July 2006

SUPPORTING STATEMENT
(0570-0017) 7 CFR Part 4279-B
Guaranteed Loanmaking - Business and Industry Loans

1. <u>Explain the circumstances that make the collection of information necessary</u>. The Business and Industry (B&I) Guaranteed Loan Program was legislated in 1972 under Section 310B of the Consolidated Farm and Rural Development Act, as amended. The purpose of the program is to improve, develop, or finance businesses, industries, and employment and improve the economic and environmental climate in rural communities. This purpose is achieved through bolstering the existing private credit structure through the guaranteeing of quality loans made by lending institutions, thereby providing lasting community benefits. The B&I program is administered by the Agency through Rural Development State and sub-State Offices serving each State. In an effort to reduce paperwork and make Rural Development forms more consistent with each other, thereby improving customer service, some of the forms in this burden package were revised to also include use by the Renewable Energy Systems and Energy Efficiency Improvements Program.

2. <u>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</u>. This subpart contains the requirements applicable to the B&I Guaranteed Loan Program administered by the Agency. The information is used by Agency loan officers and approval officials to determine program eligibility and for program monitoring. This package excludes burden hours for customary and usual business practices of entities other than the Agency. Therefore, this package considers only the information the Agency requires in excess of what a lender would typically require of a business. The burden estimates in this package are based on the assumption that the B&I Guaranteed Loan Program will receive $1 billion in program authority in each of the next 3 years with which it will guarantee an average of 750 loans per year. **Specifically, the burden to be cleared with this document is as follows:**

REPORTING REQUIREMENTS - NO FORMS

<u>Financing housing development sites</u>. The financing of housing development sites is an eligible loan purpose provided that documentation is presented that the community is in need of additional housing to prevent a loss of jobs in the area or to house families moving to the area as a result of new employment opportunities. The borrower provides this information.

<u>Loan guarantee limits</u>. A lender requesting more than $10 million but not more than $25 million in guarantee authority must document that it will not make the loan and the project will not be completed if the guarantee is not approved. The Agency is attempting to provide assistance to as many businesses as possible by requiring an exception by the Administrator to guarantee loans between $10 and $25 million. Guaranteed loan approval in excess of $25 million up to $40 million rests with the Secretary of Agriculture, whose authority cannot be redelegated.

<u>Interest rate change</u>. A change in the interest rate between the date of issuance of the Conditional Commitment and before issuance of the Loan Note Guarantee must be requested by the lender and approved by the Agency in writing. The potential effect on project feasibility must be reviewed by the Agency.

<u>Credit quality analysis</u>. The lender is primarily responsible for determining the quality of the proposed loan. Lenders typically complete an analysis of all commercial loans for their internal loan committee, but these analyses vary in scope. The Agency specifies what it requires the lender's analysis to include. The burden estimate is an estimate of the average additional time required for the lender to complete an analysis that complies with Agency requirements.

<u>Financial statements</u>. The Agency directs the lender to determine the type and frequency of submission of the financial statements by the borrower. Financial statements must be completed by an accountant at least annually in accordance with Generally Accepted Accounting Principles (GAAP), except for farmer/rancher guaranteed loans for cooperative stock purchase who may provide financial information in a manner that is generally accepted by commercial agricultural lenders. This is what a lender would typically require on similar non-guaranteed loans, and, lenders often require quarterly statements for new or problem accounts. However, there may be situations where the lender reporting requirements would be less. Also, if specific circumstances warrant, the Agency may require annual audited financial statements, which may be more than a lender would require. The burden reported here is just the time needed to determine the type of reporting required of the borrower.

The specific requirement for borrower financial reporting is established in the loan origination phase, but most of the burden to the public associated with it is covered under the servicing portion of the program regulations which is 7 CFR Part 4287-B. Only the time required to establish the requirement is reported here. The information is used by the Agency to monitor the progress of the business and to help identify potential problems before they become critical, thus helping to keep business failures and Agency losses to a minimum.

<u>Hazard insurance</u>. Hazard insurance is required on every loan to protect the collateral from fire or other insurable losses. The Agency requires the lender to be named as beneficiary. The lender would typically require hazard insurance on non-guaranteed loans, but not always.

<u>Life insurance</u>. Life insurance may be required on key management officials of the business to better ensure the success of the business if key management is lost. This is done by insuring the lives of key management, thus providing capital to hire new key management. This is a common practice of lenders, but the Agency may require life insurance when the lender would not.

<u>Flood and other insurance</u>. National flood insurance is required on projects when available. Public liability, business interruption, malpractice, and other insurance appropriate to the borrower's particular business and circumstances may be required. Lenders typically require flood and other insurance on non-guaranteed loans, but there may be situations where it is not recommended by the lender but required by the Agency.

Appraisal reports. The applicant pays for certified appraisers to complete appraisals in accordance with industry standards. Lenders typically require appraisals completed in accordance with industry standard on non-guaranteed loans, and they typically require the applicant to pay for them. There may be situations where the Agency requires an appraisal when the lender would not. Appraisals are used to determine the value of borrower assets being offered as collateral to ensure the loan is adequately secured.

Feasibility studies. They are generally required by the Agency for a business with no track record or a business that is introducing new ideas or product lines. When required, the study must address the economic, market, technical, financial, and management feasibility of the business. They are used by the lender and Agency to help determine the creditworthiness of the proposal. Lenders sometimes require feasibility studies for loans without a guarantee, but a less comprehensive analysis might satisfy the lender.

Loan priorities. Due to limited program funding, the Agency assigns a funding priority point score to each application to assist in project selection. Lenders are asked to consider Agency priorities when choosing projects for guarantees and will provide information to the Agency needed to calculate the project score.

Planning and performing development. The lender must ensure the project design utilizes accepted architectural and engineering practices, conforms to applicable Federal, State, and local codes, and will be completed with available funds. The lender must also monitor construction to ensure the project is completed in accordance with the plans and specifications and to keep the Agency informed. Lenders typically do most of this for non-guaranteed loans. However, some Federal laws do not apply to loans without Federal involvement and the lender would not have to provide reports to the Agency for non-guaranteed loans.

Preapplication requirements. A preapplication is preliminary information used by the Agency to determine preliminary eligibility for program assistance. Preapplications are optional except for loans over $10 million. If the proposal does not appear eligible or feasible, the Agency may discourage the filing of a complete application, thus saving the business time and money. The lender would typically require much of the same documentation for non-guaranteed loans. The following documents comprise the content of a preapplication:

(a) Letter to the Agency - A letter signed by the applicant and the lender containing basic information about the applicant and the loan proposal.

(b) Completed Form 4279-2, "Certification of Non-Relocation and Market and Capacity Information Report." See description in "forms" section below.

(c) Financial information - It is used by the Agency to determine preliminary creditworthiness of business.

(d) <u>Preliminary business plan, for start-up businesses</u> - Describes the business, its intended market, and other relevant information. They vary considerably in scope.

<u>Application Requirements</u>. The applicant provides the balance of the application requirements to the lender that passes much of it on to the Agency. This section reiterates and lists the information needed by the Agency including completed forms, financial statements, and various other documents used by the lender and Agency to determine program eligibility and creditworthiness of the loan proposal. The burden per response is low because the lender would typically require virtually the same documentation for a non-guaranteed loan, and only the burden in excess of lender requirements is included. The following comprises the content of an application:

(a) <u>Personal credit reports</u> - Used to evaluate the credit history of the owners as an aid in the credit evaluation completed by the Agency and lender. Typically required by lenders for non-guaranteed loans.

(b) <u>Intergovernmental consultation</u> - The applicant is required to notify the designated State clearinghouse of its proposal. This is to ensure the project is in compliance with State and local development strategies.

(c) <u>Current financial statements and pro forma balance sheet and projections</u> - The applicant must provide these to enable the lender and Agency to determine the financial health of the business and the likelihood it will continue to operate successfully. Typically requested by lenders for non-guaranteed loans.

(d) <u>Lender’s analysis</u> - The lender completes a comprehensive credit analysis that is the lender’s justification for making the loan. The Agency relies on this analysis as a basis for approving the request. In most cases, the lender would prepare a loan analysis for its internal loan committee but possibly not as comprehensive as required by the Agency.

(e) <u>Commercial credit report</u> - The lender provides a credit report on the business and related firms. They provide aids in making a determination concerning the creditworthiness of the applicant. Typically required by lenders for non-guaranteed loans.

(f) <u>Current personal and corporate financial statements of any guarantors</u> - Used to evaluate the financial strength of the owners to determine if they will be able to inject additional resources into the business if needed, thus providing a measure of comfort. Typically required by lenders for non-guaranteed loans.

(g) <u>Proposed Loan Agreement</u> - An agreement between the lender and the borrower establishing conditions for the loan such as collateral, repayment schedule, loan purpose, and other conditions. They are a general lender practice for all commercial loans. The Agency reviews the proposed document to aid in its loan analysis. Always required by lenders for non-guaranteed loans, but the Agency may require more covenants than the lender would typically require.

(h) <u>Business plan</u> - A business plan is prepared, typically by the applicant, which describes at a minimum, the business and project, management experience, products and services, proposed use of loan funds, availability of labor, raw materials and supplies, and the names of any corporate parent, affiliates, and subsidiaries with a description of the relationship. Typically required by lenders for non-guaranteed loans.

(i) <u>10-K reports</u> - The Agency requests a copy of this report from publicly-traded companies. It is prepared for the Securities and Exchange Commission and aids in the lender and Agency loan analysis. Typically required by lenders for non-guaranteed loans.

(j) <u>Certificate of Need</u> - Obtained by the applicants for health care facilities from the appropriate regulatory authority. Evidence that the borrower will be able to collect from third party payers, which effects project feasibility. Typically required by lenders for non-guaranteed loans.

(k) <u>Lender certification</u> - A certification by the lender that indicates the lender has completed a comprehensive analysis of the proposal, the applicant is eligible, the loan is for authorized purposes, the collateral is adequate, and the borrower has a reasonable chance of success. The lender would not prepare this if it were not required by the Agency.

<u>Transfer of lender</u>. When the applicant or lender desires to change lenders prior to issuance of the guarantee, the Agency needs information to determine if the applicant is still eligible and the new proposed lender is eligible and capable of making and servicing the proposed loan.

<u>Changes in borrower</u>. When there is a change in the applicant's ownership or organization prior to the issuance of the guarantee, information is needed to determine if the applicant is still eligible for program assistance.

<u>Conditions precedent to issuance of Loan Note Guarantee</u>. This is the final check prior to issuance of the guarantee. It is a comprehensive certification from the lender that the borrower meets all requirements of the Conditional Commitment and other program requirements.

<u>Issuance of Loan Note Guarantee</u>. The lender advises the Agency when it is ready for closing and provides the Agency with the comprehensive certification required by the paragraph just above.

<u>Refusal to execute Loan Note Guarantee</u>. If the very unusual case where the Agency determines it cannot issue the guarantee, it will provide the lender with the reasons. The lender may provide documentation to satisfy the Agency objections.

REPORTING REQUIREMENTS - RURAL DEVELOPMENT (RD) FORMS

Form RD 4279-1, "Application for Loan Guarantee (Business and Industry and Section 9006 Program)" - The information collected on the form is used by the Agency to determine applicant eligibility for program assistance and to provide financial and other data about the applicant and lender. The form contains three parts. The borrower completes part A, the lender completes Part B, and Part C is used by the Agency to evaluate parts A and B and the credit in general. In an effort to reduce paperwork and make Rural Development forms more consistent with each other, thereby improving customer service, the form is used by the Renewable Energy Systems and Energy Efficiency Improvements Program. The form is revised to clarify and strengthen Debt Collection Improvement Act provisions.

Form 4279-1A, "Application for Loan Guarantee (Business and Industry Short Form – One-Doc and Section 9006 Program)" – This form is used to file applications of up to $600,000, determine applicant eligibility for program assistance, and provide financial and other data about the applicant and lender. The form contains two parts. The borrower completes Part I, the lender completes Part II, and the Agency has sections to evaluate and comment throughout the document. In an effort to reduce paperwork and make Rural Development forms more consistent with each other, thereby improving customer service, the form is used by the Renewable Energy Systems and Energy Efficiency Improvements Program. The form is revised to clarify and strengthen Debt Collection Improvement Act provisions.

Form 4279-2, "Certification of Non-Relocation and Market and Capacity Information Report" - The form is completed by the applicant and used by the Agency to obtain Department of Labor clearance on loan requests in excess of $1 million which will increase direct employment by more than 50 employees. The information is used to determine if competing businesses would be adversely impacted by the federally guaranteed loan. In an effort to reduce paperwork and make Rural Development forms more consistent with each other, thereby improving customer service, the form is used by the Renewable Energy Systems and Energy Efficiency Improvements Program.

Form 4279-3, "Conditional Commitment (Business and Industry and Section 9006 Program)" - The form is used by the Agency to provide notice to the lender and lender acceptance that the guarantee request is approved subject to the conditions established by the Agency and listed on the form. In an effort to reduce paperwork and make Rural Development forms more consistent with each other, thereby improving customer service, the Community Facilities (CF) and Water and Waste Disposal (WWD) Guaranteed Loan Programs and the Renewable Energy Systems and Energy Efficiency Improvements Program also use this form. The burden associated with the other Rural Development programs is included in this package.

Form 4279-4, "Lender's Agreement (Business and Industry Guaranteed Loan Program and Section 9006 Program)"- This form is the signed agreement between USDA and the lender setting forth the lender's loan responsibilities. In an effort to reduce paperwork and make Rural Development forms more consistent with each other, thereby improving customer service, the CF and WWD Guaranteed Loan Programs and the Renewable Energy Systems and Energy Efficiency Improvements Program also use this form. Each lender will execute the form once.

It will then apply to all B&I, CF and WWD Guaranteed Loans, and Renewable Energy Systems and Energy Efficiency Improvements Program loans the lender makes thereafter. The form is also used to document Certified Lender status for B&I. The burden associated with the other Rural Development programs is included in this package.

Form 4279-6, "Assignment Guarantee Agreement (Business and Industry and Section 9006 Program)" - The form is the signed agreement among the Agency, lender, and holder, setting forth the terms and conditions of an assignment of all or a portion of the guaranteed portion of a loan. In an effort to reduce paperwork and make Rural Development forms more consistent with each other, thereby improving customer service, the CF and WWD Guaranteed Loan Programs and Renewable Energy Systems and Energy Efficiency Improvements Program also use this form. The burden associated with the other Rural Development programs is included in this package.

Form 4279-14, "Unconditional Guarantee" – The form is used to obtain an unconditional guarantee from an individual or corporate entity that owns more than 20 percent interest. This form will replace guarantee forms used by lenders. The Agency is establishing uniformity in obtaining and collecting against guarantees and will treat all guarantors consistently and rectify any ambiguities regarding its ability to refer delinquent debts to the Treasury for collection under DCIA.

REPORTING REQUIREMENTS - FORMS APPROVED UNDER OTHER NUMBERS

Form RD 1940-20, "Request for Environmental Review" (0575-0094) - The information collected from the applicant is used by the Agency in preparing the environmental assessment. It is needed only for specific loanmaking or servicing actions. No requirement in this section imposes a burden that is not specified in the specific program regulation.

Form RD 1980-19, "Guaranteed Loan Closing Report" (0575-0137) - The information is used by the Agency to establish the account in its accounting system. The Agency prepares the form, and the lender verifies it for accuracy.

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. The Agency has automated various forms used to apply for loan guarantees, and fillable forms are available on the USDA Service Center and Rural Development website. Lenders may complete the automated forms and submit hard copies of the forms with original signatures to the Agency. Loan application forms are not currently submitted electronically due to security concerns and the lack of electronic signature capability. However, some application materials are accepted electronically, such as the preapplication letter, lender's analysis, financial statement spreads, credit reports, proposed loan agreements, and business plans. The Agency is currently working on the e-Gov initiative that will eventually be capable of receiving applications and other forms electronically. A concern that will need to be addressed is how to accept appraisals and feasibility studies electronically while ensuring validity and environmental information that may contain several different types of maps such as site, flood, and wetlands maps. It is important to understand that electronic submission of all the paperwork required for a loan will not reduce burden to applicants as it is the same paperwork that must be completed, regardless of the mode of submission. In fact, the electronic scanning of appraisals and feasibility studies could actually increase burden.

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 Agency communicates with other institutions involved with business development for the purpose of sharing information and coordinating respective activities. When similar information is identified, action is taken to avoid duplication.

5. 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. Only the minimum information needed to determine program eligibility and the creditworthiness of a credit proposal is requested. Lenders making loans without guarantees typically require as much or almost as much information from a business applicant. The information required of lenders is needed to determine a lender and borrower eligibility and creditworthiness.

6. Describe the consequences to Federal program or policy activities if the collection is not conducted or conducted less frequently, as well as any technical or legal obstacles to reducing burden. The information needed for loan approval is typically needed only once for each application. With less information, the Agency would be more likely to guarantee substandard loans, thus increasing Agency losses.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner: There are no special circumstances that would cause information collection to be conducted in any manner described in (a) through (h) below:

(a) Requiring respondents to report information more than quarterly.

(b) Requiring written responses in less than 30 days.

(c) Requiring more than an original and two copies.

(d) Requiring respondents to retain records for more than 3 years.

(e) Not utilizing statistical sampling.

(f) Requiring use of statistical sampling which has not been reviewed and approved by OMB.

(g) Requiring a pledge of confidentiality.

(h) Requiring submission of proprietary trade secrets.

8. 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 record keeping, disclosure, reporting format (if any), and on data elements to be recorded, disclosed, or reported. As required by the Paperwork Reduction Act of 1995, a Notice was published on April 7, 2005, [70 FR 17616]. No comments were received related to the information collection.

As part of the Agency's internal control measures, it conducts assessments of its loan programs by interviewing commercial lenders, existing borrowers, Agency field employees, and others. Among the many topics discussed during these interviews, we ask the interviewees if they feel any of the Agency-imposed requirements are excessive or could be handled differently, and incorporate their suggestions into program regulations. We have identified two lenders and the Director of the U.S. Rural Development Council from the long list of those interviewed.

a. Bridgeview Capital Solutions
5881 Glenridge Drive, Suite 130
Atlanta, Georgia 30328
(800) 386-3722

b. Stephen F. Decker
WesBanco Bank, Inc.
415 Market Street
Parkersburg, West Virginia 26101
(304) 480-2501

c. Bob Coleman
Director
U.S. Rural Development Council
P.O. Box 546
La Canada, California 91012
818-541-6610

9. Explain any decision to provide any payment or gift to respondents, other than renumeration of contractors or grantees. No payments or gifts are provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or Agency policy. Confidentiality is not assured. Requests for release of records and information are processed in accordance with the Privacy Act of 1974.

11. <u>Provide additional justification for any question of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private</u>. There is no collection of any information that would be considered sensitive in nature or commonly considered private.

12. <u>Provide estimates of the hour burden of the collection of information</u>. The attached worksheet describes burden for each form utilized and each section of the regulation that impacts the public, as well as the annualized total. There is no contracting out or paying outside parties for information collection. The worksheet is based on the Agency receiving 800 applications, from which 750 loans will be made. Many of the requirements will not be needed from every applicant. Requirements are based on the type of applicant and in what type of business the applicant is engaged. The application information that is needed will be needed only once, while servicing type information may be needed annually, for the life of the loan. Depending on the complexity of the loan and skills of the loan applicant, the amount of information actually prepared by the applicant varies considerably. It can range from near zero when the loan applicant hires a professional to put the application together, to virtually all of it. We computed the hours as if the Agency's customer completed all the information collection. As discussed earlier, this package considers only the information the Agency requires in excess of what a lender would typically require of a business. The response time per response ranges from 30 minutes for simple documents to 24 hours for a feasibility study.

Most of the respondents are relatively highly paid professionals including bank officers, accountants, attorneys, certified appraisers, environmental and other consultants, insurance providers, and contractors. The annualized cost to the public is $1,182,420. The hourly wage rate is obtained from the Department of Labor Occupational Wage List.

13. <u>Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information</u>. Any capital and start-up costs are customary and usual business practices and, therefore, not included in this package.

14. <u>Provide estimates of annualized cost to the Federal Government</u>. The annual cost to the Federal Government to collect and evaluate this information is estimated to be about $1,088,500 per fiscal year (see attached spreadsheet page 3). Most of the review work is completed by GS-9 & 11 State Loan Specialists and GS-13 State Program Directors, with GS-7 & 8 Loan Technicians and clerks doing most of the computer data entry and typing. Accordingly, the average rate was determined to be $35 per hour. The hours were computed by estimating the average time it takes to review a preapplication package including Department of Labor clearance when required; an application package including the lender analysis and conducting negotiations and conferences with lender, a site visit, and environmental assessment; approving and obligating the loan, including preparing the Conditional Commitment; and issuing the Loan Note Guarantee including reviewing the lender's certification and comparing it against conditions of the loan and program regulations.

<u>Explain the reasons for any program changes or adjustments reported in items 13 or 14 of the OMB Form 83-I</u>. The changes reflected in this package is an adjustment due to the addition of Form 4279-14 and an increase in respondents by 142. Based on re-evaluation to response time previously calculated as 2 hours under personal and corporate guarantee, the hours have been reduced to 30 minutes under RD 4279-14.

16. For collection of information whose results will be published, outline plans for tabulation and publication. The results of this collection of information will not be published.

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. Approval not to display expiration dates on currently used form is being sought.

18. Explain each exception to the certification statement identified in item 19 on OMB 83-I. There are no exceptions to the certification.

19. How is this information collection related to the Service Center Initiative (SCI)? Will the information collection be part of the one-stop shopping concept? Recipients of B&I loan assistance are rural businesses, but typically are not agricultural. Consequently, very little of the information collected for this program would be useful in the SCI. The information is used only for administering the B&I program.