

**SUPPORTING STATEMENT
APPLICATION FOR AUTHORITY TO CLOSE LOANS ON AN AUTOMATIC BASIS
NONSUPERVISED LENDERS
OMB 2900-0252
VA FORM 26-8736 & VA FORM 26-8736c**

Summary of Changes from the Previously Approved Collection

- The increased burden is due to the inclusion of the collection time for requests for agent recognition and annual recertifications.
- This request also includes a new form (26-8736c). Lenders previously submitted requests for agent recognition on company letterhead which led to an inconsistency in the completeness of the request and increased the need to correspond with the lender to complete their request. VA Form 26-8736c was created to provide clarity to lenders on the information needed and to standardize the agent recognition request process.

A. Justification

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

Section 3702(d) allows for certain lenders to make automatically guaranteed housing loans under 38 U.S.C. chapter 37. 38 U.S.C. § 3702(d). Automatic lending privileges eliminate the requirement for submission of loans to VA for prior approval. Lending institutions with automatic loan privileges may process and disburse such loans and subsequently report the loan to the Department of Veterans Affairs (VA) for issuance of guaranty. Those lenders include (1) any Federal land bank, national bank, State bank, private bank, building and loan association, insurance company, credit union, or mortgage and loan company, that is subject to examination and supervision by an agency of the United States or of any State; (2) any State; or (3) any lender approved by the Secretary pursuant to standards established by the Secretary. *Id.* VA implemented those standards in 38 C.F.R. § 36.4352. VA refers to lenders described in 38 U.S.C. § 3702(d)(1) and (2) as supervised lenders. See 38 C.F.R. § 36.4352(a). Unsupervised lenders are those described in 38 U.S.C. § 3702(d)(3). See 38 C.F.R. § 36.4352(b). This collection addresses the application and certification requirements for those unsupervised lenders as found in 38 C.F.R. § 36.4352(b).

Specifically, section 36.4352(b) sets forth the experience, financial, lines of credit, permanent investors, and designated liaison information an unsupervised lender must provide as a part of the application process. 38 C.F.R. § 36.4352(b)(1), (4)-(7).

VA notes that section 36.4352(b)(2) and (3) pertain to the nomination of an underwriter and that underwriter's certification. The collection associated with these provisions is approved under OMB control number 2900-0253 and is associated with VA Form 26-8736a.

Section 36.4352(b)(8) also requires a statement of facts to be submitted with the application if the applicant lender, any member of the board of directors, or any principal officer has ever been debarred or suspended by any Federal agency or department, or any of its directors or officers has been a director or officer of any other lender or corporation that was so debarred or suspended, or if the lender applicant ever had a servicing contract with an investor terminated for cause. 38 C.F.R. § 36.4352(b)(8)(ii).

Section 36.4352(b)(9) requires an approved non-supervised lender to implement a written quality control system which ensures compliance with VA requirements and must furnish those findings under its system to VA on demand. 38 C.F.R. § 36.4352(b)(9). Section 36.4352(b)(9) provides that the elements of the quality control system must include underwriting policies, corrective measures, system integrity, scope, and appraisal quality. 38 C.F.R. § 36.4352(b)(9)(i)-(v).

The lender applicant must certify to VA that it will not close loans on an automatic basis as a courtesy or accommodation for other mortgage lenders, whether or not such lenders are themselves approved to close on an automatic basis without the express approval of VA. 38 C.F.R. § 36.4352(b)(10). However, a lender with automatic authority may close loans for which information and supporting credit data have been developed on its behalf by a duly authorized agent. *Id.* Lenders meeting these requirements will be approved to close VA loans on an automatic basis for a 1-year period. 38 C.F.R. § 36.4352(b)(11). At the end of this period, the lender's quality of underwriting, the completeness of loan submissions, compliance with VA requirements and procedures, and the delinquency and foreclosure rates will be reviewed. *Id.*

When a lender wants its automatic authority extended to another State, the request must be submitted, with the fee designated in 38 C.F.R. § 36.4352(e)(5), to the VA regional office having jurisdiction in the State where the lender's corporate office is located. 38 C.F.R. § 36.4352(b)(12).

When a lender wants its automatic authority to include loans involving a real estate brokerage and/or a residential builder or developer in which it has a financial interest, owns, is owned by, or with which it is affiliated, the following documentation must be submitted:

(1) A corporate resolution from the lender and each affiliate indicating that they are separate entities operating independently of each other. The lender's corporate resolution must indicate that it will not give more favorable underwriting consideration to its affiliate's loans, and the affiliate's corporate resolution must indicate that it will not seek to influence the lender to give their loans more favorable underwriting consideration.

(2) Letters from permanent investors indicating the percentage of all VA loans based on the affiliate's production originated by the lender over a 1-year period that are past due 90 days or more. This delinquency ratio must be no higher than the national average for the same period for all mortgage loans.

38 C.F.R. § 36.4352(b)(12)(i).

When a lender wants its automatic authority extended to additional States, the lender must indicate how it plans to originate VA loans in those States. 38 C.F.R. § 36.4352(b)(12)(ii). Unless a lender proposes a telemarketing plan, VA requires that a lender have a presence in the State, that is, a branch office, an agent relationship, or that it is a reasonable distance from one of its offices in an adjacent State, *i.e.*, 50 miles. *Id.* If the request is based on an agency relationship, the documentation outlined in 38 C.F.R. § 36.4352(b)(13) must be submitted with the request for extension. *Id.*

A lender using an agent to perform a portion of the work involved in originating and closing a VA-guaranteed loan on an automatic basis must take full responsibility by certification for all acts, errors and omissions of the agent or other entity and its employees for the work performed. 38 C.F.R. § 36.4352(b)(13). Any such acts, errors or omissions will be treated as those of the lender and appropriate sanctions may be imposed against the lender and its agent. *Id.* Lenders requesting an agent must submit the following documentation to the VA regional office having jurisdiction for the lender's corporate office:

(1) A corporate resolution certifying that the lender takes full responsibility for all acts, errors and omissions of the agent that it is requesting. The corporate resolution must also identify the agent's name and address, and the geographic area in which the agent will be originating and/or closing VA loans; whether the agent is authorized to issue interest rate lock-in agreements on behalf of the lender; and outline the functions the agent is to perform. Alternatively, the lender may submit a blanket corporate resolution

which sets forth the functions of any and all agents and identifies individual agents by name, address, and geographic area in separate letters which refer to the blanket resolution.

(2) When the VA regional office having jurisdiction for the lender's corporate office acknowledges receipt of the lender's request in writing, the agent is thereby authorized to originate VA loans on the lender's behalf.

Id.

A lender approved to close loans on the automatic basis who subsequently fails to meet the requirements of 38 C.F.R. § 36.4352 must report to VA the circumstances surrounding the deficiency and the remedial action to be taken to cure it. 38 C.F.R. § 36.4352(c).

Non-supervised lenders of the class described in 38 U.S.C. § 3702(d)(3) must be recertified annually for authority to process loans on the automatic basis. 38 C.F.R. § 36.4352(d). The following minimum annual recertification requirements must be met by each lender approved for automatic authority:

(1) Financial requirements. A lender must submit, within 120 days following the end of its fiscal year, an audited and certified financial statement with a classified balance sheet or a separate footnote for adjusted net worth to the Regional Loan Center having jurisdiction for review. The same minimum financial requirements described in section 36.4352(b)(5) must be maintained and verified annually in order to be recertified for automatic authority.

(2) Processing annual lender data. The VA regional office having jurisdiction for the lender's corporate office will send a written annual notice to the lender requesting current information on the lender's personnel and operation. The lender is required to complete the form and return it with the appropriate annual renewal fees to the VA regional office.

Id.

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.

VA Form 26-8736 is used by non-supervised lenders requesting approval to close loans on an automatic basis. The form contains information and data considered

crucial for making acceptability determinations as to lenders who shall be approved for this privilege.

Upon receipt of the form, the VA Regional Loan Center having jurisdiction will process and evaluate the information. They will then advise the lender-applicant of their decision. Without this information, VA would not be able to determine if lender-applicants meet the qualifications for processing loans on an automatic basis.

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 forms are available in a fillable format on the One-VA forms website which allows lenders easy access to them. The information requested on the forms is varied and specific to each individual applicant. VA is currently exploring improved technology that would reduce the burden on program participants to collect specific documented experience, financial, investment, and underwriting information. Implementation of this technology would also include a mechanism for program participants to submit required fees to VA electronically.

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 is not contained in any other VA records. Similar information is not available elsewhere.

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

Small organizations are involved, however, the information requested is the minimum necessary to determine compliance with VA-approved plans and specifications and VA minimum property standards.

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. Applications for authority to close loans on the automatic basis and to request initial recognition of an agent are submitted on

the one-time basis. Lender recertification, including agent renewals, occurs on a yearly basis and ensure lenders meet minimum financial requirements to close loans on the automatic basis.

- 7. Explain 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 is no special circumstance requiring collection in a manner inconsistent with 5 CFR 1320.6 guidelines.

- 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 March 09, 2023, Volume 88, No 46, pages 14668 to 14669. No comments were received.

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

No payments or gifts to respondents have been made under this collection of information.

- 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.**

VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses identified in the VA system of records, 55VA26, Loan Guaranty Home, Condominium and Manufactured Home Loan Applicant Records, Specially Adapted Housing Applicant Records, and Vendee Loan Applicants Records – VA, and published in the Federal Register.

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.

There are no questions of a sensitive nature.

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

| Description of Information Collection | Frequency of Response | Total Annual Responses | Hours per Response | Annual Burden Hours | Hourly Cost | Total Annual Cost |
|---------------------------------------|-----------------------|------------------------|--------------------|---------------------|-------------|--------------------|
| VA Form 26-8736 | 1 | 120 | 25 min | 50 | \$40.46 | \$2,023.00 |
| VA Form 26-8736c | 1 | 4,000 | 0.083hr (5 min) | 332 | \$40.46 | \$13,432.72 |
| Annual Recertification | 1 Annual | 700 | 0.083hr (5 min) | 58.1 | \$40.46 | \$2,350.73 |
| Total | | 4,820 | | 440.1 | | \$17,806.45 |

Estimate of Information Collection Burden.

- a. Number of respondents is estimated at 4,820 per year.
- b. Frequency of response is generally one-time for VA 26-8736 and 26-8736c. Annual recertifications are submitted one-time per year.
- c. Annual burden is 440.1 hours.
- d. Each form has a different burden time. The estimated response time is 25 minutes per response for the initial application on VA-Form 26-8736. The estimated response time is 5 minutes for yearly recertifications and Agent applications submitted using VA-Form 26-8736c. The estimated burden per transaction has been determined by lenders to be an average time spent to report the information requested and no wide variance is likely.
- e. The Bureau of Labor Statistics (BLS) gathers information on full-time wage and salary workers. According to the latest available BLS data, the median weekly earnings of full-time wage and salary workers are \$1,618.40. Assuming a forty (40) hour work week, the mean hourly wage is \$40.46 based on the BLS wage code – “13-2072 Loan Officers. This information was taken from the following website: <https://www.bls.gov/oes/current/oes132072.htm>, May 2022.

Legally, respondents may not pay a person or business for assistance in completing the information collection and a person or business may not accept payment for assisting a respondent in completing the information collection. Therefore, there are no expected overhead costs for completing the information collection. VBA estimates the total cost to respondents is \$17,806.45 (440.1 hours x \$40.46 per hour).

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).

This submission does not involve any recordkeeping costs.

14. Provide estimates of annual cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operation 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.

Estimated Costs to the Federal Government are accessible through this link https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2023/RUS_h.pdf

| Grade | Step | Burden Time (min) | Fraction of Hour | Hourly Rate | Cost Per Response | Total Responses | Total |
|--------------------------|------|-------------------|------------------|-------------|-------------------|-----------------|-------------|
| VA Form 26-8736 | | | | | | | |
| 11 | 6 | 60 | 1.00 | \$38.63 | \$38.63 | 120 | \$4,635.60 |
| Overhead at 100% Salary | | | | | | | \$4,635.60 |
| 12 | 6 | 30 | 0.50 | \$46.30 | \$23.15 | 120 | \$2,778.00 |
| Overhead at 100% Salary | | | | | | | \$2,778.00 |
| 13 | 6 | 15 | 0.25 | \$55.06 | \$13.77 | 120 | \$1,652.40 |
| Overhead at 100% Salary | | | | | | | \$1,652.40 |
| VA Form 26-8736 Subtotal | | | | | | | \$9,066.00 |
| VA Form 26-8736c | | | | | | | |
| 11 | 6 | 5 | 0.083 | \$38.63 | \$3.21 | 4,000 | \$12,840.00 |
| Overhead at 100% Salary | | | | | | | \$12,840.00 |

| | | | | | | | |
|-------------------------------------|---|----|-------|---------|---------|-----|--------------------|
| 12 | 6 | 5 | 0.083 | \$46.30 | \$3.84 | 250 | \$960.00 |
| Overhead at 100% Salary | | | | | | | \$960.00 |
| VA Form 26-8736c Subtotal | | | | | | | \$13,800.00 |
| Annual Recertification | | | | | | | |
| 11 | 6 | 15 | 0.25 | \$38.63 | \$ 9.66 | 700 | \$6,762.00 |
| Overhead at 100% Salary | | | | | | | \$6,762.00 |
| 12 | 6 | 5 | 0.083 | \$46.30 | \$3.84 | 100 | \$384.00 |
| Overhead at 100% Salary | | | | | | | \$384.00 |
| Recertification Subtotal | | | | | | | \$7,146.00 |
| Processing / Analyzing Costs | | | | | | | \$30,012.00 |
| Printing and Production Cost | | | | | | | \$ 0.00 |
| Total Cost to Government | | | | | | | \$30,012.00 |

The processing time estimates above are based on the actual amount of time employees of the grade level spend to process to completion a claim received on this form.

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

The increased burden is due to the inclusion of the collection time for requests for agent recognition and annual recertifications. These items were not previously included in the burden for this ICR.

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.

VA does not publish this information or make it available for publication.

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.

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

This information collection fully complies with all the requirements of 5 CFR 1 320.8(b)(3).

B. Collection of Information Employing Statistical Methods

This collection of information by the Veterans Benefits Administration does not employ statistical methods.