

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION
Attachment to OMB 83-I
2506-0170

CDBG URBAN COUNTY/New York TOWNS
QUALIFICATION/REQUALIFICATION PROCESS

Justification

1. Legal and administrative requirements

The Housing and Community Development Act of 1974, as amended (the Act), authorizes the Secretary to make Community Development Block Grant (CDBG) funds available to states and units of general local government, which includes “urban counties” as defined in the Act. Based on the provisions in the Act, HUD has established an urban county qualification/requalification process that is conducted each year. A HUD Handbook will be issued that provides guidance for those counties wishing to qualify or requalify for entitlement status as urban counties, as well as existing urban counties that wish to include previously non-participating communities.

One of the provisions on which this process is based is Section 102(e) of the Act, which provides that “any county seeking qualification as an urban county, including any urban county seeking to continue such qualification, shall notify, . . . , each unit of general local government, which is included therein and is eligible to elect to have its population excluded from that of an urban county . . . of its opportunity to make such an election. Such notification shall, at a time and manner prescribed by the Secretary, be provided so as to provide a reasonable period for response prior to the period for which such qualification is sought. The population of any unit of general local government which is provided such notification and which does not inform, at a time and in a manner prescribed by the Secretary, the county of its election to exclude its population from that of the county shall, if the county qualifies as an urban county, be included in the population of such urban county as provided in subsection (d).”

Section 102(d) of the Act provides that any unit of general local government that is included in an urban county “shall be included in the population of such urban county for three program years.”

Based on these provisions, the urban county qualification/requalification process is conducted annually. Once qualified, an urban county must requalify on a triennial cycle. However, in the two intervening years of the cycle, a county may contact non-participating communities and advise them of their opportunity to be included as part of the county for the remaining one or two years of the period of qualification.

New York towns must undertake a similar process on a triennial basis because, under New York state law, towns that contain incorporated units of general local government within their boundaries cannot qualify as metropolitan cities unless they execute cooperation

agreements with *all* such incorporated units. Based on this, the New York towns qualification process must be completed prior to the qualification of urban counties so that any town that does not qualify as a metropolitan city can still have an opportunity to participate as part of an urban county.

2. Purpose and use of information

The information obtained each year from the urban county and New York towns qualification/requalification processes establishes the participating population that is used by HUD in calculating the final CDBG grant allocations for all entitlement (which includes metro cities and urban counties) and state CDBG grantees for the next fiscal year, in accordance with section 106 of the Act.

3. Automated or Electronic Collection of Information

The process for urban county qualification and requalification is not automated because the information collected is based on written agreements that must be executed by the county (or, in certain cases in New York State, a town) and each unit of general local government that chooses to participate in the urban county program. These agreements are subject to interpretation and application of state and local laws governing the essential powers of these units of general local government. They vary greatly from state to state and may even vary from county to county within a given state. These agreements are drafted by legal counsel for the counties and local governments participating in the urban county program. As a result, HUD cannot provide one agreement that fits all situations and must review each on an individual basis to ensure that they address pertinent issues and are in compliance with HUD requirements, as well as state and local law. HUD compiles limited statistical data with respect to these submissions.

4. Duplication

The Department is not aware of any duplication of information collection requirements based on a review of the Act and existing program rules.

5. Impacts on Small Businesses or Other Small Entities

(a) Units of general local government in which an urban county does not have essential powers must enter into cooperation agreements with the county if they wish to participate in the CDBG program as part of the urban county. (b) All incorporated units of general local government that are within the jurisdiction of a New York town must execute cooperation agreements with the town if the town is to qualify as a metropolitan city under the CDBG program. Some of these jurisdictions may be classified as small towns (entities); however, the information collection described here does not have a negative impact on these small towns (entities). Small businesses do not participate in the program.

6. Technical or Legal Obstacles to Reducing the Burden

The collection requirement has been reduced to the minimum required by the Act. The information obtained through these qualification/requalification processes is used in calculating the annual grant allocations under the CDBG program. Obtaining information for this purpose less frequently would be inconsistent with the Act. It may also result in incorrect grant amounts, since the data is collected for the purpose of confirming those communities as part of urban counties and New York towns and, thereby, the population of those entities that will be used as part of the formula to determine the amount of CDBG funds each grantee receives annually.

7. Special Circumstances for Information Collection

Grantees are required to maintain records on CDBG activities for four years.

8. Public Consultation and Federal Register Publication

A Federal Register Notice soliciting comments was published July 2, 2008 (copy attached). No comments were received.

9. Payment of Gift to Respondents

There is no payment of gifts to respondents associated with this information collection.

10. Assurance of Confidentiality Provided to Respondents

Information of a confidential nature is not collected.

11. Collection of Information of a Sensitive Nature

No sensitive information is being collected under 24 CFR Part 570.

12. Estimates of Hour Burden for Collection of Information

Computation of reporting hours: There are currently 175 qualified urban counties participating in the CDBG program that must requalify on a triennial basis. On average, four new counties qualify each year. The burden on new counties is greater than for existing counties that requalify. The Department estimates new grantees use, on average, 100 hours to: review instructions, contact communities in the county, prepare and review agreements (the county must enter into cooperation agreements with those communities that want to participate but in which the county does not have essential powers), obtain legal opinions, have agreements executed at the local and county level, and prepare and transmit copies of required documents to HUD. It had been estimated that counties that are requalifying use, on average, 60 hours to complete these actions. The timesaving on requalification is primarily because of a county's ability to use cooperation agreements with no specified end date. Although not all counties use this type of agreement, the use of "renewable" agreements enables a county to merely notify affected participating units of government in writing that their agreement will automatically be renewed

unless the unit of government terminates the agreement in writing, rather than executing a new agreement every three years.

No comments on the Notice were received; however, the Department has determined it is appropriate to continue to use these estimates to calculate the time spent on the qualification process: 100 hours for a newly qualified grantee, and 60 hours for a grantee that is requalifying. The wide variance of factors that affect the amount of time it may take each county to complete the process make it difficult to accurately estimate this reporting burden. However, HUD believes these estimates are reasonable based on a thorough review and consideration of the number of participating jurisdictions an urban county may have to contact to determine the interest of each in participating in, or remaining a part of, the urban county for purposes of receiving CDBG funds. This number varies among counties from those that have very few communities to contact, to those counties that have as many as 125 communities to contact. This current estimate reflects an increase from the previous information collection approval only because of an increase in the number of urban county grantees. The computation of annual reporting hours using these estimates is as follows:

	No. of Respondents	Responses per Year	Hrs per Response	Total Hrs Annually
Average no. of new qualifying urban counties per year	4	4	100	400
No. of grantees that requalify on a Triennial basis	175	58	60	3,480
There are 10 New York towns that requalify on a triennial basis. They too, may use "renewable" agreements that reduce the burden required under this process. This number recognizes that the New York towns have a large number of communities eligible to participate and that the towns basically follow the same qualification process as the counties.				
No. of towns that requalify on a Triennial basis	10	3.3	60	198
Total:	189			4,078

Annualized cost to respondents: 4,078 (hrs) x \$24.00/hr = \$97,872

14. Estimates of Annualized Cost to the Federal Government

Legal review for determinations of essential powers; staff review and legal review/certification of acceptability of cooperation agreements; and staff review/completion of worksheets sent to HUD Headquarters:

8 hrs. x 61.3 (4 new counties + 60 avg. counties requalifying + 3.3 avg. towns requalifying) = 490.4. 490.4 x \$29.00/hr. = \$14,221.60

15. Reasons for Program Changes or Adjustments

The requested collection hours for the Urban County and New York Towns Qualification/Requalification process reflects the same number of hours estimated to be required to comply with program guidelines. However, the overall estimates have increased because of a

larger increase in the number of new urban counties than previously estimated. There are now 175 qualified counties rather than 165 counties.

16. Publication of Collected Information

Information collected is not published.

17. Display of OMB Approval Date of Paperwork Reduction

OMB Approval Date of Paperwork Reduction is provided in the annual Notice of Instructions for Urban County Qualification for Participation in the CDBG Program.

18. Exceptions to Certification Statement, Item 19

There are no exceptions to Certification Statement, Item 19.

19. Certification Requirement for Paperwork Reduction Act Submissions

Attached following this page.