

Department of Transportation

SUPPORTING STATEMENT

APPLICATION FOR CONVEYANCE OF PORT FACILITY PROPERTY

INTRODUCTION

This is to request the Office of Management and Budget's (OMB) three-year approval clearance for the information collection entitled, Application for Conveyance of Port Facility Property, (OMB Control No. 2133-0524, which is currently due to expire on June 30, 2018.

Part A. Justification

- 1. Explain the circumstances that make the collections of information necessary. Include identification of 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 Secretary of Transportation is authorized to convey surplus Federal property to public agencies provided the property is used and maintained for the development or operation of a port facility. Public Law 103-160, Section 2927, which amends 40 U.S.C. 554 (The Federal Property and Administrative Services Act of 1949) states:

...no transfer of property may be made until the Secretary of Transportation has received ... and approved an economic development plan submitted by an eligible grantee and based on assured use of the property to be conveyed as part of a necessary economic development program ...

This information collection meets two Department of Transportation (DOT) strategic goals: Economic Competitiveness and State of Good Repair. Applicants are also required to submit a non-discrimination assurance statement, as required by DOT Order 1050.2A.

The data that is collected relates to demonstrating an applicant's ability to legally acquire and retain property, develop and execute a plan of use for the prospective property, and its agreement to comply with the terms and conditions of the Port Conveyance Program. The Maritime Administration (MARAD) is charged with post-conveyance oversight, so the agency follows up with the applicant annually to ensure it has complied with the terms and conditions of its application and with the instrument of conveyance, the Quitclaim Deed.

It is noted that the data that is provided to MARAD comes from **organizations** that are looking to acquire property through the Port Conveyance Program for the development or use as a port facility. MARAD does not collect nor require personally identifiable information from individuals as a part of the Port Conveyance Program review and oversight process, other than a point of contact for questions.

- 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.

The primary documents that are submitted to MARAD to accomplish application review are a signed copy of the application, which includes a Port Facility Redevelopment Plan (PFRP), financial statements and a legal description of the property of interest. The application demonstrates the applicant's acknowledgement that it will comply with the terms and conditions of the Port Conveyance Program. The PFRP is a narrative document that demonstrates the applicant's needs for the property as well as how the applicant's intended plans for the property and shows how the land is suitable for its intended future purposes. Additionally, financial statements are requested to show the applicant's financial standing and outlook for the three years prior to application. Occasionally, letters of support are included with the application to provide evidence of the local community's support for the prospective conveyance. These letters are optional and not required.

The source of the submitted information comes from States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, or any political subdivision, municipality, or instrumentality thereof. The data obtained from the applicants allows MARAD to approve the conveyance of property and administer the program. Without such data, MARAD is unable to determine whether:

- (1) The applicant is committed to the redevelopment/reuse plan;
- (2) The redevelopment/reuse plan is viable and in the best interest of the public;
- (3) The property will be used in accordance with the terms of the conveyance and applicable statutes and regulations; and
- (4) To determine whether recipients of conveyed property have complied with terms and conditions of the conveyance.

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. Also describe any consideration of using information technology to reduce burden.

The primary method to collect information consists of receiving information by e-mail when possible, with postal mail or faxes as an alternative. Most responses are received by e-mail however, respondents occasionally submit responses by postal mail and fax. The replies that are received by paper mail are scanned in an electronic format and stored on the DOT-wide network for later retrieval.

The use of information technology assists in the Federal interagency collaborative process, to reduce burdens and expedite the review process. The information contained within the application is not solely used by MARAD, as applications are forwarded to cooperating Federal agencies for their concurrent review. Some of the information in the application is generated by engineering-based, non-standard programs such as AutoCAD, SPSS and GIS, on MARAD's computers, and the computers of the cooperating Federal agencies. Having an electronic copy of the application from applicants, when possible,

assists in exchanging information and expediting the review process while eliminating the burden and expense of producing paper copies.

Note: The application goes through an extensive public review process by the Department of Defense (DOD) and/or the General Services Administration (GSA) prior to determining whether the property is suitable for MARAD's public benefit conveyance program. Further, all of the information MARAD requests are compiled by DOD/GSA and the applicant well before MARAD is brought online, so there is no additional burden to the applicant.

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.

Prior to the Federal landholding agency (either GSA or a component of DOD [Department of the Army, Department of the Air Force, or the Department of the Navy]), declaring a property to be surplus, it undertakes market research to determine the potential highest and best future use of the property based on the current use. The landholding agency then typically engages with local communities to inquire which entities would be interested in the property. During the pre-application process, the prospective applicant and landholding agency discuss the items that are requested by MARAD, such as future use, the ability to execute the plan, funding sources, etc. At this point, the landholding agency has the option to decide whether to make the application available for MARAD's Port Conveyance Program.

If the landholding agency makes the property available for disposal through the Port Conveyance Program, MARAD and the prospective applicant participate in a pre-application discussion to identify if the applicant's existing data is acceptable or can be modified to minimize duplicative efforts. Applicants are often advised that the requested data on its website is suitable for the application and can be submitted by cutting and pasting the data into the respective space in the application or by including the requested information by reference. (i.e., *The answer to this question is included as attachment 1*). These efforts minimize duplication for the applicant.

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

This question is not applicable, as only states and local governmental entities are eligible to receive properties through the Port Conveyance Program. Small businesses are not eligible to participate in the program.

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 the burden.

If the information collection for the application was not conducted, then the Port Conveyance Program would be non-existent, as MARAD would not be able to determine whether an applicant is eligible to receive property or assess applications. Further, if

MARAD does not collect the information in a timely manner aligning with the availability of the property, the program will be hampered by its ability to secure land from the Federal landholding agency. Landholding agencies want to dispose of properties quickly and MARAD's delayed response time will likely cause the agencies to choose other disposal methods.

The impact would be negligible if data for post-conveyance oversight activities was collected less than on an annual basis. However, all the applicants and grantees annually publish the data MARAD requests as a normal part of conducting business. These documents are normally printed in the form of an annual operational report and an annual audited financial statement. Additionally, collecting data on a yearly basis is standard practice among the sponsoring agencies that administer public benefit conveyance programs.

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 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 require the collection of information to be conducted in any manner described above.

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 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 three 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.

MARAD published a 60-day notice and request for comments on this information collection in the Federal Register on April 11, 2018 (83 FR 15668), indicating comments should be submitted on or before June 11, 2018. In addition, a 30-day notice and request for comments on this information collection was published in the Federal Register on June 18, 2018.

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

No payments or gifts are provided to respondents.

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

It is noted that MARAD does NOT collect personally identifiable information (PII) from individuals (either applicants or property recipients) as a part of the application review and oversight processes.

Although MARAD receives information from state and local governmental entities as a part of the application and oversight process, that data is public information and often can be located on the applicant's website. MARAD rarely receives confidential data dealing with business transactions such as leases. MARAD has no intention of releasing business confidential data to the public without first consulting the applicant and following the procedures in the Freedom of Information Act. MARAD has not received any Freedom of Information Act requests relating to the Port Conveyance Program in the last five years.

- 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.**

This question is not applicable. There are no questions of a sensitive nature.

- 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 burden and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.
- 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.
- 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 14.

MARAD requests data from the applicants (estimated to be 10). The agency estimates there will be one application per applicant with requests for amendments to the terms of the original conveyance and subsequent annual reporting requirements.

<u>Number of Respondents</u>		<u>Responses Per Respondent</u>	=	<u>Total Responses Annually</u>		<u>Hours Per Response</u>	=	<u>Total Hours Annually</u>	
13	x	1	=	13	x	40.00	=	520.00	
13	x	1	=	13	x	2.50	=	32.50	
13	x	1	=	13	x	1.50	=	19.50	
Total Burden Hours								=	572.00

Approximately 40.00 hours for each application x 13 applications = 520.00 hours total response time for all original applicants.

Approximately 2.50 hours for each application x 13 applications = 32.50 hours for amendments.

Approximately 1.50 hours for each application x 13 applications = 19.50 hours for compliance requirements.

Total Burden Hours = 572.00

13. Provide an estimate 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 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 and 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.

The estimated annual cost burden to respondents per response is as follows:

Total Capital and Start-Up Costs Estimate: N/A

Total Operation and Maintenance and Purchase of Services Estimate: N/A

- 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.**

The total annual cost to the Federal Government for processing the collection is estimated as follows:

One-time costs: None

Annual costs: **\$34,788.16**

(i) Prepare copies of letters and mailings:			
	Copies	(\$5.00 x 13)	= \$65.00
	Mailings	(\$2.50 x 13)	= <u>\$32.50</u>
			\$97.50
(ii)	<u>Benefits: Time of specialist [572 hours x \$43.32/hour x 1.4]</u>		= \$34,690.66
	TOTAL ESTIMATED COST		= <u>\$34,788.16</u>

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

There were no reported changes or adjustments in items 13 or 14 of OMB Form 83-I.

16. For collections of information whose results are planned to be published for statistical use, outline plans for tabulation, statistical analysis, and publication. 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 any of the data collected. The Port Conveyance Program is an ongoing initiative. The filing of an application is required to obtain property, amendments are required as the original redevelopment plan changes and the yearly filing requirements are for compliance reasons. The conveyance is in perpetuity so the amendments and reporting requirements will continue forever unless the requirement is changed by MARAD.

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.

MARAD is not seeking approval to avoid displaying the expiration date for OMB approval in the form.

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

There are no exceptions to the certificate statement identified in Item 19.