

**United States Department of Energy
Loan Guarantee Program Office
Supporting Statement
OMB Number 1910-5134
10 CFR Part 690**

“Loan Guarantees for Projects That Employ Innovative Technologies”

This supporting statement provides additional information regarding the Department of Energy (DOE) request for processing of the proposed information collection, Loan Guarantee for Projects that Employ Innovative Technologies, Application form. The numbered questions correspond to the order shown on the Office of Management and Budget (OMB) Form 83-I, “Instructions for Completing OMB Form 83-I.”

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

Title XVII of the Energy Policy Act of 2005 (EPAct 2005) (42 U.S.C. 16511-16514) authorizes the Secretary of Energy, after consultation with the Secretary of the Treasury, to make loan guarantees for projects that “avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases; and employ new or significantly improved technologies as compared to commercial technologies in service in the United States at the time the guarantee is issued.”

Section 20320(b) of Public Law 110-5, enacted February 15, 2007, requires that the Department of Energy issue final regulations for the Title XVII loan guarantee program before issuing any loan guarantees under that program. Pursuant to Title XVII of EPAct and to section 20320(b) of Public Law 110-5, DOE issued final regulations on October 4, 2007 implementing the Title XVII loan guarantee program. 10 CFR Part 609; 72 Fed. Reg. 60116 (October 23, 2007).

This collection of information is necessary in order for DOE to identify projects that are eligible for loan guarantees and that DOE may invite to apply for a loan guarantee.

On May 16, 2007, DOE issued a Notice of Proposed Rulemaking that contemplated an information collection effort in connection with a proposed rule that would cover future applications for loan guarantees under Title XVII of the Energy Policy Act of 2005. In conjunction with the issuance of the NOPR, OMB provided DOE with OMB Control Number 1910-5134. The information collection proposed by DOE pursuant to the Notice of Proposed Rulemaking anticipated 100 responses with a total time burden of 13,000 hours.

On October 12, 2007, DOE issued a final rule that implemented its loan guarantee program. After receiving OMB approval, the final rule was published in the Federal Register on October 23, 2007 (72 Fed. Reg. 60116). The final rule revised the loan

guarantee program's substantive measures and refined the information collection necessary to implement the loan guarantee program. As shown on the accompanying schedule of reporting and recordkeeping requirements that DOE has provided to OMB, DOE anticipates a total of 1,600 responses annually with a total burden of 15,956 hours under the final rule. The average time to respond is estimated at 9.97 hours.

The differences between the estimated number of responses and time burdens between the NOPR and the final rule are the result of DOE's experience in implementing an information collection for an initial solicitation for loan guarantee pre-applications. The information collection in connection with that initial solicitation was approved by OMB on an emergency basis in OMB Control Number 1910-5129. When DOE applied for emergency approval of the pre-application effort on August 7, 2006, it was contemplated that DOE would receive 40 responses with a total time burden of 4,000 hours.

In fact, however, DOE received 143 responses pursuant to the initial solicitation. The increase in the number of responses to the initial solicitation received versus the number of responses that had been anticipated in OMB Control Number 1910-5129 caused DOE to reconsider and revise the anticipated number of responses for implementing the loan guarantee program going forward. DOE does not attribute the increase to any change in the substantive portions of the NOPR contained in the final rule. Those changes did not fundamentally alter the information collection effort although the final rule does contain additional specificity regarding the types of information that are required. The change is primarily due to DOE's experience and the unexpected number of responses to the initial solicitation.

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.

DOE's Loan Guarantee Program Office (LGPO) will use an agency form (DOE Form No. 540.2) and written evidence to collect needed information. The information collected will be used to determine lender and loan applicant eligibility for loan guarantees, and to ensure the lender protects the government's financial interests. The specific information requirements related to loan application eligibility are discussed in more detail on pages 2 through 5 of the Instructions for Application for Loan Guarantee in the Application Process Overview document and in Appendix B to the Application Process Overview document, entitled "Application Guidance for Federal Assistance," at pages 2 through 9.

As part of the application process, applicants have a continuing responsibility to provide the LGPO with progress reports demonstrating that engineering and financial criteria used in the review and approval of the application continue to be met during the construction phase of the project. This is necessary to assure that the applicant is complying with all terms of the loan guarantee agreement. It also means that DOE as well has a monitoring function to perform as part of the application process.

The information sought by this information collection will be stored in LGPO files or in the agency's computers. The LGPO requires original Applicant signatures on loan application forms and lender signatures on the loan documents. The regulation's (10 CFR Part 609) require the submission of substantial information essential to protect the Government's interest.

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.

The LGPO has requested that Applications be submitted in electronic format through DOE's Industry Interactive Procurement System (<http://e-center.doe.gov>). Applicants may send questions and comments to lgprogram@hq.doe.gov. The LGPO website, www.lgprogram.energy.gov will also have these links.

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 DOE loan guarantee program is a unique program. DOE does not collect similar information for any projects to which it provides financial support. Companies that sponsor projects that may be eligible for loan guarantees will develop similar information as they seek debt financing and equity investment. These companies will be able to utilize much of this information in preparing Applications, thus reducing the burden on respondents.

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

Most eligible projects will be larger than those that small businesses usually undertake. Moreover, the process of issuing a solicitation and accepting applications only from those invited to submit full applications is designed, in part, to enable DOE to screen projects and provide an early indication of projects' eligibility for a loan guarantee under this program. In this way, DOE will be in a better position to inform interested parties whether to submit a full Application to the program and thereby to reduce the paperwork burden for small businesses.

6. Describe the consequence 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.

If the information is not collected, DOE will be unable to implement Title XVII of the Energy Policy Act of 2005 (42 U.S.C. 16511-16514).

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

Requiring respondents to report information more frequently than quarterly. None.

Requiring written response in less than 30 days. None.

Requiring more than an original and two copies. None. Most, if not all submissions, will be done electronically.

Requiring respondents to retain records for more than 3 years. Respondents will be required to retain pertinent records for the length of the guaranteed loan.

Not utilizing statistical sampling. There are no such requirements.

Requiring the use of statistical sampling which has not been reviewed and approved by OMB. There are no such requirements.

Requiring a pledge of confidentiality. There are no such requirements.

Requiring submission of proprietary trade secrets. Because the projects seeking loan guarantees become eligible only if they employ new or innovative technologies, the applicants may submit proprietary trade secrets from time to time in order to justify the extension of a loan guarantee by the Government._

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden. 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, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

DOE received comments raising three issues concerning the collection of information in the proposed rule on loan guarantees for projects that employ innovative technologies. The first issue was that proposed § 609.4 (“Submission of Pre-Applications”) and

proposed § 609.6 (“Submission of Applications”) included some items prematurely; i.e., in the normal course of business such items would not be available until later in the process. A second issue related to proposed § 609.6(b)(21) which would require an Application to include a credit assessment for the project from a nationally recognized rating agency. Some commenters argued a credit assessment would be premature at the time of Application, and others argued the requirement was unnecessary and burdensome. The third issue concerned the proposed requirement (in §609.10(g)(1)) that the Eligible Lender provide a written notification to DOE of any assignment, transfer, pledge or use of a Guaranteed Obligation and for DOE consent to certain transfers. It was argued this requirement was not practical and was inconsistent with the workings of the market.

DOE addressed these comments in the preamble of the final rule and by making some changes in the regulatory text. With respect to the first issue, the Department does not presently intend to use the pre-application process and the present information collection effort does not include a reporting burden for pre-applications. However, by way of summarizing comments received on this issue, it should be noted that DOE stated in the preamble of the final rule, with regard to Pre-Applications, that a Pre-Application “will not necessarily be rejected simply because one or even a few items are not in final form when they are submitted . . .” and that DOE would allow Applicants to complete their Pre-Applications within the open period provided by a Solicitation.” (Final rule, page 52). In the rule itself, DOE revised § 609.6(b)(15), which would require a copy of the financial closing checklist in the Application, was modified by adding the phrase “to the extent available.” With respect to the second issue, DOE stated in the preamble that it was retaining the credit assessment requirement because it was needed for determining the credit subsidy scores for particular projects and for assessing and evaluating the risks and benefits of particular projects. (Final rule, page 43). However, in the Application section, DOE revised § 609.6(b)(21) to require a “preliminary credit assessment,” thus recognizing that a full credit assessment may not be done. With respect to the third issue, DOE stated that it has an interest in ensuring that any Guaranteed Obligation presented to it for payment is valid, and that it would provide in the Loan Guarantee Agreement and related documents, procedures for identifying Holders of the Guaranteed Obligations. (Final rule, page 77). In the final rule, DOE provides that the duty to track and identify Holders of Guarantee Obligations “usually will be performed by the servicer” of the loan rather than the Eligible Lender (as proposed).

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

No payment or gift to respondents is being proposed under this information collection.

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

This information collection, at page 3 of the Application Form, provides the following assurance of confidentiality to respondents, under the Freedom of Information Act (5 U.S.C. 552):

“Patentable ideas, trade secrets, proprietary, or confidential commercial or financial information, disclosure of which may harm the applicant, should be included in an Application only when such information is necessary to convey an understanding of the proposed project. The use and disclosure of such data may be restricted, provided the applicant includes the following legend on the first page of the project narrative and specifies the pages of the Application which are to be restricted:

‘The data contained in pages _____ of this Application have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes, provided that if this applicant receives an award as a result of or in connection with the submission of this Application, DOE shall have the right to use or disclose the data herein to the extent provided in the award. This restriction does not limit the government’s right to use or disclose data obtained without restriction from any source, including the applicant.’

“To protect such data, each line or paragraph on the pages containing such data must be specifically identified and marked with a legend similar to the following:

‘The following contains proprietary information that (name of applicant) requests not be released to persons outside the Government, except for purposes of review and evaluation.’”

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

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

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

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

Total number of unduplicated respondents: 16.

Reports filed per person: 73.

Total annual responses: With the exception of Progress Reports, the responses are one-time only responses. The total of one-time only responses is 1,440. In addition, there will be 64 Progress Reports per year over a 2.5 year period.

Total annual burden hours: 15,956

Average Burden	Per Collection:	997.25
	Per Applicants	989.75
	Per Lenders	7.5

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

Respondent's Cost Per Hour	Applicants	\$250
	Lenders	\$300

Total Annual Respondent Cost	Applicants	\$247,435
	Lenders	\$2,250
	Total	\$249,685

The public reporting burden for the collection of information is estimated to average 9.97 (total burden hours/total annual responses) hours per response. The respondents are applicants for loan guarantees, lenders, and other project sponsors. The agency estimates the number of respondents to be 16 loan guarantee applicants, and 80 lenders and other project sponsors.

13. Provide an estimate for the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

There are no burden costs on respondents for capital, start-up, total operation, maintenance or purchase of services other than what is usual and customary for normal business operations.

14. Provide estimates of annualized costs to the Federal government.

The estimated annual cost to the Federal Government is \$ 1,227,648. Agency employees will spend an estimated 19,200 hours processing the 16 applications included in this docket. Averaging the GS-9 through GS-15 (2007 Salary Table) salaries indicates an average employee salary of \$110,800 per year. Standard adjustments for benefits and

miscellaneous expenses recommended DOE's Office of Budget are 20% thereby resulting in a total average salary per employee of \$ 133,000 per year, which is divided by 2080 to derive an hourly salary of \$63.94.

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

Not applicable. This information collection is a new collection of information.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The information collected is not intended to be published. No complex analytical techniques will be employed. There will not be a report on the information we collect, other than quarterly and annual reporting on the progress of the loan guarantee program as a whole and an evaluation of the program against GPRA metrics. DOE could commence issuing loan guarantees under the program at some unspecified date during FY 2007. Loan guarantees issued under the program will be in effect as long as the debt they support continues to be in effect, which could be 15 years or more.

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.

Not applicable. DOE is not seeking approval to not display the expiration date for OMB approval of this information collection.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

Not applicable. There are no exceptions to the certification statement in Item 19.

B. Collections of Information Employing Statistical Methods

This information collection does not use statistical methods.