

Supporting Statement
Rural Development Guaranteed Loan Program
0570-0054

A. Justification

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

Rural Development is implementing a new consolidated guaranteed loan program. This interim final rule would create a new guaranteed loan program that would combine four existing guaranteed loan programs under one regulatory platform. These four existing programs, described below, are: (1) the Community Facilities Program (0575-0137), (2) the Water and Waste Disposal Program (0572-0122), (3) the Business and Industry Program (0570-0014), and (4) the Rural Energy for America Program (formerly known as the Renewable Energy Systems and Energy Efficiency Improvements Program - 0570-0050) under Title IX, Section 9007 of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill).

Community Facilities 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 has been making guaranteed loans through its Community Programs, which was authorized by Congress in 1990. Community Program guaranteed loans are used to finance many types of projects varying in size and complexity from large general hospitals to small firefighting 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.

Rural Energy for America Program. The Rural Energy for America Program is authorized under the 2008 Farm Bill to make 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.

Lending entities 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 their eligibility for participation in this program.

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

Oversight and monitoring (§ 5001.4)

Notifications. Lenders are required 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; whenever there has been a permanent or temporary reduction in the interest rate on the guaranteed loan; or whenever there has been a downgrade in the loan classification of a loan made under this part.

Receiving notifications of loan agreement violations and downgrades will help the Agency mitigate Agency risk. Notification of temporary or 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.

Annual reports for loss claims. Lenders who receive a final loss payment must submit an annual report on its collection activities for each unsatisfied account for three years following payment of the final loss claim.

Receiving these reports will enable the Agency to determine whether the lender has recovered any monies and tendered to the Agency its pro rata share of funds recovered, following the lender's liquidation of the loan, that were not collected at the time the final loss claim was paid.

Project eligibility (§ 5001.6)

Under paragraph (c)(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.

Pre-applications (§ 5001.11(a)(1))

A lender has the option of submitting a pre-application to the Agency before it submits the full application for guarantee. The information in the pre-application would be used by the Agency to make an informal assessment of project and borrower eligibility for program assistance.

By providing the lender 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.

Lender's responsibilities - General (§ 5001.15(d))

The lender is required to notify the Agency of any changes to its loan origination and servicing policies and procedures. Further, for any change to the lender's loan origination and servicing policies and procedures that is inconsistent with the requirements of this part, the lender must notify the Agency in writing and receive written Agency approval prior to applying the changes to loan guarantees under this part.

These requirements are needed in order to demonstrate to the satisfaction of the Agency that the lender is in compliance with their own origination and servicing policies and procedures or the requirements of part 5001, whichever is more stringent.

Lender's responsibilities - Origination (§ 5001.16(a)(2))

The lender is required to provide the Agency with the lender's classification of the loan no later than 90 days after loan closing.

This requirement is a method for the Agency to assess the performance of loans in its portfolio, as designated by the lender, and to assist the Agency in assessing what loan performance risk category is associated with particular loans within the overall portfolio.

Lender's responsibilities - Seervicing (§ 5001.17)

Financial reports

Lenders are required to submit borrower financial reports on an annual basis.

This requirement is needed in order to evaluate the borrower's financial performance as it would pertain to the both its business plan and feasibility study, if applicable, as well as to whether the business is generating sufficient cash flow to satisfy its obligations, including the guaranteed loan.

Collateral Inspection and Release

The lender is required to inspect collateral as often as necessary.

This requirement is needed to ensure that the loan is properly served, which reduces Agency risk by helping to ensure the value of the collateral is maintained should the loan go into default and be liquidated.

Transfers and Assumptions

All transfers and assumptions must 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.

Mergers

The lender (and the Agency) is required to approve all borrower mergers.

This requirement is needed to provide the Agency necessary information on the new borrower in order to determine compliance with the borrower eligibility criteria, including the ability to repay the guaranteed loan. In addition, this requirement will enable the Agency to monitor the lender's enforcement of the promissory note and other security instruments, as applicable, and the lender's loan servicing responsibilities.

Subordination of Lien Position

The lender is required 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 the subordination is in the best interest of the Agency.

Repurchases

The lender is required 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

The lender is allowed to make additional expenditures or new loans to a borrower with an outstanding loan guaranteed without obtaining prior written Agency approval unless the expenditure or loan will violate one or more of the loan covenants of the borrower's loan agreement.

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

The lender is required to obtain the Agency's written authorization when any protective advance, singularly or cumulatively, amounts to more than \$200,000 or 10 percent of the guaranteed loan, whichever is less.

Protective advances are indicative of potential problems with a loan. If they are greater than \$200,000 or 10 percent of the guaranteed loan, Agency risk is increased to where the Agency needs to approve the protective advance. Thus, this requirement helps to mitigate Agency risk.

Liquidation

The lender is required to develop a liquidation plan, in consultation with the Agency, which will include obtaining appraisals. 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.

Lenders are required 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

The lender is required 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.

Loss calculations and payments

The Agency is allowed to request, in response to a loss claim, the lender to provide the Agency with a copy of the applicable loan origination and servicing policies and procedures in place for the loan. The lender is required to comply with such requests.

This requirement is important for the Agency to be able to assess the lender's loss claim to ensure that the Agency only pays appropriate loss amounts.

Guaranteed loan requirements (§ 5001.31)

Interest rate changes

The lender is required 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, unless the only change is to the base rate of a variable interest rate.

The lender is required to keep records to allow the Agency to calculate any loss at the reduced rate; to keep records that adequately document the accrued interest claimed; to provide copies of all legal documents to the Agency when making interest rate changes or other legally effective amendment to the promissory note.

The lender is required to obtain Agency concurrence for if there is an increase in interest rate from a variable interest rate to a higher interest rate that is a fixed rate.

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.

Issuance of the guarantee (§ 5001.34(e))

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 to loan instruments (§ 5001.35)

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 Conditional Commitment.

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.

The regulation addresses situations where a change in lender is requested prior to issuance of the Loan Note Guarantee, 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).

The lender is required 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))

The lender is required 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.

Community Facilities Program (§ 5001.101)

Hydroelectric generation facility (paragraph (a)(1)(iv)).

Advanced written approval is required 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)(6)(i)).

The borrower is required to submit evidence of 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 debt/tangible net worth ratio and loan-to-value ratio requirements because community support is the better criterion to help ensure a successful project under this program.

Additional documentation requirements (paragraphs (d)(2))

The submittal of organization documents, list of board members, and management agreements and other legal documents are required when the guarantee application is submitted. These additional documents are required to ensure that the borrower has the necessary legal authority and power to enter into the loan and to verify borrower eligibility. In addition, need to verify that the borrower has control over the day-to-day management of the facility.

Annual financial reports (paragraph (g)).

Annual financial reports are required that conform to 7 CFR part 3052. This requirement is needed to demonstrate satisfaction of Federal financial audit requirements for those entities that receive Federal assistance. In addition, this provides the Agency up-to-date information on the financial standing of the borrower.

Water and Waste Disposal Facilities Program (§ 5001.102)

Demonstration of community support (paragraph (a)(3)).

The borrower is required to submit evidence of community support.

To help mitigate project risk, it is important that a water and waste disposal project have the support of the community. This criterion replaces the debt/tangible net worth ratio and the

loan-to-value ratio requirements because community support is the better criterion to help ensure a successful project under this program.

Additional documentation requirements (paragraphs (e)(3) through (e)(5)).

The submittal of organization documents, list of board members, and management agreements and other legal documents are required when the guarantee application is submitted. These additional documents are required to ensure that the borrower has the necessary legal authority and power to enter into the loan and to verify borrower eligibility. In addition, need to verify that the borrower has control over the day-to-day management of the operation.

Business and Industry Program (§ 5001.103)

Agricultural production (paragraph (b)(2)(vi)).

Prior written Agency approval is required 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.

Agreement to inform consumers (paragraph (e)).

The recipient of a loan guarantee for the purpose of establishing and facilitating enterprises that process, distribute, aggregate, store, and market locally or regionally produced agricultural food products to support community development and farm and ranch income must include in an appropriate agreement with retail and institutional facilities to which the recipient sells locally or regionally produced agricultural food products a requirement to inform consumers of the retail or institutional facilities that the consumers are purchasing or consuming locally or regionally produced agricultural food products. This provision is required by the 2008 Farm Bill.

Rural Energy for America Program (§ 5001.104)

Post-construction Performance Reports (paragraph (f)).

The borrower is required to prepare annual reports for completed projects and provide them to the lender, who submits them to the Agency for a limited time period, which varies if the project is a 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.

REPORTING REQUIREMENTS - FORMS
(Specific to the Guaranteed Loan program)

Form RD 5001-1, "Lender's Application"

Under the Rural Development guaranteed loan program, lending entities must be approved in order to participate. To be approved, most lending entities must submit an application for lender approval. This form also allows approved lenders to apply for preferred lender status for the Business and Industry Guaranteed Loan program.

All lending entities who wish to participate in the guaranteed loan programs must submit a written summary of their loan origination and servicing policies and procedures. In addition, each lending entity must submit certification that their loan origination and servicing policies and procedures meet or exceed the requirements of this part.

The requirement for providing summaries of the lender's policies and procedures for loan origination and servicing allows the Agency to determine whether the lending entity has policies and procedures suitable to conform to the requirements of this part, at a minimum, and with industry norms.

A regulated or supervised lending entity that does not have any outstanding guaranteed loans at the time must submit a lender application. The lending entity must submit with the lender application a written summary of its loan origination and servicing policies and procedures and a description of its lending history and experience. Additionally, the lending entity must be in good standing with its regulator to be approved for

participation.

A regulated or supervised lending entity that has at least one outstanding guaranteed loan with the Agency is required to certify to the Agency that the lending entity is in good standing with its regulator and to submit a written summary of its 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.

Any lending entity that is not regulated or supervised must submit an application for lender approval, including a summary of its written loan policies and procedures, copies of licenses or other authority to make loans, certificates of good standing from the States in which it intends to conduct business, a description of lending history and experience, documented sources of its funds, office locations and proposed geographic lending areas, and results of the examination, which requires these lenders to undergo an examination acceptable to the Agency.

These requirements, including the requirement for an examination acceptable to the Agency, will reduce the institutional risk associated with making loan guarantees under this program.

Under this guaranteed loan program, lenders that have been approved for participation in this program may apply for preferred lender status for the Business and Industry (B&I) guaranteed loan program. Approved lenders seeking to be a preferred lender for the B&I program, must submit information on its loss rate, number of B&I guaranteed loans, its submittal of applications containing accurate information, instances of Federal negligent loan origination and servicing, status with regard to regulatory enforcement actions, its standard of professional competence, and its facilities for conducting business.

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.

Form RD 5001-2, "Lender's Agreement"

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

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

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.

Applications for Guarantee from Approved Lenders

The following elements would be submitted for approved lender applications for guarantee:

Lender's analysis and credit evaluation (§ 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, and energy assessments (§ 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.

Appraisals (§ 5001.12(a)(5)). Loan guarantee applications

from approved lenders must contain appraisals acceptable to the Agency, if available. Appraisals are required to ensure that real property and chattel value is suitably evaluated, thereby reducing Agency loss exposure should the loan go into default.

Business plan (§ 5001.12(a)(6)). 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. If the information in the business plan is submitted in the feasibility report or in the lender's analysis, then a separate business plan is not needed.

Feasibility study (§ 5001.12(a)(7)) (as specified in subpart B). 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 Marketing Plan (§ 5001.12(a)(8)). If the application is for 5 or more residential units, including nursing homes and assisted-living centers, and that is in conformance with 7 CFR 1901.203(c)(3).

Current credit reports or equivalent (§ 5001.12(a)(9)). This is required to help mitigate Agency risk by ensuring that the borrower is a "good credit risk."

Financial statements (§ 5001.12(a)(10)). These are required to help mitigate Agency risk by ensuring that the borrower is generating sufficient cash flow to repay all of its obligations, including the guaranteed loan.

In addition, lender must submit any other information as determined by the Agency to be necessary to evaluate the application (§ 5001.12(a)(11)).

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 credit worthiness and merit.

Application for Loan Guarantee from Preferred Lenders

In addition to the application for loan guarantee, the following elements would be submitted for preferred lender applications for

guarantee:

Information sufficient for the Agency to confirm project and borrower eligibility.

A copy of lender's loan evaluation and analysis. Submitting the lender's analysis mitigates project and Agency risk by ensuring the financial resources are sufficient to repay the loan.

An internal loan approval document showing approval by in-house appropriate office/committee. This is needed to demonstrate compliance with and document the lender's policies and procedures for loan approval.

Environmental information. This information is required to allow the Agency to fulfill its environmental review obligations under other regulatory requirements.

Form RD 5001-4, "Conditional Commitment"

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.

Form RD 5001-6, "Assignment Guarantee Agreement"

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.

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

The lender is 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.

Form RD 5001-10, "Guaranteed Loan Report of Loss"

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

Form RD 5001-14, "Unconditional Guarantee"

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"

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"

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, which conforms with the requirements of paragraphs (d)(2), (d)(3), and (d)(4) in 7 U.S.C. § 1932,

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.

Rural Development currently uses the Guaranteed Loan System (GLS), which 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 the interim final 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 interim final 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.

Rural Development is currently making modifications to its IT systems that will be phased in during FY 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.

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.

The information collected under these programs is the minimum necessary to conform to the requirements of the program regulations established by law. Failure to collect proper information less frequently could result in improper

determinations of eligibility or improper use of funds.

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. Under the interim final rule, lenders are required to submit loan default status reports on a monthly basis. 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 cannot 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.

The 60-day notice for comment was embedded in the proposed rule and published in the Federal Register on September 14, 2007, (72 FR 52618). The Agency received one public comment letter on the burden estimation for the proposed rule. While the commenter did not provide specific comments on the estimation of burden for any of the elements contained in the proposed rule, the commenter and others provided comments and suggestions that the Agency has taken into consideration in this interim final rule.

In shaping the interim final rule, the Agency 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 interim final rule, the Agency 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 obtained this input through meetings with Agency personnel from State offices and the national office for consideration in developing the interim final rule. In addition, the Agency now has two years experience in implementing the Rural Energy for America Program. Based on this experience, the Agency identified additional ways to streamline the Rural Energy for America Program and make it less burdensome. For example, the interim final 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 interim final 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 Federal Register 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 were any additional ideas for reducing or streamlining the paperwork burden associated with the interim final rule.

With regards to the Rural Energy for America Program, the Agency reviewed the comments received addressing the collection of information and associated burden on the Renewable Energy Systems and Energy Efficiency Improvements program, which was proposed on October 5, 2004 (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 4,831 respondents annually filing 21,392 responses. A total of 48,750 hours per year were estimated to be required to complete these responses; thus averaging about 2.5 hours per response. With one exception, 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. For the examination requirement for non-regulated, non-supervised lending entities, a rate of \$125 per hour was used. The Agency has assumed that it would be beneficial for non-regulated, non-supervised lending entities to obtain a level of service from a provider of financial and business solutions meeting the requirements similar to those for financial and performance audits in the GSA Financial and Business Solutions Schedule. The \$125 per hour rate represents an allocation of hours between a Senior Manager for Auditing Services and a Senior Staff for Auditing Services from the aforementioned GSA Schedule.

Based on these data, the estimated cost of burden under the unified guaranteed loan program is \$2,967,205. The following summarizes these estimates.

Number of respondents:	4,831
Total annual responses:	21,392
Number of hours per response:	2.5
Total hours:	48,750
Cost per hour:	\$60
Total annual cost:	\$2,967,205

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 recordkeepers 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 estimated cost to the Government is broken down as follows:

Action	Num. Of Disclosures	Hours	Rate (\$/hour)	Total
Lender Approval Activities				
Review and acknowledge applications for lender approval from regulated and supervised lenders	556	3	40.41	\$67,404
Review and acknowledge applications for lender approval for non-regulated and supervised lenders	50	8	40.41	\$16,164
Review and acknowledge applications for preferred lender status	90	12	40.41	\$43,643
Subtotal				\$127,211
Applications for loan guarantee				
Review and acknowledge preapplications	237	6	40.41	\$57,463
Review and acknowledge full documentation applications	1,078	23	40.41	\$1,001,926
Review and acknowledge preferred lender applications	80	12	40.41	\$38,794
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				\$1,104,488
Loan Origination				

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
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
Review annual financial reports	1,158	2	40.41	\$93,590
Agency concurrence for interest rate increases	10	8	40.41	\$3,233
Agency approval of mergers	3	8	40.41	\$970
Review of annual report from lenders receiving final loss payments	92	2	40.41	\$7,435
Subtotal				\$705,438
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				\$1,411,926
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				\$4,072,208

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

This is a new collection, replacing four current programs. Between the proposed rule and the interim final rule, there was an increase of 2,920 respondents and responses and a decrease of 142 burden hours due to a miscalculation.

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.

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

There are no exceptions to the certification.

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 SCI calls for changes to improve services to the United States Department of Agriculture (USDA) customers. One aspect is providing one stop service for greater customer convenience in accessing USDA programs.