
19. Certification for Paperwork Reduction Act Submissions

On behalf of the U.S. Department of Housing and Urban Development, 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) appears 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 Mike Winiarski, Director, Organizational Policy, Planning and Analysis Division, HROA	Date:
Signature of Senior Officer or Designee: X Lillian Deitzer, Departmental Reports Management Officer	Date:

Supporting Statement for Paperwork Reduction Act Submissions

Loss Mitigation Evaluation OMB Control Number 2502-0523

A. Justification

1. The Loss Mitigation Procedures Rule enacted on July 3, 1996, added section 24 CFR 203.605, “Loss Mitigation Evaluation,” which requires mortgagees to perform an evaluation of each defaulting mortgagor’s circumstances to determine which, if any, of the available loss mitigation techniques are appropriate in order to assist the mortgagor to:

(a) Reinstate the mortgage and retain ownership of the affected property, or

(b) Avoid foreclosure and mitigate the losses to the Department by encouraging the mortgagor to sell the property or, if the mortgagor has no equity in the property, to pursue a buyer under the “pre-foreclosure sale (“short”) procedure or to voluntarily convey the deed-in-lieu of what would otherwise be the imminent foreclosure of the mortgage.

This evaluation must be performed no later than when three monthly payments are due and unpaid, and must be performed monthly thereafter while the account is in default and such foreclosure avoidance and loss mitigation options remain under consideration.

In accordance with Section 24 CFR 203.501, this information is needed to ascertain whether the mortgagee performed adequate and prudent loan servicing. If a mortgagee submits a claim for FHA insurance benefits, this information will be subject to post claim review under the Department’s lender monitoring activities. Section 24 CFR 203.605 requires that the mortgagee maintain documentation of loss mitigation evaluations and, should a claim for mortgage insurance benefits later be filed, this documentation shall be maintained in the claim file under the requirements of Section 24 CFR 203.365(c). Claim files shall be maintained for a three-year period after the claim has been paid pursuant to Section 203.365(c), and hard copies of identified claim files must be provided to the Secretary within 24 hours of a request.

2. The respondents are mortgagees and mortgage servicers that service loans for lenders, as many lenders do not service their own loans. As a part of HUD’s Loss Mitigation Evaluation process, the mortgagees/servicers review their portfolio to ascertain if three full monthly installments are due on a mortgage. The mortgagee/servicer shall evaluate all the loss mitigation techniques to determine which, if any, are appropriate. Mortgagees/servicers must consider the comparative effects of their elective servicing actions, and must take those appropriate actions that can reasonably be expected to generate the smallest financial loss to HUD. Such actions include, but are not limited to, deeds in lieu of foreclosure, pre-foreclosure sales, partial claims, assumptions, special forbearances, and recasting of mortgages. HUD may prescribe conditions and requirements for the appropriate use of these loss mitigation actions, concerning such matters as owner-occupancy, extent of previous defaults, prior use of loss mitigation, and evaluation of the mortgagor’s income, credit, and property. Pursuant to 24 CFR 30.35 as amended effective May 26, 2005, HUD may initiate civil money penalty action against a mortgagee/servicer for failure to engage in loss mitigation and impose a penalty of three times the amount of total mortgage insurance benefits claimed with respect to any such mortgage.

3. This information is not routinely reported to HUD and HUD has not mandated any hardcopy or electronic format for collecting and maintaining the loss mitigation evaluation records. The information is to be kept with similar lender loan servicing documentation and submitted to HUD only if requested as a part of a claim review. Most of those reviews are conducted at mortgagee/servicer offices. Mortgagees/servicers have the

option to maintain claim file documents in electronic or imaged form as long as hard copies can be printed and provided to HUD auditors within 24 hours of request. It is not practical to establish an electronic transmission alternative for claim auditing purposes.

4. There is no duplication of information. Mortgagees/servicers routinely document loss mitigation efforts as a part of their own loan servicing and internal quality control procedures. As long as the information is complete, HUD will accept the various formats already in use by lenders.
5. There is no impact on small businesses or other small entities.
6. For many mortgagees/servicers, this requirement does not add to reporting or recordkeeping burden, as this information is already routinely maintained for other purposes. The three-year retention period for claim files is consistent with requirements imposed by private mortgage insurers. The information is needed to ascertain whether the mortgagee/servicer performed adequate and prudent loan servicing. If a mortgagee/servicer submits a claim for FHA insurance benefits, this information will be subject to post claim review under the Department’s lender monitoring activities.
7. The special circumstance requiring the mortgagee/servicer to perform an evaluation monthly while the accounts are in default is needed so that appropriate servicing actions can be conducted in a timely manner.
8. In accordance with 5 CFR 1320.8(d), the agency’s notice soliciting comments on the information collection was published in the *Federal Register* on August 6, 2008 (Vol. 73, No. 152, pages 45777 - 45778). No comments were received.

The matter was also discussed at several mortgage industry roundtables. In attendance at one or more of these discussions were Vicki Vidal of the Mortgage Bankers Association of America; Kim Lott of Countrywide Mortgage; Caroline Reaves, formerly of Midland Mortgage; and Terry Ross from Barrett, Burke, Wilson, Daffin & Frappier. The consensus was that lenders needed to fully document borrower status as part of routine servicing of defaulted loans. There was no adverse comment on HUD’s documentation requirement.

9. No payments are made to respondents.
10. There is no promise of confidentiality.
11. There are no questions of a sensitive nature.
12. Estimate of public burden:

Number of Respondents	Frequency of Response	Total Responses	Hours per Response	Total Annual Burden Hours	Hourly Cost	Total Annual Cost
600	Once per defaulted loan	467,135	.25	116,874	\$19.00	\$2,802,816

The hourly cost is based on an estimate of mortgagee/servicer clerical staff salaries of approximately 39,000 annually.

13. There are no other costs to the respondents.
14. There are no costs to the Federal government. The mortgagee maintains all information on site and the documentation is only reviewed in connection with claim audits conducted on-site.
15. This is an extension of a currently approved information collection. The projected number of responses identified for this reporting was based upon the average number of cases reported as 90 days delinquent for the first time, which is the universe of cases requiring a loss mitigation evaluation.

16. The results of this information collection will not be published.
17. HUD is not seeking approval to avoid displaying the expiration date.
18. There are no exceptions to the certification statement identified in item 19 of the OMB 83-I.

B. Collections of Information Employing Statistical Methods

No statistical methods will be employed in the collection of this information.