

2010 - SUPPORTING STATEMENT

7 CFR Part 3575, Subpart A, “Community Programs Guaranteed Loans” OMB No 0575-0137

Note: Since the previous submission, FSA has implemented its own new regulation with associated Forms RD 449-30; RD 1980-19 and RD 1980-43. This program change resulted in a significant decrease in burden. However, this decrease was offset by a substantial increase in the use of Form RD 1980-19 within collection 0575-0078. The increased use of this form is attributed to a substantial funding increase to the rural housing guaranteed program resulting in a 400 percent increase in new rural homebuyers nationwide.

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

The Rural Housing Service (RHS) is a credit agency within the Rural Development mission area of the United States Department of Agriculture. The Community Facilities Division of the RHS is considered Community Programs under the 7 CFR, part 3575, subpart A.

The 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.

Community Programs (CP) has been in existence for approximately 36 years and has provided insured loan funds and grants through the Community Facilities program to finance many types of projects varying in size and complexity from large general hospitals to small fire engine loans.

The Community Programs guaranteed loan program began in 1990 when Congress allocated funds for this program. The guaranteed loan program encourages lender participation and provides specific guidance in the processing and servicing of guaranteed Community Facilities loans.

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

The Rural Development field offices will collect information from applicants/ borrowers, their lenders, and consultants. This information will be used to determine applicant/borrower eligibility, project feasibility, and to ensure borrowers operate on a sound basis and use loan funds for authorized purposes. Failure to collect proper information could result in improper determinations of eligibility, improper use of funds, and/or unsound loans.

Specifically, the burden to be cleared with this docket is as follows:

REPORTING REQUIREMENTS - NO FORMS

Legal Authority and Responsibility. Each borrower must have, or obtain, legal authority necessary to own and operate the proposed facility, incur and repay debt, and pledge security for the loan. Copies of items such as charters, bylaws, and articles of incorporation are needed so Rural Development can determine the applicant has the proper authority to borrow money for the proposed project.

Proof of Lender Eligibility. This requirement is necessary to ensure the lender is capable of meeting the requirements of the enabling legislation as well as providing a reasonable assurance to the Government that the lender will provide maximum protection of the Government's investment in the borrower's operation.

Intergovernmental Review. Executive Order 12372 requires consultation with State officials on projects proposed for Federal financing. States may choose the Federal programs they wish to review. Clearinghouse review and approval is necessary for loan approval.

Pre-application/Application Development. The borrower/lender prepares information for preapplication and application packages, which is necessary for proper analysis and the loan determination process performed by Rural Development.

Pre-guarantee Review. The pre-guarantee review is necessary to ensure that all conditions for the loan guarantee have been met prior to loan closing. The lender provides documents and certifications to satisfy requirements of all conditions for the Loan Note Guarantee to be executed.

Construction Contracts. At the end of construction, the lender must provide Rural Development with written certification that all guaranteed loan funds were utilized for authorized purposes and Rural Development design policies have been met.

Lender Notification of Inspections. Rural Development requires the lender to notify the Agency of any scheduled field inspections during construction and after issuance of the Loan Note Guarantee. The notification normally should be in written form and will be placed in the borrower's casefile as evidence of these inspections. This action is required by the Agency to ensure compliance with Agency regulations and to ensure that the construction is of satisfactory quality. Burden hours are included in the Application Development, Construction Contracts, and Loan Servicing/Audits.

Lender Certification. Before the Loan Note Guarantee is issued, the lender must certify that certain requirements have been met. This certification is usually in written form and ensures that the guaranteed loan is made in accordance with Agency regulations. The lender must certify that all planned property acquisition has been completed and all development has been substantially completed in accordance with plans and specifications. Certification is also required that all required insurance is in effect, all truth in lending, National Historic Preservation, debarment, equal employment opportunity, and equity requirements have been met as spelled out in Rural Development regulations. The lender must also certify that the loan has been properly closed, the borrower has marketable title to the collateral owned by the borrower, and the loan proceeds

have been disbursed for purposes and in amounts consistent with the Conditional Commitment for Guarantee. This considered part of the Pre-guaranteed review and burden has been included under this section.

Loan Servicing/Audited Financial Statements. The lender is responsible for servicing the entire loan. Failure to properly service the loan may result in cancellation of the guarantee or an adjustment in the percent of guarantee.

The borrower is required to provide the lender, at a minimum, an annual financial statement, which the lender will analyze to determine the soundness of the borrower's operations. The lender provides a summary evaluation to Rural Development.

Borrower Default. In case of borrower default, the lender is responsible for notifying Rural Development officials and preparing a plan to correct the default. The position of both Rural Development and the lender may be jeopardized if curative actions are not taken promptly.

Liquidation. When liquidation is necessary, the lender will prepare a liquidation plan in accordance with the lender's loan agreement and the Lender's Agreement. The plan will contain information on how liquidation will be conducted, proof of the lender's ownership of the note and other security instruments, information concerning the borrower's assets, proposed method of obtaining maximum collection, and an estimate of the market and potential liquidated value of collateral.

Bankruptcy Responsibilities. The lender must protect the guaranteed loan debt and all collateral securing it in case of bankruptcy proceedings. The lender will file a proof of claim, where necessary, and all required papers and pleadings, participate in meetings of creditors and all court proceedings, adequately protect the collateral, and keep Rural Development informed, in writing, of all aspects of the proceedings.

Transfers and assumptions. In case of a transfer and assumption either to an eligible or ineligible borrower, the lender is responsible for collecting and submitting a one-time non-refundable standard fee plus the cost of the appraisal to Rural Development.

The lender is responsible for making a complete credit analysis to determine viability of the project and will provide Rural Development with a statement that the transaction can be properly transferred and will file, register, or record all conveyance instruments as appropriate.

The lender will note all transfers and assumptions on all originals of Loan Note Guarantee(s) and provide Rural Development with a copy of the transfer and assumption agreement. The lender is responsible for notifying Rural Development before any borrower or guarantor is released from liability.

Disposition of Acquired Property. The lender will develop a plan as soon as possible to ensure all collateral is fully protected and a method of disposing of collateral is affected. If the plan does not address disposition of acquired property, the lender will prepare and submit to Rural Development a plan on the best method of sale considering all prospective purchasers. Failure to

develop a plan and proceed according to the plan may result in a non-recoverable loss to the Government.

Lender's Request to Terminate Loan Note Guarantee or Contract of Guarantee. The lender may request Rural Development to terminate the Loan Note Guarantee for any the reason provided the lender holds all the guaranteed portions of the loan. In this case, the lender is required to provide Rural Development with a written notice that the loan(s) is paid in full and/or notice of the termination of the Loan Note Guarantee. These requests are kept in the borrower's file as evidence that the request(s) was in accordance with Agency regulations. This notice can be indicated on the Guaranteed Loan Status Report and the burden is included in this form.

Request for Review of Rural Development Decision. If an applicant or lender wishes to appeal an adverse decision by Rural Development, they must jointly execute a written request for review of the decision. Both the lender and the applicant must participate in the appeal. In the past 19 years, there has been only one appeal under the CP guaranteed program, which was resolved satisfactorily to both parties.

Replacement of Loan Note Guarantee and Assignment of Guarantee. In those incidences where the Loan Note Guarantee or Assignment of Guarantee is loss, stolen, destroyed, mutilate, or defaced, the Lender must notify Rural Development and request a replacement. This would be considered part of loan servicing activities. In the past 19 years, there has been only one such request.

REPORTING REQUIREMENTS – FORMS

Form RD 3575-1, "Application for Loan and Guarantee (Community Programs)." This form is used by both the lender and organization to make application for a Rural Development CP guaranteed loan. The form supplies information needed to determine the use of the requested funding and aids in making an evaluation of the ability of the lender's and organization's qualifications to meet objectives of the program.

Form RD 449-14, "Conditional Commitment for Guarantee." This form is used to advise the lender that the loan has been conditionally approved for a guarantee, subject to the lender meeting the conditions set forth on this form. The lender is required to read and understand the conditions of this commitment and sign as certification that he understands and agrees to abide by the conditions.

Form RD 449-30, "Loan Note Guarantee Report of Loss." In cases of bankruptcy, liquidation, and debt writedown, the lender is required to submit this form to Rural Development to report the amount of estimated loss on the loan. To date, the CP guaranteed program has paid very few losses in 19 years. Other burden shown on the worksheet is estimates from the Water and Waste Division and the Business and Cooperative Services.

Form RD 449-35, “Lender’s Agreement.” When the Loan Note Guarantee is issued, Form RD 449-35 is issued. This agreement sets forth the lender’s loan responsibilities and is signed by both the lender and the Rural Development official.

Form RD 449-36 “Assignment Guarantee Agreement.” If a lender assigns the guaranteed portion of a loan to a holder(s), the lender, the Agency and the holder(s) will execute Form RD 449-36. This is the agreement that sets forth the terms and conditions of the assignment. A copy of this form is filed by the Agency approving office as documentation that the assignment was executed in accordance with Agency regulations.

Form RD 1980-19 “Guaranteed Loan Closing Report.” The lender is required by the Agency to submit a Guaranteed Loan Closing Report for every loan to be guaranteed. All lenders complete this form for every loan guaranteed. Three agencies, Rural Housing Service, Rural Utilities Service, and Rural Business-Cooperative Service use this form.

Form RD 1980-43, “Lender’s Guaranteed Loan Payment to USDA.” This form is used by the lender to transmit payments due to USDA as a holder. These would be funds due to USDA when USDA has purchased all or a part of the guaranteed to a portion of the loan including USDA’s pro-rata share of any payments received from the borrower or any funds received by the lender in the process of liquidation.

Since the inception of their guaranteed programs, Community Facilities, Single Family Housing, and the Rural Business-Cooperative Service have honored the USDA guarantee on some loans. The worksheet exhibits the number of loans currently receiving such payments.

REPORTING REQUIREMENTS – FORMS APPROVED UNDER OTHER NUMBERS

Form RD 1980-41, “Guaranteed Loan Status Report.” This form is used by the lender to inform Rural Development of the principal and interest balance on outstanding guaranteed loans and to inform Rural Development of the loan status (current or delinquent). The form is approved under OBM No. 0570-0016.

Form RD 1980-44, “Guaranteed Loan Borrower Default Status.” When a borrower defaults on a guaranteed loan, the lender is required to inform Rural Development of the borrower’s status by using Form 1980-44. This form is prepared on each borrower to keep Rural Development informed of the current status. To date (19 years) the CP guaranteed loan program has had less than one percent of its borrowers in default. The form is approved under OMB No. 0570-0016.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

Information needed is specific to each applicant, many of which may be small organizations not equipped for high technology information gathering. Rural Development attempts to use data from borrower and lender, the majority of which is generally available although perhaps not through use of latest technology. Rural Development has many requirements that involve certifications from the borrower and lender as well as other parties involved in the project. Rural Development could not comply with legislative mandates without these certifications.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

The Agency has reviewed all loan programs it administers to determine which programs may be similar in intent and purpose. The Agency has other loan programs that are similar. If there were simultaneous participation in more than one Agency loan program, the Agency would make every effort to accommodate the requests within the same set of applications and processing forms. This effort is presently facilitated by assignment by management of these programs to the same program area of responsibility. If an applicant is applying for, or receiving, a loan from another Federal agency, forms and documents furnished the other agency would be utilized to the extent possible.

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

Information to be collected is in a format designed to minimize the paperwork burden on small businesses and other small entities. The information collected is the minimum needed by the Agency to approve loans and monitor borrower performance.

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

The information collected under this program is considered to be the minimum necessary to conform to the requirements of the program regulations established by law. Additionally, the Agency does not require any more information than a prudent commercial lending institution usually requires. Information is collected only when needed, and we believe no reduction of collection is possible. Without this collection, the Agency would not be able to meet its statutory mandates.

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

a. **Requiring respondents to report information more than quarterly.** There are no information collection requirements that require specific reporting on more than a quarterly basis.

b. **Requiring written responses in less than 30 days.** There are no specific information collection requirements that require less than 30 days response. However, in many cases (especially where a borrower's income or financial situation has declined), it benefits a borrower to provide the Agency with information as soon as possible. The Agency cannot provide the borrower with program benefits until documentation is received to support the borrowers' request.

c. **Requiring more than an original and two copies.** There are no specific information collection 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 utilizing statistical sampling.** There are no such requirements.

f. **Requiring use of statistical sampling which has not been reviewed and approved by OMB.** No such requirements exist.

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

h. **Requiring submission of proprietary trade secrets.** There are no such requirements.

8. If applicable, identify the date and page number of publication in the Federal Register of the agency's notice soliciting comments on the information collection. Summarize public comments received and describe actions taken by the agency in response to these comments. Describe efforts to consult with persons outside the Agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, reporting format (if any), and on data elements to be recorded, disclosed, or reported.

A Federal Register Notice was published on October 19, 2009 (74 FR 53462). No comments were received.

Community Programs continuously monitors its paperwork burden during our field visits to any number of states throughout each year. Additionally, through our internal control process we discuss our paperwork burden requirements with commercial lenders in various states.

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

No such decisions or payments were made.

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. The information collected under the provisions of this program is not considered to be of a confidential nature. Organizations, such as nonprofit entities and public bodies from which the 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.

The burden for collecting information under this regulation is based on 34,398 respondents with an estimated 135,526 responses and 146,298 man-hours for completing the information collection requirements. This estimate was based on information in existing reports, experience of Agency employees in handling the elements in the burden and discussions with lenders. The cost per hour represents the most recently published average salary for a loan officer as listed in the Occupational Outlook Handbook. The Handbook is published by the US Department of Labor, Bureau of Labor Statistics. We used the 90-percentile salary since the commercial loan officers are usually the higher paid loan officers. See separate spreadsheet for breakdown.

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information, (do not include the cost of any hour burden shown in items 12 and 14). The cost estimates should be split into two components: (a) a total capital and start-up cost component annualized over its expected useful life; and (b) a total operation and maintenance and purchase of services component.

There are no start-up or operation and maintenance costs involved.

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

Rural Development estimates the cost to the Federal Government to administer the activities of this program to be \$23.6 Million per year. This cost was derived by proportionally distributing the 2008 administrative appropriation for Rural Development. This includes staff time, printing, and publication of regulations, operational expenses, and overhead. Staff time will vary with appropriation levels because the amount of available resources does affect how many applicants will apply and need evaluation for funding and how many projects will need monitoring and servicing. This estimated cost is based on the loan being approved and serviced in the District Office.

15. Explain the reasons for any program changes or adjustments reported in items 13 or 14 of the OMB Form 83-1.

There has been a program change to this burden package resulting in a decrease due to FSA implementing a new regulation with associated forms since the previous burden. The decrease, however, is offset by an adjustment increase for use of Form RD 1980-19. The increased use is attributed to the rural housing guaranteed program receiving a substantial increase in funding resulting in a 400 percent increase in new rural homebuyers nationwide.

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

Rural Development has no plans to publish the 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 the forms due to the large number of field offices and the significant difference in the volume of forms used by these offices.

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

There are no exceptions requested.

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?

This information collection is not related to the Service Center Initiative.