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## 19. Certification for Paperwork Reduction Act Submissions

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.

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Signature of Program Official:

Date:

Camille E. Acevedo, Associate General Counsel for Legislation and Regulations

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Signature of Senior Officer or Designee:

Date:

X  
Colette Pollard, Departmental Reports Management Officer  
Office of Investment Strategies, Policy, and Management, Office of the Chief Information Officer

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# Supporting Statement for Paperwork Reduction Act Submissions

## 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.**

The "Single Family Mortgage Foreclosure Act of 1994 (12 U.S.C. 3751 et seq., Pub. L. 103-327) (the Act), authorizes the Secretary of HUD, as a matter of Federal law, to exercise a nonjudicial power of sale with respect to any defaulted single family mortgage held by the Secretary under Title I or II of the National Housing Act or Section 312 of the Housing Act of 1964. This is in addition to each State's judicial or nonjudicial foreclosure procedure available to a mortgage-holder.

The Act further authorizes the Secretary to appoint foreclosure commissioners to act as the Secretary's agents in foreclosing such mortgages under that nonjudicial power of sale. Section 3754(c) of the Act, entitled "Qualification," reads in full as follows:

The foreclosure commissioner, if a natural person, shall be a resident of the State in which the security property is located and, if not a natural person, the foreclosure commissioner must be duly authorized to transact business in the State in which the security property is located. No person shall be designated as a foreclosure commissioner unless that person is responsible, financially sound, and competent to conduct a foreclosure.

A foreclosure commissioner will be under contract to HUD. Per the notice, a party who wants to be a commissioner need apply only once for each of HUD's 10 regions in order to be approved on a permanent or indefinite basis.

The regulations on single family nonjudicial foreclosures are found in 24 CFR part 27, subpart B. Section 27.100 of these regulations implements this provision. A copy of this subpart as it appears in the current CFR is attached.

Because of the economies and efficiencies that would be provided by use of this procedure (compared to existing State procedures), the Department expects to employ it routinely in all States (except Texas, where foreclosures normally can be completed in about 3 weeks under State procedure).

- 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.**

Persons who wish to be designated as foreclosure commissioners provide the requested information in the Instructions to Foreclosure Commissioner Designation (copy attached) to the appropriate Assistant General Counsel of HUD in the 10 Field Office Regions. The information must be put in writing (not by facsimile), once for any of the ten HUD field regions in which the applicant wants to serve as a commissioner. The information will be used to assess the applicant's fitness. However, any person who is already a HUD-designated multifamily foreclosure commissioner under the Multifamily Mortgage Foreclosure Act of 1981 may be approved as a Single Family commissioner without submitting the full application.

- 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.**

At this time, the Application for Designation as a Commissioner must be in writing; no facsimiles will be permitted. Because of the simplicity of the application, little or no burden is saved with other means. HUD, however, is exploring electronic submission of this form, but the delay is due to the necessity to confirm electronic signature.

- 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.**

Persons who are already approved as foreclosure commissioners for HUD-held multifamily mortgages may be approved for Single Family without having to submit unnecessarily duplicative information. Otherwise, there is no information similar to what is required here that is already available.

**5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I) describe any methods used to minimize burden.**

This requirement does not impose a significant impact upon small entities.

**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.**

If the applications were not required, HUD would have to select commissioners arbitrarily or conduct comparatively more burdensome research of possible commissioners. In the first instance, some would probably prove to be incompetent, or lacking adequate financial resources, or unwilling to perform the duties satisfactorily.

The legal obstacle to reducing the burden is that the Act (Section 3754(c)) requires a commissioner to be "responsible, financially sound, and competent to conduct a foreclosure." The application requirements are the minimum needed for the Department to reasonably ensure compliance with these statutory requirements.

**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 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 than 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.**

This requirement will not cause the information collection to be conducted in any manner described in #A.7 of the "Specific Instructions" to the Supporting Statement.

**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.**

- **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 recordkeeping disclosure, or reporting format (if any) and 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 preclude consultation in a specific situation. These circumstances should be explained.**

The Department published the "Notice of Submission of Proposed Information Collection to OMB" on July 19, 2012, at 77 FR 42505. No public comments were received.

No consultation has been made. None is considered useful, since the requirements are minimal and clearly necessary to comply the requirements of the Act.

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

There has been no decision to make a payment to the foreclosure commissioners other than their remuneration as commissioners.

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

No assurances are being provided.

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

**12. Provide estimates of the hour burden of the collection of information. The statement should:**

- indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally estimates should not include burden hours for customary and usual business practices;
- if this request covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I; and
- provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead this cost should be included in Item 13.

Burden estimates for respondents (hours and costs):

The reporting burden is estimated to be 15 hours and to cost \$300.00. There is no recordkeeping burden.

These estimates are based on the following: It is estimated that there will be 30 applications, which is the average of the applications received each year. Frequency for any applicant is once per HUD region, of which there are ten; however, few if any applicants are expected to apply to perform foreclosures in more than one region. The burden will be 30 minutes per application; typically, the work will be done by a paralegal, as the typical applicant will be an attorney and cost \$25 per hour for salary, benefits and miscellaneous expenses such as typing and mailing.

Costs: 30 applications expected in 2013 X \$12.50 ((\$25 per hour X a half hour per application]) = \$375.00.

**13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information (do not include the cost of any hour burden shown in Items 12 and 14).**

- The cost estimate 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 purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s) and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities;
- If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a

part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10) utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

- generally, estimates should not include purchases of equipment or services, or portions thereof made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

Except for the costs identified in No. 12 above, there is no annual cost burden to respondents. There are no capital and start-up costs involved for respondents. Also, there will be no costs for operation, maintenance and purchase of services.

- 14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.**

Cost to the Government: the annual cost to the federal government will be \$410.10 (\$13.67 per application X 30 applications).

This estimate is arrived at as follows: For each application received, a field office staff attorney (typically a GS-11) will spend an average of 25 minutes reviewing and checking on the application, and a GS-14 field office Chief Counsel and a GS-15 field Assistant General Counsel (one per region) will spend a combined 5 minutes. Assuming an average salary level of GS-12, Step 5, the labor cost will be: annual salary of \$51,268 divided by 2080 hours per staff year multiplied by 0.5 hour per application = \$12.32 for labor per application. Additional costs for postage (to notify applicant of selection), filing, photocopying, etc. would be slight, about \$1.25 per application. The total cost to the federal government is: \$12.32 labor + \$1.25 other = \$13.67 per application. These costs have not changed because of the freeze on federal salaries over the past 3 years.

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

This is an extension of a currently approved collection. There are no program changes or adjustments.

- 16. For collection of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

There are no plans to publish the collected information.

- 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.**

The Department is not seeking approval not to display the OMB control number.

- 18. Explain each exception to the certification statement identified in item 19.**

There are no exceptions to the certification statement identified in item 19 of the OMB 83-I.

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## **B. Collections of Information Employing Statistical Methods**

Statistical methods will not be employed to collect this information.