

May 25, 2007

## SUPPORTING STATEMENT

Form RD 1940-59, Settlement Statement"

### A. Justification

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

The Rural Housing Service (RHS) and the Farm Service Agency (FSA) are requesting an extension of the OMB clearance for Form RD 1940-59, Settlement Statement. The Real Estate Settlement Procedures Act (RESPA), as amended, requires the disclosure of real estate settlement costs to real estate buyers and sellers. Disclosure of the nature and costs of a mortgage transaction enables the borrower to be a more informed customer and protects the public from unnecessarily high settlement charges.

The Secretary of the Department of Housing and Urban Development (HUD) was instructed by the RESPA to develop a standard form for the disclosure of real estate settlement costs to be used for all federally related transactions. Form RD 1940-59 is adapted from the HUD-1 Settlement Statement used by HUD, the Veterans Administration, and the private mortgage industry. Minor revisions have been done and some line items eliminated from the Settlement Statement because they were unnecessary for the Agencies transactions. These adaptations are allowed under the RESPA and do not require written approval from HUD.

#### 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 Agencies have made of the information received from the current collection.

Form RD 1940-59 is completed by Settlement Agents, Closing Attorneys, and Title Insurance Companies performing the closing of RHS loans and credit sales used to purchase or refinance Direct Single Family Housing and Multi Family Housing. The form is also completed by the same parties performing the closings of FSA Farm Ownership (FO) loans and credit sales.

The information is collected to provide the buyer and the seller with a statement detailing the actual costs of the settlement services involved in certain Agency financed real estate transactions. Failure to collect and disclose the information would be in violation of the RESPA.

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

other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection.

The use of automated, electronic, mechanical, or other technological collection techniques is not applicable to this type of data collection. The form is prepared for loan closing and the legal information is subject to change. Because this is a legal instrument, an original must be prepared for each transaction.

**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.**

Efforts to identify duplication are irrelevant. This information is collected on a case-by-case basis for each individual real estate transaction. The HUD-1 collects similar information but also on a case-by-case basis for each individual real estate transaction. There is no similar information available to the Agencies that could be used or modified for these purposes.

**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.**

Methods used to minimize the burden to small businesses and other small entities include the adaptation of the form previously discussed in question # 1.

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

The collection of material is only once for each buyer and seller in a real estate transaction. Without this one-time collection of information, the Agencies would be unable to determine if RESPA requirements are being met.

**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. Information is collected on a case-by-case basis as real estate transactions occur.

**b. Requiring written responses in less than 30 days.**

There are no such requirements.

**c. Requiring more than an original and two copies.**

This form is signed and certified by the seller and the buyer in the real estate transaction that they have received a copy of the Settlement Statement. The Settlement Agent keeps a copy of the Settlement Statement and the Agencies receive the original. There is a minimum requirement for an original and three 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 that 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. 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 recordkeeping, disclosure, reporting format (if any), and on data elements to be recorded, disclosed, or reported.

A Federal Register Notice soliciting comments on the Paperwork Burden Package was published on June 13, 2007 [72 FR 32608]. No comments were received. The number of respondents was incorrectly as 11,928 instead of 21,134. The burden hours were correct.

RHS involved several outside sources to ensure that the burden is reasonable, necessary, and kept to a minimum. The persons selected for consultation provided a cross section of participation in the program that would be representative nationally. They were recommended by the Agency because of their thorough knowledge of Rural Development programs and their experience with the Agency. The following persons were contacted on May 21, 2007:

Mr. Robert G. Cook, Attorney  
Cockerill, Cockerill & Cook

235 South Meridian Street  
Winchester, Indiana 47394  
(765) 584-3241

Debbie Smoak  
Galloway & Galloway  
P. O. Box 674  
Pooler, GA 31322  
(912) 748-9100

Bonnie Cloutier  
Richard Salewski Law Office  
P. O. Box 550  
Darmiscotta, Maine 04543  
(207) 563-8044

The persons selected have knowledge and experience with our loans and grants programs. There were no major problems identified in the consultations and no burden reduction areas were identified.

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 given to respondents.

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

There is no formal assurance of confidentiality provided to respondents; however, it is the Agencies' policy to only release information with the respondent's written permission.

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.

There is no information collection of a sensitive nature.

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

Based on the actual number of real estate loans made the past year, the number of respondents is estimated at 18,413 for single-family housing loans, with an estimate of 50 percent or 9,207 of these respondents being made by closing agents who use their own automated RESPA form. The average number of responses per respondent is one for a total of 18,413 responses. The average wage of the person completing the form is \$14.52 per hour. The form takes approximately 30 minutes (or .50 hours) to complete for an

estimated total man-hours of 4,604 ( $9,207 \times .50 = 4603.50$ ) and a cost of \$66,850. The automated form takes approximately 10 minutes (.17 hours) to complete for an estimated total man-hours of 1,565 ( $9207 \times .17 = 1565$ ) at a cost of \$22,724. The total single family housing cost is \$89,574.

There was an estimated 500 respondents for multi-family housing loans with one response per respondent for a total of 500 responses. The average wage of the person completing the form is \$14.52 per hour. The form takes approximately 30 minutes (or .50 hours) to complete for an estimated 250 total man-hours ( $500 \times .50 = 250$ ) and a cost of \$3,630. The total multi-family housing cost is \$3,630. The

FSA estimated number of respondents is 2,221 for a total of 2,221 responses. The estimated total man-hours are 1,111 ( $2,221 \times .50 = 1,110.50$ ). Using the average hourly wage of \$14.52 and 30 minutes to complete results in a total FSA cost of \$16,132.

Therefore, the total annual cost of this collection to the public is \$109,336.

**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/start-up or operation and maintenance costs for this collection of information.

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

The estimated annual cost to the Federal Government is \$508,640. The cost includes salaries, printing, office supplies and overhead.

Salaries	\$483,208.	
Printing		2,543.
	Office Supplies	
7,630.		
Overhead		-
	<b><u>15,259.</u></b>	

Total:  
\$508,640.

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

The overall result was an increase of 75 burden hours. The change in burden is the result of an increase in the number of loans being made resulting in a gain of responses, hours and costs to complete by RHS. However, FSA experienced a decrease in the number of loans made which resulted in a reduction in the number of responses and hours/costs to complete the form.

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

There is no specific collection of information whose results 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.

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?

The information requested on this form is not related to the services potentially provided by the one-stop shopping concept of the Service Center Initiative.