

**Supporting Statement for
Leasing --12 CFR 23
OMB Control Number 1557-0206**

A. Justification.

1. *Circumstances that make the collection necessary:*

Under 12 CFR 23.4(c), national banks must liquidate or re-lease personal property that is no longer subject to lease (off-lease property) within five years from the lease expiration. If a bank wishes to extend the five-year holding period for up to an additional five years, it must obtain OCC approval. Permitting a bank to extend the holding period confers a benefit on national banks and may result in cost savings. It also provides flexibility for a bank that experiences unusual or unforeseen conditions under which it would be imprudent to dispose of the off-lease property. Section 23.4(c) requires a bank to provide a clearly convincing demonstration as to why an additional holding period is necessary. In addition, a bank must value off-lease property at the lower of current fair market value or book value promptly after the property comes off-lease. These requirements enable the OCC to ensure that a bank is not holding the property for speculative reasons and that the value of the property is recorded in accordance with generally accepted accounting principles (GAAP).

Under 12 CFR 23.5, leases are subject to the lending limits prescribed by 12 U.S.C. 84 or, if the lessee is an affiliate of the bank, to the restrictions on transactions with affiliates prescribed by 12 U.S.C. 371c and 371c-1. See 12 CFR 23.6. Twelve U.S.C. 24 contains two separate provisions authorizing a national bank to acquire personal property for purposes of lease financing. Twelve U.S.C. 24(Seventh) authorizes leases of personal property (Section 24(Seventh) Leases) if the lease is the functional equivalent of a loan. See 12 CFR 23.20. A national bank may also acquire personal property for purposes of lease financing under the authority of 12 U.S.C. 24(Tenth) (CEBA Leases). This provision authorizes a national bank to invest in CEBA Leases up to 10 percent of its consolidated assets. See also 12 CFR 23.10. Section 23.5 requires that if a bank enters into both types of leases, its records must distinguish between the two types of leases. This information is required to prove that the national bank is complying with the limitations and requirements applicable to the two types of leases.

2. *Use of the information:*

National banks use the information to ensure their compliance with applicable Federal banking law and regulations and accounting principles. This information assists bank management in the safe and sound operation of the bank. The OCC uses the information in the conduct of bank examinations and as an audit tool to verify bank compliance with law and regulations. In addition, the OCC uses national bank requests for permission to extend the holding period for off-lease property to ensure national bank compliance with relevant law and regulations and to ensure bank safety and soundness.

3. Consideration of the use of improved information technology:

The use of improved information technology is not useful in reducing the reporting burden. Each filing is unique to the individual bank. However, the OCC would consider any request by a national bank to use improved information technology in these applications. To satisfy the recordkeeping requirements of this submission, banks may use any information technology that permits retrieval and review by OCC examiners.

4. Efforts to identify duplication:

The information collection is unique to the bank and the particular filing. It is not duplicated elsewhere.

5. Methods used to minimize burden if the collection has a significant impact on substantial number of small entities:

These collections of information do not have a significant impact on a substantial number of small entities. Part 23 imposes only the minimum amount of burden necessary for the bank and the OCC to fulfill statutory requirements and to ensure safety and soundness.

6. Consequences to the Federal program if the collection were conducted less frequently:

The information is collected infrequently, as covered situations arise. Less frequent collection could impair OCC's bank supervisory activities and would limit the utility of the information to bank management. Less frequent collection could result in unsafe and unsound bank operations.

7. Special circumstances necessitating collection inconsistent with 5 CFR Part 1320:

This information collection is conducted in accordance with OMB's guidelines in 12 CFR Part 1320.

8. Efforts to consult with persons outside the agency:

The OCC published a *Federal Register* notice regarding the extension of OMB approval of the information collection requirements in Part 23 on August 14, 2009 (74 FR 41187). The OCC did not receive any comments.

9. Payment to respondents:

None.

10. Any assurance of confidentiality:

No assurance of confidentiality is given.

11. Justification for questions of a sensitive nature:

No questions of a sensitive nature are asked.

12. Burden estimate:

The OCC estimates the burden as follows:

Cite and Burden Type	Information Collection Requirements in 12 CFR Part 23	Number of Respondents	Number of Responses	Average Hours Per Response	Estimated Burden Hours
12 CFR 23.4(c) Reporting	Investment in personal property – Holding period – At the expiration of the lease (including any renewals or extensions with the same lessee), or in the event of a default on a lease agreement prior to the expiration of the lease term, a national bank shall either liquidate the off-lease property or re-lease it under a conforming lease as soon as practicable. Liquidation or re-lease must occur not later than five years from the date that the bank acquires the legal right to possession or control of the property, except the OCC may extend the period for up to an additional five years, if the bank provides a clearly convincing demonstration why any additional holding period is necessary.	35	35	10	350 hours
12 CFR 23.4(c) Recordkeeping	Investment in personal property – Holding period – The bank must value off-lease property at the lower of current fair market value or book value promptly after the property becomes off-lease property. ¹	240	240	1	240 hours

¹ Valuing property at the lower of fair market value or book value is a GAAP requirement. Therefore, the burden attributable to this recordkeeping requirement is considered usual and customary business practice. The OCC has assigned one burden hour per bank to prepare and retain these records.

Cite and Burden Type	Information Collection Requirements in 12 CFR Part 23	Number of Respondents	Number of Responses	Average Hours Per Response	Estimated Burden Hours
12 CFR 23.5 Recordkeeping	<i>Requirement for separate records</i> – If a national bank enters into both CEBA Leases and Section 24(Seventh) Leases, the bank’s records must distinguish the CEBA Leases from the Section 24(Seventh) Leases. ²	95	95	1	95 hours
Totals		370	370		685 hours

Cost of Hour Burden to Respondents:

The OCC estimates the cost of the hour burden to respondents (by wage rate categories) as follows:

12 CFR 23.4(c) (Reporting)

Clerical (\$20/hour):	05% x 350 hours = 17.5 hours x \$20 =	\$ 350
Managerial/technical (\$40/hour):	85% x 350 hours = 297.5 hours x \$40=	\$11,900
Senior Management (\$80/hour):	10% x 350 hours = 35 hours x \$80 =	<u>\$ 2,800</u>
Legal Counsel (\$100/hour):	N/A	
Total:		\$15,050

12 CFR 23.4(c) and 23.5 (Recordkeeping)

Clerical (\$20/hour):	85% x 335 hours = 284.75 hours x \$20	=	\$5,695
Managerial/technical (\$40/hour):	10% x 335 hours = 33.5 hours x \$40	=	\$1,340
Senior Management (\$80/hour):	05% x 335 hours = 16.75 hours x \$80	=	<u>\$1,340</u>
Legal counsel (\$100/hour):	N/A		
Total:		=	\$8,375

² It is good management practice for a bank to distinguish between the two separate types of leases in its records and, therefore, it is considered usual and customary business practice. The OCC has assigned one burden hour per bank to prepare and retain these records.

13. Estimate of annualized costs to respondents:

None.

14. Estimate of annualized costs to the government:

None.

15. Changes in burden:

Former burden:	370 respondents; 370 responses; 685 total burden hours
New burden:	370 respondents; 370 responses; 685 total burden hours
Difference:	0 respondents; 0 responses; 0 total burden hours

16. Information regarding collections whose results are planned to be published for statistical use:

The OCC has no plans to publish the data for statistical purposes.

17. Display of expiration date.

Not applicable.

18. Exceptions to certification statement.

None.

B. Collections of Information Employing Statistical Methods.

Not applicable.