

SUPPORTING STATEMENT
U.S. Department of Commerce
National Technical Information Service Limited Access Death Master File
Limited Access Death Master File Subscriber Certification Form
OMB Control No. 0692-0013

A. JUSTIFICATION

This is a revision of a previously approved information collection associated with a final rulemaking (Certification Program for Access to the Death Master File/RIN 0692-AA21).

1. Explain the circumstances that make the collection of information necessary.

The National Technical Information Service (NTIS) Limited Access Death Master File Subscriber Certification Form, Form NTIS FM161 (Certification Form), is used to collect information related to the implementation of Section 203 of the Bipartisan Budget Act of 2013 (Pub. L. 113-67) (Act). Section 203 of the Act prohibits disclosure of Limited Access Death Master File (Limited Access DMF) information during the three-calendar-year period following the death of an individual unless the person requesting the information has been certified under a program established by the Secretary of Commerce. The Act directs the Secretary of Commerce to establish a certification program for such access to the Limited Access DMF. The Secretary of Commerce has delegated the authority to carry out the DMF certification program to the Director, NTIS.

Initially, on March 26, 2014, NTIS promulgated an interim final rule, establishing a temporary certification program (79 FR 16668) for persons who seek access to the Limited Access DMF. Subsequently, on December 30, 2014, NTIS issued a notice of proposed rulemaking (79 FR 78314). NTIS adjudicated the comments received and, on June 1, 2016, published a final rule (81 FR 34822). The interim final rule required that Persons and Certified Persons use the Certification Form to provide information necessary to establish whether they should be certified to access the Limited Access DMF (79 FR 16668 at 16671), and OMB approved the initial version of the Certification Form in March 2015. In the notice of proposed rulemaking, NTIS set forth initial revisions to the Certification Form (79 FR 78314 at 78320-21). The final rule requires that Persons and Certified Persons provide additional information intended to improve NTIS's ability to determine whether a Person or Certified Person meets the requirements of the Act.

The revised Certification Form collects the following information in addition to the information collected in the previously-approved form:

- **First-time Certification or Renewal of Certification:** All Persons and Certified Persons seeking to obtain or renew their certification for access to the Limited Access DMF must submit the Certification Form. A certification is effective for a period of one year from the date of the approval email from NTIS. As such, a Certified Person

seeking to renew its certification must file a new Certification Form once each year. Section 1110.105(a) of the final rule specifies that the Certified Person must indicate on the Certification Form that it is a renewal. To implement this requirement of the final rule, the revised Certification Form requires the applicant to indicate whether this is a “First-Time Certification” or “Renewal of Certification.” The collection of this information will facilitate the Certified Person’s satisfaction of the requirement of Section 1110.105(a).

- URL: Section 1110.102(a)(1) of the final rule requires that a Person seeking access to the Limited Access DMF establish that it has a legitimate fraud prevention interest or legitimate business purpose pursuant to a law, governmental rule, regulation, or fiduciary duty. NTIS will use the URL, if any, for each Person or Certified Person to ascertain that the organization seeking certification or recertification is a legitimate business performing the functions that it claims to be performing. The collection of this information is necessary to evaluate whether a Person or Certified Person meets the requirements of Section 1110.102(a)(1).
- NTIS Customer Number: The collection of each Person or Certified Person’s NTIS Customer Number provides a unique identifier which will allow NTIS to identify existing customers without requiring any personal identifying information.
- State Incorporation/Registration Number: Section 1110.102(a)(1) of the final rule requires that a Person seeking access to the Limited Access DMF establish that it has a legitimate fraud prevention interest or legitimate business purpose pursuant to a law, governmental rule, regulation, or fiduciary duty. NTIS will use the State of Incorporation/Registration Number, if any, for each Person or Certified Person to ascertain that the organization seeking certification is a legitimate business performing the functions that it claims to be performing. The collection of this information is necessary to evaluate whether a Person or Certified Person meets the requirements of Section 1110.102(a)(1). Please note that NTIS had originally planned to include the Person or Certified Person’s Dun and Bradstreet Number in the revised Certification Form (79 FR 78314 at 78320). However, NTIS has chosen to replace the collection of the Person or Certified Person’s Dun and Bradstreet Number with the State Incorporation/Registration Number in the revised Certification because it is a more specific indicator that a person is engaged in business activity.
- Employer Identification Number (EIN): Section 1110.102(a)(1) of the final rule requires that a Person seeking access to the Limited Access DMF establish that it has a legitimate fraud prevention interest or legitimate business purpose pursuant to a law, governmental rule, regulation, or fiduciary duty. NTIS will use the EIN for each Person or Certified Person to ascertain that the organization seeking certification is a legitimate business performing the functions that it claims to be performing. The collection of this information is necessary to evaluate whether a Person or Certified Person meets the requirements of Section 1110.102(a)(1).
- Authorized Contact Person: Collection of each Person or Certified Person’s authorized contact person will expedite the certification process by permitting NTIS to contact the identified contact person without having to spend time identifying the correct person during the certification process.

- Email and Phone Number for Authorized Contact Person: Collection of the email and phone number of the authorized contact person will expedite the certification process by permitting NTIS to contact the identified contact person without having to spend time identifying the correct person during the certification process.
- State or Local Governmental Department or Agency: All Persons and Certified Persons, are required, under the final rule, to provide a written attestation from an independent Accredited Conformity Assessment Body (ACAB) (unless the ACAB qualifies for “firewalled status” under § 1110.502). If the Person or Certified Person, however, is a state or local government agency seeking or renewing certification, and a state or local government office of Inspector General (IG) or Auditor General (AG) is a department of the same state or local government, the two are not considered owned by a common “parent,” and therefore, the office of IG or AG is considered independent under § 1110.501(2). The Certification Form requires the Person or Certified Person to indicate if it is a state or local government department or agency. In these circumstances, the state or local IG or AG may provide the attestation in lieu of an independent ACAB, using the State and Local AG or IG Systems Safeguards Attestation Form (AG/IG Safeguards Attestation Form). NTIS will use the information to determine whether the associated written attestation should be submitted by an ACAB or a state or local government office of an AG or IG, using the applicable version of that form, and to determine the Person or Certified Person’s eligibility for certification.
- Whether the Certified Person is Submitting a Written Attestation with the Certification Form: Under the final rule, all Certified Persons must be audited with respect to the requirements of Section 1110.102(a)(2) at least once every three years under the program. Section 1110.105(b) specifies that either the submission of a written attestation of an ACAB or completion of a satisfactory unscheduled or scheduled audit under § 1110.201 by NTIS or by an ACAB acting on behalf of NTIS within three years of the date of the present application will satisfy this requirement. To implement this requirement of the final rule, the revised Certification Form requires an applicant not submitting a new written attestation to indicate why it is not submitting a written attestation of an ACAB or an AG or IG. The collection of this information will also prompt Persons and Certified Persons to remember to include the written attestation with the Certification Form, thus minimizing potential delays in the processing of their applications if NTIS had to contact them to provide a copy of the attestation or audit, and possibly even preventing denials of their applications for incompleteness. This information also will allow NTIS to ensure that it has been provided with the written attestation or audit, and that the written attestation or audit was completed within the three-year timeframe.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

Persons seeking certification for access to the Limited Access Death Master File must submit the

revised Certification Form, renewal of which is required annually. NTIS will use the information collected to determine whether the Person or Certified Person has established that it meets the requirements for certification under the final rule. The information collected will not be disseminated to the public, but NTIS will post a list of Certified Persons on its website.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

Beginning on November 28, 2016, the date when the final rule becomes effective, NTIS will make the revised Certification Form available online on its website. NTIS encourages Persons and Certified Persons to make use of the online form, but will continue to accept forms submitted through other means, including via fax, mail or as email attachments.

4. Describe efforts to identify duplication.

The certifications and supporting information collected via the revised Certification Form are unique to this program, as the certifications are related to requirements set forth in the legislation specific to this program.

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

Small businesses or other small entities may submit revised Certification Forms, but NTIS lacks information about the types and sizes of entities impacted by the rule. NTIS included in its notice of proposed rulemaking a request for information from the public about the types of entities impacted by this rule, whether those are small or large entities under SBA's size standards, and the level of or a description of the type of impacts that the rule will have on those entities. NTIS received a few comments addressing these issues. These comments were taken into consideration in drafting the revised Certification Form.

The revised Certification Form collects only information necessary for NTIS to conduct the program.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

Pursuant to Section 203 of the Act, NTIS must establish that a Person or Certified Person meets the requirements for certification to access the Limited Access DMF under a program established by NTIS. Section 203 of the Act also requires that NTIS audit, inspect and monitor persons certified under the program. NTIS will use the information collected in the revised Certification Form in determining whether the Person or Certified Person seeking certification or renewal of certification meets the requirements. Without this information, NTIS cannot satisfy the requirements of Section 203 of the Act.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

Not applicable.

8. Provide information of the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the 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 on the data elements to be recorded, disclosed, or reported.

A notice soliciting public comments was published in the Federal Register on September 27, 2016 (Vol. 81, Number 187, pages 66256-66257).

A notice soliciting public comments was published in the Federal Register on November 23, 2016 (Vol. 81, Number 226, page 84559). NTIS received one comment in response to this notice. However, the comment consists of questions about the final rule and its implementation, not this proposed information collection. NTIS will contact the commenter to address its issues concerning the final rule. Insofar as the commenter expressed concern with the increase in the fee for submitting the Certification Form, when this supporting statement is made publically available, NTIS will refer the commenter to Section 15 below for the reasons why this increase is necessary. This comment has been uploaded to ROCIS.

In the notice of proposed rulemaking, NTIS identified most of the additional information to be collected in the revised Certification Form (79 FR 78314 at 78320-21). NTIS received very few comments concerning the form. One commenter suggested that NTIS create a certification form specifically for the use of both the applicant for certification and the intended “non-certified recipient” of Limited Access DMF from the applicant. NTIS notes that, pursuant to Section 1110.102(a)(4)(i), a Certified Person which distributes Limited Access DMF accepts sole responsibility for ensuring that any person to which it distributes the information meets the requirements for certification. As such, NTIS does not need to collect information about intended distribution of Limited Access DMF, and the commenter’s proposed form is unnecessary. Other commenters requested that either the final rule not be published until the public had an opportunity to review the revised Certification Form or stating that they would submit comments when the form became available for review. These comments have been uploaded in ROCIS.

NTIS has been working closely with OMB and other relevant Federal agencies on requirements of the certification program.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

None.

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

None.

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.

Not applicable.

12. Provide an estimate in hours of the burden of the collection of information.

NTIS estimates that completion of the revised Certification Form to take about 2 hours for each respondent per application and expects to receive approximately 560 forms annually, for a total of 1,120 hours.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).

NTIS expects to receive approximately 560 applications annually at a fee of \$1575 per application, for a total cost of \$882,000. In addition, NTIS expects that preparation of the application will require a senior administrative staff person 2.5 hours at a rate of \$100/hour, for a total cost to the public of \$140,000 (1400 total burden hours x \$100/hour = \$140,000). NTIS estimates the total annual cost to the public to be \$1,022,000 (\$882,000 in fees + \$140,000 in staff time = \$1,022,000).

14. Provide estimates of annualized cost to the Federal government.

The cost to the Federal Government consists of the expenses associated with NTIS personnel reviewing and processing revised Certification Forms. NTIS estimates that NTIS personnel will require 19,100 hours to review and process the expected 560 forms, at an average hourly rate of \$46.20, for an estimated total cost of \$882,000.

15. Explain the reasons for any program changes or adjustments.

This is a revised information collection associated with the publication of the final rule “Certification Program for Access to the Death Master File” (RIN 0692-AA21). During its two years of experience using the existing Certification Form, NTIS learned that the collection of additional information was necessary to determine whether Persons and Certified Persons met the requirements of the rule. Most of the additional information collected in the revised Certification Form is specifically relevant to determining whether the Person or Certified Person

meet the requirements of the final rule. This includes the Person or Certified Person’s URL, State Incorporation/Register Number, and EIN. The section or sections of the final rule relevant to each of these additional items is detailed in Section 2 above.

In addition, the collection of some additional information is expressly required in the final rule. Specifically, the final rule requires that a Certified Person indicate on the Certification Form if its present application is a new application or a renewal. The final rule also requires that a Certified Person indicate whether, in the three-year period prior to its submission of the Certification Form, it has submitted the written attestation of an ACAB under Section 1110.101(b) or been subject to a satisfactory audit under Section 1110.102.

The collection of the Authorized Contact Person and that identified person’s email and phone number facilitates the evaluation of the Person or Certified Person’s application for certification by identifying a pertinent source of relevant knowledge and information for the Person or Certified Person that NTIS may consult.

In addition, section 203(b)(3)(A) of the Act requires that the Secretary of Commerce “shall establish a program for the charge of fees sufficient to cover (but not exceed) all costs associated with evaluating applications for certification and auditing, inspecting and monitoring certified persons under the program.” Based on its experience in administering the temporary certification program since March 2014, which has resulted in substantial costs to the agency, NTIS has determined that it must increase the certification fee per respondent from \$200 to \$1575. The expected costs associated with processing and verifying the revised Certification Form are set forth in Section 14. Since NTIS estimates that 560 respondents each year will submit the form, the total annual cost to the public will be \$882,000.

16. For collections whose results will be published, outline the plans for tabulation and publication.

Not applicable.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

Not applicable.

18. Explain each exception to the certification statement.

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.