

United States Department of Agriculture
Farm Service Agency (FSA)
Supporting Statement
OMB Number-0560-0162

7CFR, Part 1941, “Operating Loan Policies, Procedures and Authorizations and Closings”

The purpose of this document is to request extension of currently approved information collections used in support of FSA’s Farm Loan Programs (FLP). This extension does not involve any revisions to the program regulations. No revisions are made to the currently approved collections. A final rule is forthcoming to eliminate this burden package. Any burden covered in this package will be incorporated into a new information collection package. We anticipate submission of the new information collection included with the Farm Loan Programs streamlining effort will be within a few months of this submission. The numbers reported on the new streamlined package may differ from the numbers reported here. The collected information is needed to evaluate an applicant’s eligibility, determine the economic feasibility of the operation and the adequacy of the security being offered and to document evidence and agreements of indebtedness to the government.

Justification

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

Section 302 [7 U.S.C. 1922] of the Consolidated Farm and Rural Development Act (CONACT) provides that “the Secretary is authorized to make and insure loans under this title to farmers and ranchers ...” Section 339 [7 U.S.C. 1989] of the CONACT further provides “the Secretary is authorized to make such rules and regulations, prescribe the terms and conditions for making and insuring loans, security instruments and agreements, except as otherwise specified herein, and make such delegations of authority as he deems necessary to carry out this title.” The Secretary delegated authority to administer the provisions of the CONACT applicable to the Farm Loan Programs of the Farm Service Agency (FSA) to the Under Secretary for Farm and Foreign Agricultural Services (FFAS) in section 2.16 of 7 CFR part 2. FFAS further delegated this authority to the FSA Administrator in section 2.42 of 7 CFR part 2. These loans include Operating, Farm Ownership, Soil and Water, Softwood Timber Production, Emergency, Economic Emergency, Economic Opportunity, Recreation, and Rural Housing loans for Farm Service Buildings.

The Agency must request certain documentation to determine eligibility, financial feasibility and if the security offered in support of the loan is adequate. The specific Agency regulation which establishes information collections for direct operating loan applications is: 7 CFR 1941 Subpart A, Operating Loans Policies, Procedures and Authorizations and 7 CFR 1941 Subpart B, Closing Chattel Loans. As authorized under the Consolidated Farm and Rural Development Act, the collection of this information is required to insure that the agency provides assistance to applicants who have a reasonable prospect of repaying the government and meet statutory eligibility requirements.

2. Indicate how, by whom and for what purpose the information will be used.

In FY 2006, FSA loan officials processed approximately 15,000 applications for direct operating and youth loans. Based on projected appropriations for 2007 program activity for operating loans is expected to be approximately 14,000 applications processed. It is expected that 2,500 of these loans will be youth loans.

Several forms are included under other OMB control numbers as noted on the attached grid (FSA-85-1). No travel time is involved for the public as forms are mailed, received electronically or the applicant carries forms to the service center. The information collections required in 7 CFR 1941 Subpart A and B are described below:

Collection Descriptions

- **Written (1941.13) - Rural Youth- Parent Agreement** - a parent must recommend youth who have not reached the age of majority under state law for the loan assistance.
- **Written (1941.13)- Rural Youth-Advisor Agreement** - a project advisor must document their recommendation for a youth to participate in the youth loan program.
- **Letter (1941.19) - Security Requirements - (Co-signer)** - Required if the applicant cannot meet the repayment ability requirements.
- **Form 1940-51 - Crop Share Lease (Tenant)** - used by tenant borrowers to share proceeds from crops with landlords.
- **Form 1940-51 - Crop Share Lease (Landlord)** - used by tenant borrowers to share proceeds from crops with landlords.
- **Form 1940-53 - Cash Lease (Tenant)** - used by tenant borrower to document cash payment for lease of property.
- **Form 1940-53 - Cash Lease (Landlord)**- used by tenant borrower to document cash payment for lease of property.
- **Form 1940-55 - Livestock Share Lease (Tenant)** - used by tenant borrowers to share proceeds from livestock with landlord.
- **Form 1940-55 - Livestock Share Lease (Landlord)** - used by tenant borrowers to share proceeds from livestock with landlord.
- **Form 1940-56 - Annual Supplement to Farm Lease (Tenant)**- used by tenant borrowers to supplement an existing lease. It records new agreements while continuing with the current lease.

- **Form 1940-56 - Annual Supplement to Farm Lease (Landlord)**- used by tenant borrowers to supplement an existing lease. It records new agreements while continuing with the current lease.
- **Form 441-8 - Assignment of Proceeds from Sale of Products (Farmer)** - used to assign agricultural income from a borrower as payment on an FSA debt.
- **Form 441-8 - Assignment of Proceeds from Sale of Products (Purchaser)** - used to assign agricultural income from a borrower as payment on an FSA debt.
- **Form 441-18 - Consent to Payment of Proceeds from Sale of Products (Farmer)** - used to obtain an agreement of the amount of proceeds from a sale of farm products which will be paid to FSA.
- **Form 441-18 - Consent to Payment of Proceeds from Sale of Products (Purchaser)** - used to obtain an agreement of the amount of proceeds from a sale of farm products which will be paid to FSA.
- **Form 441-25 - Assignment of Proceeds from Sale of Dairy Products and Release of Security Interest (Farmer)** - used to document an agreement of proceeds from the sale of dairy products in which FSA has a security interest.
- **Form 441-25 - Assignment of Proceeds from Sale of Dairy Products and Release of Security Interest (Purchaser)** - used to document an agreement of proceeds from the sale of dairy products in which FSA has a security interest.
- **Form 441-10 - Non-Disturbance Agreement (Applicant)** - used to obtain non-disturbance agreements from other lien holders when funds are used to pay on debts secured by liens on essential farm equipment or other creditors who are in a position to interfere with the farming operation.
- **Form 441-10 - Non-Disturbance Agreement (Lender)** - used to obtain non-disturbance agreements from other lien holders when funds are used to pay on debts secured by liens on essential farm equipment or other creditors who are in a position to interfere with the farming operation.
- **Form 441-13 - Division of Income and Non-Disturbance Agreement** - used to obtain non-disturbance and division of income agreements from other creditors for operating and emergency loans.
- **Form 441-17 - Certification of Obligation to Landlord**- used by applicant to certify that he is not indebted to his landlord for any purpose other than the rent for the lease year. This form is completed and signed by the applicant which takes .50 hours.

- Form 1940-17 - Promissory Note - used by the Agency as evidence of debt and to establish repayment schedule. This form is completed by the Agency Official and signed by the applicant which takes .08 hours.
- Form 1940-1 - Direct Loan – Notification of Approval- The form is used to provide the Farm Service Agency applicant notification that their loan request has been approved and of the loan terms and conditions. The applicant will review, sign and return the document to indicate their agreement with the loan terms and conditions. This form is completed by the Agency Official and signed by the applicant which takes .08 hours.
- Form 1927-1M - Real Estate Mortgage - or - 1927-1D - Real Estate Deed of Trust - lien to be taken on real estate when it is offered as security for a loan. This form is completed by the Agency Official and signed by the applicant which takes .08 hours.
- Form 440-04A - Security Agreement - used in Uniform Commercial Code States with a Financing Statement to secure operating loans. This form is completed by the Agency Official and signed by the applicant which takes .08 hours.
- Form 441-05 - Subordination Agreement - used in making operating and emergency loans to non-owner operators and is required by FSA on crops, livestock, farm equipment, or other chattels. This form is completed by the Agency Official and signed by the lienholder which takes .08 hours.
- Form 440-13 - Report of Lien Search - used to obtain reports of lien search at county court house showing outstanding liens such as state tax liens or judgements against the property being offered as security. This form is completed by the Agency Official and on occasion by an attorney or title agent which takes .50 hours.

Burden for Operating Loans Approved Under Other Control Numbers:

Use of the following forms is referenced in subpart A of 7 CFR 1941. Subpart A and B pertain specifically to farm operating loans; however, these forms may also be required when requesting a farm ownership or emergency loan, or for loan servicing actions. Information collections associated with these forms, are approved under other OMB control numbers as stated:

- **Form 410-1**, Application for direct loan assistance is used to document the borrower request for a loan or servicing and is approved under #0560-0167.
- **Form 1924-23**, Borrower training agreement is made between the vendor and the agency to provide borrower training and is approved under #0560-0154.
- **Form 1924-27**, Releases the borrower from training requirements and is approved

under #0560-0154.

- **Form 1927-8**, Protects the Agency's security interest against foreclosure by a prior lien holder and is approved under #0575-0147.
- **Form 1910-5**, Verifies non-farm income and is approved under #0575-0172.
- **Form 431-1, 431-2, 431-4**, Obtains cash flow projections on the applicant's operation and other businesses to determine loan repayment ability and are approved under #0560-0154.
- **Form 440-32**, Verifies unpaid debts with other creditors and is approved under #0560-0166.
- **Form 440-9**, Provides a payment schedule for the borrower. Collections associated with the form are approved under #0560-0158. Previously not listed in this package, the form is included in 7 CFR 1941.
- **Form 400-4**, Reminds loan recipients of their responsibility under the Civil Rights Act of 1964 and is approved under #0575-0018.
- **Form 1940-20**, Obtains environmental information to ensure compliance with NEPA, the Historic Preservation Act and other applicable legislation and is approved under #0575-0094.
- **Form 402-1**, Establishes a joint bank account between Agency borrowers when Agency supervision of funds is necessary and is approved under #0575-0158.
- **Form 1927-9**, Preliminary Title Opinion, identifies existing liens on real estate offered as security to determine if valid lien can be obtained and is approved under #0575-0147.

The information collected is submitted by loan applicants, landlords or attorneys to the Agency for loan officials to use in making eligibility, financial feasibility and security determinations as required by the CONACT. These determinations are made by Agency personnel who possess delegated loan authority and have specialized education, training and experience in credit and financial analysis. The collections established under 7 CFR 1941-A and B consist of both form and non-form collections. The total expected annual responses are **65,346** with **7,019** total burden hours for this information collection. The average time to respond for this information collection is estimated at **.11** hours per response. The actual response times and total burden hours are described on the attached FSA-85-1 "Reporting and Recordkeeping Requirements" grid.

3. Uses of information technology.

The FSA is accepting the information required by this collection via hand delivery, mail, electronic mail or facsimile. The customers have the option of electronically filing most of the loan making forms. The "Farm Loan Program Information Delivery System" (FLPIDS) provides customers with access to electronically file application processing documents. The applicant obtains their initial login information online, however, they must physically visit the county office to verify identification and sign the required documents before a person with local registration authority.

4. Describe efforts to identify duplication.

Agency credit personnel with expertise in the use of the collection data have reviewed requirements for the purpose of eliminating any duplication or unnecessary collection of information. These collections are used by FSA in direct operating loan application processing and loan closing. The information contained in this collection is made a part of the case file and when reasonably current, may be used in lieu of re-submission by the applicant or borrower. In some cases, information will be outdated and not useful for the specific action being considered. Currently, FSA continues to work on data sharing capabilities, which allows USDA Agencies to share core or basic information on shared or mutual customers.

5. Methods to minimize burdens on small business or other small entities.

The Agency has made every effort to minimize burden on small businesses and other small entities. The Agency only requires the information collections when necessary to act on an applicant's request for direct loan assistance; therefore, it is unable to further reduce the frequency of the collections. Collections are limited to those that are essential in determining that loan applicants meet statutory eligibility requirements and have adequate repayment and security for the requested loan. Use of Agency forms is not mandated for the collections, thus, loan applicants may submit the information in any format. No additional burden is placed on small businesses or an entity above that required for the normal individual assistance request. Additionally, forms and software are made available to respondents who desire to use them.

6. Consequences if the information collection was less frequent.

The Agency would be unable to make an accurate eligibility and financial feasibility determination, and would not be able to obtain the proper debt instruments documenting the loan as required by the CONACT. The Agency relies on current information to carry out the business of the program as intended and to protect the government's interest. If the information were not collected, or collected less frequently, the Agency would be unable to meet the congressionally mandated mission of the direct operating loan program.

7. Special Circumstances.

- a. Requiring respondents to report information more than quarterly. There are no information collection requirements that require reporting on more than a quarterly basis.
- b. Requiring written responses in less than 30 days. There are no information collection

requirements that require written responses in less than 30 days.

- c. Requiring more than an original and two copies. There are no information collection requirements that require more than an original document or a single copy of a document.
- d. Requiring respondents to retain records for more than 3 years. There are no information collections that requires the respondents to provide more than 3 years of records.
- 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. There are no such requirements.
- g. Requiring a pledge of confidentiality. There are no such requirements.
- h. Requiring submission of proprietary trade secrets. There are no such requirements.

8. Federal Register notices, summarizations of comments and consultation with persons outside the agency.

Comments regarding the current information collection were solicited on a notice that announced the agency's intention to request OMB approval for an extension of the use collections under 7 CFR, Part 1941, "Operating Loan Policies, Procedures and Authorizations and Closings", published January 18, 2007 (72 FR 2256). There were no comments received. The Agency had previously contacted the following individuals to obtain their views on this collection. They responded to questions used to develop and verify information required on the Reporting and Recordkeeping Requirements (FSA 85-1) in this collection.

Mr. Hank Davis
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Mr. Tim Smith
Attorney at Law
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Connie Strickland
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(805) 482-5580

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

There are no payments or gifts provided to respondents.

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

No assurance of confidentiality is provided to respondents other than the protections afforded by the Privacy Act.

11. Provide additional justification for any question of a sensitive nature, such as the sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

The information collected is of a financial nature. As a condition of the receipt of program assistance, respondents must provide total disclosure of income data, debts and assets, and history of business dealings that may be considered sensitive. Respondents interviewed indicated no problems or concerns with providing the information requested on this collection. They understand the necessity due to the nature of the assistance and realize this is standard practice when requesting credit assistance. Disclosure is governed by the Privacy Act.

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

The estimate of the hour burden of the collection of information is as follows:

Total number of respondents.....26,146
Total number of responses.....65,346
Total time per average burden..... .11 hours
Total annual burden hours.....7019 hours
Respondents cost per hour.....\$35.50/hour
Total annual respondent cost.....\$249,175

*Refer to attached FSA-85-1, Reporting and Recordkeeping Requirements.

The U.S. average household income for farm operators, as measured by the CPS for 2006 is \$73,840 divided by 2080 indicates the hourly rate of \$35.50.

13. Total annual cost burden to respondents or recordkeepers.

There is no annual cost burden to respondents for capital, start-up cost, total operation, maintenance or purchase of services.

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

The average time the agency spends on processing these collection items for each respondent is 3 hours. There are an estimated 14,000 loan applicants creating a total of 42,000 hours spent on this collection by the agency staff. Averaging the GS-6/5 through GS-12/5 indicates an employee income of \$55,600. Standard adjustments recommended by FSA Budget Division of 33.3% are added for benefits and miscellaneous expenses. The total average cost for an FLP employee salary is \$73,840 divided by 2080 hours is \$35.50 per hour.

The estimated annualized cost to the Federal Government staff at \$35.50 per hour multiplied by 42,000 hours is \$1,491,000.

15. Explain the reasons for any program changes or adjustments reported in items 13 or 14 of the OMB form 83-1.

There are no program changes or adjustments to the information collection since the last OMB approval.

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

There are no plans to publish any information in this information collection.

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

Most forms are retrieved electronically by the field office and reproduced locally. Supplies are maintained in the field offices. Displaying the OMB expiration date will increase expenses due to the disposal of existing form supplies, printing the form with the new date, and distribution of the new form to the field offices.

18. Explain each exception statement to the certification statement identified in items 19 and 20 on OMB 83-1.

There are no items in the certification statement to which the Agency cannot certify.

19. Explain how this information collection relates to the Secretary of Agriculture's Service Center Implementation Team Initiative.

This information is collected by employees of the Service Center and used for loan making requests. Service Center employees who assist the public in the completion of and then analyze the information for eligibility, feasibility and security determinations use the information. FLP has employees detailed to the Service Center Implementation Team and the national office staff works closely with them in the areas of lending, electronic access, and forms.

