

SUPPORTING STATEMENT

7 CFR Part 1956-C, Debt Settlement - Community and Business Programs

A. Justification

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

Rural Development (including the Rural Housing Service (RHS), the Rural Business-Cooperative Service (RBS), and the Rural Utilities Service (RUS)), hereinafter referred to as Agency, are the credit agencies for agricultural and rural development for the United States Department of Agriculture. The Agency was formerly known as Rural Economic and Community Development, which was a successor Agency to the Farmers Home Administration. The Agency offers supervised credit to develop, improve, and operate family farms, modest housing, essential community facilities, and business and industry across rural America.

The Community Facilities loan program of RHS and the Water and Waste Disposal loan program of RUS are authorized by Section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926). The purpose of the Community Facilities loan program is to make loans to public entities, nonprofit corporations, and Indian tribes for the development of essential community facilities for public use in rural areas. The purpose of the Water and Waste Disposal loan program is to provide financing and technical assistance for development and operation of rural water systems, wastewater, and other waste disposal facilities throughout the United States.

The Business and Industry program is authorized by Section 310 B 7 (U.S.C. 1932) (Pub. L. 92-419, August 30, 1972) of the Consolidated Farm and Rural Development Act to improve, develop, or finance business, industry, and employment and improve the economic and environmental climate in rural communities. The Business and Industry programs eligible for debt settlement under this provision are limited to Business and Industry direct loans. Debt Settlement of Economic Opportunity Cooperative Loans, Claims Against Third Party Converters, Non-program loans, Rural Business Enterprise/Television Demonstration grants, Rural Development Loan Fund loans, Intermediary Relending Program loans, and Nonprofit National Corporation loans and grants, are not authorized. Under independent statutory authority, settlement under these programs is handled pursuant to the Federal Claims Collection Joint Standards, 4 CFR parts 101-105.

The debt settlement program provides the delinquent client with an equitable tool for the compromise, adjustment, cancellation, or chargeoff of a debt owed to the Agency. The term settlement is used for convenience in referring to compromise, adjustment, cancellation, or chargeoff actions individually or collectively. If a debt is eligible for settlement, the debt settlement authorities are extended to the debtor. All debtors are entitled to impartial treatment and uniform

consideration under this subpart. The information collected is similar to that required by a commercial lender in similar circumstances.

This is a request for extension of clearance of 7 CFR 1956-C, which provides policies and procedures as well as a mechanism for debt settlement in connection with Community Facilities loans and grants, Water and Waste Disposal loans, direct Business and Industry loans, Irrigation and Drainage, and Shift-in-Land Use loans.

2. 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.

In order to determine borrower eligibility, financial capacity, and derive an equitable resolution, information (particularly financial information) is required from a client. This information is gathered from borrowers, consultants, lenders, attorneys, and by field offices for analysis, evaluation, and recommendation. The information enables field staff to process the request in a timely, but prudent fashion, in accordance with the applicable laws and regulations.

The specific items that impose a burden under this regulation are:

REPORTING REQUIREMENTS - NO FORMS

Disappeared Debtors. The Agency may cancel debts when the debtor(s) has disappeared and cannot be found without undue expense. Reasonable efforts will be made to locate the debtor. These efforts generally include contact with members of the public who may have knowledge of the debtor's location.

The public burden is limited to responding to the Agency's contact and supplying information, if any is available, concerning the debtor's location. The Agency's contact and the response may be in person, by telephone, or by letter. Based on past performance, we anticipate there will be no cases of disappeared debtors.

Requesting Additional Information. The decision whether to accept or reject a compromise, adjustment, cancellation, or chargeoff of the Agency's debt is usually based on the information contained on Form RD 1956-1. Occasionally, the approval official must obtain more information upon which to base the decision to settle the debt. When this is done, the servicing official will contact the debtor by telephone, in person, or by letter to obtain the additional information to complete the debt settlement action.

The information requested should be readily available from the respondent's financial records; therefore, the response time is limited to the time required to locate the information and respond to the servicing official's questions. The average public response time is estimated to be 1 hour for each of the 32 responses.

Delinquent Adjustment Agreements. Debtors who make adjustment agreements, promising to pay a reduced amount of debt over a fixed

period of time in return for cancellation of the remaining debt, occasionally become delinquent on the agreed payments. When they become delinquent, servicing officials will contact them to ascertain the reasons for the delinquency. The public burden is limited to responding to the Agency's contact and supplying information on changed circumstances that justify the delinquency. The Agency contact and the response may be in person, by telephone, or by letter. The average public response time is estimated to be 2 hours for each of the 2 responses.

Request for debt restructuring. This information from the borrower includes a letter requesting debt restructuring and financial projections, including balance sheet, budget, and cashflow statements for 3 years. The financial statements are to show the amount of cashflow available to support some restructured amount of debt, plus an amount to fund the Rural Development Reserve Account. The average public response time is estimated to be 40 hours for each of the 4 responses.

Operations Review. This review is to be performed by a firm contracted and paid by the Agency. The contractor will be on the premises of the borrower, gathering information and data for the final written report, which is to consist of a complete business and financial analysis of the borrower's operations. The report will cover such areas as: general, administrative, dietary, housekeeping, laundry, nursing, physical plant, social services, income potential, Federal and State insurance payments, rate analysis, etc. We estimate that the time required for the borrower to gather information, run reports, and discuss issues with the contractor will average 40 hours per study for the 1 response.

Appraisal. The appraisal of the borrower's security property is to be performed by an independent, qualified fee appraiser. However, a small amount of time will be needed by the appraiser to discuss matters with borrower personnel. The average public response time is estimated to be 40 hours for each of the 9 responses.

Meetings with the borrower. Rural Development personnel will be performing debt restructuring and net recovery value calculation, based upon the operations review, appraisal, and other information. In this process, it is anticipated that contacts, meetings, and additional information will be needed from the borrower in order to finalize the calculations. This is estimated to be 2 hours for each of the 28 responses.

Appeal. The outcome of the final Rural Development determinations may bring disagreement from some borrowers. In these instances, the borrowers may request an appeal of the Agency's determination. This is estimated to be 15 hours for each of the 2 response.

Borrower Accepts Restructuring. For borrowers who accept the debt restructuring and net recovery value calculations, certain additional information (including the signing of a Shared Appreciation Agreement and possible new debt instruments) may be necessary. This is estimated to be 2 hours for each of the 5 responses.

Borrower Accepts Net Recovery Buyout. For borrowers whose debt analysis calculations indicate that debt restructuring cannot be approved and that Net Recovery Buyout is in order, they must pay off the Agency and execute a Net Recovery Buyout Recapture Agreement. We estimate this time to be 2 hours for the 1 response.

Debt Settlement Under the Federal Claims Collection Act. For borrowers whose debt and claims fall under the Federal Claims Collection Act, settlements must be submitted to, and approved by, the United States Attorney or Department of Justice. We estimate this time to be 8 hours for each of the 1 responses.

REPORTING REQUIREMENTS – FORMS APPROVED UNDER OTHER OMB NUMBERS

Form RD 1956-1 “Application for Settlement of Indebtedness.” This form must be executed by the debtor’s approval official for Agency consideration of all settlement actions under this regulation. This includes consideration for compromise, adjustment, cancellation, or chargeoff of a debt owned to the Agency. We have approval to collect this information under OMB Control number 0575-0118, which expires on 8/31/07. For this form, the estimated number of respondents is 11 with an estimated 66 total man hours.

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.

Every effort has been made to use information the borrower would already have on hand and to maximize the use of available information technology. Information collected under this regulation is considered to be the minimum necessary to comply with the requirements involved. All the information involved is specific to the particular case; therefore, automation would not reduce or eliminate the 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 information collected under this regulation relates specifically to loan servicing requests and actions. Therefore, the request and supporting documentation will be unique for each borrower. The borrower is allowed to submit existing financial information rather than completing our form, if it is in a similar format, to avoid duplication. We use the applicant’s/borrower’s organizational documents for various servicing actions.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-1), describe any methods used to minimize burden.

The information collection required under the regulation places no burden on small entities beyond that performed in normal business practice.

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 the burden.

Information is only collected when it is needed to make a decision on a servicing request. This information is needed to determine which servicing tools should be used. The course of action taken must be in the best interest of the Government, the borrower, and the community receiving the services.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

a. Requiring respondents to report information more than quarterly.

There are no information collection requirements that require specific reporting on more than a quarterly basis.

b. Requiring written responses in less than 30 days.

There are no specific information collection requirements that require less than 30 days response. However, in many cases, if a borrower's financial situation has changed, it benefits the borrower to provide the Agency with information as soon as possible. The Agency cannot provide the borrower with increased program benefits until documentation is received to support the borrower's request.

c. Requiring more than an original and two copies.

There are no specific information requirements that require more than an original and two copies.

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

There are no such requirements.

e. Not utilizing statistical sampling.

There are no such requirements.

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

No such requirements exist.

g. Requiring pledge of confidentiality.

There are no such requirements.

h. Requiring submission of proprietary trade secrets.

There are no such requirements.

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.

A Notice was published in the Federal Register on September 11, 2006 soliciting comments from the public. No comments were received. A copy of this Notice is attached.

Debt settlement actions are generally conducted with the full cooperation of our clients/borrowers. Direct feedback on data collection, clarity of instructions, recordkeeping, disclosure, reporting format, etc., is received at that time. Appropriate changes are made based on actual experience and feedback from clients.

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

There is no payment or gift to respondents.

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

The control and assurance of confidentiality is carried out in accordance with the Freedom of Information Act.

11. 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.

Financial information is being requested for analysis purposes; therefore, the information collection requirements of this regulation do not include any questions of a sensitive nature, such as sexual behavior and attitude, religious beliefs, or other matters that are commonly considered private.

12. Provide estimates of the hour burden of the collection of information.

The burden for collecting information is based on an estimated 85 annual responses and 702 estimated total man-hours. Please see the attached spreadsheet for a complete breakdown. This estimate is based on information in existing reports and reflects first-hand experience by Agency employees. The estimated total annual cost burden to the public is \$73,870. This figure was based on multiplying the estimated total man-hours of 702 by the average wage class. The wage class used for RHS, RBS, and RUS for requesting additional information, delinquent adjustment agreements, accepting a restructuring offer, and net recovery

buyout, was \$55 per hour. For functions that frequently require the participation of the borrower, attorney, and accountant, we used an average rate of \$110 per hour. These functions include preparing the application for settlement, the request for debt restructuring, operations review, appraisal, meetings with borrower, and appeals. The previous wage class that was reported utilized wages based on 2003 figures and thus are outdated. The average wage class of \$55 and \$110 used for this report provides a more realistic figure for forecasting based on 2006 wage figures.

13. Provide an estimate of the total annual cost burden to respondents or record-keepers resulting from the collection of information.

There are no capital or startup costs.

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

The annual cost to the Federal Government, which includes salaries, benefits, travel, communication, supplies, etc., to administer this regulation is estimated \$29,600.00. This cost was developed by estimating the number of hours that the Agency employees will spend in completing the required forms (370 hrs.) at approximately \$80/hr.

15. Explain the reasons for any program changes or adjustments reported in items 13 or 14.

We have made adjustments to sections of the burden package based on a thorough review. The decrease of 111 hours reflects an adjustment of the paperwork burden based on historical performance and current activity levels. The decrease also reflects the fact that the Farm Service Agency (FSA) no longer utilizes this regulation. A comparison to the previous package follows:

	<u>2003</u>	<u>2006</u>
Disappeared Debtor	0	0
Requesting Additional Information	30	32
Delinquent Adjustment Agreements	3	2
Request for debt restructuring	5	4
Operations Review	1	1
Appraisal	10	9
Meetings with Borrower	30	28
Appeal/Mediation	3	2
Borrower accepts restructuring	7	5
Borrower Accepts Net Recovery Buyout	1	1
Debt Settlement Federal Claims Collection	2	1
Total Annual Responses	92	85
Estimated Total Man-Hours	813	702

16. For collection of information whose results will be published, outline plans for tabulation and publication.

There is no specific collection of information requirement in this rule that will 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.

It is not cost effective for the Agency to display the expiration date on the forms due to the large number of field offices and the significant difference in the volume of forms used by these offices.

18. Explain each exception to the certification statement identified in item 19 on OMB 83-1.

There are no exceptions requested.

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?

This information is not related to, and will have no impact on, the Service Center Initiative. The information collection under this regulation is case specific.