

October 29, 2007

Supporting Statement for Paperwork Reduction Act Submissions

OMB Control Number: 1660-NEW23

Title: Property Acquisition and Relocation for Open Space

Form Number(s): None

General Instructions

A Supporting Statement, including the text of the notice to the public required by 5 CFR 1320.5(a)(i)(iv) and its actual or estimated date of publication in the Federal Register, must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified in Section A below. If an item is not applicable, provide a brief explanation. When Item 17 or the OMB Form 83-I is checked “Yes”, Section B of the Supporting Statement must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

To complete the supporting statement, type in your responses in the white space below each question. Your responses should be full and complete and provide sufficient information to help the OMB desk officer to understand what you are planning to do and why and how the Agency/Federal Government will benefit from and use the information you will be obtaining or soliciting.

Specific Instructions

A. Justification

1. Explain the circumstances that make the collection of information necessary (give details as to why this information is being collected). 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. Provide a detailed description of the nature and source of the information to be collected.

FEMA submitted a Interim Final Rule for the Property Acquisition and Relocation for Open Space (proposed 44 CFR Part 80) that will govern acquisitions for all of FEMA’s mitigation grant programs authorized under both the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, P.L. 93-288 as amended, and the National Flood Insurance Act (NFIA) of 1968 (42 U.S.C. 4001, et al), as amended. Acquisition and relocation of property for open space use is one of the most common mitigation activities, and is an eligible

activity type authorized for Federal grant funds under all of FEMA's mitigation grant programs. FEMA mitigation grant programs require all properties acquired with FEMA funds to be deed restricted and maintained as open space in perpetuity. This ensures that no future risks from hazards occur to life or structures on that property, and no future disaster assistance or insurance payments are made as a result of damages to that property. This collection of information is necessary to establish uniform requirements for State and local implementation of acquisition activities, and to enforce open space maintenance and monitoring requirements for properties acquired with FEMA mitigation grant funds.

Regulations for acquisition activities are currently codified under the Hazard Mitigation Grant Program (HMGP) program (44 CFR Part 206.434(e) and (f)), but are not codified for FEMA's other mitigation grant programs. In addition, experience implementing acquisition activities since HMGP regulations were published in 1988 has clarified the requirements necessary to enforce open space land uses. Therefore, this Interim Final Rule includes a conforming amendment to the HMGP at Part 206.434(e) to refer to the new Part 80 for Property Acquisition and Relocation for Open Space activities, and deletes Part 206.434(f).

This new collection of information is being submitted with an Interim Final Rule for the Flood Mitigation Assistance (FMA) and Severe Repetitive Loss (SRL) programs (proposed 44 CFR Part 79), and conforming amendment to the Mitigation Planning requirements (44 CFR Part 201) to include program requirements under the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, P.L.108-264. This Act includes specific requirements for the SRL program on how property values, and consequently the amount offered to a property owner for property acquisition, are to be determined. Since all of FEMA mitigation grant programs allow acquisition activities, FEMA has determined that it is in the best interest of property owners, State and local grant recipients, and FEMA grant managers to establish a uniform set of regulations for acquisition activities that can apply to all FEMA mitigation grant programs. This collection serves as an extension of information specifically for acquisition and relocation activities conducted under FEMA Mitigation grant programs.

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. Provide a detailed description of: a) how the information will be shared, if applicable, and for what programmatic purpose.

FEMA and States of the mitigation grant programs will use the information collected under the Property Acquisition requirements to implement property acquisition activities under the terms of grant agreements for acquisition and relocation activities. FEMA and States will also use the information to monitor and enforce the open space requirements for all properties acquired with FEMA mitigation grants.

Deed restrictions will be recorded with each individual property by the States to restrict the land uses allowed for properties acquired with FEMA funds. FEMA will collect

copies of the deed restrictions as a pre-award requirement for mitigation grants to ensure that the deed being recorded meets the minimum requirements.

States will collect Voluntary Participation Statements from each property owner prior to award and submit copies to FEMA as part of the grant agreement. These statements will enforce the requirement that all acquisitions using FEMA mitigation grants are voluntary, and that no property is acquired using eminent domain or other forcible acquisition procedures.

The sub-applicant must provide in the application assurance that the title to the property to be purchased is clear. The title search and title insurance requirements are completed by the State or local community to ensure that any incompatible easements or other encumbrances to the property are extinguished before acquisition

The sub-grantee must inform each property owner, in writing, of what it considers to be the market value of the property, the method of valuation and basis for the purchase offer, and the purchase offer amount. This requirement demonstrates that the grant recipient is offering an amount consistent with the required method of valuation and provides the property owner an opportunity to negotiate the fair market value offered prior to purchase. Certification of U.S. Citizenship or status as a Qualified Alien must be provided by property owners to the State or local community for eligibility to receive Federal funds for acquisition of property when the compensation to the homeowner is based on pre-event market value.

Monitoring and Reporting is completed by the States and submitted to FEMA. Every three years the sub-grantee, through the State (grantee), must submit to FEMA a report certifying that the sub-grantee has inspected the property within months preceding the report and that the property continues to be maintained consistent with provisions of the grant. This requirement is necessary to enforce the continued open space land use in accordance with the terms of the deed restrictions for properties acquired with FEMA mitigation grants.

Transfer of acquired property after closeout of the grant requires the State to request permission from FEMA. The request must be a signed statement from the proposed transferee to FEMA that acknowledges and agrees to the transfer requirements. This requirement is necessary to enforce the continued open space land use and monitoring of properties is conveyed with the land to any new owner(s). Enforcement notices and actions are completed by the States. This requirement is necessary for the grant recipient to bring corrective action to any sub-grantee that does not comply with the terms of the deed restriction. Although requirements for Transfers and Enforcement activities are included in the Acquisition regulation, the frequency of responses from States and local communities are minimal. Since 1988 (when HMGP was first authorized), the number of properties acquired with Federal funds that have required these types of activities are minimal. We estimate that only 3-5 requests for transfers or notices of enforcement actions have been initiated since FEMA mitigation grants for acquisition activities started in 1988.

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.

FEMA encourages the use of information technology to complete and submit required information. However, the Property Acquisition and Relocation for Open Space regulations do not require this.

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 collected under the Property Acquisition requirements does not duplicate any other known program or authority. The information collected is specific to acquisition of properties using FEMA mitigation grant funds, and is only required as a condition of receipt of FEMA mitigation grants.

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.

Small businesses are not eligible to apply for FEMA mitigation grant funds, although local communities may submit a sub-grant application to the Grant applicant on their behalf. Sub-grant applicants do not apply directly to FEMA. Eligible Grant applicants are any State of the United States, Territories, or any federally recognized Indian Tribal government that chooses to act as a Grantee. Eligible sub-grantees may be State agencies, local communities, private-non-profit (PNP) entities, or federally recognized Indian Tribal governments. Most of the required information described in the Property Acquisition requirements is the responsibility of the Grantee or sub-grantee.

Some small business or PNPs may be property owners, and may be required to provide information described in the Property Acquisition requirements, such as the voluntary participation statement. However, participation in FEMA mitigation grant programs is voluntary, and small businesses or other small entities may minimize their burden by choosing not to participate.

6. Describe the consequence to Federal/FEMA program or policy activities if the collection of information is not conducted, or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If the collection of information is not conducted, or is conducted less frequently, FEMA and its State/local grant recipients will not be able to enforce uniform requirements for open space land uses in perpetuity for acquisition and relocation of properties acquired with FEMA mitigation grants programs.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

(a) Requiring respondents to report information to the agency more often than quarterly.

This collection does not require respondents to report information to FEMA more often than quarterly.

(b) Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it.

This collection does not require respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it.

(c) Requiring respondents to submit more than an original and two copies of any document.

This collection does not require respondents to submit more than an original and two copies of any document.

(d) Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years.

FEMA is required to track the use of real property acquired with grant funds in order to ensure that the property is maintained for open space use in perpetuity. States and local communities will need to retain deed restrictions with property records indefinitely, but these would be maintained routinely as part of the real property deed records, and therefore do not create an additional burden. FEMA will employ eGrants (FEMA's electronic grants system) to maintain its records of properties mitigated, but FEMA does not require the States or local communities to utilize eGrants for this purpose after the grant has been closed.

(e) In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study.

There are no statistical surveys involved in this collection.

(f) Requiring the use of a statistical data classification that has not been reviewed and approved by OMB.

There are no statistical data classifications used with this collection.

(g) 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.

This collection does not require the respondent to submit any pledge of confidentiality not supported by authority in statute or regulation.

(h) 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.

This collection does not require the respondent to submit proprietary trade secrets or other confidential information.

8. Federal Register Notice:

a. Provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice 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.

A Interim Final Rule was published for this information collection on October 31, 2007, volume 72, number 210, Page 61720.

b. 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 on the data elements to be recorded, disclosed, or reported.

FEMA initiated consultations with persons outside the agency prior to rulemaking and/or program development for each of the grant programs. Further, FEMA has developed the information collection requirements over time as a result of our increased understanding of State and local program implementation, and has determined that these are the minimum required to enforce the property acquisition and open space requirements.

The Property Acquisition rule is being implemented as an Interim Final Rule; therefore, FEMA will consider all comments received as a result of the Federal Register Notice for this collection in the Final Rule.

These regulations also require that sub-applicants must demonstrate in the application that they have consulted with the U.S. Army Corps of Engineers to address and consider the potential future use of property proposed for acquisition for the construction of flood damage reduction levees. As part of this consultation, the sub-applicant must reject

consideration of such measures in the future in the project area if it instead chooses to proceed with acquisition of permanent open space. Sub-applicants must also demonstrate that they have coordinated with their State Department of Transportation to ensure that no future, planned improvement or enhancements to federal aid transportation facilities are under consideration that will affect the proposed project area. These consultations will be conducted by the State or local community with Federal and State agencies.

c. Describe consultations with representatives of those from whom information is to be obtained or those who must compile records. Consultation should occur at least once every three years, even if the collection of information activities is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

During grant application, award, implementation of acquisition activities, and closeout of grant awards, FEMA routinely consults with the grant recipients to ensure that they have complied with the open space requirements. These regulations were developed as a result of discussions with the State so that FEMA can enforce open space requirements and create uniform requirements for all grant recipients on the most appropriate measures of enforcement.

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

This collection does not provide payments or gifts to respondents.

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

FEMA mitigation grant programs are voluntary, and information requested under this collection is only necessary as a result of voluntary participation under grant program authorities. One data element collected under this new requirement is the Statement of Voluntary Participation, through which property owners consent to their participation in the FEMA grant activity under 44 C.F.R. Part 80 Property Acquisition requirements. This collection is not intended to identify individual respondents in conjunction with other data elements such as gender, race, age, or other descriptors.

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.

This collection does not include questions of a sensitive nature that are commonly considered private.

12. Provide estimates of the hour burden of the collection of information. The statement should:

a. 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 desired. 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.

Annual Burden Hours

Project/Activity (Survey, Form(s), Focus Group, etc.)	No. of Respondents (A)	Frequency of Responses (B)	Burden Hours Per Respondent (C)	Annual Responses (D)=(AxB)	Total Annual Burden Hours (E)=(CxD)
Property Owners Voluntary Participation Statements	56	40	1	2240	2240
States Review and Submit Deed Restrictions	56	40	4	2240	8960
State officials Reporting Requirements	56	1	4	56	224
Transfer Certification	**	**	**	**	**
Enforcement Notices	**	**	**	**	**
TOTAL	56		9	4,536	11,424

FEMA may acquire as many as 2,240 properties nationally each year, among the 56 States and Territories. The burden hour per property owner to complete and sign a Voluntary Participation Statement is estimated to be one 1 hour for both respondents. It is estimated that each States will receive 40 Voluntary Participation Statements for Property Acquisition for Open Space.

For each property acquired the estimated burden hours for Deed Restrictions is 4 hours for State Officials. Local official must attach the FEMA Model Deed Restriction language (Exhibit A) to each property deed before it is record. It is estimated that it will take State Officials 4 hours to verify the completion of Deed Restriction along with the grant information for record and submission to FEMA. This estimate is based on experience with FEMA mitigation grants since 1988, as well as deed restriction and recording burden hours reported for a similar Federal program.

States must submit to FEMA a report that the local communities within that State have inspected the acquired properties within the month preceding the report and that the properties continue to be maintained consistent with provisions of the deed restrictions. This monitoring and reporting for acquired properties is only required once every three

(3) years. For 56 States officials to review and prepare reports to FEMA it is estimated that 1 single report per State x 4 hours per report x 56 States = 224 hours.

**** Transfer Certification and Enforcement.** There is no annual reporting requirement for Transfers and Enforcement activities, and the frequency of responses from States and local communities is irregular or sporadic. Since 1988 (when HMGP was first authorized), the number of properties acquired with Federal funds that have required these activities is minimal. We estimate that only 3-5 requests for transfer or notice of enforcement actions have been initiated since FEMA mitigation grants for acquisition activities started in 1988. We expect the activity to continue to be irregular; therefore, the information collection burden for these requirements is negligible.

b. If this request for approval 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.

This collection will not involve the use of forms. However, Model Deed Restriction language is provided to States and/or local communities for their use in completing the required information collection activities described in Question 12.a above. FEMA has model deed restrictions and model statements of voluntary participation that the State and/or local community utilize or adapt to meet the regulatory requirements. The language provided by FEMA may alter from year-to-year if there are any changes in statutes, regulations or Executive Orders; updates to other Federal agency requirements; changes to dates, addresses or other reference information; and other changes necessary to keep the language in conformance with current laws and program policies.

c. 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.

Respondents	Burden Hours	Mean Hr. Rate (\$)	Average Cost Per Respondent (\$)	Total Annualized Wage Rate Cost (\$)
State Officials	9,184	\$67.73	\$541.84	\$622,032.32
Individuals / Households	2,240	\$18.00	\$18.00	\$40,320.00
TOTAL	11,424		\$559.84	\$662,352.32

The total annual estimated costs to States officials and Individuals/Households (Property Owners) using wage rate categories, for information collection associated with the Property Acquisition requirements is \$662,352.32. This calculation is based on the number of burden hours and the estimated wage rates for respondents, to this collection of information, based on the Bureau of Labor Statistics (BLS) wage rate data.

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.)

FEMA is required to track the use of real property acquired with grant funds in order to ensure that the property is maintained for open space use in perpetuity. States and local communities will need to retain deed restrictions with property records indefinitely, but these are maintained as part of the real property deed records. Therefore, response to this information collection will require no additional investment on the part of participants other than the normal and routine business/operational expenses.

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 have been incurred without this collection of information. You may also aggregate cost estimates for Items 12, 13, and 14 in a single table.

The Property Acquisition and Relocation for Open Space is one type of activity allowed under FEMA mitigation grant programs. Costs to the Federal Government to administer and manage the required information collected with this activity is limited to the staff salaries associated with administering FEMA mitigation grants. We estimate that a FEMA staff person at a GS 13, Step 1 (\$34.54 per hour) will have a burden of approximately 8 hours per property (2,240 annually) to review and enforce the requirements of 44 Part 80. Therefore, the annualized cost to the Federal Government to enforce Property Acquisition requirements is estimated to be \$618,956.80 (\$34.54 x 8 hours x 2,240 properties).

ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Item	Cost (\$)
Contract Costs	\$ 0
Staff Salaries [GS 13 employee spending approximately 100% of time annually administer and managing collection]	\$618,956.80
Facilities	\$0
Computer Hardware and Software	\$0
Equipment Maintenance	\$0
Travel	\$0
Printing	\$0
Postage	\$0
Other	\$0
Total	\$618,956.80

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I. Changes in hour burden, i.e., program changes or adjustments made to annual reporting and recordkeeping hour and cost burden. A program change is the result of deliberate Federal government action. All new collections and any subsequent revisions of existing collections (e.g., the addition or deletion of questions) are recorded as program changes. An adjustment is a change that is not the result of a deliberate Federal government action. These changes that

result from new estimates or actions not controllable by the Federal government are recorded as adjustments.

This information collection is new. FEMA submitted an Interim Final Rule for the Property Acquisition and Relocation for Open Space (proposed 44 CFR Part 80) that will govern acquisitions for all of FEMA's mitigation grant programs. There has been a program increase of +11,424 annual burden hours for Property Acquisition and Relocation for Open Space. An adjustment increase of \$662,352.32 is have also been estimated to include the wage rate category for respondents based on burden hour cost.

16. For collections 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.

There are no plans to tabulate or publish the results of this collection.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain reasons that display would be inappropriate.

FEMA is not requesting approval to not display the expiration date for OMB approval of this information collection.

18. Explain each exception to the certification statement identified in Item 19 "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

There are not exception to the certification statement identified in Item 19 of the OMB Form 83-I.

B. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methodology.