



On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9.

**Note:** The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320/8(b)(3). Appear at the end of the instructions. The certification is to be made with reference to those regulatory provisions as set forth in the instructions.

The following is a summary of the topics, regarding the proposed collections of information that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It uses plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention periods for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
  - (i) Why the information is being collected;
  - (ii) Use of the information;
  - (iii) burden estimate;
  - (iv) Nature of response (voluntary, required for a benefit, or mandatory);
  - (v) Nature and extent of confidentiality; and
  - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to collected (see note in item 19 of the instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of these provisions, identify the item below and explain the reason in item 18 of the Supporting Statement.

Signature of Program Official:  X	Date:
Signature of Senior Officer or Designee:  X Lillian L. Deitzer, Departmental Reports Management Officer Office of the Chief Information Officer	Date:

# Supporting Statement for Paperwork Reduction Act Submissions

## A. Justification

### Introduction

This paperwork package is submitted to the Office of Management and Budget (OMB) for its review of the burden estimates associated with the rule listed below:

HUD will be submitting a rule to OMB entitled, “Prohibition on Use of Indian Community Development Block Grant Assistance for Employment Relocation Activities” (FR-5115-P-01). For simplicity’s sake, this rule will be hereafter termed the “ICDBG Anti-Pirating Rule” throughout this document. A copy of this rule is attached to this paperwork submission. HUD is requesting OMB to approve the burden hours estimated herein.

The “ICDBG Anti-Pirating Rule” prohibits certain job relocation activities that results in disinvestment in low and moderate income tribal communities. The proposed amendments prohibit Indian tribes and Alaska native villages from using ICDBG funds to facilitate the relocation of for-profit businesses from one “Identified Service Area” as defined in 24 CFR 1003.4, to another if the relocation is likely to result in significant job loss. “Job pirating” in this context, refers to the use of ICDBG funds to lure or attract a business or its jobs from one community to another. To prevent the rule from having an effect in situations where the relocation of a business causes an insignificant loss of jobs, the proposed rule would provide that a loss of 25 or fewer jobs from an area, as a result of an ICDBG-funded project, would not constitute a significant loss of jobs.

#### 1. Circumstances that make the collection of information necessary:

Section 105 of the 1974 Housing and Community Development Act (1974 HCD Act) (42 U.S.C. 5305) was amended by section 588 of the Quality Housing and Work Responsibility Act of 1998 (QHWRA) creating a new subsection (h) entitled, “Prohibition on Use of Assistance for Employment Relocation Activities.” This subsection prohibits the use of Community Development Block Grant (CDBG) funds to facilitate the relocation of for-profit businesses from one labor market to another if the relocation is likely to result in significant job loss. This proposed rule would implement subsection (h) of the 1974 HCD Act by amending HUD’s regulations for the Indian Community Block Grant (ICDBG) program adding 24 CFR 1003.209 Prohibition on use of assistance from employment relocation activities, and revise 24 CFR 1003.505, Records to be maintained, to include the statement, “This includes establishing and maintaining records demonstrating the recipient has made the determination required as a condition of eligibility of certain activities, including as prescribed in 24 CFR 1003.209.”

Pursuant to 42 U.S.C. 5313 (b) and 24 CFR 1003.505 of HUD's implementing regulations, each ICDBG grant recipient must establish and maintain records that are adequate to allow the Secretary to determine whether or not the program is being carried out in accordance with the applicable laws. The rules listed above mandate the collection of information which will demonstrate whether the ICDBG program is being carried out in accordance with the applicable laws and implementing regulations, specifically Section 105 of the 1974 HCD Act as amended by section 588 of QHWRA.

The ICDBG program regulations can be found at 24 CFR § 1003. The ICDBG Grant Program for Indian tribes and Alaska Native villages requires eligible applicants to submit information to enable HUD to select the best projects for funding during annual competitions. Additionally, the requirements are essential for HUD in monitoring grants to ensure that grantees are making proper use of Federal dollars.

Eligible applicants are invited to submit grant applications through a Notice of Funding Availability (NOFA) which is published in the Federal Register. The following HUD forms contain the information collection:

SF-424, Application for Federal Assistance. The use of this form is required.

SF-424 SUPP, Supplement Survey on Ensuring Equal Opportunity for Applicants

HUD-2880, Applicant/Recipient Disclosure/Update Report. Applicant provides information in accordance with Section 102 of the HUD Reform Act. The use of this form is required.

HUD-2993, Acknowledgment of Application Receipt. Only for applicants grants a waiver of the electronic submission requirements and who are submitting a paper application.

HUD-4123, Cost Summary. It enables the applicant to provide cost information for each separate project, including specific activity costs, administration planning, technical assistance and total HUD share. The use of this form is required.

HUD-4125, Implementation Schedule. It enables the applicant to present a time schedule for the execution and completion of major project tasks. The use of this form is required.

HUD 96010, Logic Model. It enables the grantee to report on performance outputs and outcomes as part of the annual report.

Copies of the Community Development Act of 1974, as amended, the recent Notice of Funding Availability (NOFA) and the ICDBG regulations are attached to this submission.

## 2. How the information is or will be used:

The purpose of the ICDBG program is to develop viable Indian and Alaska Native communities by creating decent housing, suitable living environments & economic opportunities primarily for low and moderate income persons. Consistent with this objective, not less than 70 percent of the expenditures are to benefit low and moderate income persons. The law specifies four criteria or options that are considered to meet this objective. The four options or criteria are: area benefit; limited clientele; housing; job creation/retention. The ICDBG job creation option is the ICDBG program activity most likely to trigger the “ICDBG Anti-Pirating Rule” provisions. Pursuant to the proposed “ICDBG Anti-Pirating Rule,” ICDBG award recipients will be required to establish and maintain the collection of data demonstrating they’ve made the determination required as a condition of eligibility of certain activities as prescribed in 24 CFR 1003.209, the “Prohibition on use of assistance from employment relocation activities.” HUD will use the information to verify that statutory, regulatory and other program compliance is met. The proposed collection also includes 24 CFR 1003.505, Records to be Maintained.

The “Anti-Pirating” rule requires that for each ICDBG assisted business covered by this rule the recipient’s ICDBG project file must document the following: whether or not the business has a plant, facility or operation in an “Identified Service Area” (ISA) outside of the recipient’s ISA; and if the business has one or more plants, facilities or operations located in other ISAs, the location and number of employees at each such plant, facility or operation and the collection of labor force statistics for the Identified Service Area before the relocation occurs. Prior to a decision to provide ICDBG assistance to a business that has a plant, location or facility in other ISAs, the recipient shall document whether the number of workers employed by the business at each of the locations would constitute a significant job loss as proposed in this rule.

If the recipient decides to commit ICDBG assistance to a business (whether directly or indirectly), the grantee must require and obtain, as a condition for assistance, a certification from the assisted business that neither it, nor any of its subsidiaries, has plans to relocate jobs at the time the agreement is signed. The business must provide this certification to the grantee as a part of the agreement committing ICDBG assistance to the business. Further, the agreement must provide that, in the event the ICDBG assistance results in a business relocation subject to this proposed rule, the business will reimburse the ICDBG recipient for any assistance (with interest) provided to, or expended on behalf of, the business. The purpose of this

certification is to prohibit businesses, especially those with similar facilities/operations in other ISAs, from using ICDBG assistance to establish a new facility with the intent of subsequently relocating existing operations to the new facility.

If the business plans to relocate jobs, then it would be required to certify as to the number of jobs at the current facility, and the number of those positions that would be relocated once the ICDBG assisted facility was fully operational. If the number of jobs to be relocated exceeds the threshold for significant job loss, ICDBG assistance could not be provided. This collection of information will be used to support that ICDBG funds are not used to support “job pirating” activities prohibited by rule.

HUD uses the information to determine whether applications meet minimum screening eligibility requirements and application submission requirements. They provide general information about the project and are preliminary to the review of the applicant’s response to the criteria for rating the application. HUD needs the information for grantee selection.

3. Describe collection of information techniques:

All federal agencies are required to implement Public law 106-107, stream lining of grants. HUD has implemented Public Law 106-107, and as of fiscal year 2005, has required all grants be submitted electronically through the Grants.gov system. All ICDBG applications are submitted through the grants.gov website unless a waiver of this requirement has been granted to the recipient.

With regard to all of the information collection requirements described in this package for the ICDBG program, HUD encourages appropriate cost effective methods, but does not prescribe particular technological collection techniques. Tribes are given maximum feasible deference in designing information collection systems that allow them to administer and monitor ICDBG funds and program compliance with applicable statutes and regulations.

There are currently no information collection technologies uniformly available which would further reduce the reporting burden on all affected entities. The information collection requirements have been reduced to the minimum necessary to meet regulatory requirements as indicated by the attached rules.

4. Describe efforts to identify duplication:

There is no duplication of project information. No duplication of effort is caused by the entire information collection request. There is no comparable existing data that could be used or modified for this purpose.

5. If the information collection affects small businesses or other “small entities,” describe methods to minimize burden:

The collection of information does not impact small businesses or other small entities. Some tribal governments may meet the definition of a “small entity,” however; this information collection will not have a significant impact on these entities.

6. Describe consequences to Federal Program if collection is not conducted:

The information is collected at the time of grant application and is required to identify the applicant, describe the project, and comply with requirements of law or regulation. If no records are collected on this aspect of the program, program performance/regulatory compliance will not be able to be determined. Pursuant to 42 U.S.C. 5313 (b) and 24 CFR 1003.505 of HUD's implementing regulations, each ICDBG grant recipient must establish and maintain records that are adequate to allow the Secretary to determine

whether or not the program is being carried out in accordance with the applicable laws. The “ICDBG Anti-Pirating Rule” revision to 24 CFR 1003.505, Records to be maintained, will include the statement, “This includes establishing and maintaining records demonstrating the recipient has made the determination required as a condition of eligibility of certain activities, including as prescribed in 24 CFR 1003.209.”

7. Explain circumstances that would cause information collection in a special manner:

There are no special circumstances that would cause an information collection to be conducted in a special manner (as listed in the instructions to the supporting statement). HUD program regulations address the maintenance of the appropriate files. Normally such records would be retained for a period longer than prescribed in HUD’s regulations only if the project was ongoing and a closeout of the project had not occurred.

8. Describe public comment efforts:

The Proposed Rule was published in the *Federal Register* on September 9, 2008. The Preamble includes a request for public comment on Paperwork Reduction.

With regard to the amendment of the collection, a public comment period will be provided for the “ICDBG Anti-Pirating” rule with publication of the rule. In addition, in accordance with Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments,” issued on November 6, 2000, federal departments and agencies, to the greatest extent practicable and permitted by law, are required to consult with tribal governments prior to taking actions that have substantial direct effects on federally recognized tribal governments. Accordingly, prior to publication of the proposed rule, HUD has provided Indian tribes and Alaska Native Villages with the opportunity to comment on the substance of the proposed regulatory changes. To date, one comment has been received indicating no objection to the proposed rule.

9. Describe any decision to provide any payment or gift to respondents:

No payment or gifts will be provided to any respondents for any information.

10. Describe any assurance of confidentiality provided to respondents:

There is no assurance of confidentiality. This information is available under the Freedom of Information Act (FOIA). In addition, the information collected under this request does not include information on individuals.

11. Describe additional justification for questions of a sensitive nature:

There are no questions of a sensitive nature included in the information collection.

12. Estimates of the burden hours of the collection of information for the “ICDBG anti-pirating” rule.

The estimate of the total number of hours needed to prepare the existing information collection including estimated number of respondents, frequency of response, and estimated hours of response: 225 respondents based on the Department’s prior competition experience for this program, once each time the applicant decides to compete, an average of 40 hours per application, for a total reporting burden of 9,370 hours. The estimated burden hours are based on field office experience.

**Estimated Number of Respondents, Responses, and Burden Hours Per Annum**

	Respondents	Frequency of Response	Total Responses	Burden Hours	Total Hours
Grant Application (includes SF-424, HUD-2880, HUD- 2993, SF-424 Supp, HUD 96010, HUD 2994-A) and additional HUD forms – HUD-4123, HUD-4125	225	1	225	40	9,000
LOCCS Payment Vouchers	50	12	600	0.25	150
Federal Cash Transaction Report, SF-272	50	4	200	0.25	50
Financial Status Reports, SF-269	50	1	50	0.50	25
Statement on employment relocation activities	15	1	15	3	45
Final Status and Evaluation Report, narrative	50	1	50	2	100
<b>Total</b>	<b>225</b>		<b>1,140</b>		<b>9,370</b>

**Estimates of Annualized Cost to Respondents**

	# Hours	Cost Per Hour*	Total Cost
Grant Application	9,000	\$18.00	\$162,000
LOCCS Vouchers	150	\$18.00	\$2,700
SF-272	50	\$18.00	\$900
SF-269	25	\$18.00	\$450
Final Status and Evaluation Report	100	\$18.00	\$1,800
Statement of Employee Relocation	45	\$18.00	810.00
<b>Total</b>	<b>9,370</b>	<b>\$18.00</b>	<b>\$168,660.00</b>

\*The hourly cost is based on an average annual salary of \$37,000.

It is difficult to estimate the amount of time required for “ICDBG Anti-pirating” recordkeeping for each tribal grant applicant because program design and organizational structure differs from tribe to tribe. Tribal applicants and recipients must perform the following functions: application preparation, program planning, and program implementation meeting regulatory compliance. In addition, the ICDBG job creation activity, usually proposed as an economic development project, is the ICDBG program activity most likely to trigger the “ICDBG Anti-Pirating Rule” provisions. This activity is infrequently proposed by ICDBG applicants. In Fiscal Year 2007, 208 applicants applied for ICDBG funds and 74 ICDBG grants were awarded. Of the grants awarded, none were awarded for economic development, the category of funding most likely to be applicable to the proposed “ICDBG Anti-Pirating Rule.”

In order to estimate the burden hours for the “Anti-Pirating” rule, HUD ran data on economic development activities under which job creation activities would fall. This data on ICDBG economic development applications over the past five years were obtained from ICDBG program records. The number of applications proposing economic development activities during FY 04 was 15, representing the peak of such activity during the past five years. The data, although helpful, does not provide for a segregation of those activities that may/may not be subject to the provisions of the “Anti-Pirating” rule (there is a de minimis job loss provision in the rule (25 jobs) where the requirements are not mandated).

## ICDBG Anti-pirating Paper Burden Analysis

Fiscal Year	# ICDBG Apps Received	# ED Apps Received	ED Apps Percentage	# ED Apps Funded	# Tribes Applied
2007	208	5	.02	0	189
2006	214	9	.04	1	188
2005	246	6	.02	2	217
2004	241	15	.06	5	223
2003	285	13	.05	4	245

By estimating that every ICDBG applicant proposing an economic development project will undertake job creation activities and will be granted an award, there is a potential for growth built into these numbers, which HUD feels is prudent and realistic. The burden hours are estimated at 3 hours per applicant with a projection of 15 applicants proposing this type of project annually. The paper work burden includes providing a statement on the definition of the tribal “Identified Service area,” the collection of labor force statistics for the Identified Service Area before the relocation occurs, an analysis showing whether the number of relocated jobs constitutes a significant job loss as defined in the proposed rule at 1003.209(b)(4), documenting whether the ICDBG assisted business has a plant, facility, or operation in an area outside of the recipient’s “Identified Service Area” as defined in 24 CFR 1003.4 and if so, whether the business plans to relocate jobs from other locations to the site being assisted by ICDBG funds and the recipients providing business certifications regarding job location. In sum, it was estimated that each of the projected 15 tribes would spend approximately 3 hours annually producing the documentation for their job creation activities for a total of 45 hours annually. The following charts breakdown the revision to the information collection. This data is reflected in the complete data charts above.

TASK	No. of Respondents	Frequency of Response (Annual)	Burden Hours response	Total U.S. Burden Hours
24 CFR 1003.209 & 1003.505 Recipients define or reaffirm prior definitions of Identified Service areas on an annual basis and retain records to substantiate any business relocation that would be impacted by this rule. Recipients obtain and review certifications from businesses that neither it nor any of its subsidiaries has plans to relocate jobs that will result in a significant job loss.	15	1	3	45
TOTAL	15			45

**Recipients:** Document job relocation activities and keep records 15 x 3 hours=45 hours  
**New burden 45 hours**



<b>Item</b>	<b># Responses</b>	<b>Hours/Response</b>	<b>Cost/Response per Hour*</b>	<b>Total Cost</b>
ICDBG Anti-pirating Documentation Production & Record keeping	15	45	\$18	\$810
				\$810

\*The hourly cost is based on an average annual salary of \$37,000.

13. Provide estimates of annualized cost to respondents:

There are no additional costs other than the amounts reported in Item 12.

14. Estimates of annualized cost to the Federal government:

The review of application information will not constitute an additional staff burden. This is a routine servicing and technical assistance function already being performed.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of OMB Form 83-1:

The change to Item 13 of the OMB Form 83-I resulted from adding an additional 45 hours. It is estimated approximately 15 respondents will annually submit a statement on the employment relocation activities.

16. For collections of information whose results are planned to be published, outline plans for tabulation and publication:

The information collected is not for statistical use nor does its collection use statistical methods, however, the information is provided to Congress, upon request.

17. Explain for request for approval to not display expiration date for OMB approval of the information collection:

HUD is not seeking approval 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:”

There are no exceptions to the signed certification.