

Supporting Statement
7 CFR 785
Agricultural Mediation Program
OMB control number- 0560-0165

The Purpose of this package is to request an extension and revision of a currently approved Information collection (0560-0165).

A. Justification

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

The Farm Service Agency (FSA) amended its regulations on September 10, 2002 implementing the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (the 1994 Act) and the United States Grain Standards Act of 2000 (the Grain Standards Act). This rule, 7 CFR 785, moved the mediation provisions, as amended, from the Rural Development chapter of title 7 of the Code of Federal Regulations to the FSA chapter of the same title. The program was to expire on September 31, 2005. Senate Bill 643, signed into law on June 29, 2005, extended the program through September 31, 2010 and no changes were made in the existing statute.

The regulation continues to provide a mechanism to States to apply for and obtain a matching funds grant from the USDA to supplement the expenses involved with the administration of an agricultural mediation program. This regulation is mandated by Subtitles A and B of Title V of the Agricultural Credit Act of 1987 (Public Law 100-233), as amended. Collection of requested information is necessary to ensure the program is being administered as intended by the law.

2. Indicate how, by whom, and for what purposes the information is to be used.

The information is utilized by FSA to initially determine whether the State meets the eligibility criteria to be a recipient of grant and, secondly, to determine if the grant is being administered as provided by the Act. Lack of adequate information to make these determinations could result in the improper administration and appropriation of Federal; grant funds.

Specifically, the purpose for which the information is to be used is as follows:

NO FORMS INVOLVED

Request for certification of State mediation program

This information is prepared by the applicant. The information is utilized by FSA to determine if the State's program is in compliance with the Agency requirements to qualify for the program. The annual number of respondents is estimated to be 35. This figure is based on discussions with both State Governments, and local FSA personnel.

The time involved with the collection, preparation and submission of the required material by the applicant is projected at 6 hours. The program staff has re-evaluated the time in completing this request and it should be 6 hours, not 4 hours.

Re-verification of Approval

The information required, for this section of the regulation applies, to applicants who have previously been determined eligible and are requesting to be re-certified for the ensuing year. The regulations require the State to make a written request which addresses any changes in the program since the original approval, as well as any changes to the program. The response time is estimated to be approximately 2 hours.

Eligibility criteria for amount of grant requested and reporting requirement

Prior to grant approval, the State must justify the estimated cost associated with the administration and operation of the program. This could be based on past performance in States which currently have a mediation program and savings to the State as a result of having an AMP. It is estimated that the time involved with preparing this report will be 10 hours.

Audit Report

This report would typically be prepared by a Certified Public Accountant employed by the grant recipient. This information would normally be prepared, regardless of FSA requirements, to ensure the financial integrity of the program. The estimated time of burden to respondents of 16 hours is based on the State's review prior to submission to FSA.

FORMS REQUIRED

SF-424, Application for Federal Assistance, OMB # 4040-0004

SF-424A, Budget Information Non-Construction, OMB # 4040-0006

SF-424B, Assurances Non-Construction, OMB # 4040-0007

SF-425, Financial Status Report, OMB # 0348-0061

SF-LLL, Disclosure of Lobbying Activities, OMB # 0348-0046

SF-270, Request for Advance and Reimbursement, OMB # 0348-0004

The above forms are prepared by the applicant to furnish FSA with sufficient information to make a preliminary determination of eligibility for the program and monitor the mediation program in accordance with OMB Grant Management Rules and Regulations. The collection of material for the forms is a normal business practice. The response time is estimated to be approximately 2 hours.

It is estimated FSA will receive 35 applications per year from interested States. Since the collection of information is a normal business practice, it is only necessary to transfer existing information to the form.

3. Use of information technology.

The AMP was introduced and promulgated by the FSA Administrator to each State's Governor by the use of a form with an attachment. The attachment identified exactly what was required for the program. Therefore, the reporting burden was lessened by indicating up front what information was to be included with the submission. In regard to actual performance of the program, each participant will be reporting information unique to their individual situation. Consequently, the advantages of data and/or word processing technology can not be utilized without the 35 independent State program develop and adopt a single program acceptable to the grantor. This would likely deter many of the USDA certified state mediation programs that generally operate off a shoe string budget on a year to year basis and fully depend on the federal matching grants appropriated by Congress to cover their annual administrative expenses.

4. Describe efforts to identify duplication.

There is no duplication of information involved with the processing of an AMP grant request or the monitoring of the AMP grant request or the monitoring of the AMP grant itself. This program involves granting matching grants to qualifying State mediation programs and is not require the sharing of information under the Debt Collection Act.

5. Methods to minimize burden on small businesses or other small entities.

It has been determined that this collection will not have a significant economic impact on a substantial number of small entities since it contains normal business record keeping requirements and minimal essential reporting requirements. Small businesses will not be affected by this regulation.

6. Consequence if information collection were less frequent.

The current regulations requires the minimum timely information needed to determine whether a State's mediation program is eligible for certification, re-certification for subsequent annual certification, application for Federal Assistance, reporting requirements, and audit reports. This minimum reporting of information is necessary for the FSA to administer the mediation program in an equitable and cost-effective manner.

FSA will continue to use the uniform standards prescribed in 7 CFR part 3015, "Uniform Federal Assistance Regulations," and 7 CFR part 3016, "Uniform Administration Requirements for Grants and Cooperative Agreements to State and Local Governments."

7. Special Circumstances.

There are no special circumstances that would cause an information collection be conducted.

8. Federal Register notice, summarization of comments and recommendations with persons outside the agency.

FSA published a Request for Extension and Revision of a Currently Approved Information Collection notice in the Federal Register on August 27, 2009 (74 FR 43664) requesting comments on or before October 27, 2009. One comment was received from the public but it was about the regulation, not on this information collection. We responded to them that we received them and we will take them in a very careful consideration. Here are comments on the regulation.

1. 785.2 Definitions omits rural housing; add and renumber items 1-7 to include "rural housing."
2. 785.2 Definitions omits reference to any outreach and training activities under the definition of "mediation services" found at the paragraph beginning "Mediation services means." Outreach is to raise awareness about the program's services and training.
3. 785.7 Distribution of Federal grant funds fails to specifically require, within the regulatory language, a state matching funds requirement at 30%.
4. 785.7(e) Period of availability of funds. (1) Certified State mediation programs receiving grant funds are encouraged to obligate award funds within the Federal fiscal year of the award.
5. 785.8(a) Quarterly report by certified state mediation program. States must submit a quarterly report on mediation services on a standard form approved and provided by FSA.
6. 785.8(2)(i)(ii)(A) and (B) A standard formula for calculating the average cost of mediation cases (not all services) per client to be provided to the CMP by FSA.

A standard formula for calculating the costs avoided on hearing and appeals to be provided to the CMP by FSA. The projected costs and numbers of NAD appeals has not been furnished to the states although it is stated in the regulation that NAD is to assist in that data collection.

The following contacts outside of FSA on this information collection were solicited directly by FSA Outreach Staff.

Lana M. Harms
Alabama Agricultural Mediation Program
Montgomery, Alabama

Dr. Eric Thor

Arizona Agricultural Mediation Program
Mesa, Arizona

Richard S. Johnston
Arkansas Farm/Creditor Mediation Program
Little Rock, Arkansas

9. Explain any decision to provide any payment or gift to respondents.

There are no cases where a payment or gift have been given to respondents.

10. Confidentiality provided to respondents.

The regulation provides that mediation sessions, and records relating to mediation sessions must be confidential. There is no assurance of confidentiality provided to respondents for the information required in this collection.

11. Questions of sensitive nature.

The information collection and data including financial requirements generated from this collection are not of a sensitive nature.

12. Estimates of burden.

The information to be collected includes a request for certification, re-verification for subsequent annual approval, application for Federal Assistance, reporting requirements, and audit reports. The information requested is necessary for the FSA to determine eligibility, and to administer the mediation grant program in an equitable and cost effective manner. All information is reported annually. The reporting burden for this collection of information is estimated to average 34 hours per respondent form approximately 35 respondents. The total annual burden on the public for this information is 1,190 hours. The current OMB inventory is 1,024. The change from the previous burden is the number of states participating in the program that has increased from 32 to 35 causes the burden increase to 166

The estimates of the hour burden of collection for mediation program information consists of information for: (1) requesting USDA certification, (2) annual re-certification of approval, (3) providing annual eligibility criteria for matching grant request, (4) financial and management reporting requirements, (5) annual audit report, and (6) application for Federal Assistance. The estimates do not include burden hours for customary and usual business practices. Other than the initial application, the information required is for monitoring purposes. The recipients of the matching grant should have the same information available for their own monitoring of its program. There is no duplication of information collected under this regulation.

The annualized, non-capital cost, are estimated for 35 respondents having 1190 total burden hours at \$30/hour or \$35,700. This estimated figure includes benefits, travel, communications, supplies, overhead, etc. It is based on “application” through “grant approval and administration.” It also includes expenses incurred by applicants who apply and are not approved. The majority of information requested is of general nature for the benefit of the grant recipient even if not required by the regulation. Contacts with members of the Coalition of Certified State Mediation Programs addressed in item 8 above concurred that these costs and time calculations would generally be incurred in their state mediation programs.

13. Total annual cost burden to respondents or record keepers.

There are no capital/start-up or ongoing operation/maintenance costs associated with this collection.

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

Annualized cost to the Federal government, the projected monetary outlay associated with the implementation of the regulation is \$31,500. This estimate is based on 20 hours/grant/annum staff time at \$45/hour times the number of grants administered (estimated at 35), plus costs associated with benefits, travel, communications, supplies, overhead, etc.

15. Reasons for changes in burden.

The total annual burden on the public requested is 1,190 hours. The current OMB inventory burden is 1,024. The change from the previous burden is the number of states participating in the program from 32 to 35 and an increase in the response time for the Certification Process from 4 to 6 causing the burden to increase by 166.

16. Tabulation, analysis, and publication plans.

The collection of information will not be published for statistical use.

17. Reasons display of expiration date of OMB approval is inappropriate.

There are no reasons not to display the expiration date.

18. Exceptions to 83-1 certification statements.

There are no exceptions to the certification statement of OMB Form 83-1, identified in Item 19, “Certification for Paperwork Reduction Act Submissions.”

19. How is this information collection related to the Customer Service Center?

This information collection is not related to the Customer Service Center. Section 502 of the Agricultural Credit Act of 1987 authorized the Secretary of Agriculture to help States develop certified state mediation programs. The FSA through its Director of the Outreach Staff (OS) administers the program from the National headquarters in Washington, D.C. The customer Service Centers are not involved with the information collection in this program.