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## 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.

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Signature of Program Official:

Date:

X  
Michael Winiarski, Deputy Director, Organizational Policy, Planning and Analysis Division, HROA

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Signature of Senior Officer or Designee:

Date:

X  
Lillian Deitzer, Departmental Reports Management Officer,  
Office of the Chief Information Officer

# Supporting Statement for Paperwork Reduction Act Submissions

## Pre-Foreclosure Sales Program OMB Control Number 2502-0464 (HUD-90035, HUD-90041, HUD-90045, HUD-90051, & HUD-90052)

### A. Justification

1. Section 1064 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 authorizes the Secretary to pay an insurance claim that “bridges the gap” between the fair market value proceeds from the HUD-approved third party sale of a property and a larger amount representing the original homeowner’s mortgage indebtedness at the time of the sale. The difference is paid, via the claims process, to the mortgagee holding the original mortgage on the property, in order to cancel that instrument. This is what is known as a “short sale” or pre-foreclosure sale (PFS). Certain financially distressed mortgagors will be eligible for this procedure. Information will be collected to ensure that only those who qualify can take advantage of this option. Other data will indicate whether mortgagees and homeowners are following the PFS procedure’s deadlines and financial criteria. The regulations are found at 24 CFR 203.356, 24 CFR 203.370, and 24 CFR 203.401(c).
2. The respondents are lenders, counselors, and homeowners who are attempting to sell properties prior to foreclosure. The information collection is a record of the process that includes the borrower’s application to participate in the program, the lender’s approval, and the Department’s review and approval of the specifics of the sale. Homeowners participating in the program are recommended to contact a housing counseling agency, but the housing counseling is not mandatory. Although pre-foreclosure sales generally save the Department money, operation of the PFS procedure does affect the expenditure of HUD/FHA moneys via the claims process. The Department must be confident that the procedure’s beneficiaries are as intended and that all important procedural safeguards and limitations are being followed. HUD’s objective is to obtain the highest possible proportion of desirable outcomes (completed pre-foreclosure sales or alternatively, deeds-in-lieu of foreclosure) from among participants in the PFS procedure. Without the information collected, the actual experience under the PFS procedure could not be accurately judged. A discussion of the information collection documents is below.

**Form HUD-90035**, Information Sheet, Pre-foreclosure Sale Procedure. Mortgagees give this form to homeowners who have defaulted on their obligations. The form explains the program, outlines some of the program requirements, and includes the lender’s telephone number so homeowners can call to further discuss the Pre-foreclosure Sale Procedure.

**Form HUD-90041**, Request for Variance, Pre-foreclosure Sale Procedure. Mortgagees submit this form to HUD to request a homeowner be allowed to participate in the program even though not all requirements have been met. HUD grants or denies the request, signs the form, and returns it to the mortgagee. Requests for variance include, but are not limited to, (1) appraised value of the property less than 70 percent of the loan balance, (2) estimated net sales proceeds less than 82 percent of property appraised value, and (3) other. For approval when the estimated net sales proceeds are less than 82 percent a copy of the HUD-1 (2502-0265) is required.

**Form HUD-90045**, Approval to Participate, Property Sales Information, Property Occupancy & Maintenance, Pre-foreclosure Sale Procedure. Mortgagees give this form to homeowners who have been approved to participate in the program. The form outlines the requirements for the homeowner to successfully complete the program.

**Form HUD-90051**, Sales Contract Review, Pre-foreclosure Sale Procedure. Mortgagees and/or HUD use this form to evaluate a proposed sales contract for property and to document whether the contract is approved or rejected. If the contract is rejected, the reasons are listed.

**Form HUD-90052**, Closing Worksheet, Pre-foreclosure Sale Procedure. Mortgagees prepare this form to instruct closing agents regarding the distribution of sale proceeds. Sales agents sign the form only to document that they received their funds, and HUD ascribes no burden to their signature. Closing agents sign the form to document that they distributed sales proceeds as instructed. HUD ascribes no burden to these signatures as this is a closing agent's standard business practice. Mortgagees attach a copy of the settlement statement and submit the form HUD-90052 along with their insurance claim.

3. Only a small percentage of this information collection is collected electronically. Mortgagees, if possible, can submit this information via the Electronic Data Interchange (EDI). This information is then computed into the Single Family Claims System. Many of these forms require dates and signatures; therefore, it is unlikely they can be sent as email attachments.
4. There is no duplication of collection of this information since this is the only process under which the particular information will be gathered.
5. The collection of this information does not significantly affect small businesses.
6. The collection of this information cannot be done less frequently. The complete process is required with each and every occurrence of the pre-foreclosure sale activity. This data is required so that policies and procedures can be adjusted as necessary in order to mitigate the Department's foreclosure-related losses.
7. There are no special circumstances that may be applied to this collection.
8. In accordance with 5 CFR 1320.8(d), the agency's notice soliciting public comments was announced in the *Federal Register* on May 4, 2009 (Vol. 74, No. 84, pages 20493). No comments were received.
9. The collection of this information does not provide for any payment or gift to respondents.
10. The Department of Housing & Urban Development (HUD) is authorized to collect Social Security numbers by the Housing & Community Development Act of 1987, 42 U.S.C. 3543. HUD uses the information to determine whether a borrower meets the preliminary qualifications for the Pre-foreclosure Sale Program. HUD may disclose this information to Federal, State, and local agencies when relevant to civil, criminal, or regulatory investigations and prosecutions. It will not be otherwise disclosed or released outside of HUD, except as required and permitted by law.
11. There are no questions of a sensitive nature associated with this collection.
12. The respondents are the approximately 13,000 homeowners who will be informed of the program each year. Of those, approximately 75 percent (9,750) will apply for the program, but only 50 percent (6,500) will be approved to participate and receive counseling. Roughly 10 percent of these (650) will require a variance in order to participate. Of the 6,500 approved to participate in the program, approximately 80 percent (5,200) will actually submit a sales contract and move to closing. Other respondents are the 110 mortgagees/loan servicers who service these loans. There are approximately 5,200 sales agents and 5,200 closing agents.

Information Collection	Number of Respondents	Frequency of Response	Responses Per Annum	Burden Hour Per Response	Annual Burden Hours	Hourly Cost	Annual Cost
<b>HOMEOWNER FORMS</b>							
HUD-90035	13,000	1	13,000	.05	650	\$15.00	\$ 9,750
HUD-90045	6,500	1	6,500	.15	975	\$15.00	14,625
<b>SUBTOTAL</b>	13,000		19,500		1,625		\$ 24,375
<b>MORTGAGEE/LOAN SERVICER FORMS</b>							
HUD-90041	110	6	660	.25	165	\$15.00	\$ 2,475
HUD-90051	110	47	5,170	.50	2,585	\$15.00	38,775
HUD-90052	110	47	5,170	.58	2,999	\$15.00	44,985
<b>SUBTOTAL</b>	110		11,050		5,749		\$ 86,235
<b>SALES AGENT FORMS,</b>							
HUD-90052	5,200	1	5,200				
<b>CLOSING AGENT FORMS</b>							
HUD-90052	5,200	1	5,200				
<b>Totals</b>	<b>23,510</b>		<b>40,950</b>		<b>7,374</b>		<b>\$110,610</b>

13. There are no additional costs to respondents.

14. Estimated Burden and Annual Cost to the Federal Government:

Information Collection	Responses Per Annum	Burden Hour Per Response	Annual Burden Hours	Hourly Cost Per Response	Annual Cost
HUD-90041	660	.25	165	\$35.00	\$ 5,775
HUD-90051	5,200	.30	1,560	\$35.00	54,600
HUD-90052	5,200	.35	1,820	\$35.00	63,700
<b>Totals</b>	<b>11,060</b>		<b>3,445</b>		<b>\$124,075</b>

\*Estimated annual cost to the Federal Government assuming that a GS-13/Housing Program Specialist will review and process this information.

15. This is an extension of a currently approved collection. The number of potential respondents has increased due to the current weakening national economy. However, the previous submission did not accurately report the correct amount. The number of participants in the Pre-foreclosure Sale Program has continuously grown during the past years, and the number of loan servicers has decreased due to merging companies and portfolios. As a result of increased delinquent and defaulted mortgage loans the total burden hours has increased over the prior PRA extension.

16. There are no plans to publish this information.

17. HUD is not seeking approval to avoid displaying the OMB 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

This information collection does not employ statistical methods.