

SUPPORTING STATEMENT  
MAINTENANCE OF RECORDS UNDER 38 C.F.R. 36.4333  
OMB 2900-0515

A. JUSTIFICATION

**1. Explain the circumstances that make the collection of information necessary. Identify legal or administrative requirements that necessitate the collection of information.**

The title in ROCIS needs updating to reflect the correct regulation. While current 38 CFR 36.4330 does not constitute a collection of information, this information collection request covers 38 CFR 36.4333, NOT 38 CFR 36.4330. As such, this request is for a reinstatement under 36.4333. Please note that 38 CFR 36.4330 was changed by 73 FR 6308 on February 1, 2008, and became 36.4333.

The Department of Veterans Affairs (VA) Loan Guaranty program guarantees loans made by private lenders to Veterans for the purchase, construction, and refinancing of homes owned and occupied by Veterans. Under 38 C.F.R. 36.4333, VA requires holders to maintain and lenders to retain for a minimum of three years all records pertaining to loans guaranteed by VA. This includes records supporting a holder's decision to approve any home retention option exercised by the servicer and borrower, as well any records supporting a holder's decision to pursue a partial claim payment under the COVID-19 Veterans Assistance Partial Claim Payment program (COVID-VAPCP), codified at 38 CFR 36.4800 et seq. Under this same authority, VA has a right to inspect, examine, or audit, at a reasonable time and place, such records to ensure program participants are in compliance with applicable laws, regulations, policies, procedures and contract provisions. It also uses the data collected through this authority to provide annual feedback to lenders, through the Lender Scorecard, on certain loan characteristics such as interest rate, fees and charges, audit results, etc., as compared to the national average of all VA lenders.

VA has already implemented an electronic reporting system for loan holders, in which servicers of guaranteed loans report certain information, holders (servicers) must still submit certain information via manual upload. Additionally, information reported by lenders that is associated with oversight of loan closing and guarantee activities is completed via manual upload into WebLGY. To update the current inspection process and provide more robust data to lenders on a wider subset of their loan portfolio, VA is currently developing a technological solution to allow lenders to submit certain documents in the loan origination file, such as the Universal Closing Disclosure (UCD), the Uniform Residential Loan Application (URLA), etc., as computable electronic information in a format such as Mortgage Industry Standards Maintenance Organization (MISMO) (e.g., XML data file). Currently, when VA audits loans for inspection, lenders submit loan origination documents to VA in a portable document format (PDF).

Once in place, lenders could voluntarily submit certain loan origination information via XML data files for all of their VA-guaranteed loans, not just those for which VA has requested the loan file. This pilot submission of documents electronically would promote a consistent approach between VA and lenders, while reducing cost and risk to lenders. Lenders would benefit from the ease of submitting loan documents, with greater consistency, while promoting a more efficient data integration and sharing between lenders and VA. Overall, the standardization of data will lead to better accuracy, consistency and clarity surrounding the loans VA guarantees. Finally, VA notes that other federal housing programs already require lenders to submit loan origination files electronically. While VA does not currently require lenders to submit loan documents in a computable electronic format at this time, in developing and piloting this technology, VA intends to better align VA with industry standards, and improve the quality of submission of information, as well as ensuring data integrity and consistency, and to improve oversight.

In addition to the requirements of § 36.4333, VA is authorized to take action if it finds a servicer failed to maintain adequate loan accounting records, to demonstrate proper ability to service loans adequately, to exercise proper credit judgement, or has willfully or negligently engaged in practices otherwise detrimental to the interest of veterans or of the Government. 38 U.S.C. 3704(d); 38 CFR § 36.4336. In § 36.4810, VA has extended this authority to a partial claim payment.

**2. Indicate how, by whom, and for what purposes the information is to be used; indicate actual use the agency has made of the information received from current collection.**

This information is used by VA to ensure lenders and holders who participate in VA's Loan Guaranty program follow statutory and regulatory requirements, such as those relating to credit information, loan processing requirements, underwriting standards, servicing requirements, and other applicable laws, regulations and policies.

**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.**

VA does not use a form to collect this information. Currently, holders and lenders submit all loan files VA selects for review electronically as a Portable Document File (pdf). VA is also developing technological solutions to allow lenders to submit certain documents in the loan origination file, such as the Universal Closing Disclosure (UCD), the Uniform Residential Loan Application (URLA), etc., as computable electronic information in a format such as Mortgage Industry Standards Maintenance Organization (MISMO) (e.g., XML data file).

**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.**

Program reviews were conducted to identify potential areas of duplication; however, none were found to exist. There is no known Department or agency which maintains the necessary information, nor is it available from other sources within our Department.

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

The collection of information does not involve small businesses.

**6. Describe the consequences 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.**

This collection is necessary in order for VA to responsibly meet its obligations to oversee loan holder and lender actions.

**7. There any special circumstances that would cause an information collection to be conducted more often than quarterly or require respondents to prepare written responses to a collection of information in fewer than 30 days after receipt of it; submit more than an original and two copies of any document; 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 and require the use of a statistical data classification that has not been reviewed and approved by OMB.**

There are no special circumstances that require the collection to be conducted in a manner inconsistent 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 sponsor'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 sponsor in responses to these comments. Specifically address comments received on cost and hour burden.**

The Department notice was published in the Federal Register on December 9, 2020 at 85 FR 79142, pages 79155-79156 as part of VA's proposed rule RIN 2900-AR05, Loan Guaranty: COVID-19 Veterans Assistance Partial Claim Payment Program. While public comments were received on the proposed rule, no specific comments were received regarding this information collection.

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

Decisions to provide any payment or gift to respondents does not apply.

**10. Describe any assurance of privacy, to the extent permitted by law, provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

Privacy to the extent permitted by law is covered by VA System of Records Loan Guaranty Home, Condominium and Manufactured Home Loan Applicant Records Specially Adapted Housing Applicants Records, and Vendee Loan Applicant Records – VA (55VA26) are contained in the Privacy Act Issuances, 2014 Compilation.

**11. Provide additional justification for any questions of a sensitive nature (Information that, with a reasonable degree of medical certainty, is likely to have a serious adverse effect on an individual's mental or physical health if revealed to him or her), such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private; include 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 are contained in this collection.

**12. Estimate of the hour burden of the collection:**

Estimate of Information Collection Burden

VA estimates an ongoing hour burden associated with holders and lenders submitting files to VA in association with normal audit activities. VA also estimates an hour burden associated with lenders who may voluntarily submit loan records to VA in a computable data format as it begins to pilot that technology. VA notes that it only anticipates a few lenders to initially participate, albeit lenders with larger volumes of VA loans.

a. Number of respondents:

*Audit Collections:* 35,000 loans annually

*Voluntary Electronic Submissions:* 100,000 loans annually

b. Frequency of response:

*Audit Collections:* one-time

*Voluntary Electronic Submissions:* one-time

c. Annual burden hours:

*Audit Collections:* 17,500 hours (35,000 x 0.50 hours)

*Voluntary Electronic Submissions:* 3,000 hours (100,000 x 0.05 hours)

d. Estimated Completion Time:

*Audit Collections:* The estimated burden of 30 minutes per transaction has been determined by lenders and holders to be an average time spent to report the information requested and no wide variance is likely. Currently no bulk submission of this information is possible.

*Voluntary Electronic Submissions:* The estimated burden of 3 minutes or less per transaction has been determined by lenders to be an average time spent to report the information requested; with bulk submission the average time should drop even less due to the number of records the lender could process at one time.

e. The respondent population is composed of composed of mortgage issuing entities, particularly, the individuals with oversight roles in the company, such as a compliance officer. The Bureau of Labor Statistics (BLS) gathers information on full-time wage and salary workers. According to the latest available BLS data, the median hourly wage is \$33.20 based on the BLS wage code – “13-1041 Compliance Officers. This information was taken from the following website: <https://www.bls.gov/oes/current/oes131041.htm> May 2019).

Legally, respondents may not pay a person or business for assistance in completing the information collection. Therefore, there are no expected overhead costs for completing the information collection. VBA estimates the total annual cost to all respondents to be as follows:

*Audit Collections:* \$581,000 (17,500 burden hours x \$33.20 per hour)

*Voluntary Electronic Submissions:* \$99,600 (3,000 burden hours x \$33.20 per hour)

*Total annual burden hour cost* is \$680,600

**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).**

There are no additional costs to lenders, holders, or other record keepers resulting from this collection as VA notes the recordkeeping requirements under this regulation and information collection are consistent with customary and usual business practices for loan originators and holders.

Regarding any voluntary electronic submissions from lenders, VA does not assume any startup cost associated with any required software or information technology upgrades necessary to submit the information electronically. Currently, federal housing programs require lenders to submit loan origination files electronically, at or before delivery of all loans as part of an ongoing initiative to enhance loan quality and consistency. As such, lenders are equipped with the technology to submit loan origination files as computable electronic information and in a format such as Mortgage Industry Standards Maintenance Organization (MISMO) (e.g., XML data file). Furthermore, in an attempt to improve communication between various parties and vendors in the loan process, the MISMO began the process that established industry-wide standards as computer-based LOS and underwriting engines began to enter the industry. As such, costs that are associated with total capital and start-up component (annualized over its expected useful life) and total operation and maintenance and purchase of services component are a standard part of lenders' business. Therefore, any modifications to LOS to include MISMO should be a standard update. VA assumes that lenders will modify their product document libraries to include the MISMO, for the disclosure covered by this information collection. Any

costs for updates are customary and usual business practice for lenders. Since there are no additional costs for a lender beyond their standard business practice, there are no reportable cost estimates that may be expected.

#### **14. Estimated Annualized Cost to the Federal Government**

There are no printing costs. VA Form 26-8084 can be downloaded from the VA website. There is an annualized cost associated with reviewing the information provided for audit as follows:

| Grade                        | Step | Burden Time | Fraction of Hour | Hourly Rate | Cost Per Response | Total Responses | Total       |
|------------------------------|------|-------------|------------------|-------------|-------------------|-----------------|-------------|
| 11                           | 6    | 5           | 1.00             | \$35.78     | \$35.78           | 35,000          | \$1,252,300 |
| Overhead at 100% Salary      |      |             |                  |             |                   |                 | \$1,252,300 |
| 12                           | 6    | 2.5         | 0.50             | \$42.89     | \$21.45           | 35,000          | \$ 750,750  |
| Overhead at 100% Salary      |      |             |                  |             |                   |                 | \$ 750,750  |
| 13                           | 6    | 1.25        | 0.25             | \$51.00     | \$12.75           | 35,000          | \$ 446,250  |
| Overhead at 100% Salary      |      |             |                  |             |                   |                 | \$ 446,250  |
| Processing / Analyzing Costs |      |             |                  |             |                   |                 | \$2,449,300 |
| Printing and Production Cost |      |             |                  |             |                   |                 | \$ 0.00     |
| Total Cost to Government     |      |             |                  |             |                   |                 | \$2,449,300 |

#### **15. Explain the reason for any burden hour changes since the last submission.**

As discussed in the proposed rule, VA does not estimate any change in the average burden per response associated with its final rule and corresponding revisions to this information collection. VA's revisions merely expand the documentation/information that servicers must keep in their records in regard to existing VA-guaranteed loans and loss-mitigation activities associated with those loans, the cost of which falls within customary and usual business practices. Further, VA will request such records for the purpose of conducting oversight under existing audit and oversight programs with no anticipated effect in the number of loans for which servicers will have to provide VA with additional information.

#### **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.**

Information collection is not for tabulation or publication use.

**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.**

We are not seeking approval to omit the expiration date for OMB approval. Request continue with extension of an already approved collection for 3 years from the date of expiration.

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

There is no exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

**B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS**

The Veterans Benefits Administration does not collect information employing statistical methods.