

**Supporting Statement for Paperwork Reduction Act Submissions  
Notice of Application for Designation as a Single-Family Foreclosure Commissioner  
OMB (2510-0012)**

**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*) (the Act), authorizes the Secretary of HUD to exercise a non-judicial 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 authority was provided because, as stated in the Act, the disparate State laws under which HUD-insured mortgages are foreclosed and the long periods required to complete the foreclosure of HUD-insured mortgages under certain State laws result in substantial Federal holding expenditures and often lead to the deterioration of the condition of the insured properties.

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 "Qualifications," 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 under the laws of 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.

The regulations implementing Single Family nonjudicial foreclosures are found in 24 CFR part 27, subpart B. Section 27.102 provides that the Secretary may designate Foreclosure Commissioners, including substitute commissioners, as set forth in the statute. Section 3754(c) of the Act, as cited above, establishes the qualifications required of a Foreclosure Commissioner. Section 3754(d)(1) of the statute provides the Secretary may designate a Foreclosure Commissioner by executing a written designation stating the name and business or residential address of the commissioner, except that if a person is designated in his or her capacity as an official or employee of a government or corporate entity, such person may be designated by his or her unique title or position instead of by name. Section 27.102 of the regulations provides that the method of selection and determination of the qualifications of the Foreclosure Commissioner shall be at the discretion of the Secretary, and that the execution of a designation shall be conclusive evidence that the commissioner selected has been determined to be qualified by the Secretary. The designation is effective upon execution. A copy of 24 CFR part 27 as it appears in the current CFR is attached.

The Secretary has designated the authority to appoint Foreclosure Commissioners to HUD's General Counsel, who in turn has redelegated this authority to HUD's Regional Counsel (see the General Counsel's Redelegation of Authority published on July 18, 2011, at 76 FR 42463; see especially item #11 at 76 FR 42466, column 1).

A party who wants to be a commissioner need to apply only once for each of HUD's 10 regions in order to be approved on a permanent or indefinite basis. Upon appointment, the Foreclosure Commissioner will be under contract to HUD. Because of the economies and efficiencies that would be provided by use of this procedure (compared to existing State procedures), HUD routinely employs a Foreclosure Commissioner 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.**

Consistent with the statute, the appointment of a Foreclosure Commissioner aids HUD in reducing the burden and time involved in a foreclosure under State law, which in turn protects HUD's property (property which becomes HUD's as a result of the borrower's default on the mortgage). As the statute states, a lengthy foreclosure process may lead to the deterioration of the property, which causes the property to lose value.

Persons who wish to be designated as Foreclosure Commissioners provide the requested information in the Application for Foreclosure Commissioner (copy attached) to the appropriate HUD Regional Counsel in one or more of HUD's 10 Regions. The information will be used to assess the applicant's qualifications for position. 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 requested information must be in writing, but it may be submitted via email. Because of the simplicity of the application, little or no burden is saved with other means. Consistent with the statute, the appointment of a Foreclosure Commissioner aids HUD in reducing the burden and time involved in a foreclosure under State law, which in turn protects HUD's property (property which becomes HUD's as a result of the borrower's default on the mortgage). As the statute states, a lengthy foreclosure process may lead to the deterioration of the property, which causes the property to lose value.

**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 as a Single-Family Foreclosure Commissioner without having to submit unnecessarily duplicative information. Otherwise, there is no information similar to what is required here that is already in use.

**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. This information collection involves individuals, not 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.**

No scheduled collection is involved.

**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; There are no special circumstances.
- requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it; There are no special circumstances.
- requiring respondents to submit more than an original and two copies of any document; There are no special circumstances.
- requiring respondents to retain records other than health, medical, government contract, grant-in-aid, or tax records for more than three years; There are no special circumstances.
- 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; There are no special circumstances.

- requiring the use of a statistical data classification that has not been reviewed and approved by OMB; There are no special circumstances.
- 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; There are no special circumstances.
- 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.

**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.

As required by 5 CFR 1320.8(d), HUD published in the Federal Register a 60-Day Notice on March 27, 2019, at 84 FR 11553. The comment period due date is May 28, 2019. HUD has not received any public comments.

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

This information collection involves no payment or gift to respondents.

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

This information collection does not seek any personal identifying information.

**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 being asked by this collection.

**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.**

<b>Information Collection</b>	<b>Number of Respondents</b>	<b>Frequency of Response</b>	<b>Responses Per Annum</b>	<b>Burden Hour Per Response</b>	<b>Annual Burden Hours</b>	<b>Hourly Cost Per Response</b>	<b>Annual Cost</b>
<b>Application for Foreclosure Commissioner</b>	30.00	1.00	30.00	.50	15.00	\$25.00	\$375.00

There are no costs to the respondents to apply for the position of Single-Family Foreclosure Commissioner and no requirement to apply for such position. Application for the position is voluntary. The total reporting burden is estimated to be 15 hours and to cost \$375.00. There is no recordkeeping burden. These estimates are based on experience to date. Generally, HUD receives approximately 30 applications per year. Frequency for any applicant is once per HUD Region, and there are 10 HUD Regions. To date, no applicant applies to perform foreclosures in more than one HUD 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. It is a very simple application and a half-hour may over-estimate the time involved.

Costs: 30 applications expected in 2019 x \$12.50 ((\$25 per hour 12.50 per 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.

There are no additional costs to respondents.

**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 \$ 716.70 (\$23.89. per application x 30 applications).

This estimate is arrived at as follows: For each application received, a staff attorney (typically a GS 11) will spend an average of 25 minutes reviewing the application, and a GS 15 attorney supervisor will spend approximately 5 minutes reviewing the application after the

staff attorney has reviewed. Assuming a staff attorney at the GS 11, Step 5, level to undertake the review of the application, the hourly pay for such individual is \$37.79. (per OPM 2019 salary table at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2019/general-schedule/>) the labor cost will be \$18.89 (half hour cost) per application, which results in a \$566 annual cost of the staff attorney (30 applications x \$18.89). Supervisory review at the GS-15, Step 3 level results in an hourly rate of \$70.45 hourly rate, which results in approximately \$5 additional dollars in annual labor cost, which results in additional annual labor cost of \$150. The total combined labor cost is \$716.70.

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

This is a reinstatement without change 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 is no time schedule associated with this collection of information. Individuals can apply whenever they would like to apply. Other than the PRA notices, no further publication is planned. No analysis plan is associated with this information collection.

**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 certifications statement identified in item 19 of the OMB 83-I.