

September 23, 2014

Supporting Statement for Paperwork Reduction Act Submissions

OMB Control Number: 1660 - 0103

Title: Property Acquisition and Relocation for Open Space

Form Number(s): FEMA Form 086-0-31

General Instructions

A Supporting Statement, including the text of the notice to the public required by 5 CFR 1320.5(a)(1)(iv) and its actual or estimated date of publication in the Federal Register, must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified in Section A below. If an item is not applicable, provide a brief explanation. When Item 17 or the OMB Form 83-I is checked “Yes”, Section B of the Supporting Statement must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

Specific Instructions

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. Provide a detailed description of the nature and source of the information to be collected.

On September 16, 2009, FEMA published a Final Rule on Property Acquisition and Relocation for Open Space (44 CFR Part 80) that governs property acquisitions for all of FEMA’s mitigation grant programs authorized under both the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, P.L. 93-288 (42 U.S.C. 5121, et seq.) as amended, and the National Flood Insurance Act (NFIA) of 1968 (42 U.S.C. 4001, et seq.), as amended. This rule requires the collection of information from grant applicants to ensure the voluntary nature of the property acquisitions and to ensure that the property acquired remains in open space in perpetuity.

States as grant applicants, per 44 CFR § 80.5(b)(4), are responsible for collecting and reviewing applications to ensure that the proposed activities comply with 44 CFR Part 80. The States must ensure that property acquisition activities remain voluntary and submit to FEMA subapplications for proposed projects that include the requisite information to enable FEMA's determination of eligibility, technical feasibility, cost effectiveness, and environmental and historic preservation compliance. FEMA is responsible for reviewing applications for eligibility and compliance with 44 CFR Part 80, for reviewing proposals for subsequent transfer of a property interest and approving appropriate transferees, and for making determinations on the compatibility of proposed uses with the open space purpose, in accordance with 44 CFR §§ 80.5(a), 80.19.

Section 80.19(e) of Title 44 requires that enforcement notices and actions are to be completed by the State. This requirement is necessary for the grant recipient to take corrective action to ensure that the sub-grantee complies with the terms of the deed restriction. Although requirements for Transfers and Enforcement activities are included in the Acquisition regulation, the frequency of responses from States is minimal. Since 1988 (when the Hazard Mitigation Grant Program was first authorized), the number of properties acquired with Federal funds that have required these types of activities are minimal. We estimate that only 3-5 requests for transfers or notices of enforcement actions have been initiated since FEMA mitigation grants for acquisition activities started in 1988. FEMA is also legally responsible for ensuring that the property is dedicated and maintained in perpetuity as open space in compliance with Section 80.19(a)-(e) of Title 44 so it is vital that the Agency be aware of the grantee's actions to monitor compliance.

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. Provide a detailed description of: how the information will be shared, if applicable, and for what programmatic purpose.

FEMA and State recipients of FEMA mitigation grant funds (grantees) will use the information collected from grant subapplicants (local jurisdictions) to ensure the voluntary nature of the property acquisitions and to ensure that the property acquired remains in open space in perpetuity, in order to properly implement property acquisition activities under the terms of grant agreements for acquisition and demolition or relocation activities. FEMA and grantees will also use the information to monitor and enforce the open space requirements for all properties acquired with FEMA mitigation grants.

Deed restrictions must be recorded with each individual property by the grantee and local community to restrict the land uses allowed for properties acquired with FEMA funds. FEMA will collect copies of the deed restriction language from grant applicants as a pre-award requirement for mitigation grants to ensure that the deed to be recorded meets the minimum requirements.

State grantees will collect Property Owners' Voluntary Participation Statements, FEMA Form 086-0-31 (previously FEMA Form 81-112), from each property owner prior to award and submit copies to FEMA as part of the grant agreement. The statements must be signed by property owners and local community officials. These statements will enforce the requirement that all acquisitions using FEMA mitigation grants are voluntary, and that no property is acquired using State or local eminent domain authorities or other forcible acquisition procedures.

The State applicant must provide in the application assurance that the title to the property to be purchased is clear. The title search and title insurance requirements are completed by the State to ensure that any incompatible easements or other encumbrances to the property are extinguished before acquisition.

The grantee ensures that the subgrantee (local jurisdiction) informs each property owner, in writing, of what the subgrantee considers to be the market value of the property, the method of valuation and basis for the purchase offer, and the purchase offer amount. This requirement demonstrates that the grant recipient is offering an amount consistent with the required method of valuation and provides the property owner an opportunity to negotiate the fair market value offered prior to purchase. Certification of U.S. Citizenship or status as a Qualified Alien must be provided by property owners to the State or local community for eligibility to receive Federal funds for acquisition of property when the compensation to the homeowner is based on pre-event market value.

Verification of Monitoring and Reporting is submitted by the State to FEMA. Every three years the sub-grantee, through the grantee, must submit to FEMA a report certifying that the sub-grantee has inspected the property within the month preceding the report and that the property continues to be maintained consistent with provisions of the grant. This requirement is necessary to enforce the continued open space land use in accordance with the terms of the deed restrictions for properties acquired with FEMA mitigation grants.

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 Statement of Voluntary Participation (VPS) is available on FEMA's web site at <https://edit.fema.gov/library/viewRecord.do?id=3333> or from the appropriate FEMA Regional Office. Signed VPS documents can be downloaded and submitted to FEMA by email.

A Model Deed Restriction is available on FEMA's web page at <https://www.fema.gov/library/viewRecord.do?id=6327> or from the appropriate FEMA

Regional Office. The Model Deed Restriction can be downloaded and submitted to FEMA by email.

Every three years the sub-grantee through the grantee, must submit to FEMA a report certifying that the sub-grantee has inspected properties to ensure consistency with the terms of the deed restriction. The sub-grantee can create this report and submit by email. The majority of the forms in this collection utilize the email submission option while others fax or mail them.

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.

The information collected under the Property Acquisition requirements does not duplicate any other known program or authority. The information collected is specific to acquisition of properties using FEMA mitigation grant funds, and is only required as a condition of receipt of FEMA mitigation grants.

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.

Small businesses are not eligible to apply for FEMA mitigation grant funds, although local communities may submit a sub-grant application to the Grant applicant on their behalf. Sub-grant applicants do not apply directly to FEMA.

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

If the collection of information is not conducted, or is conducted less frequently, FEMA and its State grant recipients will be unable to ensure the voluntary nature of the property acquisitions and defend the voluntary participation of homeowners whose property was purchased. They will be unable to enforce uniform requirements for open space land uses in perpetuity for acquisition and relocation of properties acquired with FEMA mitigation grant programs. This may have the effect of not complying with the eligibility requirement for voluntary participation of property owners, and of increasing the risk to life and property if development recurs in these parcels.

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

- (a) Requiring respondents to report information to the agency more often than quarterly.**

(b) Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it.

(c) Requiring respondents to submit more than an original and two copies of any document.

(d) Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years.

(e) 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.

(f) Requiring the use of a statistical data classification that has not been reviewed and approved by OMB.

(g) 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.

(h) 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.

The special circumstances contained in item 7 of the supporting statement are not applicable to this information collection.

8. Federal Register Notice:

a. Provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice 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.

A 60-day Federal Register Notice inviting public comments was published on June 5, 2014, 79 FR 32566. No comments were received.

See attached copy of the published notice included in this package.

A 30-day Federal Register Notice inviting public comments was published on August 25, 2014, 79 FR 50681. No comments were received. See attached copy of the published notice included in this package.

b. 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 on the data elements to be recorded, disclosed, or reported.

FEMA initiated consultations with the National Emergency Management Association (NEMA), and the Association of State Floodplain Managers (ASFPM) prior to rulemaking and/or program development for each of the grant programs. This is a part of the rulemaking process to seek comments. Further, FEMA has developed the information collection requirements over time as a result of its increased understanding of State program implementation, and has determined that they are the minimum required to enforce the property acquisition and open space requirements.

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

During grant application, award, implementation of acquisition activities, and closeout of grant awards, FEMA routinely consults with the grant recipients to ensure that they have complied with the open space requirements. This occurs more frequently than once every three years.

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

FEMA does not provide payments or gifts to respondents in exchange for a benefit sought.

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

A Privacy Threshold Analysis (PTA) was completed by FEMA and adjudicated by the DHS Privacy Office on August 22, 2014. A Privacy Impact Assessment (PIA) for this collection was determined not to be needed.

This collection is covered by an existing System of Record Notice (SORN), which is DHS/FEMA-009 - Hazard Mitigation Disaster Public Assistance and Disaster Loan Programs, 79 FR 16015 approved by DHS on March 24, 2014.

There are no assurances of confidentiality provided to the respondents for this information collection.

11. Provide additional justification for any question 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.

There are no questions of a sensitive nature.

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

a. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated for each collection instrument (separately list each instrument and describe information as requested). 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 desired. 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.

FEMA may acquire as many as 2,240 properties nationally each year, among the 56 States and Territories. (Therefore, it is estimated that each State will receive 40 Voluntary Participation Statements for Property Acquisition for Open Space.) The burden hour per property owner to complete and sign a **Statement of Voluntary Participation for Acquisition of Property for Purpose of Open Space, FEMA Form 086-0-31**, is estimated to be one 1 hour. The total annual burden is estimated to be 2,240 responses x 1 hour per response = 2,240 burden hours.

For each property acquired the estimated burden hours for **States to Review and Submit Grant Information and Deed Restrictions** is 4 hours for State Officials. Local officials must attach the FEMA Model Deed Restriction language to each property deed before it is recorded. It is estimated that for State review and submission, it will take State Officials 4 hours to reconcile the completion of the Deed Restriction along with the grant information for record and submission to FEMA. The total annual burden is estimated to be 2,240 responses x 4 hours per response = 8,960 burden hours.

State Officials Reporting Requirements: States must submit to FEMA a report that the local communities within that State have inspected the acquired properties within the month preceding the report and that the properties continue to be maintained consistent with provisions of the deed restrictions. This monitoring and reporting for acquired properties is only required once every three (3) years. For 56 State officials to review and prepare reports to FEMA every three years it is estimated that 1 single report per State x 1.3 hours (1 hour and 18 minutes) per report 56 States x 0.333 = 19 x 1.3 hours = 25 burden hours annually.

**** Transfer Certification and Enforcement.** There is no annual reporting requirement for Transfers and Enforcement activities, and the frequency of responses from States and local communities is irregular or sporadic. Since 1988 (when HMGP was first authorized), the number of properties acquired with Federal funds that have required these activities is minimal. We estimate that only 3-5 requests for transfer or notice of enforcement actions have been initiated since FEMA mitigation grants for acquisition activities started in 1988. We expect this activity to continue to be irregular; therefore, the information collection burden for these requirements is negligible.

b. If this request for approval 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.

c. Provide an estimate of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. NOTE: The wage-rate category for each respondent must be multiplied by 1.4 and this total should be entered in the cell for “Avg. Hourly Wage Rate”. The cost to the respondents 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.

Estimated Annualized Burden Hours and Costs								
Type of Respondent	Form Name / Form Number	No. of Respondents	No. of Responses per Respondent	Total No. of Responses	Avg. Burden per Response (in hours)	Total Annual Burden (in hours)	Avg. Hourly Wage Rate	Total Annual Respondent Cost
Individuals or Households	Property Owners Voluntary Participation Statements / FEMA Form 086-0-31	2,240	1	2240	1 hour	2240	\$27.38	\$61,331.20
State, Local, and Tribal Government	States Review and Submit Deed Restrictions / No Form	56	40	2240	4 hours	8960	\$67.73	\$606,860.80
State, Local, and Tribal Government	State Officials Reporting Requirements / No Form	56	0.333	19	1.3 (1 hour and 18 minutes)	25	\$67.73	\$1,693.25
State, Local, and Tribal Government	Transfer Certification / No Form	**	**	**	**	**	**	**
State, Local, and Tribal Government	Enforcement Notices / No Form	**	**	**	**	**	**	**
Total		2,296		4,499		11,225		\$669,885.25

- Note: The "Avg. Hourly Wage Rate" for each respondent includes a 1.4 multiplier to reflect a fully-loaded wage rate.
- "Type of Respondent" should be entered exactly as chosen in Question 3 of the OMB Form 83-I

According to the U.S. Department of Labor, Bureau of Labor Statistics website (www.bls.gov), the wage rate category for **State Officials** is estimated to be \$67.73 per hour including the wage rate multiplier, therefore, the estimated burden hour cost to respondents State Officials is estimated to be \$608,554.05 annually;

According to the U.S. Department of Labor, Bureau of Labor Statistics website (www.bls.gov) the wage rate category for **Individuals** is estimated to be \$27.38 per hour including the wage rate multiplier, therefore, the estimated burden hour cost to respondents Individuals is estimated to be \$61,331.20 annually.

The estimated burden hour total cost to respondents annually is \$669,885.25.

Note: States Review and Submit Deed Restrictions data collection tool - The previous collection incorrectly separated burden hours by Individual Homeowners and State respondents. The Individual Homeowners burden hours should not have been included in this category of the previous collection. Only State, local and Tribal Governments participate in the information collected on deed restrictions. Nonetheless, the aggregate

number of burden hours did not increase and therefore remains the same from the previously approved collection.

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. (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. Operation and Maintenance and purchase of services component. These estimates should take into account cost associated with generating, maintaining, and disclosing or providing 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.

b. Capital and Start-up-Cost should include, among other items, preparations for collecting information such as purchasing computers and software, monitoring sampling, drilling and testing equipment, and record storage facilities.

There are no annual capital, start-up, operations and maintenance, or non-labor costs associated with this information collection.

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 have been incurred without this collection of information. You may also aggregate cost estimates for Items 12, 13, and 14 in a single table.

Annual Cost to the Federal Government

Item	Cost (\$)
Contract Costs [Describe]	
Staff Salaries* [8.6** GS GS-13, step 1 employees spending approximately 100% of time annually to review and enforce the requirements for the Property Acquisition for this data collection.] = [8.6** employees (GS-13 step 1) x (101,347*) = \$870,374**	\$870,374**
Facilities [cost for renting, overhead, etc. for data collection activity]	
Computer Hardware and Software [cost of equipment annual lifecycle]	
Equipment Maintenance [cost of annual maintenance/service agreements for equipment]	
Travel	
Printing [number of data collection instruments annually]	
Postage [annual number of data collection instruments x postage]	
Other	
Total	\$870,374**

* Note: The "Salary Rate" includes a 1.4 multiplier to reflect a fully-loaded wage rate.

** approximate relative to number of employees

The Property Acquisition and Relocation for Open Space is one type of activity allowed under FEMA mitigation grant programs. Costs to the Federal Government to administer and manage the required information collected with this activity are limited to the staff salaries associated with administering FEMA mitigation grants. Approximately 2,240 properties are subject annually to review and enforcement for the purpose of assuring compliance with the requirements of 44 CFR Part 80, resulting in an hour burden of approximately 8 hours per property at a fully loaded wage rate of 48.57 per hour (burden shared by estimated 8.6 FEMA staff persons at a GS-13, Step 1 (\$48.57 per hour)). Therefore, the annualized cost to the Federal Government to enforce Property Acquisition requirements is estimated to be \$870,374.40 (\$48.57 x 8 hours x 2,240 properties).

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I in a narrative form. Present the itemized changes in hour burden and cost burden according to program changes or adjustments in Table 5. Denote a program increase as a positive number, and a program decrease as a negative number.

A "Program increase" is an additional burden resulting from an federal government regulatory action or directive. (e.g., an increase in sample size or coverage, amount of information, reporting frequency, or expanded use of an existing form). This also includes previously in-use and unapproved information

collections discovered during the ICB process, or during the fiscal year, which will be in use during the next fiscal year.

A "**Program decrease**", is a reduction in burden because of: (1) the discontinuation of an information collection; or (2) a change in an existing information collection by a Federal agency (e.g., the use of sampling (or smaller samples), a decrease in the amount of information requested (fewer questions), or a decrease in reporting frequency).

"**Adjustment**" denotes a change in burden hours due to factors over which the government has no control, such as population growth, or in factors which do not affect what information the government collects or changes in the methods used to estimate burden or correction of errors in burden estimates.

Itemized Changes in Annual Burden Hours						
Data collection Activity/Instrument	Program Change (hours currently on OMB Inventory)	Program Change (New)	Difference	Adjustment (hours currently on OMB Inventory)	Adjustment (New)	Difference
Property Owners Voluntary Participation Statements / FEMA Form 086-0-31				2240	2240	0
States Review and Submit Deed Restrictions / No Form				8960	8960	0
State Officials Reporting Requirements / No Form				73	25	48
Total(s)				11,273	11,225	48

Explain:

There is no change to the information being collected. By the review of this collection, there is only an adjustment to the burden for this collection.

Itemized Changes in Annual Cost Burden						
Data collection Activity/Instrument	Program Change (cost currently on OMB Inventory)	Program Change (New)	Difference	Adjustment (cost currently on OMB Inventory)	Adjustment (New)	Difference
Property Owners Voluntary Participation Statements / FEMA Form 086-0-31				\$61,331.20	0	-\$61,331.20
States Review and Submit Deed Restrictions / No Form				\$606,860.80	0	-\$606,860.80
State Officials Reporting Requirements / No Form				\$4,944.29	0	-\$4,944.29
Total(s)				\$673,136.29	0	-\$673,136.29

Explain:

There are no capital, start-up or operations and maintenance costs associated with this information collection that would be reported in Item 14 of OMB Form 83-I, as stated in Item 13 of this Supporting Statement. There is no actual difference in the reportable costs associated with capital, start-up or operations and maintenance because there was none in 2011 and none currently. The adjustment in annual cost burden reflected in the table above is the difference between the erroneous costs reported in 2011, and the actual absence of capital, start-up or operations and maintenance costs associated with this information collection. It is clear in the OMB Form 83-I instructions for Item 14 that the costs identified in Item 14 must exclude the cost of hour burden identified in Item 13 [of Form 83-I]. The erroneous costs reported in 2011 were inconsistent with this instruction.

16. For collections 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.

FEMA does not intend to employ the use of statistics or the publication thereof for this information collection.

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

FEMA will display the expiration date for OMB approval of this information collection.

**18. Explain each exception to the certification statement identified in Item 19
“Certification for Paperwork Reduction Act Submissions,” of OMB Form 83-I.**

FEMA seeks no exception to the certification of this information collection.

B. Collections of Information Employing Statistical Methods.

There is no statistical methodology involved in this collection.