

June 5, 2008

Supporting Statement for Paperwork Reduction Act Submissions

OMB Control Number: 1660-0103

Title: Property Acquisition and Relocation for Open Space

Form Number(s): FEMA Form 81-112

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.

On October 31, 2007, FEMA published an Interim Final Rule, Property Acquisition and Relocation for Open Space (44 CFR Part 80) that governs property 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. This rule requires the collection of information from grant applicants to ensure the voluntary nature of the

property acquisitions and to ensure that the property acquired remains in open space in perpetuity.

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 State recipients of FEMA mitigation grant funds (grantees) will use the information collected under the Property Acquisition requirements at 44 CFR § 80 to implement property acquisition activities under the terms of grant agreements for acquisition and demolition or relocation activities. FEMA and grantees 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 grantee and local community to restrict the land uses allowed for properties acquired with FEMA funds. FEMA will collect copies of the deed restriction language from grant applicants as a pre-award requirement for mitigation grants to ensure that the deed to be recorded meets the minimum requirements.

State grantees will collect Voluntary Participation Statements (FEMA Form 81-112) 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 State or local eminent domain authorities or other forcible acquisition procedures.

The State 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 to ensure that any incompatible easements or other encumbrances to the property are extinguished before acquisition

The grantee ensures that the subgrantee (local jurisdiction) informs 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.

Verification of Monitoring and Reporting is submitted by the State to FEMA. Every three years the sub-grantee, through the grantee, must submit to FEMA a report certifying that the sub-grantee has inspected the property within the month 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 continue the responsibilities of enforcement of the open space land use and monitoring of properties that is conveyed with the land to any new owner(s).

Enforcement notices and actions are completed by the State. 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 is minimal. Since 1988 (when Hazard Mitigation Grant Program 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.

The Statement of Voluntary Participation (VPS) is available on FEMA's web site at http://www.fema.gov/government/grant/resources/acq_projects.shtm or from the appropriate FEMA Regional Office. Signed VPS documents can be downloaded and submitted to FEMA by email.

A Model Deed Restriction is available on FEMA's web page at <http://www.fema.gov/government/grant/resources/pre-award.shtm> or from the appropriate FEMA Regional Office. The Model Deed Restriction can be downloaded and submitted to FEMA by email.

Every three years the sub-grantee through the grantee, must submit to FEMA a report certifying that the sub-grantee has inspected properties to ensure consistency with the terms of the deed restriction. The sub-grantee can create this report and submit by email.

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.

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 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. This may have the effect of increasing the risk to life and property if development recurs in these parcels.

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.

States 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.

(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 60 Day Federal Register Notice was published for comments on February 29, 2008, volume 73, number 41, Page 11134-11135. There were no comments received for this collection.

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 program implementation, and has determined that these are the minimum required to enforce the property acquisition and open space requirements.

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. The property acquisition regulations were developed as a result of discussions with the States so that FEMA can create and enforce uniform and appropriate measures of enforcement for all grant recipients.

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.

Privacy information in this data collection includes a minimum amount necessary to ascertain the eligibility of property. This information is collected and processed in the Mitigation eGrants Management System. As part of the process to assure confidentiality to respondents, FEMA submitted a Privacy Impact Assessment and System of Records Notice (SORN) for the Mitigation eGrants Management System. The SORN pertaining to eGrants was published in the Federal Register on December 15, 2004 (Volume 69, Number 240 pages 75079-75081).

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 Response (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	1.3	56	72.8
Transfer Certification	**	**	**	**	**
Enforcement Notices	**	**	**	**	**
TOTAL	56		6.3	4,536	11,272.8

**** The burden hour table has been revised with corrected burden hours per response calculations, since publication of the 30-day federal register notice dated May 13, 2008, vol.73, No. 93, Page 27543. The program office as determine that the burden hours per response should be decrease from 4 hours to 1.3 for State officials Reporting Requirements.**

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. It is estimated that each State 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 reconcile 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 1.3 hours per report x 56 States = 72.8 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 involves the use of one form. The FEMA Form 81-112, Statement of Voluntary Participation for Acquisition of Property for Purpose of Open Space, must be signed by property owners and local community officials that participate in the acquisition, and submitted by the grant applicant to FEMA. FEMA has a model statement of voluntary intent that the State and/or local community may utilize or adapt to meet the regulatory requirements but it is not required to be submitted to FEMA by the grantee. 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	9,032.8	\$67.73	\$541.84	\$611,791.54
Individuals / Households	2,240	\$18.00	\$18.00	\$40,320.00
TOTAL	11,272.8		\$559.84	\$652,111.54

****The cost for wage rate categories has changed due to change in Burden Hours Per Response and corrected burden calculations.**

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 \$652,111.54. 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.)

There is no additional annual cost burden to respondents or recordkeepers resulting from the collection of information.

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 are 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 properties 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 ($\$34.54 \times 8 \text{ hours} \times 2,240 \text{ properties}$).

ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Item	Cost (\$)
Contract Costs	\$ 0
Staff Salaries	\$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.

Itemized Changes in Annual Burden Hours

Data collection Activity/Instrument	Program Change (hours currently on OMB Inventory)	Program Change (New)	Adjustment (hours currently on OMB Inventory)	Burden Hour Difference	Adjustment (New)
			11,424	-151.2	11,272.8
Total(s)				-151.2	11,272.8

Explain: The hours in this data collection submission has an adjustment decrease of -151.2 hours based on the program offices review of State Official reporting requirements and miscalculation of the hour burden per response for State Official Reporting Requirements.

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 seeking to not display the expiration date for OMB approval of the 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 is no exception to certification statement in Item 19 “Certification for Paperwork Reduction Act Submissions,” of OMB Form 83-I.

B. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methodology.

