

Supporting Statement  
Biorefinery Assistance Program for Guaranteed Loans  
0570-0055

A. Justification

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

As authorized under Section 9003 of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill), the BioRefinery Assistance Program will promote the development and construction of commercial-scale biorefineries and the retrofitting of existing facilities using eligible technology. Consistent with Congressional intent, the program will promote the development of the first commercial scale biorefineries that do not rely on corn kernel starch as the feedstock or standard biodiesel technology for the development of advanced biofuels, giving preference to projects where first-of-a-kind technology will be deployed at viable commercial-scale biorefineries.

Title IX of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) authorizes the Secretary of Agriculture to make loan guarantees for the "development, construction, and retrofitting of commercial-scale biorefineries using eligible technology." The BioRefinery Assistance Program will assist in the development and construction of commercial-scale biorefineries and the retrofitting of existing facilities using eligible technology that does not rely on corn kernel starch as the feedstock or standard biodiesel technology for the development of advanced biofuels, giving preference to projects where first-of-a-kind technology will be deployed at viable commercial-scale biorefineries.

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

The Agency will use form RD 4279-1 and written evidence to collect needed information. The information collected will be used to determine lender and borrower eligibility for loan guarantees, and to ensure the lender protects the government's financial interests. The specific information requirements related to loan applications are discussed in more detail on

pages 2 through 6 of the "Instructions for Application for Loan Guarantee in the Application Guide - Section 9003 BioRefinery Assistance Loan Guarantees" document and in Attachment B to this Application Guide, entitled "Application Guidance" at pages 2 through 12.

As part of the application process, lenders have a continuing responsibility to provide the Agency with construction progress reports, on a quarterly basis, 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 ensure that all terms of the loan guarantee agreement are being complied with.

The information sought by this information collection will be stored in Agency files or computers. The Agency requires original borrower signatures on loan application forms and lender signatures on the loan documents. Submission of substantial information is essential to protect the Government's interest.

The Agency, through its Business Programs Divisions in Washington, D.C., will be the primary user of the information collected. Under the Freedom of Information Act, the general public can request most of the data provided by the borrower and lender to the Agency, except data that are confidential.

If the information is not collected, the Agency would neither be able to make prudent credit decisions nor be able to effectively monitor the lenders' servicing activities and, thus, minimize losses under the Program.

#### **REPORTING REQUIREMENTS - NO FORMS**

##### **Oversight and Monitoring (Section II. E.)**

Agency and lender conference (paragraph (a)). The lender will meet with the Agency at the Agency's request to ascertain how the guaranteed loan is being serviced and ensure that conditions and covenants of the Loan Agreement and Conditional Commitment are being enforced. The Agency plans to meet with each lender at least annually.

Construction reports (paragraph (b)(1)). During construction, the lender is required to submit quarterly construction progress reports to the Agency. These reports will contain, at a minimum, construction milestone attainment and personnel hiring, training,

and retention.

The construction period is the riskiest period for the Agency in the development of these projects under this Program. Receiving these reports will help the Agency manage this risk.

Notifications (paragraph (b)(4)). This paragraph requires lenders to submit notifications to the Agency whenever a borrower has violated a loan agreement, including whenever a borrower is more than 30 days past due on a payment or is otherwise in default; 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 (paragraph (b)(5)). This paragraph requires each lender who receives a final loss payment to 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.

### **Loan Applications (Section II. J.)**

Application Requirements. Applicants must submit with the application form a project summary that contains the following elements:

1. Borrower eligibility. A description of how the borrower meets the eligibility criteria for borrower.
2. Project eligibility. A description of how the project meets the eligibility criteria for projects.

3. Matching funds. Identification of sources, amounts, and status of matching funds.
4. Environmental information [Form RD 1940-20]. An environmental analysis completed in accordance with 7 CFR part 1940, subpart G.
5. Intergovernmental consultation. The applicant is required to comply with RD Instruction 1940-J and 7 CFR part 3015, subpart V. This is to ensure the project is in compliance with State and local development strategies.
6. Personal credit report. Used to evaluate the credit history of the owners as an aid in the credit evaluation completed by the Agency and lender.
7. Commercial credit report. The lender provides a commercial credit report on the borrower and any parent, affiliate, or subsidiary firms. These reports provide aids in making a determination concerning the credit worthiness of the applicant.
8. Appraisals. If the appraisal has not been completed at the time the application is filed, the applicant must submit an estimated appraisal. In all cases, a completed appraisal must be submitted prior to the loan being closed. Appraisals are used to determine the value of borrower assets being offered as collateral to ensure the loan is adequately secured.
9. Financial statements and pro forma balance sheet and projections - The borrower must provide these to enable the lender and Agency to determine the financial health of the business and the likelihood it will continue to operate successfully.
10. Lender's analysis - The lender completes a comprehensive credit analysis that is the lender's justification for making the loan. The Agency relies on this analysis as a basis for approving the request. In most cases, the lender would prepare a loan analysis for its internal loan committee but possibly not as comprehensive as required by the Agency.
11. Proposed Loan Agreement - An agreement between the lender and the borrower establishing conditions for the loan such as collateral, repayment schedule, loan purpose, and other conditions. They are a general lender practice for all commercial loans. The Agency reviews the proposed document to aid in its loan analysis.

12. Business plan - A business plan is prepared, typically by the applicant, which describes at a minimum, the business and project, management experience, products and services, proposed use of loan funds, availability of labor, raw materials and supplies, and the names of any corporate parent, affiliates, and subsidiaries with a description of the relationship.
13. Feasibility studies. The study must address the economic, market, technical, financial, and management feasibility of the project. These studies are used by the lender and Agency to help determine the creditworthiness of the proposal.
14. Lender certification - A certification by the lender that indicates the lender has completed a comprehensive written analysis of the proposal, the borrower is eligible, the loan is for authorized purposes, and there is reasonable assurance of repayment ability based on the borrower's history, projections and equity, and the collateral to be obtained.
15. Bioenergy experience. The borrower must provide information on their bioenergy experience, including bioenergy projects and the receipt of Federal financial assistance, including amount of funding, date received, purpose, and outcome, for such projects.

#### **Lender's Functions and Responsibilities - Origination (Section II. N.)**

Construction planning and performing development (paragraph (d)). The lender must ensure the project design utilizes accepted architectural and engineering practices, conforms to applicable Federal, State, and local codes, and will be completed with available funds. The lender must also monitor construction to ensure the project is completed in accordance with the plans and specifications and to keep the Agency informed.

#### **Lender's Functions and Responsibilities - Servicing (Section II. O.)**

Loan classification (paragraph (b)). Within 90 days of receipt of the Loan Note Guarantee, the lender must notify the Agency of the loan's classification or rating under its regulatory standards. Should the classification be changed at a future

time, the lender must notify the Agency within 15 days.

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.

Insurance (paragraph (c)). The paragraph requires lenders to ensure that borrowers have obtained and will maintain for the life of the loan all appropriate and necessary insurance coverage.

This requirement is needed to help protect the Agency's financial interests.

Financial reports (paragraph (d)). This paragraph requires lenders to submit quarterly financial statements and annual audited financial statements on the borrower. The lender must analyze the financial statements and provide the Agency with a written summary of the lender's analysis and conclusions, including trends, strengths, weaknesses, extraordinary transactions, and other indications of the financial condition of the borrower.

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.

Requirements after construction, periodic reports (paragraph (e) (1)). This paragraph requires the borrower to prepare annual reports for completed projects and provide them to lender, who submits them to the Agency for the life of the loan. Information to be contained in these reports include: (1) the actual amount of advanced biofuels produced to assess whether project goals are being met; (2) if applicable, documentation that identified health and/or sanitation problem has been solved; (3) a summary of the cost of operating and maintaining the facility; (4) description of any maintenance or operational problems associated with the facility; (5) demonstration that the project is and has been in compliance with all applicable State and Federal environmental laws and regulations; and (6) the number of jobs created; and (7) a description on the status of the project's feedstock including, but not limited to, the feedstock being

used, outstanding feedstock contracts, feedstock changes and interruptions, and quality of the feedstock.

These reports are being provided to help the Agency evaluate the effectiveness of the projects and the overall loan program.

Release of collateral (paragraph (f)). This paragraph requires that all releases of collateral greater than \$100,000 be supported by a complete appraisal. The lender must submit written documentation to the Agency to justify releases of collateral that exceed 20 percent of the loan amount or when the proceeds will not be used to reduce the guaranteed loan or to buy replacement collateral, prior to the release being made.

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.

Loan transfer and assumption (paragraph (g)). This paragraph requires all transfers and assumptions to be approved in writing by the Agency and to be made to eligible applicants. In all cases, the lender must make a complete credit analysis, subject to Agency review and approval. In addition, the lender will provide to the Agency a written certification that the transfer and assumption is valid, enforceable, and complies with all Agency regulations. A request by the lender for approval of new loan terms must be supported by an explanation of the reasons for the proposed change in loan terms.

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

Subordination of lien position (paragraph (h)). This paragraph requires a subordination of the lender's lien position to be requested in writing by the lender and concurred by the Agency in writing in advance of the subordination. The subordination must be in the best financial interest of the Agency, the lien to which the guaranteed loan is subordinated is for a fixed dollar limit, and lien priorities remain for the portion of the loan that was not subordinated.

This requirement provides information to the Agency to evaluate the request to ensure that the subordination is in the best interest of the Agency.

Repurchase for holder (paragraph (i)). This paragraph requires that, when a loan defaults, the holder makes demand for repurchase. A lender has the option to repurchase the unpaid guaranteed portion of the loan from a holder. If the lender does not repurchase the loan, the Agency will. The holder's demand will include documentation and the amount due. If the lender does not repurchase the loan, the lender will provide the Agency with information necessary for the Agency to determine the amount due.

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

Additional loans (paragraph (j)). This paragraph allows the lender to make additional expenditures or new loans to a borrower with an outstanding loan guaranteed under the NOFA only with prior written Agency approval and such approval will be provided only where the expenditure or loan will not 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 (paragraph (l)). This paragraph requires the lender to obtain the Agency's written authorization when any protective advance, singularly or cumulatively, amounts to more than \$200,000.

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

Liquidation plan (paragraph (m)(3)). If the lender concludes that liquidation is necessary, it must request the Agency's concurrence. Within 30 days after a decision to liquidate, the lender will submit to the Agency its proposed written detailed method of liquidation. Upon approval by the Agency of the liquidation plan, the lender will conduct the liquidation (as it would for any non-guaranteed loan). If significant changes to the plan become necessary, the lender must request Agency concurrence to alter 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.

Acceleration (paragraph (m)(6)). The lender (or the Agency, at its option, decides to take over servicing and liquidating of the account) will proceed to accelerate the indebtedness as expeditiously as possible when acceleration is necessary, including giving any notices and taking any other legal actions required. A copy of the acceleration notice or other acceleration documents will be sent to the Agency. The guaranteed loan will be considered in liquidation once the loan has been accelerated and a demand for payment has been made upon the borrower.

Accounting and reports (paragraph (m)(8)). When the lender conducts liquidation, it will account for all funds during the period of liquidation, and will provide the Agency with reports at least quarterly on the progress of liquidation including disposition of collateral, resulting costs, and additional procedures necessary for successful completion of the liquidation.

### **Basic Guarantee and Loan Provisions (Section II. Q).**

Interest rate changes (paragraph (e)(3)). This paragraph requires the lender to seek and obtain Agency approval for any change in the interest rate between the date of issuance of the Conditional Commitment and before the issuance of the Loan Note Guarantee.

In addition, paragraph (e)(3)(ii) requires the lender to obtain Agency concurrence 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.

### **Conditions precedent to issuance of Loan Note Guarantee**

(paragraph (i)). This is the final check prior to issuance of the guarantee. It is a comprehensive certification from the lender that the borrower meets all requirements of the Conditional Commitment and other program requirements.

Issuance of Loan Note Guarantee (paragraph (j)). The lender advises the Agency when it is ready for closing and provides the Agency with the comprehensive certification required by the paragraph (i) above.

Refusal to execute Loan Note Guarantee (paragraph (k)). If the very unusual case where the Agency determines it cannot issue the guarantee, it will provide the lender with the reasons. The lender may provide documentation to satisfy the Agency objections.

Replacement of document (paragraph (l)). In those incidences where the Loan Note Guarantee or Assignment Guarantee Agreement is lost, stolen, destroyed, mutilated, or defaced, the lender must notify the Agency to request a replacement.

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

Alterations of loan instruments (paragraph (m)). Under this paragraph, the lender is required to obtain written Agency approval before altering or approving any alterations of the loan note guarantee or any other loan instrument.

This requirement helps the Agency evaluate any adverse effect on the loan guarantee, thereby reducing Agency risk.

Reorganizations (paragraph (n)). Paragraph (n)(1) requires the lender to obtain Agency approval 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.

Paragraph (n)(2) addresses situations where a change in lender is requested prior to issuance of the Loan Note Guarantee. Under this paragraph, the lender is required to submit information on

the new lender and request in writing Agency approval of the transfer. In addition, the new lender must be approved under this program and must execute a new application for guarantee.

Paragraph (n)(3) addresses substitution of lenders. After the issuance of the Loan Note Guarantee, the lender shall neither sell nor transfer the entire loan to a new lender without the prior written approval of the Agency. The substitution of lender is requested in writing by the borrower and the proposed substitute lender if the original lender is still in existence. The new lender must agree in writing to acquire title to the non-guaranteed portion of the loan held by the original lender and assume all original loan requirements.

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.

Sale or assignment of guarantee (paragraph (o)). Under this paragraph, a holder is required to provide written notice to the lender and the Agency before the holder can reassign the unpaid guaranteed portion of the loan sold under the Assignment Guarantee Agreement. In addition, a lender is required to obtain written permission from the Agency in order to implement multi-note option after loan closing.

These requirements assist the Agency to mitigate risk that may occur under either action in the absence of Agency approval or notification.

Termination of guarantee (paragraph (s)(3)). Under this paragraph, a guarantee will be terminated automatically upon written notice from the lender to the Agency that the guarantee will terminate in 30 days after the date of notice, provided the lender holds all of the guaranteed portion of the loan.

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

Certification for contracts, grants and loans required by 7 CFR 3018.110 if loan exceeds \$150,000. 7 CFR 3018.110 imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants,

cooperative agreements, and loans.

## **REPORTING REQUIREMENTS - FORMS**

### **Oversight and Monitoring (Section II. E.)**

#### **RD Form 1980-41, "Guaranteed Loan Status Report"**

Paragraph (b)(2) requires a lender to submit periodic reports on the condition of its Agency guaranteed loan portfolio (including borrower status and loan classification) and any material changes in the general financial condition of the borrower since the last periodic report was submitted. Loan status reports would be submitted quarterly.

The Agency is requiring this report to help mitigate Agency risk by "heading off" problems.

#### **Form RD 1980-44, "Guaranteed Loan Borrower Default Status"**

Paragraph (b)(3) requires monthly default reports for loans that are in monetary default.

The Agency is requiring reporting on loans in default on a monthly basis to help the Agency focus its resources on problem loans, thereby further mitigating Agency risk.

### **Loan Applications (Section II. J.)**

**Form RD 4279-1, "Application for Loan Guarantee (Business and Industry and Section 9006 Program)"** - The information collected on the form is used by the Agency to determine borrower eligibility for program assistance and to provide financial and other data about the borrower and lender. The form contains three parts. The borrower completes part A, the lender completes Part B, and Part C is used by the Agency to evaluate parts A and B and the credit in general. (See Instructions for Application for Loan Guarantee - Section 9003 BioRefinery Assistance Loan Guarantees.)

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.

#### **Standard Form LLL, "Disclosure of Lobbying Activities"**

All applicants are required to complete this form, regardless of their involvement in lobbying activities.

**Form AD-1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions" or other written documentation**

This form certifies that the applicant is not presently debarred, suspended, or voluntarily excluded from covered transactions by any Federal department or agency.

**Form RD 400-1, "Equal Opportunity Agreement"**

All applicants and recipients are required to complete this form to comply with Equal Opportunity requirements.

**Form RD 400-4, "Assurance Agreement"**

All applicants and recipients are required to complete this form to comply with Civil Rights Acts and laws.

**Loan Approval and Obligating Funds (Section II. L.)**

**Form RD 4279-3, "Conditional Commitment" (paragraph (b))**

The form is used by the Agency to provide notice to the lender and lender and borrower acceptance that the guarantee request is approved subject to the conditions established by the Agency and listed on the form.

**Lender's Functions and Responsibilities - Servicing (Section II. O.)**

**Form RD 449-30, "Loan Note Guarantee Report of Loss" (paragraph (g)(2)(viii))**

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

**Form RD 1980-43, "Lender's Guaranteed Loan Payment to USDA" (paragraph (m)(9))**

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.

**Basic Guarantee and Loan Provisions (Section II. Q.)**

**Form RD 4279-4, "Lender's Agreement" (paragraph (a))**

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 1980-19, "Guaranteed Loan Closing Report"**

The information is used by the Agency to establish the account in its accounting system. The Agency prepares the form, and the lender verifies it for accuracy.

**Form RD 4279-6, "Assignment Guarantee Agreement" (paragraph (j)(2)(i))**

This form is the signed agreement between the Agency, lender, and holder, setting forth the terms and conditions of an assignment of the guaranteed portion of a loan to a holder.

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 has considered the use of improved information technology to reduce the burden on the applicants. The information involved is unique to each particular case. The written narrative portion of the application would assist the applicant and Rural Development because most of this could be completed on a word processor. Rural Development is in the process of preparing worksheets to help reduce the effort associated with preparing applications. However, Rural Development does not anticipate electronic submission of the application package by the applicants because, at this point in time, the Agency is not satisfied that the security protocols properly protect an applicant's proprietary information.

When a rule for this program is promulgated, Rural Development plans to leverage existing agency technological resources for the processing and servicing of guaranteed loans, the Guaranteed Loan System (GLS). GLS currently provides the agency the ability to capture and manage information and data associated with its guaranteed loan programs but, GLS remains a proprietary system wherein data is input, processed, and managed, internally.

Rural Development, in anticipation of its new guaranteed loan interim rule, has begun 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 the notice of funding availability.

4. Describe efforts to identify duplication.

Rural Development is relying on existing forms used in the current Business and Industry guaranteed loan program and in the Rural Energy for America Program (REAP) guaranteed loan program. If similar information is found to be available from another Federal agency, every effort is made to utilize that information as is or in an appropriately modified form for this program.

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

Most eligible projects will be larger than those that small businesses usually undertake. To the extent that a small business were to apply for a loan guarantee under the NOFA, the information collection required places little or nominal burden on small entities beyond that performed in normal business practice. Furthermore, Rural Development is using industry-standardized data elements and documents, supplementing them with Government-wide forms that are familiar to many applicants.

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

Application information is only collected once while various status reports and notifications are submitted at different times throughout the year. If this information was collected less frequently than required, the Agency would be unable to address delinquent loans, evaluate whether the borrower has sufficient cash flow to meet its obligations, and determine if the borrower is in compliance with all conditions contained in the Conditional Commitment. Thus the Agency would increase its risk of loss and its oversight capabilities to help manage its outstanding loan portfolio.

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. Loan default status reports are submitted monthly. These reports give the Agency the ability to quickly address delinquent loans thereby decreasing the risk of loans defaulting and Agency loss.

Lender loan status reports, financial reports on borrowers and project performance reports are submitted quarterly. Audited financial reports on borrowers are submitted annually.

b. Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it. Certain unanticipated ad-hoc events (i.e., loan agreement violations, reductions in interest rates, changes in loan classification) may occur. If this happens, a lender is required to notify the Agency within 15 days of its occurrence.

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.

As required by the Paperwork Reduction Act of 1995, a 60-day Notice was embedded in the Notice of Funds Availability, which was published in the Federal Register December 24, 2008 [73 FR 79041]. No comments were received.

The Agency relied on two sources of contact with outside persons.

Through its normal course of business in implementing the Business and Industry and Rural Energy for America guaranteed loan programs, 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 7 CFR Part 5001, which has been subsequently withdrawn. In addition, the Agency now has four years experience in implementing the Rural Energy for America Program. Based on this experience, the Agency identified additional ways (e.g., simplified applications, reduced the time associated with reviewing energy efficiency applications by reviewing such applications at the National office level only, and providing for two rounds of funding to provide agricultural producers adequate time to apply) to streamline the Rural Energy for America Program and make it less burdensome.

The Agency reviewed prior and related rulemakings. For the Business and Industry program, the Agency had 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 now withdrawn 7 CFR Part 5001.

For 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 funding level for this program, the burden for collecting information is estimated to average approximately 23 respondents annually, filing 566 responses. A total of 2,613 hours per year is estimated to be required to complete these responses; averaging about 4.6 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 preparation of the feasibility study, a rate of \$70 per hour was used, which reflects an average for a \$60 per hour rate and an \$80 per hour rate.

Based on these data, the estimated 3-year average cost of burden is \$167,281. The following summarizes these estimates.

Number of respondents:	23
Total annual responses:	566
Number of hours per response:	4.6
Total hours:	2,613
Cost per hour:	\$64.02
Total annual cost:	\$167,281

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

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

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

The estimated wage of Federal employees compiling the information is \$40.41 per hour. Administrative costs include the cost of promulgating the regulations, publication in the Federal Register, developing and printing the proposed forms, etc. The estimated cost to the Government, averaged over the first three years, is broken down as follows:

Action	Number of Disclosures	Hours	Rate (\$/hour)	Total
<b>Applications for loan guarantee</b>				
Review and acknowledge applications	23	23	40.41	\$21,377
	Subtotal			\$21,377
<b>Loan Origination</b>				

Approve loans and obligate funds	23	8	40.41	\$7,435
Review documents and issue guarantee	23	6	40.41	\$5,577
Preparation of Conditional Commitment	23	2	40.41	\$1,859
Preparation of Lender's Agreement	23	1	40.41	\$929
Preparation of Assignment Guarantee Agreement	23	1	40.41	\$929
Subtotal				\$16,730
<b>Loan Servicing</b>				
Replacement of documents	2	3	40.41	\$242
Subordinations	4	2	40.41	\$323
Litigation and appeals	2	16	40.41	\$1,293
Liquidation plan	2	3	40.41	\$242
Release of collateral	2	2	40.41	\$162
Secondary market activities	4	1	40.41	\$162
Quarterly construction reports	31	2	40.41	\$2,505
Review of annual report from lenders receiving final loss payments	2	2	40.41	\$162
Approval of alterations to loan instruments	0	1	40.41	\$0
Reorganizations	2	2	40.41	\$162
Transfers and assumptions	0	20	40.41	\$0
Repurchases	2	6	40.41	\$485
Additional expenditures	2	2	40.41	\$162
Protective advances	2	2	40.41	\$162
Review post construction reports	8	1	40.41	\$323
Review annual audited financial reports	8	2	40.41	\$647
Review quarterly financial reports	31	2	40.41	\$2,505
Agency concurrence for interest rate increases	2	8	40.41	\$647
Subtotal				\$10,183
<b>Oversight and Monitoring</b>				

Review loan status reports	31	3	40.41	\$3,758
Review default reports	20	1	40.41	\$808
Review notifications	8	1	40.41	\$1,293
Lender visits	8	4	40.41	\$323
			Subtotal	\$6,183
			<b>Total</b>	<b>\$54,473</b>

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

Since the previous submission, there has been an increase in the number of respondents from 10 to 23; which has caused an increase in the burden hours from 1,281 to 2,613.

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.

A number of the forms are used by multiple programs in other collection packages and shared with sister agencies. The expiration date of the various information collection packages of are different. Displaying the expiration date on the form will would cause confusion for the person or entity completing the form and the other agencies that accept the form. For this reason, we are seeking approval not to display the expiration date.

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, including access to required forms.