



MORTGAGE BANKERS ASSOCIATION

April 30, 2018

VIA ELECTRONIC SUBMISSION

Attention: Colette Pollard
Reports Management Officer, QDAM
Department of Housing and Urban Development
451 7th Street SW, Room 4176
Washington, DC 20410-5000

Re: *Notice of Proposed Information Collection: Capital Needs Assessments-CNA e-Tool*, Docket No. FR-7005-N-03

Dear Ms. Pollard:

The Mortgage Bankers Association¹ appreciates the opportunity to comment on the Department of Housing and Urban Development's (HUD's) *60-Day Notice of Proposed Information Collection ("Notice") for Capital Needs Assessment-CNA e-Tool*.²

MBA developed the comments below in consultation with MBA members who utilize and are affected by the CNA e-Tool. We hope these comments will be useful in resolving issues that our members experience regarding use of the CNA e-Tool, and that HUD can rapidly make meaningful progress in realizing on the potential benefits of the e-Tool.

The comments below address each of the four areas of subject matter identified in the Notice.

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

Capital Needs Assessments. Capital Needs Assessments are due diligence reports commonly used to examine the property's physical condition, identify specific repairs and replacements needed immediately, and budget for long-term capital repairs and

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies and others in the mortgage-lending field. For additional information, visit: www.mba.org.

² 83 Fed. Reg. 8695 (Feb. 28, 2018).

replacements. The CNA e-Tool is a series of electronic templates that were developed by HUD's Office of Multifamily Housing Programs to automate the collection and analysis of data points that are gathered during an FHA-insured project's capital needs assessment. Use of the e-Tool is mandatory for FHA multifamily mortgage insurance applications, Rental Assistance Demonstration conversions, 10-year update capital needs assessments for FHA-insured multifamily properties, and other asset management milestones, such as partial payment of claims, but we believe the e-Tool has not yet reached a level of functionality that commensurate with its mandatory use for these important programs.

Program requirements. As a general matter, CNA e-Tool functionality should be designed to collect information necessary to implement HUD programs; and HUD should not adjust program requirements and specifications for non-programmatic reasons to adapt to limitations in the e-Tool functionality. For example, there was discussion during a recent training session that indicated that guidance in the e-Tool regarding required inspection protocols was more onerous than what is required under the Multifamily Accelerated Processing (MAP) Guide. In addition to being inappropriate as a matter of policy, this could be highly burdensome if there were a large variety of unit types to analyze. Also, there may be issues that are not addressed by the system when a different unit type has to be selected when you cannot gain access to a targeted unit. We recommend that the e-Tool be conformed to the MAP Guide, not the other way around.

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information:

The estimate. The agency estimates 40 hours per response. We estimate the burden to be at least twice that total time burden because of the combined efforts of the CNA engineer, the owner, and the underwriter, considering the need to assemble the necessary information, enter the information, correct errors, and undergo the necessary training.

The burden of submitting the required information also includes considerable cost burdens. Based on the experience of our members, the use of e-tool to prepare a CNA is estimated to cost three to four times more than the normal cost of a CNA due to the additional time involved in data collection and preparing the CNA.

Factors affecting the estimated burden. The following factors contribute to the substantial time and effort required to submit information using the e-Tool. We highlight below the issues that are most urgent based on their impacts on the burden of using the e-Tool to provide the necessary information. These are urgent issues that should be addressed as quickly as possible.

The most urgent factors

- **Saving information.** If a user is inactive in the system for more than 30 minutes, the e-Tool will “time-out” and the user will lose all of their progress. We recommend that HUD build a save function into the e-Tool, so progress can be saved.
- **Maximum file upload size.** The maximum size of individual uploads is limited to 5 MB. A photo is approximately 2.5+ MB today. Therefore, based on HUD expectation of 100- 200 photos with each e-Tool submission, submission using the e-Tool would require 50-200 uploads, just for photos. It was suggested that lenders compress the photos for submission, however the e-Tool does not accept compressed or zip files. We recommend increasing the allowable file size commensurate with submission requirements and/or allow compressed or zip files.
- **Post-submission changes.** Information submitted through the e-Tool cannot be edited once it has been submitted. If changes have to be made after submission through the e-Tool, all previously submitted information has to be resubmitted into the tool. Similarly, if a single additional document is requested from HUD, the entire submission must be re-created in its entirety and resubmitted, essentially duplicating the effort required. HUD staff has been further duplicating efforts by requesting the traditional CNA narrative, sometimes in addition to the narrative submission through the e-Tool.
- **Amortization for years 11-20.** There is no amortization schedule built into the e-Tool for proper reserve analysis of years 11-20, which leads to flags on every e-Tool submitted. Because of this, the lender has to submit an additional document showing the criteria have been met. We recommend adding an amortization table for proper reserve analysis of years 11-20.

Additional factors

- **Narrative section.** The requirement for the narrative section of the e-Tool submission is extremely inefficient and could be modified. The e-Tool requires the narrative to be completed in multiple sections, with a 2,000-character limit in each section. In most cases, this does not allow for efficient, detailed information required for the reviewer to understand properly the property condition. To save time, standard components should be provided for a typical property and a word processor (Microsoft Word) could be added for the narrative part of the CNA similar to the one used by Rural Development.
- **Energy audits.** Energy audits should not be required for row or walk-up standard type wood construction. A Standard of Energy Design (SEDI), or Statement of Energy Performance (SEP) rating could be achieved with minimum energy efficient requirements without having to pay for an energy audit for this type of standard construction on each property. The data collection and the energy usage of all

appliances and equipment for all units in all properties is not a benefit, nor is it necessary. Standard energy usage could be established for most appliances and equipment. Most of the time, energy usage depends on the size of the unit and the user. Additionally, if an attachment is labeled as a SEDI or SEP, the e-Tool requires you to upload an Excel file.

- **Ambiguity and inconsistency.** Ambiguity and inconsistency also contribute to the burden. There is ambiguity and/or conflict between versions 1 and 2 as to the rules of the Financial factors e-Tool Worksheet: 10% of the first 10 years and then amortization versus 5% for years 1-20 and no amortization rule. Our recommendation would be to use the requirements that were accepted and adopted when the 2016 MAP Guide was released. We note also that there have been instances when HUD will issue approval using the e-Tool but will subsequently revoke approval with no specific reason. This practice also contributes to the burden.
- **General design.** The design of the CNA e-Tool is very cumbersome, time consuming and is not user friendly. A database program would be more user friendly and more appropriate for collecting and using data. Small properties will not be able to participate due to the increase in cost in preparing an application and the cost of energy audits.

(3) Ways to enhance the quality, utility, and clarity of the information to be collected:

HUD could improve the information collection process in a number of ways, as we describe here, organized by their relative urgency.

The most urgent factors

- **Remaining useful life.** Currently, the tool reduces Remaining Useful Life (RUL) by one year at the beginning of each calendar year. For projects completed prior to calendar year-end that are not approved by HUD until after the beginning of a new calendar year, the e-Tool information has to be re-inputted by the third party, or a “work-around,” adding a significant amount of manual input is required. In addition, the entire e-Tool will need to be resubmitted under those circumstances. We recommend that the RUL should start at loan closing. This will align the RUL with the Reserve for Replacement (R4R) schedule, which starts at loan closing.
- **Transfer of physical assets (TPA).** There is no guidance for asset management to follow regarding utilizing the e-Tool for a transfer of physical assets (TPA). Of particular concern is whether the current owner would be held accountable for repairs identified from a CNA as part of the due diligence review for a potential assumption TPA if the deal falls through. There will be an e-Tool tied to the property that may alter the reserve schedules going forward with no clear guidance as to whether the reserve funding must change if any newly identified repairs need to be completed. Because

requirements change over time, a full CNA could lead to unintended consequences for already-insured properties. As a result, the primary reliance on property condition should be from REAC inspections. We recommend that the CNA e-Tool use for TPAs be limited to a replacement reserve analysis.

- **Asset management use of CNA e-Tool.** HUD has not provided clear guidance for asset management's use of the e-Tool, which raises questions about the practical utility of some information being collected. Because requirements change over time, a full CNA could lead to unintended consequences for already-insured properties. For example, of potential concern is whether the current owner would be held accountable for repairs identified from a CNA as part of the due diligence review for a potential assumption/Transfer of Physical Assets (TPA) if the deal falls through. There will be an e-Tool submission tied to the property that may alter the reserve schedules going forward with no clear guidance as to if the reserve funding must change and if any newly identified repairs need to be completed. We recommend that the primary reliance on property condition should be from Real Estate Assessment Center (REAC) inspections.

Similarly, there is no guidance for asset management to follow regarding utilizing the e-Tool to review 10-year CNAs that are required per the Regulatory Agreement. Because requirements change over time, a full CNA could lead to unintended consequences for already-insured properties. The primary reliance on property condition should be from REAC inspections. We recommend that the 10-year CNA be limited to a replacement reserve analysis.

- **Oversight tools.** The database of costs for HUD management oversight of the portfolio was to be a part of this tool; however, it has not been developed or tested. Similarly, the Asset Management – streamline release of replacement reserves tool has not yet been developed. We recommend that HUD build the necessary back-end oversight tools.

Additional factors

- **Reserve replacement tables.** Many apartment owners schedule replacement items on a rolling basis, for example carpet and vinyl replacement. Formerly, reserve for replacement tables would allow flexibility to account for that practice. In contrast, the e-Tool allows costs to be spread only over maximum 3-5-year period. This is penalizing to a transaction, and not reflective of actual, responsible and acceptable industry practices. We recommend the e-Tool be modified to address such rolling replacement schedules.
- **List of building components.** The list of building components is very limited. Third-party reviewers have to select the closed component from the available list. HUD does not have a report that shows if a particular component will be replaced beyond year 20. For example, if the roof is scheduled to be replaced in year 25, the HUD reviewer

does not see that on a report or schedule, even if it is reflected in the e-Tool itself. As a result, the HUD reviewer may incorrectly conclude that the lender or third party missed incorporating that component and may not be included the reserve funding needed to replace this building component. To address this, the list of building components should be expanded to address such issues.

- **System checks and balances.** The Reserve for Replacement (R4R) tool contains helpful checks and balances for the reserve schedule like ensuring the property minimum balance requirements or the amortization test, as referenced in the memo. HUD should seek ways to include similar checks and balances in the e-Tool. Currently, one would have to validate the e-Tool and then copy and paste the financial schedule into the R4R tool to ensure the schedule meets the minimum balance requirements and the amortization test. It would be more efficient if this were not a two-step process.
- **IDDR and ADRR tests.** There is no easy mechanism in the e-Tool to test the Initial Deposit to Replacement Reserves (IDDR) and the Annual Deposit to Replacement Reserves (ADRR). Rather, one must enter each new assumption into the Excel file and then validate it. It would be more efficient if the lender could input the different IDRR and ADRR assumptions and to have the functionality of checks and balances within the e-Tool to validate the schedule
- **Properties built over time.** A method for processing properties that are built over a period of time also should be established. A property with buildings completed each year, over a period of time (5 Years) will generate hundreds of components and alternates. An alternate should not be required for each component when an alternate is not practical, necessary or sustainable.
- **Attachments checklist/updates.** HUD should develop a standard checklist of attachments required for each loan type, with corresponding dropdown boxes. HUD should also provide for a process of regular updates.

(4) Ways to minimize the burden of the collection of information on those who are to respond:

We describe below various ways in which the burden of collection of information by way of the CNA e-Tool can be minimized. See also our responses under item (2), above, which similarly address the burden of the collection of the information.

- The e-Tool is currently an Excel spreadsheet. The burden would be reduced if the e-Tool were a web-based platform.
- The system is not designed for new construction. For example, an exception is issued for units not inspected. For new construction, the units do not exist yet and so unnecessarily trigger exceptions.

- The burden would be reduced by developing a front-end application that enables lenders to readily automate data inputs into the e-Tool.

In addition, we incorporate by reference our responses under item (2), above, which similarly address the burden of the collection of the information. This includes our comments as to addressing saving information, the maximum file upload size, post-submission changes, amortization for year 11-20, and other factors we identify in that section that affect the burden of collection of information, including comments on the narrative section, energy audits, ambiguity and inconsistency, and general design.

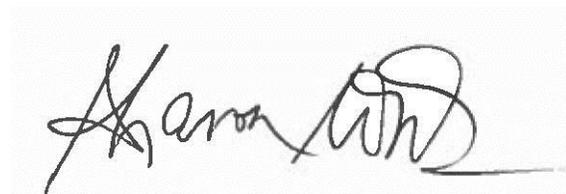
We also incorporate by reference our responses to item (3) above, while could also serve to reduce the burden of collecting the information, including addressing issues as to: remaining useful life, transfer of physical assets (TPA), asset management use of CNA e-Tool, oversight tools, reserve replacement tables, list of building components, system checks and balances, IDDR and ADRR tests, properties build over time, and attachment checklists/updates.

* * *

As we raise these serious concerns, we also acknowledge that MBA and its members value HUD's efforts to streamline the preparation, submission, and analysis functions of the CNA e-Tool, and we support HUD's efforts to automate key production and asset-management data collection. We therefore are hopeful that these comments will be useful in resolving issues that our members experience regarding use of the CNA e-Tool, and that HUD can rapidly make meaningful progress against these shared objectives.

Thank you for your consideration of our comments. We look forward to engaging in further discussions on these important matters. If you have any questions, please contact Sharon Walker at swalker@mba.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Sharon Walker", with a horizontal line extending to the right.

Sharon Walker
Associate Vice President
Commercial/Multifamily Group