

# **The Supporting Statement for OMB 0596-NEW**

## Community Forest and Open Space Conservation Program

### **Terms of Clearance**

#### **A. Justification**

- 1. Explain the circumstances that make the collection of information necessary. 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.**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 35), the Forest Service seeks approval for an information collection required to implement the Community Forest Program (CFP) authorized by Section 8003 of the Food, Conservation, and Energy Act of 2008 (Public Law 110-234; 122 Stat. 2043) (attached), which amends the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103d).

The purpose of CFP is to achieve community benefits through grants to local governments, Indian tribes, and nonprofit organizations to establish community forests by acquiring and protecting private forestlands. The authorizing language specifies that the Secretary of Agriculture, acting through the Chief of the Forest Service, may award grants to eligible entities to acquire private forests that provide specified public benefits to communities and are threatened by conversion to non-forest uses.

The authorizing language defines eligible entities as local governmental entities, Indian tribes, or qualified nonprofit organizations. Local government is defined as any municipal government, county government, or other local government body with jurisdiction over local land use decisions. Indian tribe is defined by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b). Nonprofit organization is as an organization that is described in section 170(h)(3) of the Internal Revenue Code of 1986 (26 USCS § 170(h)(3)) and operates in accordance with one or more of the purposes specified in section 170(h)(4)(A) of that Code (26 USCS § 170(h)(4)(A)).

The proposed rule states that community benefits under CFP include, but are not limited to one or more of the following:

- (1) Economic benefits such as timber and non-timber products resulting from sustainable forest management and tourism
- (2) Environmental benefits, including clean air and water, storm water management, and wildlife habitat
- (3) Benefits from forest-based experiential learning, including K-12 conservation education programs; vocational education programs in disciplines such as forestry and environmental biology; and environmental education through individual study or voluntary participation in programs offered by organizations such as 4-H, Boy or Girl Scouts, Master Gardeners, etc.
- (4) Benefits from serving as replicable models of effective forest stewardship for private landowners
- (5) Recreational benefits from public access, such as hiking, hunting and fishing

In addition, the Federal contribution to the project cannot be more than 50 percent of the total project cost. Allowable project and cost share costs will include the purchase price and the following transactional costs associated with the acquisition: appraisals and appraisal reviews, land surveys, legal and closing costs, development of the community forest plan, and title examination. The following principles and procedures will determine allowable costs for grants:

- (1) Local governments and Indian tribes refer to OMB Circular A-87 (Cost Principles for State, Local and Indian Tribal Governments)
- (2) Nonprofit organizations refer to OMB Circular A-122 (Cost Principles for Nonprofit Organizations).

The Agency benefits from the collection by receiving information necessary to fulfill our statutory obligation to insure that applicants to CFP are eligible for the program, and that the best CFP projects are selected. CFP helps the Agency meet its goals and objectives outlined in the USDA Forest Service Strategic Plan 2007-2012.

**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.**

**a. What information will be collected - reported or recorded? (If there are pieces of information that are especially burdensome in the collection, a specific explanation should be provided.)**

The Forest Service will issue a national request for proposals (RFP) no more than once annually (depending upon the availability of funds) for grants under the CFP.

The State Forester or the equivalent Indian tribe official, per section §230.3 of the rule, will forward all applications to the Forest Service, and, as time and resources allow:

- 1) Provide a review of each application to help the Forest Service determine (a) that the applicant is an eligible entity (b) that the land is eligible (c) whether the project contributes to a landscape conservation initiative
- 2) Describe what technical assistance they may render in support of applications and an estimate of needed financial assistance (§230.10)

The applicant will need to provide information as outlined in the proposed rule and the request for proposal. The rule defines the minimum application requirements (§230.4), but the RFP may include additional requirements. Requirements outlined in the rule:

- (a) Documentation verifying that the applicant is an eligible entity and that the proposed acquisition is of eligible land that contains forest land
- (b) Applications must include the following regarding the property proposed for acquisition:
  - (1) A description of the property, including acreage and county location
  - (2) A description of current land uses, including improvements
  - (3) A description of forest type and vegetative cover
  - (4) A map of sufficient scale to show the location of the property in relation to roads and other improvements as well as parks, refuges, or other protected lands in the vicinity

- (5) A description of applicable zoning and other land use regulations affecting the property
- (6) Relationship of the property within and its contributions to a landscape conservation initiative
- (7) A description of any threats of conversion to non-forest uses
- (c) Information regarding the proposed establishment of a community forest, including:
  - (1) A description of the benefiting community, including demographics, and the associated benefits provided by the proposed land acquisition
  - (2) A description of the community involvement in the planning and long term management of the community forest
  - (3) An identification of persons and organizations that support the project and their specific role in acquiring the land and establishing and managing the community forest
  - (4) A draft Community Forest Plan. The eligible entity is encouraged to work with the State Forester or equivalent Indian tribe official for technical assistance when developing or updating the Community Forest Plan
- (d) Information regarding the proposed land acquisition, including:
  - (1) A proposed project budget (§ 230.6)
  - (2) The status of due diligence, including signed option or purchase and sale agreement, title search, minerals determination, and appraisal
  - (3) Description and status of cost share (secure, pending, commitment letter, etc.) (§ 230.6)
  - (4) The status of negotiations with participating landowner(s) including purchase options, contracts, and other terms and conditions of sale
  - (5) The proposed timeline for completing the acquisition and establishing the community forest
  - (6) Long term management costs and funding source(s)
- (e) Applications must comply with the Uniform Federal Assistance Regulations (7 CFR 3015)
- (f) Applications must also include the forms required to process a Federal grant. Section 230.7 references the grant forms that must be included in the application and the specific administrative requirements that apply to the type of Federal grant used for this program

**b. From whom will the information be collected? If there are different respondent categories (e.g., loan applicant versus a bank versus an appraiser), each should be described along with the type of collection activity that applies.**

Information will be collected from eligible grant applicants. Eligible grant applicants are defined in the preamble of the proposed rule as follows:

**Eligible Entities**

The statute establishing CFP states that only local governments, Indian tribes, and qualified nonprofit organizations are eligible to receive a grant through CFP. The statute also provided definitions for those three eligible organizations. Local governments are defined as municipal, county, and other local governments with jurisdiction over local land use decisions. Indian tribes are defined as those that are federally recognized tribes as prescribed by section 4 of the Indian

Self-Determination and Education Assistance Act (U.S.C. 450b). Finally, qualified nonprofit organizations are defined as charities under the Internal Revenue Code (26 U.S.C. 501(c)(3)) and which also have a conservation purpose (26 U.S.C. 170(h)(4)(A)). A conservation purpose is defined as the preservation of land for outdoor recreation or education, protection of natural habitat or ecosystems, preservation of open space, and preservation of historic lands or structures. Consistent with regulations of the Internal Revenue Service (26 CFR 1.170A-14(c) (1)) qualified non-profit organizations must also have a commitment to protect in perpetuity, the purposes for which the tract was acquired under the CFP and demonstrate that they have the resources to enforce the protection of the property as a community forest. In general, a land conservancy or land trust is the type of organization that would be considered a qualified nonprofit organization under the authorizing statute of the CFP.

The State Forester or the equivalent Indian tribe official, per section §230.3 of the rule, will forward all applications to the Forest Service, and, as time and resources allow:

- 1) Provide an assessment of each application to help the Forest Service determine (1) that the applicant is an eligible entity; (2) that the land is eligible; and (3) whether the project contributes to a landscape conservation initiative
- 2) Describe what technical assistance they may render in support of applications and an estimate of needed financial assistance (§230.10)

Participation in the CFP is voluntary, information will only be collected from grant applicants and State Foresters or the equivalent Indian tribe officials who chose to participate in the process.

**c. What will this information be used for - provide ALL uses?**

The Forest Service will use the information in the application:

- (1) To determine that the applicant is eligible to receive funds under the program
- (2) To determine if the proposal meets the qualifications in the law and regulations
- (3) To evaluate and rank the proposals based on standard, consistent information
- (4) To determine if the projects costs are allowable and sufficient cost share is provided.

The State Forester or the equivalent Indian tribe official, per section §230.3 of the rule, will forward all applications to the Forest Service, and, as time and resources allow:

- 1) Provide an assessment of each application to help the Forest Service determine (a) that the applicant is an eligible entity; (b) that the land is eligible; and (c) whether the project contributes to a landscape conservation initiative
- 2) Describe what technical assistance they may render in support of applications and an estimate of needed financial assistance (§230.10)

**d. How will the information be collected (e.g., forms, non-forms, electronically, face-to-face, over the phone, over the Internet)? Does the respondent have multiple options for providing the**

**information? If so, what are they?**

The information will be collected on standard grant forms (SF 424, SF 424c, and SF 424d) and via written submissions, generally via electronic means (text documents using word processing software or shapefiles using geographic information system (GIS) mapping software), to meet program requirements defined in sections § 230.3 Application process, § 230.4 Application requirements, and § 230.7 Grant requirements.

**e. How frequently will the information be collected?**

An RFP will be issued annually pending availability of funding through the appropriations process.

**f. Will the information be shared with any other organizations inside or outside USDA or the government?**

The Forest Service will not share proposal specific information collected with any other organizations inside or outside the Government. The Forest Service will summarize information collected, such as number of proposals submitted, total number of acres to be procured, total funding requested by all applicants, and summary of project benefits, with the Department of Agriculture, the Administration, Congress, and the public.

The authorizing statute requires applicants to submit their applications to their State Forester or equivalent Indian tribe official who, as time and resources allow, may review the proposals as outlined in § 230.3 Application process, and forward all applications to the Forest Service.

**g. If this is an ongoing collection, how have the collection requirements changed over time?**

Not applicable, this is a new information collection request.

**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 Forest Service does not require applicants to submit information electronically. All forms are available electronically but may also be submitted hard copy or by fax. To reduce the burden on respondents forms are readily available from [www.grants.gov](http://www.grants.gov).

**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.**

This collection does not constitute any duplication of effort. The Forest Service is the only agency charged with administering this program and issuing these funds. CFP is a grant program, and applicants will be developing grant proposals for new projects. Since projects are new, information about them will not be available from existing sources.

**5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

The rule for voluntary participation in the CFP does not impose significant direct costs on small entities. This rule imposes no additional requirements on the affected public. Entities most likely affected by this rule are the local governments, qualified nonprofit organizations, and Indian tribes eligible to receive a grant through CFP. The minimum requirements on small entities imposed by this rule are necessary to protect the public interest, not administratively burdensome or costly to meet, and are within the capabilities of small entities to perform. The rule would not materially alter the budgetary impact of entitlements, user fees, loan programs, or the rights and obligations of program participants.

**6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

The Forest Service would not be able to implement the program effectively or at all if the collection was conducted less frequently or not at all, respectively. The information collection would correspond with Congressional or other requirements for issuance of financial grant awards (anticipated once for each appropriations cycle).

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- **Requiring respondents to report information to the agency more often than quarterly;**
- **Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **Requiring respondents to submit more than an original and two copies of any document;**
- **Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **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;**
- **Requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **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; or**
- **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.**

There are no special circumstances that would cause an information collection to be conducted in a manner similar to those described above. The collection of information will be conducted in a manner consistent with the guidelines in 5 CFR 1320.6.

**8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8 (d), 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.**

The sixty day notice was embedded in the proposed rule published on January 6, 2011, Vol. 76, No. 4, pages 744-751. Over 180 comments from thirty-eight respondents were received from Tribal entities; Tribal members; two Regional Offices of the Bureau of Indian Affairs, the National Association of State Foresters; state forestry agencies; national, regional, and local land trust organizations; national, regional, and local conservation organizations; city park departments; law students; and private citizens on the proposed rule. No comments specifically addressed the information collection burden on the public pursuant to the Paperwork Reduction Act; twenty comments from seven respondents were received on the cost and hour burden imposed by this proposed rule. The remaining comments dealt with aspects of the program not associated with information collection.

All twenty comments on cost and hour burden dealt with a perceived burden on State Foresters, Indian tribe officials, and/ or professional foresters. We have modified the language in the final rule to clarify that apart from forwarding all applications they receive for the Community Forest Program to the US Forest Service, State Foresters/ Indian tribe official participation in the Community Forest Program is voluntary and does not confer any liability for the program to the State/ Indian tribe. We also addressed comments which sought to mandate the involvement of professional foresters by clarifying that while professional foresters may provide excellent advice, their participation is not mandated by the program.

**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 record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

**Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

**9. Explain any decision to provide any payment or gift to respondents, other than re-enumeration of contractors or grantees.**

No payment or gift will be given to respondents.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

No information covered by a Privacy Act System of Records, Personally Identifiable Information, or other confidential information covered by a statute, regulation, or agency policy will be collected.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or 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.**

No questions of a sensitive nature will be asked as a part of this information collection.

**12. Provide estimates of the hour burden of the collection of information. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.**

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If this request for approval covers more than one form, provide separate hour burden estimates for each form.**
  - a) **Description of the collection activity**
  - b) **Corresponding form number (if applicable)**
  - c) **Number of respondents**
  - d) **Number of responses annually per respondent,**
  - e) **Total annual responses (columns c x d)**
  - f) **Estimated hours per response**
  - g) **Total annual burden hours (columns e x f)**

The information collection required for a proposed bonded notice in this proposed rule has been submitted to OMB as a new collection.

*Estimated Number of Respondents:* 180 (153 for state, local, and tribal governments and 27 for non-profit organizations). This number was derived by considering the percentage of eligible applicants who applied for community forest grants offered through the Forest Legacy Program and similar grant programs. On average, between one quarter and half of 1% of eligible applicants submit a proposal. Based on the definition of “eligible entity” outlined in the statute, the following table summarizes the most recent information available on CFP eligible entities:

Qualified Non-profits <sup>1</sup>	1,667
Local Governments <sup>2</sup>	39,044
Federally Recognized Tribes <sup>3</sup>	565
<b>Total</b>	<b>41,276</b>



\*Not all of the entities summarized in this table deal with forests, for example local governments in non-forested areas, so these estimates of eligible entities are high.

Land Trust Alliance, 2005 National Land Trust Census Report, Washington, DC, 2005.

<sup>2</sup> U.S. Census Bureau, 2007 Census of Governments, Individual Stat Descriptions documentation, accessed 3/7/2011, <http://www.census.gov/govs/cog/GovOrgTab03ss.htm>

<sup>3</sup> BIA Website Frequently Asked Questions "What is a federally recognized tribe?" answer accessed 3/7/2011 (<http://www.bia.gov/FAQs/index.htm>)

The range of one quarter and one half of 1% is approximately 100-200 applicants. Since this is a new program which has been anticipated by many eligible organizations, we decided to use a number in the higher end of the range, or 180 applicants, for our calculations.

*Estimated Number of Responses per Respondent:* 1. Since many of the eligible entities are small, we anticipate that they will not have the resources necessary to submit more than one application per year.

*Estimated Number of Total Annual Responses:* 180 (180 respondents x 1 proposal/ respondent= 180 proposals).

*Estimated Total Annual Burden on Respondents:* 5,760 hours (180 respondents X 1 proposal/ respondent x 32 hours to complete a proposal= 5,760 hours). Using information gathered from similar Forest Legacy Programs it takes approximately 32 hours for an eligible entity to compile the necessary information and complete the required forms to complete a proposal.

We anticipate Community Forest Program projects will receive an average federal contribution between \$1.5 and \$2.5 million dollars.

Table 2

(a) Description of the Collection Activity	(b) Form Number	(c) Number of Respondents	(d) Number of responses annually per Respondent	(e) Total annual responses (c x d)	(f) Estimate of Burden Hours per response	(g) Total Annual Burden Hours (e x f)
Submission of application		180	1	180	32	5,760
Totals	---	180	---	180	---	5,760

**Record keeping burden should be addressed separately and should include columns for:**

**a) Description of record keeping activity:** Record keeping for the Community Forest Program will be associated with insuring that successful

applicants are making satisfactory progress in meeting grant requirements.

**b) Number of record keepers:** One individual will be involved with record keeping activities per successful application. The proposed funding for CFP in the 2012 President’s budget is \$5 million dollars, and we estimate that the average successful project will have a Federal Contribution of \$1.5-\$2.5 million dollars, or 3-4 successful applications (and 3-4 record keepers) per year. If annual CFP funding levels remain constant at \$5 million annually and the grant period averages two years, we would expect 3-4 record keepers in year 1 of the program, and 6-8 record keepers on average for year 2 of the program and beyond.

**c) Annual hours per record keeper:** Semiannual grant reporting will be required throughout the grant period. Assuming it takes a respondent 2 hours to complete a semiannual grant report, the annual hour burden per record keeper would be 4 hours

**d) Total annual record keeping hours (columns b x c):** 4

Table 3

(a) Description of record keeping activity	(b) Number of Record keepers	(c) Annual hours per record keeper	(d) Total annual record keeping hours (b x c)
Semiannual grant reporting	8	4	32
Totals	8	---	32

- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.**

Table 4

(a) Description of the Collection Activity	(b) Estimated Total Annual Burden on Respondents (Hours)	(c)* Estimated Average Income per Hour	(d) Estimated Cost to Respondents
Submission of application	5,760	\$19.34	\$111,398.00
Semiannual grant reporting	32	\$19.34	\$ 619.00
Totals	5,792	---	\$112,017.00

Average hourly earnings from Bureau of Labor News Release, February 2011 were used to identify the national average income per hour. The program is national in scope with multiple types of applicants; therefore, a national average is most applicable.

**13. Provide estimates of the total annual cost burden to respondents or record keepers resulting from the collection of information, (do not include the cost of any hour burden shown in items 12 and 14). The**

**cost estimates should be split into two components: (a) a total capital and start-up cost component annualized over its expected useful life; and (b) a total operation and maintenance and purchase of services component.**

There are no capital operation and maintenance costs.

**14. Provide estimates of annualized cost to the Federal government. Provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.**

**The response to this question covers the actual costs the agency will incur as a result of implementing the information collection. The estimate should cover the entire life cycle of the collection and include costs, if applicable, for:**

- **Employee labor and materials for developing, printing, storing forms**
- **Employee labor and materials for developing computer systems, screens, or reports to support the collection**
- **Employee travel costs**
- **Cost of contractor services or other reimbursements to individuals or organizations assisting in the collection of information**
- **Employee labor and materials for collecting the information**
- **Employee labor and materials for analyzing, evaluating, summarizing, and/or reporting on the collected information**

Table 5

ACTION ITEM	PERSONNEL	GS LEVEL	HOURLY RATE	HOURS	SALARY COST TO GOVERNMENT
Request for Proposal preparation	1	14 (Step 5)	\$45.99* \$59.79**	16	\$956.64
Handling information collection	1	14 (Step 5)	\$45.99* \$59.79**	240	\$14,349.60
Annual accomplishment reporting	1	14 (Step 5)	\$45.99* \$59.79**	20	\$1,195.80
<b>TOTALS</b>	<b>7</b>	<b>14</b>	<b>~\$60.00</b>	<b>276</b>	<b>\$16,142.04</b>

\* Taken from: [http://www.opm.gov/oca/11tables/pdf/g\\_s\\_h.pdf](http://www.opm.gov/oca/11tables/pdf/g_s_h.pdf)

\*\*Cost to Government calculated at hourly wage multiplied by 1.3 to account for the actual cost to the government (salary + benefits)

The estimates included in this table include costs of information collection associated with the new program. However, if information collection does not occur, then the program could not be implemented, and therefore the cost to the agency would be zero.

**15. Explain the reasons for any program changes or adjustments reported in items 13 or 14 of OMB form 83-I.**

This is a new information collection.

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

Community Forest Program summary and accomplishment information will be published in appropriate databases to highlight program accomplishments within the US Forest Service, the United States Department of Agriculture, the Administration, and members of Congress.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

No forms that will require a display of the expiration date are required for this program.

**18. Explain each exception to the certification statement identified in item 19, "Certification Requirement for Paperwork Reduction Act."**

There are no exceptions requested to the certification statement identified in item 19 submitted with this regulation.

