

Supporting Statement  
New Unified Rural Development Guaranteed Loan Program

Proposed Program for a Unified Rural Development Guaranteed Loan Program

A. Justification

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

Rural Development is implementing a new consolidated guaranteed loan program. Currently, the new guaranteed loan program would combine four existing guaranteed loan programs under one regulatory platform. These four existing programs, which are described below, are: (1) the Community Facility Program, (2) the Water and Waste Disposal Program, (3) the Business and Industry Program, and (4) the Renewable Energy Systems and Energy Efficiency Improvements Program under Title IX, Section 9006 of the Farm Security and Rural Investment Act of 2002 (FSRIA 2002).

Community Facility Program. The Rural Housing Service (RHS) is authorized by Section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) to make loans to public agencies, nonprofit corporations, and Indian tribes for the development of essential community facilities primarily serving rural residents. RHS makes guaranteed loans through its Community Programs, which has been in existence for over 33 years, beginning in 1990 when Congress appropriated the funds. Community Program guaranteed loans are used to finance many types of projects varying in size and complexity from large general hospitals to small fire fighting equipment loans. The guaranteed loan program encourages lender participation and provides specific guidance in the processing and servicing of guaranteed Community Facility loans.

Water and Waste Disposal Program. The Rural Utilities Service is authorized by Section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) to make loans to public agencies, nonprofit corporations, and Indian tribes for the development of water and waste disposal facilities primarily serving rural residents. Water and Waste Disposal Programs (WW), which has been in existence for approximately 60 years, was authorized with the Appropriations Act of 1990, when Congress appropriated funds,

to implement the Water and Waste Disposal guaranteed loan program. Water and waste disposal guaranteed loans are used to finance many types of projects varying in size and complexity. The guaranteed loan program encourages lender participation and provides specific guidance in the processing and servicing of guaranteed WW loans.

Business and Industry Program. 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.

Renewable Energy Systems and Energy Efficiency Improvements Program. The Farm Security and Rural Investment Act of 2002 requires the Secretary of Agriculture to create a program to make direct loans, loan guarantees, and grants to farmers, ranchers, and rural small businesses to purchase renewable energy systems and make energy efficiency improvements. The program is designed to help farmers, ranchers, and rural small business reduce energy cost and consumption, develop new income streams, and help meet the nation's critical energy needs.

In an effort to reduce paperwork and make Rural Development forms more consistent with each other, thereby improving customer service, the forms in this burden package were revised to accommodate all four programs.

2. Explain how, by whom, and for what purpose the information is to be used.

Lenders who wish to participate in this program must submit an application and/or certain information to Rural Development. This information will be used to determine lender eligibility.

Eligible lenders and their prospective borrowers who are seeking guaranteed loans will have to submit applications with specified information, certifications, and agreements to the State Office. This information will be used to determine borrower eligibility, to determine project eligibility and feasibility, and to ensure that borrowers operate on a sound basis and use funds for

authorized purposes.

## REPORTING REQUIREMENTS - NO FORMS

### SUBPART A - GENERAL PROVISIONS

#### Oversight and Monitoring (§ 5001.4)

Notifications (paragraph (b)(3)). This paragraph requires lenders to submit notifications to the Agency whenever a borrower has violated a loan agreement, including whenever a borrower is more than 30 days past due on a payment or is otherwise in default, and whenever there has been a permanent reduction in the interest rate on the guaranteed loan.

Receiving notifications of loan agreement violations will help the Agency mitigate Agency risk. Notification of permanent reductions in a loan's interest rate will help the Agency review loss claims to ensure that only the proper loss amount is claimed. This helps reduce Agency loss.

### BASIC ELIGIBILITY PROVISIONS

#### Project Eligibility (§ 5001.6)

Under paragraph (d)(2), when a project does not serve the entire area, borrowers are required to announce a plan for extending service to areas not initially receiving service and to provide written notice to potential users located in the areas not to be initially served.

These requirements are necessary to help ensure the boundaries of the proposed service area are chosen in such a way that no user or area will be excluded because of race, color, religion, sex, marital status, age, disability, or nation origin.

### BASIC APPLICATION PROVISIONS

#### Preapplications (§ 5001.11(a)(1))

Under this paragraph, a lender and a prospective borrower have the option of submitting a preapplication to the Agency before it submits the full application for guarantee. The information in the preapplication would be used by the Agency to make an informal assessment of project and borrower eligibility for program assistance.

By providing the lender and prospective borrower the opportunity to submit a preapplication, the Agency is seeking to reduce the cost to the lender and prospective borrower of submitting a full application for guarantee for those projects that do not appear to be eligible or feasible.

### **BASIC LENDER PROVISIONS**

#### **Personal and corporate guarantees (§ 5001.16(d)(1))**

This paragraph requires guarantors owning more than 20 percent interest in the borrower to execute an Agency-approved unconditional guarantee form, unless the lender can document that collateral, equity, cashflow, and profitability indicate an above-average ability to repay the loan.

This requirement makes guarantors legally liable for losses, thereby reducing Agency loss exposure in cases where a loan is defaulted.

#### **Collateral Inspection and Release (§ 5001.17(c))**

This paragraph requires the lender to inspect collateral as often as necessary to properly service the loan and, when requested by the Agency, to conduct an appraisal of the remaining collateral before releasing any collateral.

Requiring inspection of collateral and appraisal of remaining collateral before release reduces Agency risk by helping to ensure the value of the collateral is maintained, which is important should the loan go into default and be liquidated.

#### **Transfers and Assumptions (§ 5001.17(d)(1))**

This paragraph requires all transfers and assumptions to be processed and approved as if it were a new loan guarantee.

This requirement reduces Agency risk by ensuring that the transfer and assumption meets the same standards set forth in the regulation.

#### **Subordination of Lien Position (§ 5001.17(f))**

This paragraph requires the lender to submit in writing a request for subordination of the lender's lien position, providing information to the Agency to evaluate the request.

This requirement provides information to the Agency to evaluate the request to ensure that Agency risk is not adversely affected

by the subordination.

**Repurchases (§ 5001.17(g)(1))**

This paragraph requires the lender to notify the Agency of its decision on whether it will repurchase a loan or not, making sure that it notifies the Agency of all repurchases it makes.

This requirement allows the Agency to track responsible parties for the loan, which is important should the loan go into default.

**Additional Expenditures and Loans (§ 5001.17(h))**

This paragraph requires the lender to obtain written Agency approval before making any additional expenditures or new loans to a borrower with an outstanding loan guarantee under this part.

This requirement helps the Agency evaluate any adverse effect on the ability of the borrower to repay the loan, thereby reducing Agency risk.

**Protective Advances (§ 5001.17(k))**

This paragraph requires the lender to obtain the Agency's written authorization when any protective advance, singularly or cumulatively, exceed 10 percent of the guaranteed loan.

Protective advances are indicative of potential problems with a loan. If they are greater than 10 percent, Agency risk is increased to where the Agency needs to approve the protective advance. Thus, this requirement helps to mitigate Agency risk.

**Liquidation (§ 5001.17(l))**

Paragraph (l)(1) requires the lender to prepare a liquidation plan in consultation with the Agency. As part of the plan, the lender will be responsible for providing reports to the Agency on the liquidation as it progresses. Further, the lender must notify the Agency of any changes to or deviations from the plan.

The requirement to consult with the Agency allows the Agency to reduce Agency loss. The requirement to provide the Agency with progress reports on the liquidation and notification of any changes to or deviations from the plan will also allow the Agency to reduce Agency loss by informing the Agency of any problems that might require the Agency's attention.

Paragraph (l)(2) requires lenders to obtain Agency approval before effecting a compromise settlement.

This requirement allows the Agency to help mitigate Agency loss by requiring its approval of the compromise settlement.

**Litigation (§ 5001.17(m))**

This paragraph requires the lender to keep the Agency adequately informed in writing during all litigation proceedings.

This requirement is important for the Agency to mitigate Agency risk. Through these reports, the Agency will determine if the lender is not adequately protecting the rights of the lender or the Agency, and if this is the case, the Agency can step in to protect its rights and the rights of the lender.

**BASIC GUARANTEE AND LOAN PROVISIONS**

**Interest Rate Changes (§ 5001.31(b))**

Paragraph (b) requires the lender to seek and obtain Agency approval for any change in the interest rate between the date of issuance of the Conditional Commitment and before the issuance of the Loan Note Guarantee. Paragraph (b)(1) requires the lender to keep records of all permanent reductions in the interest rate. These records must be sufficient to allow the Agency to calculate any loss at the reduced rate. Paragraph (b)(1)(ii) requires the lender to keep records that adequately document the accrued interest claimed. Paragraph (b)(1)(iii) requires the lender to provide copies of all legal documents to the Agency when making interest rate changes or other legally effective amendment to the promissory note.

Changes in the interest rate can affect the viability of a project. Thus, project risk is addressed by the Agency in approving such changes. The requirements provide sufficient documentation to support any subsequent loss claim activities on the guaranteed loan.

**Replacement of Loan Note Guarantee or Assignment Guarantee Agreement (§ 5001.34(d))**

In those incidences where the Loan Note Guarantee or Assignment Guarantee Agreement is lost, stolen, destroyed, mutilated, or defaced, the lender must notify the Agency to request a replacement.

This requirement is necessary to ensure proper documentation of the loan is in place should a problem occur with the loan.

**Alterations of Loan Instruments (§ 5001.35)**

Under this paragraph, the lender is required to obtain written Agency approval before altering or approving any alterations of the loan note guarantee or any other loan instrument. This requirement helps the Agency evaluate any adverse effect on the loan guarantee, thereby reducing Agency risk.

**Reorganizations (§ 5001.36)**

Paragraph (a) requires the lender to notify the Agency when there is a change in the borrower's ownership or organization prior to the issuance of the guarantee.

Because the guarantee has not yet been issued, the Agency must still ensure the borrower meets the requirements of the applicable program. Therefore, if there is a change in borrower, the Agency must have information to verify that the new borrower is still eligible.

Paragraph (b) addresses situations where a change in lender is requested prior to issuance of the guarantee. Under this paragraph, the lender is required to submit information on the new lender and request in writing Agency approval of the transfer. In addition, the new lender must be approved under this program and must execute a new application for guarantee.

Because the guarantee has not yet been issued, the Agency must still make the guarantee to an eligible lender to meet the goal of mitigating institutional risk. Therefore, if there is to be a change in lender, the Agency must have information to verify that the new lender is still eligible. To be eligible, the lender must be first approved by the Agency. Therefore, a lender approval application form will be necessary (if lender is not already approved).

Paragraph (c) requires the lender to submit in writing a request for Agency approval for transferring the guaranteed loan to another lender.

To mitigate institutional risk, only Rural Development-approved lenders can participate in this program. Therefore, the substitute lender must be Rural Development-approved. This requires the existing lender to provide information to the Agency to approve the substitute lender.

**Termination of the Loan Note Guarantee (§ 5001.38(c))**

This paragraph requires the lender to submit a written request to the Agency to terminate the guarantee when the lender holds the entire guaranteed portion and the original Loan Note Guarantee is returned to the Agency.

This is one of three options for terminating a loan guarantee. The conditions required for this option under paragraph (c) eliminates Agency risk.

**SUBPART B - PROGRAM SPECIFIC PROVISIONS**

**Community Facility Program (§ 5001.40)**

Hydroelectric generation facility (paragraph (a)(1)(iv)). This paragraph requires advance written approval from the Agency for hydroelectric generating facilities or supplemental and supporting structures for rural electrification.

This requirement is necessary to ensure that coordination with the local power company has occurred that enables the generated electricity to be incorporated into the local power company's electric distribution grid. Without assurances that this can occur, the project would not be able to generate sufficient income to repay the loan.

Certificate of local support (paragraph (a)(5)(i)). This paragraph requires the borrower to submit information demonstrating community support.

To help mitigate project risk, it is important that a Community Facility project have the support of the community. This criterion replaces the cash equity requirement because community support is the better criterion to help ensure a successful project under this program.

**Water and Waste Disposal Facility Program (§ 5001.41)**

Certificate of local support (paragraph (a)(3)). This paragraph requires the borrower to submit information demonstrating community support.

To help mitigate project risk, it is important a water and waste disposal project have the support of the community. This criterion replaces the cash equity requirement because community



support is the better criterion to help ensure a successful project under this program.

**Business and Industry Program (§ 5001.42)**

Agricultural production (paragraph (a)(1)(vi)). This paragraph requires prior written Agency approval for agricultural projects.

Most agricultural projects are funded under the auspices of the Farm Services Agency's (FSA) programs, which has priority for funding such projects. However, the line between the FSA programs and agricultural projects that can be funded under the B&I program is not distinct. This requirement, therefore, is necessary to prevent the B&I program from overlapping the FSA programs and to keep priority with the FSA programs.

**Renewable Energy Systems and Energy Efficiency Improvements (EEI) Program (§ 5001.43)**

Annual Performance Reports (paragraph (e)). This paragraph requires the borrower to prepare annual reports for projects and provide them to lender, who submits them to the Agency for a limited time period, which varies if project is renewable energy system or EEI project.

These reports contain performance and economic impact information. These performance characteristic reports are being provided to help the Agency evaluate the effectiveness of the projects and the overall loan program.

**Forms specific to this Guaranteed Loan program are discussed below.**

**RD Form 5001-1, "Lender's Application" (application for lender approval)**

Under the Rural Development guaranteed loan program, lenders must be approved in order to participate (see § 5001.9). To be approved, most lenders must submit an application for lender approval. This form also allows lenders to apply for preferred lender status.

Under paragraph § 5001.9(a)(a)(i), regulated or supervised lenders that do not have an existing portfolio of guaranteed loans with the Agency are required to submit an application for lender approval, including evidence that they are in good standing with their regulators, and a copy of their loan

origination and servicing policies and procedures.

Under paragraph § 5001.9(a)(a)(ii), regulated or supervised lenders that have an existing portfolio of guaranteed loans with the Agency are required to submit certification that they are in good standing with their regulators and copies of their loan origination and servicing policies and procedures.

The requirement for the application for lender approval for regulated or supervised lenders that do not have an existing portfolio of Agency guaranteed loans and the requirement to be in good standing for all regulated or supervised lenders are intended to help mitigate institutional risk by ensuring that lenders not currently doing business with the Agency have sufficient experience in originating and servicing guaranteed loans and that all lenders are conforming to or exceeding industry standards, as evidenced by their being in good standing with their regulators.

The requirement for providing copies of the lender's policies and procedures for loan origination and servicing allows the Agency to evaluate potential negligent loan origination and servicing for loans to go into default and for which losses are claimed, thus reducing Agency loss exposure.

Under paragraph § 5001.9(b)(1), lenders that are not regulated or supervised are required to submit an application for lender approval, providing such information as documentation concerning capital, resources, and funding capacity; copies of licenses or other evidence of authority to make loans; certificate(s) of good standing; information regarding lending experience; and expertise of the lender and its staff.

These requirements will reduce the institutional risk associated with making loan guarantees under this program.

Under the Rural Development guaranteed loan program, lenders that have been approved for participation in this program may apply for preferred lender status (see paragraph § 5001.9(c)). Achieving preferred lender status allows the lender to reduce the amount of supporting documentation submitted with the loan guarantee application in some cases and allows them to apply for maximum percent guarantees and higher loan amounts associated with the four programs. To be eligible for preferred lender status, the lender must submit additional information on the

lender's experience and on its past performance with regard to commercial loss claims and instances of Federal negligent loan origination and servicing.

The intent of having the preferred lender designation is to encourage participation of better qualified lenders, thereby helping to mitigate institutional risk. In order to identify the better qualified lenders, the Agency needs additional information on the lender's performance and capabilities, which is provided when applying for preferred lender status.

**RD Form 5001-2, "Lender's Agreement" (§ 5001.9(a)(2) and (b)(2))**

This form is the signed agreement between USDA and the lender setting forth the lender's loan responsibilities. Each lender will execute the form once.

**RD Form 5001-3, "Application for Loan Guarantee"**

Section 5001.12 of the Rural Development guaranteed loan program addresses the requirements for submitting applications for loan guarantees. Lenders, with input from the prospective borrowers, must submit an application for guarantee for each project using an Agency-approved application form. The information collected on this form is used by the Agency to determine applicant eligibility for program assistance and to provide financial and other data about the borrower and lender. The information is also needed to allow the Agency to track the loan.

Depending on the lender's status (preferred or non-preferred), the size of the loan request, whether the loan request is for a startup business or an existing business, and certain characteristics of the proposed project, the lender must submit either full documentation (referred to as a full documentation application - see § 5001.12(a)) or a reduced level of documentation (referred to as a low documentation application - see § 5001.12(b)). The difference between the two levels of application documentation is that a low documentation application certifies to certain information that is submitted in a full documentation application.

The following elements would be submitted for both full documentation and low documentation applications for guarantee:

Lender's analysis (§ 5001.12(a)(2)). Submitting the lender's analysis mitigates project and Agency risk by ensuring the financial resources are sufficient to repay the loan.

Environmental information (§ 5001.12(a)(3)). This information is required to allow the Agency to fulfill its environmental review obligations under other regulatory requirements.

Technical reports/energy audits (§ 5001.12(a)(4)). The technical report for a renewable energy project and the energy audit for a higher cost energy efficiency improvement project are required to ensure that the project is technically capable of performing and thus would be able to repay the loan.

Form 10-K, Annual Report Pursuant to Section 13 or 15D of the Act of 1934" (§ 5001.12(a)(5)). For companies listed on major stock exchanges and/or subject to the Securities and Exchange Commission (SEC) regulations, a copy of this form would be submitted. Information in the form will assist in determining the credit worthiness of the business seeking the loan through the borrower's disclosures to the SEC and consistency with the purpose of the loan guarantee request.

Proposed loan agreement between the lender and borrower (§ 5001.12(a)(6)). A copy of this proposed loan agreement is being requested to assist in determining borrower eligibility and to ensure that the loan provisions are consistent with the guarantee.

The following elements would be submitted with full documentation applications, and certified to in low documentation applications:

Energy assessments (§ 5001.12(a)(7)). These assessments, which are required for low cost energy efficiency improvements, are required to ensure that the project will perform as designed to repay the loan.

Appraisals (§ 5001.12(a)(8)). Appraisals are required to ensure that real property value is properly stated, thereby reducing Agency loss exposure should the loan go into default.

Business plan (for startup businesses only) (§ 5001.12(a)(9)). If the information in the business plan is submitted in the feasibility report, then a separate business plan is not needed.

Because startup businesses are inherently more risky than existing businesses, the business plan allows the Agency to help mitigate project risk and thus Agency risk by ensuring that new businesses have reasonable projections of viability to ensure repayment of the loan.

Feasibility study (§ 5001.12(a)(10)). Similar to a business plan, a feasibility study may be required by the Agency to help mitigate project risk by ensuring the borrower and Agency have considered those factors that could affect the viability of the project and, in turn, its ability to repay the loan.

Affirmative Fair Housing Plan (§ 5001.12(a)(11)). If the application is for 5 or more residential units or for for-profit nursing homes or assisted-living centers, an Affirmative Fair Housing Marketing Plan is required. This is necessary in order to be in compliance with title VIII of the Civil Rights Act of 1968.

Preliminary engineering report (§ 5001.12(a)(12)). When required, these reports help ensure that the project is technically capable of performing and repaying the loan, thereby reducing both project risk and Agency risk.

Current credit reports or equivalent (§ 5001.12(a)(13)). This is required to help mitigate Agency risk by ensuring that the borrower is a "good credit risk."

Financial statements (§ 5001.12(a)(14)). These are required to help mitigate Agency risk by ensuring that the borrower is a "good credit risk."

In sum, the information required to be submitted in the application and its supporting documentation allows the Agency to mitigate project and Agency risk by allowing the Agency to evaluate the project for its worthiness and merit.

**RD Form 5001-4, "Conditional Commitment" (§ 5001.32)**

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.

**RD Form 5001-6, "Assignment Guarantee Agreement" (§ 5001.34(b))**

The form is the signed agreement between 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.

**RD Form 5001-8, "Guaranteed Loan Borrower Status"**

Paragraphs § 5001.4(b)(1) and (2) require a lender to submit periodic reports on the condition of its Agency guaranteed loan portfolio (including borrower status and loan classification) and any material changes in the general financial condition of the lender since the last periodic report was submitted. Loan status reports would be submitted semiannually. For loans in default, the lender would be required to submit monthly status reports.

The Agency is requiring these reports to help mitigate Agency risk by "heading off" problems. In addition, reporting on loans in default on a monthly basis helps the Agency focus its resources on problem loans, thereby further mitigating Agency risk.

**RD Form 5001-10, "Guaranteed Loan Report of Loss" (§ 5001.17(d)(2)(ii) and (n)(3)(iii))**

The Agency requires the lender to use this form to process estimated and final reports of loss on guaranteed loans.

**RD Form 5001-14, "Unconditional Guarantee" (§ 5001.16(d)(1))**

The Agency requires the lender to use this form to obtain uniformity in guarantees from lenders and to make clear that guarantors are personally liable for claims paid by the Government.

**RD Form 5001-19, "Lender's Guaranteed Loan Payment to USDA" (§ 5001.17(g)(1))**

The Agency requires the lender to use this form to send guaranteed loan payments to the Agency Finance Office on loans repurchased by the Agency from the secondary market.

**RD Form 5001-49, "Certificate of Non-Relocation and Market and Capacity Information Report" (§ 5001.42(e)(3))**

This 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 that will increase direct employment by more than 50 employees. The information is used to determine if competing businesses would be adversely affected by the Federally guaranteed loan.

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. Also describe any consideration of using information technology to reduce burden.

In support of the internal and external business requirements associated with this proposed rule, Rural Development has developed a comprehensive information technology plan, including provisions associated with the collection and management of data. The plan leverages existing agency technological resources for the processing and servicing of guaranteed loans, the Guaranteed Loan System (GLS). GLS currently provides the agency the ability to capture and manage information and data associated with its guaranteed loan programs but GLS remains a proprietary system wherein data is input, processed, and managed, internally.

In support of this proposed rule, Rural Development plans on modifying its GLS system to enable the collection of certain data elements associated with processing and servicing agency guaranteed loans, that are typically provided by lenders who participate in the program, electronically. Rural Development's plan envisions a system capable of electronically receiving from participating lenders, the data elements contained in the forms associated with this proposed rule, including:

- Form RD 5001-1, Lender's Application
- Form RD 5001-3, Application For Loan Guarantee
- Form RD 5001-8, Guaranteed Loan Borrower Status
- Form RD 5001-10, Guaranteed Loan Report Of Loss
- Form RD 5001-19, Lender's Guaranteed Loan Payment To USDA

Rural Development acknowledges that some of the data to be collected will necessarily have to be provided by the guaranteed loan borrower, however, these are guaranteed loan programs administered and delivered through participating lenders and the Agency will exclusively rely on these lenders, not borrowers, to provide information.

It is the intent of Rural Development to accomplish these modifications to its IT systems by the beginning of Fiscal Year 2009.

4. Describe efforts to identify duplication.

Rural Development extensively reviewed current forms from all four programs to identify common, unique, and outdated data elements both between programs and between existing forms. Rural Development then developed a new set of forms to eliminate unnecessary and duplicative information. Rural Development further attempted to avoid duplication of its requirements and the burden by developing a unified platform under the proposed program. If similar information is found to be available from another Federal agency, every effort is made to utilize that information as is or in an appropriately modified form for this program.

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

The information collection required for this initiative places little or nominal burden on small entities beyond that performed in normal business practice. Rural Development is using industry-standardized data elements and documents, supplementing them with Government-wide forms that are familiar to many applicants.

6. Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Application information is only collected once rather than frequently. It is necessary to receive this information to select the projects that will receive financial assistance under this program.

Lender loan status reports are submitted semiannually. If a longer period was used (i.e., the periodic report was collected less frequently), the Agency would not have timely information on the status of its outstanding loan guarantees, increasing potential risk of loss.

Loan default status reports are submitted monthly. If a longer period was used (e.g., quarterly, semiannually), the Agency would lose its ability to quickly address delinquent loans, thereby increasing the risk of loans defaulting and Agency loss.

Notifications are requested for certain events as they happen.



If these notifications were submitted less frequently (e.g., submitted once a quarter or semiannually), the Agency would lose oversight capabilities that help manage its outstanding loan portfolio and increases Agency risk of loss.

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

- a. Requiring respondents to report information to the agency more often than quarterly. The proposed rule contains a single requirement for reporting information to the agency on more than a quarterly basis. Under the proposed rule, lenders are required to submit loan default status reports on a monthly basis. As noted above, this is being required to allow the Agency to quickly address delinquent loans to reduce potential Agency loss. There are no other information requirements that require specific reporting on more than a quarterly basis.
- b. Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it. There are no specific information collection requirements that require less than 30 days response from the lender. However, the Agency can not provide the lender with the program benefits until documentation is received to support the lender's request.
- c. Requiring respondents to submit more than an original and two copies of any document. There are no 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 using statistical sampling. There are no such requirements.
- f. Requiring use of statistical data classification that has not be reviewed and approved by Office of Management and Budget (OMB). No such requirements exist.
- g. Requiring a pledge of confidentiality that is not supported by authority in statute or regulation, that is not supported by disclosure and data security policies that are consistent

with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use. There are no such requirements.

- h. Requiring respondents to submit proprietary trade secrets or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permissible by law. There are no such requirements.

8. Comments on Agency's notice in the Federal Register and efforts to consult with persons outside the Agency to obtain their views on the availability of data, frequency of collection, the clarity of the instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Currently, there are no comments specific to this proposed rulemaking as it has not yet been published in the Federal Register.

In shaping the proposed rule, the Agency has relied on two sources of contact with outside persons.

First, through its normal course of business in implementing the four current programs being consolidated into the proposed rule, the Agency has talked with lenders using the programs on many issues, including the paperwork burden associated with guaranteed loan making. These lenders include national, regional, and community lenders; nontraditional lenders; national lending and banking associations; economic and/or community development organizations; and other Federal agencies associated with credit making activities. The Agency has obtained this input through meetings with Agency personnel from State offices and the national office for consideration in developing the proposed rule. In addition, the Agency now has two years experience in implementing the 9006 program. Based on this experience, the Agency has identified additional ways to streamline the 9006 program and make it less burdensome. For example, the proposed rule does not require technical reports for small renewable energy system projects and for any energy efficiency improvement projects.

Second, the Agency reviewed prior and related rulemakings in the context of this proposed rule. The Agency examined whether any

comments were received on the Federal Register notices requesting comments on burden estimates for the Community Facility Program (70 FR 44083, August 1, 2005), the Water and Waste Disposal Facilities Program (68 FR 53709, September 12, 2003); and the Business and Industry Program (71 FR 7724, February 14, 2006). No comments were received on any of these FR notices.

For the Business and Industry program, the Agency had also contacted experienced lenders to obtain their assessment of the burden associated with guaranteed loans under the B&I program. The Agency reviewed these comments to determine if there any additional ideas for reducing or streamlining the paperwork burden associated with the proposed rule.

With regards to the Renewable Energy Systems and Energy Efficiency Improvements program (the 9006 program), the Agency reviewed the comments received addressing the collection of information and associated burden on the 9006 program, which was proposed on October 5, 2005 (69 FR 59650). These comments suggested streamlining the requirements, especially for smaller projects.

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

No payments or gifts were provided to respondents, including no remuneration of contractors or grantees.

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 was provided to respondents for the information required. When necessary, the Agency will process any and all requests for release of records and information in accordance with the Privacy Act of 1974. However, in some instances, the information collected under the provisions of this program is not considered to be of a confidential nature. For example, organizations, such as not-for-profit entities and public bodies from which information is collected, are ordinarily required to make their activities available for public scrutiny.

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

The information collected does not contain any questions of a sensitive nature such as sexual behavior, religious beliefs, or other matters commonly considered private.

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

Based on the current funding levels of the four programs, the burden for collecting information under the unified guaranteed loan program is estimated to average approximately 3,450 respondents annually filing 18,472 responses. A total of 48,892 hours per year were estimated to be required to complete these responses; thus averaging about 2.6 hours per response. The cost per hour used was \$60, which was calculated by averaging data to the Agency from a survey of lenders and is representative of the current burden rate of \$60 per hour. Based on these data, the estimated cost of burden under the unified guaranteed loan program is \$2,933,520. The following summarizes these estimates.

|                               |             |
|-------------------------------|-------------|
| Number of respondents:        | 3,450       |
| Total annual responses:       | 18,472      |
| Number of hours per response: | 2.6         |
| Total hours:                  | 48,892      |
| Cost per hour:                | \$60        |
| Total annual cost:            | \$2,933,520 |

The attached spreadsheet provides the specific estimates for each of the four programs, as well as the "rollup" for the entire program.

13. Provide an estimate for the total annual cost burden to the respondents or recordkeepings resulting from the collection of information.

There are no capital and start-up costs or operations and maintenance costs associated with this collection.

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

The estimated wage of federal employees compiling the information is \$40.41 per hour. Administrative costs include the cost of promulgating the regulations, publication in the Federal Register, developing and printing the proposed forms, etc. The

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estimated cost to the Government is broken down as follows:

| Action   | Num. Of Disclosures | Hours | Rate (\$/hour) | Total       |
|--|---------------------|-------|----------------|-------------|
| <b>Lender Approval Activities</b>  |                     |       |                |             |
| Review and acknowledge applications for lender approval from regulated and supervised lenders    | 562                 | 3     | 40.41          | \$67,404    |
| Review and acknowledge applications for lender approval for non-regulated and supervised lenders | 62                  | 8     | 40.41          | \$20,043    |
| Subtotal   |                     |       |                | \$87,447    |
| <b>Applications for loan guarantee</b>   |                     |       |                |             |
| Review and acknowledge preapplications   | 237                 | 6     | 40.41          | \$57,463    |
| Review and acknowledge full documentation applications   | 927                 | 23    | 40.41          | \$861,582   |
| Review and acknowledge low documentation applications  | 231                 | 12    | 40.41          | \$112,017   |
| Review of Certificate of Non-relocation  | 150                 | 1     | 40.41          | \$6,062     |
| Agency approval of hydroelectric projects  | 1                   | 2     | 40.41          | \$81        |
| Agency approval of agricultural projects   | 2                   | 2     | 40.41          | \$162       |
| Subtotal   |                     |       |                | \$1,037,367 |
| <b>Loan Origination</b>  |                     |       |                |             |
| Approve loans and obligate funds   | 962                 | 8     | 40.41          | \$310,995   |
| Review documents and issue guarantee   | 962                 | 6     | 40.41          | \$233,247   |
| Preparation of Conditional Commitment  | 1,024               | 2     | 40.41          | \$82,760    |
| Preparation of Lender's Agreement  | 604                 | 1     | 40.41          | \$24,408    |
| Preparation of Assignment Guarantee Agreement  | 764                 | 1     | 40.41          | \$30,873    |
| Subtotal   |                     |       |                | \$682,283   |

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**Loan Servicing**

|   |     |    |       |           |
|---|-----|----|-------|-----------|
| Replacement of documents                    | 7   | 3  | 40.41 | \$849     |
| Subordinations                              | 242 | 2  | 40.41 | \$19,558  |
| Exception authority                         | 15  | 3  | 40.41 | \$1,818   |
| Appeals                                     | 596 | 16 | 40.41 | \$385,350 |
| Liquidation plan                            | 150 | 3  | 40.41 | \$18,185  |
| Release of collateral                       | 124 | 2  | 40.41 | \$10,022  |
| Secondary market activities                 | 900 | 1  | 40.41 | \$36,369  |
| Approval of alterations to loan instruments | 7   | 1  | 40.41 | \$283     |
| Reorganizations                             | 57  | 2  | 40.41 | \$4,607   |
| Transfers and assumptions                   | 77  | 20 | 40.41 | \$62,231  |
| Repurchases                                 | 84  | 6  | 40.41 | \$20,367  |
| Additional expenditures                     | 57  | 2  | 40.41 | \$4,607   |
| Protective advances                         | 303 | 2  | 40.41 | \$24,488  |
| Review post construction reports            | 100 | 1  | 40.41 | \$4,041   |
| Review of report of loss                    | 92  | 2  | 40.41 | \$7,435   |
| Subtotal                                    |     |    |       | \$600,210 |

**Oversight and Monitoring**

|                            |       |   |       |             |
|----------------------------|-------|---|-------|-------------|
| Review loan status reports | 8,412 | 3 | 40.41 | \$1,019,787 |
| Review default reports     | 2,190 | 1 | 40.41 | \$88,498    |
| Review notifications       | 314   | 1 | 40.41 | \$12,689    |
| Lender visits              | 1,800 | 4 | 40.41 | \$290,952   |
| Subtotal                   |       |   |       | \$1,411,925 |

**Administrative Activities**

|   |    |     |       |          |
|---|----|-----|-------|----------|
| National office preparation of regulations, instructions, forms, training materials | -- | 640 | 40.41 | \$25,862 |
| Associated costs for the above  | -- |     | 40.41 | \$15,000 |
| Subtotal  |    |     |       | \$40,862 |

**Total** \$3,860,092

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

Item 13 of OMB Form 83-I

This is a new collection, replacing four current programs. When compared to the current OMB inventory for the four

programs being replaced, the new consolidated guaranteed loan program is projected to reduce overall burden from 69,734 burden hours to 48,892 burden hours by delivering a more efficient and streamlined program.

Item 14 of OMB Form 83-I

This is a new collection, replacing four current programs. When compared to the current OMB inventory for the four programs being replaced, the new consolidated guaranteed loan program is projected to reduce overall costs from \$4,183,520 to \$2,933,520 by delivering a more efficient and streamlined program.

The proposed rule would implement programmatic changes that affect the estimated burden on lenders and borrowers. The following paragraphs discuss these changes, which are grouped into four areas.

Lender Eligibility.

The four current programs have relatively modest requirements for lender eligibility. The proposed rule increases these requirements as part of the overall strategy to reduce institutional risk. First, all lenders must be approved by Rural Development in order to participate and must demonstrate that they are in good standing with their regulators or other appropriate entity. Second, the proposed rule requires more material from non-regulated or non-supervised lenders to be eligible. Overall, the proposed rule is estimated to increase this burden on lenders by approximately \$122,000 averaged over the first three years of the program.

Applications for Loan Guarantees

In general, the proposed rule requires the same type of information and evaluations as the four current programs, but relies on lender's complying with their own policies and procedures, which they use in their normal course of business, rather than imposing another set of requirements. Overall, Rural Development estimates that the effort borne by lenders and by borrowers (who provide some of the necessary information to lenders) will be reduced by about \$400,000. Of this amount, the greatest single savings is associated with feasibility studies of projects for which loan guarantees are

sought. By not imposing a second set of requirements on lenders, Rural Development estimates that approximately \$260,000 of burden associated with feasibility studies can be eliminated in implementing these programs under the proposed rule. Additional reduction in burden is attributable to eliminating redundant and outdated data elements for forms used here and elsewhere in loan origination and servicing and using a single set of forms across all four programs.

The proposed rule also reduces burden by eliminating the additional technical reports required under the current Renewable Energy Systems and Energy Efficiency Improvements projects, by requiring technical reports only for the larger renewable energy projects, which represents a large loss exposure than the smaller renewable energy project and the energy efficiency improvement projects. Rural Development estimates that another \$86,000 can be reduced through eliminating separate technical reports for smaller renewable energy projects and for all energy efficiency improvement projects.

#### Loan Origination

Compared to the four current programs, the proposed rule relies on lenders using their own policies and procedures in conducting loan origination activities and focusing the lender's responsibility on conducting proper due diligence when originating a loan. The proposed rule also has reduced the burden associated with loan origination through, as noted above, the use of a single set of forms across all programs and the elimination of redundant and outdated data elements. Overall, Rural Development estimates that loan origination burden will be reduced by approximately \$360,000.

#### Loan Servicing

As under the four current program, the proposed rule requires lenders to submit both loan status reports and default loan status reports. These are key reports to Rural Development for assessing risk in its loan portfolio. The proposed rule increases the estimated burden associated with these two reports. Additional information is being requested in the loan status reports and the frequency of submittal of the default status report is being increased. These additional changes are being proposed to address Agency risk. Overall,



the proposed rule is estimated to increase the burden associated with these two reports by approximately \$580,000.

As for loan origination, the proposed rule relies much more heavily on the lenders using their own policies and procedures to service the loans in their portfolios and less on imposing additional Agency requirements. Rural Development expects this refocus under the proposed rule to significantly reduce the estimated burden of loan servicing, by approximately \$1 million. This is almost entirely the result of relying on the lenders' own policies and procedures for financial assessment of its outstanding loans. This one change is estimated to reduce burden by almost \$800,000 per year.

On net, the changes incorporated in the proposed rule are estimated to reduce loan servicing burden by approximately \$500,000.

### Summary

Overall, the proposed rule is estimated to reduce burden by approximately \$1.25 million. The proposed rule achieves this net reduction by incorporating several major programmatic changes.

First, Rural Development has eliminated redundant and outdated data elements and has created a single set of forms. This change reduces the burden associated with loan applications, loan origination, and loan servicing.

Second, the Agency has refocused burden to address the risk management goals of the new platform on which the proposed rule is based. This refocus increases burden in some areas (e.g., lender eligibility, default status reporting) in order to address project risk, institutional risk, and Agency risk (exposure and operating). For most elements affected, this refocus generally increases burden. For a few elements, the burden is reduced.

Third, under the new platform, the proposed rule relies heavily on the lenders conducting its loan origination and servicing in conformance with their own policies and procedures. By not imposing a second set of requirements, the proposed rule is estimated to achieve significant burden reductions for loan origination and servicing.

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

Rural Development has no plans to publish information collected under the provisions of this program.

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 forms due to the large number of field offices and the significant differences in the volume of forms used by these offices. The Agency would be forced to dispose of thousands of copies every 3 years when the paperwork burden approval date would change. This would waste thousands of dollars unnecessarily on printing, distribution, and employee wage costs.

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

There are no exceptions to the certification.