56323-N-04]

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