

5 February 2021

**United States Department of Agriculture
Farm Service Agency
Supporting Statement
OMB Control Number 0560-New
7 CFR 767, Inventory Property Management**

This document supports the information collection requirements of the final rule to be published as part of the Farm Service Agency's (FSA) effort to reorganize and consolidate the regulations governing its Farm Loan Programs (FLP). In this effort, the agency consolidated several CFR subparts and moved its regulations from 7 CFR Chapter XVIII to 7 CFR Chapter VII. The programs of the former Farmers Home Administration (FmHA) were divided among four new agencies under the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (Pub. L. 103-354).

Most regulations governing FLP, their information collection requirements, and many of the forms used by FLP were intertwined with those of three other USDA agencies (Rural Utilities Service, Rural Business and Cooperative Services, and Rural Housing Service) that also continue to administer programs of the former FmHA. In addition, many FLP regulations contained outdated and confusing procedures that made the administration of FLP difficult. Furthermore, regulations contained internal administrative processes that made updating the regulations cumbersome. This was a disincentive for even minor adjustments and stymied efficient program delivery. The final rule is part of an effort by the agency to:

- Review the FLP processes and make changes to improve program delivery within its current statutory authority, as the agency did not seek legislative changes before the publication of the proposed or final rule.
- Where feasible, match requirements imposed on applicants and borrowers to the requirements of commercial lenders. Applicants obtaining credit from the agency have been denied credit from commercial lenders, and therefore, pose a higher risk of losses to the agency. As a result, the Congress, through legislation, has incorporated additional requirements for the agency's applicants and borrowers.
- Eliminate unnecessary internal administrative provisions from the regulations that have resulted in confusing the requirements applicable to the public seeking agency assistance, and eliminate duplication found in the regulations governing FLP. It has been the agency's experience, as information needed to apply for loans or servicing were dispersed in over 42 CFR subparts, similar information was repeated several times, and in many cases not in the same order or stated with the exact same language. This caused irritation, confusion and frustration to applicants, borrowers, and employees as the agency invariably when amending the pertinent section in the CFR through the rulemaking process, one or more applicable CFR sections were not included.
- Rewrite internal handbooks used by State and County Offices in administering agency loan programs in a format easier to use. Further, as required by Departmental guidance

and the Freedom to E-File Act, agency handbooks and forms must be made available in electronic format.

The information collections applicable to FLP approved under control numbers 0575-0110 and 0575-0172 are consolidated and assigned a new control number. The new control number will become effective when the final rule this document supports will be effective.

This analysis includes remodeled collection instruments, and provides the information collection requirements contained in the final rule utilizing current program data. As provided in question 8, the agency consulted with applicants, borrowers, commercial lenders, as well as agency employees and has revised the information collections accordingly. Further, the agency made a concerted effort to accurately assess the burden it imposes on applicants and borrowers; therefore, for the information collections included in this submission, the agency has included respondents that were required to provide information but were not counted in previous submissions, as well as counted the time it takes to complete the collection instruments more accurately.

The information collection instruments included in this submission are in the proposed stage because:

- The agency needs to obtain OMB's approval of the information collection and be assigned a new control number
- The final rule, which this document supports, will not be effective until 60 days after its publication in the Federal Register.

Note: The agency renumbered all the forms used in FLP delivery since the paperwork burden packages for the proposed rule were submitted to OMB. Further, in this analysis, where appropriate the agency revised the (1) number of respondents; (2) responses per respondent, and (3) the response time per response to reflect current program use. Lastly, the agency is attaching an Excel spreadsheet that describes burden approved under the old OMB control numbers, the information collection instrument with the old and new number, and program changes or adjustments made to information collections as a result of the final rule.

Justification

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

FLP provides supervised credit in the form of loans to family farmers to purchase real estate and equipment and finance agricultural production. The regulation covered by this information collection package describes the policies and procedures the agency uses to:

- Manage and dispose of its inventory property in accordance with the provisions of the Consolidated Farm and Rural Development Act (Act) (Pub. L. 87-128) as amended

- Manage and dispose of property taken into custody after abandonment by the borrower.

Authority to establish the regulatory requirements contained in 7 CFR 767 is provided under section 302 of the Act (7 U.S.C. 1922) which provides that “the Secretary is authorized to make and insure loans under this title to farmers ...” Section 339 of the Act (7 U.S.C. 1989) further provides that “the Secretary is authorized to make such rules and regulations, prescribe the terms and conditions for making... loans, security instruments and agreements, except as otherwise specified herein, and to make such delegations of authority as he deems necessary to carry out this title.” The Secretary delegated authority to administer the provisions of the Act applicable to FLP 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.

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.

Information collections are submitted by applicants to the local agency office serving the county in which their business is headquartered. The information is necessary to thoroughly evaluate an applicant’s request to purchase inventory property and is used by the agency to determine an applicant’s eligibility to lease or purchase inventory property and to ensure payment of the lease or purchase amount.

The agency may take title to real estate as part of dealing with a problem loan either by entering a winning bid in an attempt to protect its interest at a foreclosure sale, or by accepting a deed of conveyance in lieu of foreclosure.

The information collection requirements established in 7 CFR 767 are described below and on the attached FSA 85-1, Reporting and Recordkeeping Requirements.

Forms

FSA-2592 – Invitation, bid and acceptance – sale of real property by the United States

7 CFR 767.151 (c)

Inventory property not sold to a beginning farmer is offered for sale to the general public by auction or sealed bid. Bidders complete FSA-2592. In addition, all bidders are required to submit a 10 percent deposit with their bid. It is estimated that 50 bids will be submitted to the agency every year and will take each bidder 30 minutes to provide the information needed.

FSA-2593 – Standard sales contract – sale of real property by the United States

7 CFR 767.151 (a)

When inventory real estate property is sold, the purchaser selected is required to read and sign FSA-2593. The agency completes FSA-2593 in its entirety. It is estimated that 150 contracts to purchase inventory property will be executed each year and will take 60 minutes for each purchaser to read and sign it.

Non – Forms

7 CFR 767.52 (b) – Reclaiming personal property – borrower/owner and lienholder

When the agency has acquired title to real estate property and there is abandoned personal property, the agency will notify the owner that the property may be reclaimed. To reclaim abandoned personal property, the owner must pay all expenses incurred by the agency at any time before the property's sale or disposal. It is estimated that 10 owners will reclaim abandoned personal property per year and will spend 15 minutes each providing the information needed to verify ownership of the personal property. This is a previously unapproved collection.

In addition, the agency will notify the lienholder of record that the agency will dispose of abandoned personal property. The lienholder may reclaim the personal property at any time before the property's sale or disposal. It is estimated that 10 lienholders will reclaim abandoned personal property per year and will spend 15 minutes each providing the information needed to verify they are the lienholder. This is a previously unapproved collection.

7 CFR 767.151 (d) – Negotiated sale of inventory property

If no acceptable bid is received from a sealed bid or auction, the agency will sell the inventory real property at the maximum price obtainable without further public notice by negotiating with interested parties, including all previous bidders. It is estimated that the agency will negotiate with 50 interested parties per year and each party will spend 30 minutes to prepare information for the negotiation. This is a previously unapproved collection.

7 CFR 767.153(e) – Termination of sales contract by the applicant

A successful applicant to purchase inventory property may request to terminate the sales contract before the transaction is consummated. The agency estimates that less than 10 applicants request to terminate the sales contract and each request is estimated to take 15 minutes to complete. This is a previously unapproved collection.

7 CFR 767.155(a)(1) – Sale of chattel property

If the agency acquires chattel property in its inventory, it will use either an established public auction house to sell it or use the sealed bid method. If the sealed bid method is used, potential purchasers will be required to submit a bid for the chattel property. The agency rarely acquires chattel property as it requires its borrowers to exhaust all avenues for selling it. Therefore, it is estimated that less than 10 interested parties will submit a bid to acquire chattel property and it

will take 15 minutes per response. This is a previously unapproved collection.

Travel time

The agency estimates that applicants and borrowers required to provide information under this information collection docket will travel once to the agency office to complete the appropriate documentation. Therefore, the agency estimates that this information collection docket imposes on the respondents 220 hours of travel time.

Collections contained in 7 CFR 767 that will be approved under OMB Control Numbers for other CFR parts/OMB Control Numbers

The following table summarizes the information collections included in 7 CFR 767, for which approval has been obtained or requested under the OMB Control Number for another CFR part that requires the same collection of information for a difference purpose.

CFR citation	Description	Approved under
767.101	Lease of real property	7 CFR 766*

* New information collection package for the above CFR part has been submitted to OMB for approval. However, a new OMB Control Number has not yet been assigned.

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

Information collections obtained using agency forms may be submitted electronically provided the applicant has obtained and activated a USDA account with Level 2 access that allows for electronic submissions. All forms that the applicant has to complete in their entirety, or review and execute, are posted on the e-Gov website at <http://www.sc.egov.usda.gov>. For forms the applicant is required to complete in their entirety, the fillable version of the form, as well as detailed instructions on completing the form, are included on the e-Gov website. Forms prepared by the agency, that the public simply reviews and signs, are also provided on the e-Gov website. However, in lieu of detailed instructions for completing those forms, the instructions simply state that the forms are provided on the website for information purposes only.

Non-form information collections require providing copies of documents in the applicant's possession or providing written replies to agency requests or offers. Non-form collections, as well as all agency forms, may be submitted in person at the local agency office, by mail, or by facsimile. Further, applicants with established Level 2 accounts may provide non-form information collections as any kind of non-executable attachments, such as PDF, doc, xls, or text formats.

Even though forms are available on the e-Gov forms website, public input on this information collection package indicated that very few applicants and borrowers utilize this option. Most respondents stated that they obtain and return forms and non-forms to the agency office as they feel a person-to-person meeting is beneficial. The information required from applicants and borrowers is mainly financial in nature, and farmers are not comfortable with providing it through electronic means, notwithstanding the adequacy of agency security safeguards in place. Most of the agency's applicants and borrowers reside in rural areas, which often do not have access to high speed internet connection. Moreover, applicants and borrowers often seek additional clarification and explanation of the requirements, as well as explanation of the consequences of not complying with the requirements, from agency officials.

Currently, the agency can only accept forms electronically from individual applicants. Electronic signature authentication for entity borrowers is not currently available; however, the agency is anticipating that this option will be available in the near future, provided adequate appropriations are received from Congress to ensure that appropriate system security safeguards are met. Further, the agency is currently exploring options available for applicants and borrowers to respond to, and provide information to, agency-initiated actions. This option will allow the agency to pre-fill forms with information already in its possession, as there are several instances in the loan making process where the agency completes part of the information collection instrument and provides it to the applicant to review and execute. In turn, when this option becomes available, the agency may initiate interactions and transactions that only require the applicant or borrower's review and approval or disapproval, as in those situations the applicant or borrower may not need to visit the agency office to complete the transaction.

Lastly, even though USDA and the agency have publicized and provided information in outreach materials, during stakeholder meetings, as well as agriculture-related meetings and symposiums, on the option to provide information electronically, applicants and borrowers still prefer going to the agency office to obtain forms and information on how to apply for loans and servicing than obtaining forms and information from the internet. Therefore, the agency estimates that less than one percent of responses will be provided through the internet.

As noted above, electronic signature authentication is currently limited to applicants and borrowers who have obtained and activated a USDA account with Level 2 access. Therefore, all third parties (including lenders) that provide information to the agency on behalf of the applicant or borrower do so in paper format, as they cannot submit information electronically nor is there the ability to provide all third parties with a USDA account with Level 2 access.

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 final rule restructures the CFR parts pertaining to FLP. Existing CFR parts have been consolidated to remove duplicative requirements. Much of the remaining burden established in this regulation is required under the provisions of the Act which mandates the agency take specific actions on inventory properties.

Agency personnel with expertise in making and servicing loans, as well as obtaining, maintaining and disposing of inventory property, have reviewed the information collections required under this CFR part for eliminating any duplication or unnecessary collections of information. Information contained in the applicant or borrower's case file that is reasonably current, may be used in lieu of resubmission; however, financial information that is collected at another time may be dated and may not be useful for the specific action being considered. Further, the agency has determined that seldom, if ever, it has information on bidders for inventory property. Even though various program areas within FSA share data; information collections established in this regulation would typically not be available from another agency. Therefore, the potential to share data is limited.

5. Methods to minimize burden on small business or other small entities (Item 5 of OMB Form 83-I), describe any methods to minimize burden.

The agency has made every effort to minimize burden on small businesses and small entities. The agency only requires collection of information when necessary to act on an applicant or borrower's request for assistance. The information required by this regulation is financial in nature and similar to that required to complete Federal tax returns or make business decisions. Thus, it places no additional burden on small businesses above that required in the normal course of business.

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 information is necessary for the agency to implement its authorizing legislation. Failure to collect the information would result in the agency not complying with congressional mandates.

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 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 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. 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 view on the availability of data, frequency of collection, the clarity of instructions and record keeping, disclosure, or reporting format (if any), and on data elements to be recorded, disclosed, or reported.

On February 9, 2004 (69 FR 6056-6121), the agency published a notice regarding its intention of requesting OMB approval to establish new information collections to correspond with the agency's new CFR structure. There were no comments received on the notice.

On a frequent basis, the agency consults with applicants, borrowers, representatives of private lending institutions, representatives of the Farm Credit Administration, as well as agency and other USDA employees as part of ongoing program administration, national oversight and national risk assessment reviews.

To obtain public input for this information collection the agency contacted applicants and borrowers. Field office employees assisted the agency in identifying applicants and borrowers and assisted in reviewing the information collection instruments and the applicable instructions. All persons contacted reviewed draft information collection instruments and the instructions for their completion, and provided answers to the same survey questions.

Commercial lenders were not contacted for this information collection as the agency's processes for disposing inventory property are statutorily mandated and do not match commercial lenders' requirements.

The applicants and borrowers the agency contacted stated that the information the agency requests is not excessive or intrusive. One respondent stated that the time to complete FSA-2592 does not seem to be adequate and proposed the time be increased to 2 hours per response. The agency, based on the other respondents' response, believes the time it has estimated is adequate; therefore, the agency did not increase the response time. Lastly, one respondent stated the time to read and sign FSA-2593 needs to be increased to 1 hour per response. As stated in question 2, the agency completes the form in its entirety and the successful bidder is required to read and sign it. The agency believes this time is excessive as the form is comprised of only 3 pages. Therefore, no change to the response time was made.

The following provided input on the information collection for this docket.

Nelson Gentry
Farmer
8006 Robert E. Lee Dr.
Spotsylvania, VA
540 582-5567
(Kimberly DePaquale, Farm Loan Manager, Fredericksburg, VA, assisted in gathering input)

James Benson
Farmer

616 LCR 437
Mexia, TX
254-472-0390

Richard C. Beasley
Farmer
6139 Massaponax Church Road
Frederickburg, VA
540 582-8055
(Kimberly DePaquale, Farm Loan Manager, Fredericksburg, VA, assisted in gathering input)

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.

Agency forms that serve as collection instruments contain a Privacy Act statement identifying circumstances under which the information collected may be released. This statement is based on the Privacy Act, the Freedom of Information Act and the FSA System of Records that has been published in the Federal Register. Agency policies, as well as a copy of the System of Records, are published in FSA handbooks 2-INFO and 3-INFO.

11. Provide additional justification for any question of a sensitive nature, such as 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 for the receipt of program benefits, respondents must provide total disclosure of income data and a history of their business dealings that is often considered sensitive. Regardless, the information is required to properly document the agency's decision pertaining to inventory property disposal actions.

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

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

Total Number of Unduplicated Respondents:.....	280
Reports Filed Per Person.....	1
Total Annual Responses:.....	290
Total Annual Burden Hours:.....	432

Average Burden Per Collection:..... 1.5 hours

The estimate of annual cost for the information collections is as follows:

Respondent's Cost Per Hour - Purchasers.....	\$19.09
- Lienholders.....	\$28.53
Total Annual Respondent Cost – Purchasers.....	(280X\$19.09) \$5,345
- Lienholders.....	..(10X28.53) \$285
- Total.....	\$5,630

Cost per hour for all respondents was derived from the U.S. Department of Labor's Occupational Employment and Wages, May 2005, tables which are found at the Bureau of Labor Statistics website at <http://stats.bls.gov/oes>.

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

The regulation and associated information collection places no burden cost on respondents for capital, start-up, total operation, maintenance, or the purchase of services.

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

Agency employees review information provided by purchasers and make feasibility and eligibility determinations. The agency estimates that its employees spend 7,632 hours reviewing and processing the collections included in this docket.

Averaging the GS-9 through GS-12 salaries indicates an average employee salary of \$53,146 per year. Standard adjustments recommended by FSA's Budget Division of 33.3% are added for benefits and miscellaneous expenses, for a total average cost for an FLP employee salary of \$70,844 per year, which divided by 2080 hours equals an hourly salary of \$34.05.

Therefore, the estimated annual cost to the Federal Government is $7,632 \times \$34.05 = \$259,870$.

Note: The agency utilized the County Office Workload and Funding Report, BU-533R, for FY 2006 to estimate the costs to the Federal Government.

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

The agency is publishing a final rule to consolidate several CFR subparts and to move FLP regulations from 7 CFR Chapter XVIII to 7 CFR Chapter VII. Therefore, the agency is requesting that a new OMB Control Number be assigned to this information collection, which includes collections applicable to FLP currently approved under control numbers 0575-0110 and 0575-0172.

As a result of the information collection analysis completed for the final rule, the total burden hours for FLP were increased. In some cases the increase was due to changes in the number of respondents, responses per respondent, or response time. In other cases the increase was due to the addition of existing information collections that are currently unapproved. A detailed explanation on the specific program changes and adjustments made to the information collection is included in the attached spreadsheet analysis.

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

The information collections required under this regulation will not be tabulated or published.

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.

While FSA forms will be made available electronically at www.sc.egov.usda.gov/, hard copies of each form are also maintained in State and County Offices. Displaying the expiration date results in the need to dispose of existing supplies and reprinting of the form with the new expiration date each time the approval is renewed. This increases printing costs for the Agency and results in the need to revise forms posted to the website.

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

There are no exceptions requested.

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

Agency employees collect the required information from the applicant or borrower. Information collected is program specific and would not be part of one-stop shopping, except for basic information dissemination between Service Center agencies. Employees utilize information already available at the Service Center and work directly with other FSA programs and USDA agencies to minimize the amount of information collected from applicants and borrowers. Information collected is stored at the Service Center.