January 2010

SUPPORTING STATEMENT
0570-0060
(7 CFR Part 4279-B and 4287-B)
Business and Industry Guaranteed Loanmaking and Loan Servicing
American Recovery and Reinvestment Act Funding

A. Justification.

1. Explain the circumstances that make the collection of information necessary. 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 Act). This collection is associated only with the loans obligated with American Recovery and Reinvestment Act (P.L. 111-5) (Recovery Act) funds, not the entire B&I portfolio. The Recovery Act provided $126,100,000 in supplemental budget authority for the B&I program; which equates to approximately $1.5 billion in additional program level. As of December 31, 2009, approximately $985 million in B&I Recovery Act program funds remain available.

The purpose of the B&I program, as authorized by the Act, is to improve, develop, or finance businesses, industries, and employment and improve the economic and environmental climate in rural communities including pollution abatement and control. 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. The B&I program is administered by the Agency through Rural Development State and sub-State Offices serving each State.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the Agency has made of the information received from the current collection.

7 CFR part 4279, subpart B contains the requirements applicable to the B&I Guaranteed Loan Program administered by the Agency for Recovery Act funded loans. The information is used by Agency loan officers and approval officials to determine program eligibility and for program monitoring.

7 CFR part 4287, subpart B contains the regulations governing the servicing for the B&I loan program. The B&I loan program is administered by the Rural Business-Cooperative Service (RBS) Administrator and at the State level by the Rural Development State Director servicing each State. The State Director is the focal point for the program and the local contact person for processing and servicing activities. The lender is responsible for servicing the entire loan and will remain mortgagee and secured party of record notwithstanding the fact that another party may hold a portion of the loan. 7 CFR part 4287, subpart B sets forth guidance to Rural Development personnel regarding the servicing of guaranteed loans. The collection of information is needed to monitor the guaranteed loan portfolio to ensure that the lenders are

servicing the loans adequately.

Burden hours are excluded for customary and usual business practices of entities other than the Agency. Only the information the Agency requires in excess of what a lender would typically require of a business is considered.

The burden estimates are based on a $1.5 billion in Recovery Act program level, which it will guarantee 700 B&I loans. The Recovery Act program funds expire on September 30, 2010, and must be obligated by then. At the end of January 2010, approximately $900 million in program funds are expected to remain. The Agency estimates that the remaining program funds will result in approximately 350 guaranteed loans in addition to those being considered prior to January 31, 2010. Specifically, the burden to be cleared with this document is based on processing applications associated with the estimated remaining $900 million in program funds and on servicing all of the loans guaranteed with the $1.5 billion in Recovery Act program level.

REPORTING REQUIREMENTS - NO FORMS – Part 4279-B

Financing housing development sites. The financing of housing development sites is an eligible loan purpose provided that documentation is presented that the community is in need of additional housing to prevent a loss of jobs in the area or to house families moving to the area as a result of new employment opportunities. The borrower provides this information.

Loan guarantee limits. A lender requesting more than $10 million but not more than $25 million in guarantee authority must document that it will not make the loan and the project will not be completed if the guarantee is not approved. The Agency is attempting to provide assistance to as many businesses as possible by requiring an exception by the Administrator to guarantee loans between $10 and $25 million. Guaranteed loan approval in excess of $25 million up to $40 million rests with the Secretary of Agriculture, whose authority cannot be redelegated.

Interest rate change. A change in the interest rate between the date of issuance of the Conditional Commitment and before issuance of the Loan Note Guarantee must be requested by the lender and approved by the Agency in writing. The potential effect on project feasibility must be reviewed by the Agency.

Credit quality analysis. The lender is primarily responsible for determining the quality of the proposed loan. Lenders typically complete an analysis of all commercial loans for their internal loan committee, but these analyses vary in scope. The Agency specifies what it requires the lender’s analysis to include. The burden estimate is an estimate of the average additional time required for the lender to complete an analysis that complies with Agency requirements.

Financial statements. The Agency directs the lender to determine the type and frequency of submission of the financial statements by the borrower. Financial statements must be completed by an accountant at least annually in accordance with Generally Accepted Accounting Principles (GAAP), except for farmer/rancher guaranteed loans for cooperative stock purchase who may provide financial information in a manner that is generally accepted by commercial agricultural lenders. This is what a lender would typically require on similar non-guaranteed loans, and, lenders often require quarterly statements for new or problem accounts. However, there may be situations where the lender reporting requirements would be less. Also, if specific circumstances warrant, the Agency may require annual audited financial statements, which may be more than a lender would require. The burden reported here is just the time needed to determine the type of reporting required of the borrower.

Hazard insurance. Hazard insurance is required on every loan to protect the collateral from fire or other insurable losses. The Agency requires the lender to be named as beneficiary. The lender would typically require hazard insurance on non-guaranteed loans, but not always.

Life insurance. Life insurance may be required on key management officials of the business to better ensure the success of the business if key management is lost. This is done by insuring the lives of key management, thus providing capital to hire new key management. This is a common practice of lenders, but the Agency may require life insurance when the lender would not.

Flood and other insurance. National flood insurance is required on projects when available. Public liability, business interruption, malpractice, and other insurance appropriate to the borrower's particular business and circumstances may be required. Lenders typically require flood and other insurance on non-guaranteed loans, but there may be situations where it is not recommended by the lender but required by the Agency.

Appraisal reports. The applicant pays for certified appraisers to complete appraisals in accordance with industry standards. Lenders typically require appraisals completed in accordance with industry standard on non-guaranteed loans, and they typically require the applicant to pay for them. There may be situations where the Agency requires an appraisal when the lender would not. Appraisals are used to determine the value of borrower assets being offered as collateral to ensure the loan is adequately secured.

Feasibility studies. They are generally required by the Agency for a business with no track record or a business that is introducing new ideas or product lines. When required, the study must address the economic, market, technical, financial, and management feasibility of the business. They are used by the lender and Agency to help determine the creditworthiness of the proposal. Lenders sometimes require feasibility studies for loans without a guarantee, but a less comprehensive analysis might satisfy the lender.

Loan priorities. Due to limited program funding, the Agency assigns a funding priority point score to each application to assist in project selection. Lenders are asked to consider Agency priorities when choosing projects for guarantees and will provide information to the Agency needed to calculate the project score.

Planning and performing development. 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. Lenders typically do most of this for non-guaranteed loans. However, some Federal laws do not apply to loans without Federal involvement and the lender would not have to provide reports to the Agency for non-guaranteed loans.

Preapplication requirements. A preapplication is preliminary information used by the Agency to determine preliminary eligibility for program assistance. Preapplications are optional except for loans over $10 million. If the proposal does not appear eligible or feasible, the Agency may discourage the filing of a complete application, thus saving the business time and money. The lender would typically require much of the same documentation for non-guaranteed loans. The following documents comprise the content of a preapplication:

(a) Letter to the Agency - A letter signed by the applicant and the lender containing basic information about the applicant and the loan proposal.

(b) Completed Form 4279-2, "Certification of Non-Relocation and Market and Capacity Information Report." See description in "forms" section below.

(c) Financial information - It is used by the Agency to determine preliminary creditworthiness of business.

(d) Preliminary business plan, for start-up businesses - Describes the business, its intended market, and other relevant information. They vary considerably in scope.

Application Requirements. The applicant provides the balance of the application requirements to the lender that passes much of it on to the Agency. This section reiterates and lists the information needed by the Agency including completed forms, financial statements, and various other documents used by the lender and Agency to determine program eligibility and creditworthiness of the loan proposal. The burden per response is low because the lender would typically require virtually the same documentation for a non-guaranteed loan, and only the burden in excess of lender requirements is included. The following comprises the content of an application:

(a) Personal credit reports - Used to evaluate the credit history of the owners as an aid in the credit evaluation completed by the Agency and lender. Typically required by lenders for non-guaranteed loans.

(b) Intergovernmental consultation - The applicant is required to notify the designated State clearinghouse of its proposal. This is to ensure the project is in compliance with State and local development strategies.

(c) Current financial statements and pro forma balance sheet and projections - The applicant 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. Typically requested by lenders for non-guaranteed loans.

(d) 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.

(e) Commercial credit report - The lender provides a credit report on the business and related firms. They provide aids in making a determination concerning the creditworthiness of the applicant. Typically required by lenders for non-guaranteed loans.

(f) Current personal and corporate financial statements of any guarantors - Used to evaluate the financial strength of the owners to determine if they will be able to inject additional resources into the business if needed, thus providing a measure of comfort. Typically required by lenders for non-guaranteed loans.

(g) 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. Always required by lenders for non-guaranteed loans, but the Agency may require more covenants than the lender would typically require.

(h) 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. Typically required by lenders for non-guaranteed loans.

(i) 10-K reports - The Agency requests a copy of this report from publicly-traded companies. It is prepared for the Securities and Exchange Commission and aids in the lender and Agency loan analysis. Typically required by lenders for non-guaranteed loans.

(j) Certificate of Need - Obtained by the applicants for health care facilities from the appropriate regulatory authority. Evidence that the borrower will be able to collect from third party payers, which effects project feasibility. Typically required by lenders for non-guaranteed loans.

(k) Lender certification - A certification by the lender that indicates the lender has completed a comprehensive analysis of the proposal, the applicant is eligible, the loan is for authorized purposes, the collateral is adequate, and the borrower has a reasonable chance of success. The lender would not prepare this if it were not required by the Agency.

Transfer of lender. When the applicant or lender desires to change lenders prior to issuance of the guarantee, the Agency needs information to determine if the applicant is still eligible and the new proposed lender is eligible and capable of making and servicing the proposed loan.

Changes in borrower. When there is a change in the applicant's ownership or organization prior to the issuance of the guarantee, information is needed to determine if the applicant is still eligible for program assistance.

Conditions precedent to issuance of Loan Note Guarantee. 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. The lender advises the Agency when it is ready for closing and provides the Agency with the comprehensive certification required by the paragraph just above.

Refusal to Execute Loan Note Guarantee. 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.

The following requirements are contained in the Recovery Act notice of funds availability and apply only to Recovery Act funded B&I loans:

Work Opportunity Tax Credit Program Certification. Lenders are required to obtain from the borrower a copy of the certification from the appropriate state workforce agency that the business qualifies under the Work Opportunity Tax Credit Program authorized by the Small Business and Work Opportunity Act of 2007.

Health Care Benefits Certification. To document that the business offers healthcare benefits package to all employees, with at least 50 percent of the premium paid by the employer, the lender must obtain from the borrower a copy of IRS DOL Form 5500, Annual Return/Report of Employee Benefit Plan, and provide a written certification that the employer pays at least 50 percent of the premiums.

REPORTING REQUIREMENTS - NO FORMS – Part 4287-B

Loan Classification: 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 immediately.

Agency and Lender Conference: 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 will meet with each lender at least annually. Because lenders typically have more than one guaranteed borrower, multiple borrowers are discussed at a single visit.

Quarterly Financial Reports: The lender must obtain the financial statements required by the Loan Agreement, and these statements must be forwarded to the Agency. It is common practice within the banking industry for the lender to require a borrower; regardless of whether there is a Loan Note Guarantee, to provide periodic financial statements. Normally, lenders require a newer borrower to provide financial statements quarterly, as well as an annual financial statement. Established borrowers submit only annual statements. The burden computation has been adjusted to reflect instances over and above the usual customary practice by the lender in which additional financial statements will be required by the Agency. Basically, it is the time spent completing the abbreviated financial analysis to Agency requirements, and submitting it to the Agency.

Annual Financial Reports: The lender is expected to fully analyze the annual financial statements for each borrower and provide the Agency with a written analysis and conclusions, including spreadsheets and ratio trend analyses that compare year-to-year historical financial information and also compare the borrower to industry standards for similar businesses. The lender's written analysis should include the borrower's strengths, weaknesses, extraordinary transactions, term loan agreement violations, and other indications of the financial condition of the borrower. Most lenders would complete the financial analysis, even if it were not guaranteed.

The lender must submit the annual financial statements to the Agency, along with its spreadsheets and written analysis within 120 days of the end of the borrower fiscal year. This requirement is necessary for the lender and the Agency to service the loan and monitor the borrower's financial condition.

Borrower Visits: The Agency will meet with each borrower during the first year after the Loan Note Guarantee is issued, and every three years thereafter, and more often if the account is delinquent or a problem. The lender is encouraged to participate in the visit. During the visit, a review of the collateral and the borrower's operation is made.

Interest Rate Adjustments: The lender is responsible for the legal documentation of interest rate changes by an endorsement or any other legally effective amendment to the promissory note. The Agency must be notified in writing of all interest rate change. The Government's financial interest must not be adversely affected by any reduction in the interest rate.

When the change is simply a change in rate in a variable rate note, the Agency is typically advised by simple notation on Form RD 1980-41 or 1980-44. The burden associated with the forms is addressed separately in this package.

Release of Collateral: All releases must be based on a complete analysis of the proposal. The lender must submit written documentation to the Agency to justify releases of collateral that exceed 20 percent of the loan amount, prior to the release being made. This is to ensure that the loan will remain adequately secured.

Subordination of Lien Position: A subordination of the lender's lien position must be requested in writing by the lender and concurred by the Agency in writing in advance of the subordination. The subordination must enhance the borrower's business, and the Agency's interest in and lien position on the collateral, after subordination, must be adequate to secure the loan.

Transfer and Assumption: All transfers and assumptions must be approved in writing by the

Agency and generally must 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.

Credit Reports: An individual credit report must be provided for transferee proprietors, partners, officers, directors, and stockholders with 20 percent or more interest in the business. This information gives the loan officer a history of past credit payments on the transferee and aids the loan officer in making a determination as to the credit worthiness of the transferee.

Appraisal Reports: In a transfer and assumption, the transferor, including any guarantor, may be released from liability on the loan only with prior Agency approval and only when the value of the collateral being transferred is at least equal to the amount of the loan being assumed. A current appraisal is needed to make such a determination.

Substitution of Lender: 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.

Protective Advances: Protective advances are advances made by the lender to preserve and protect the collateral. They must constitute as indebtedness of the borrower to the lender and be secured by the security instruments. The lender needs the Agency's written authorization when cumulative protective advances exceed $5,000.

Liquidation Plan: 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.

Acceleration: 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: 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.

<u>Termination of Guarantee</u>: A guarantee will be terminated automatically upon the written notice from the lender to the Agency that the guarantee will terminate in 30 days after the date of notice, provided that the lender holds the entire guaranteed portion of the loan.

The Loan Note Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which the Lender has actual knowledge at the time it became such Lender or which Lender participates in or condones.

REPORTING REQUIREMENTS - FORMS

<u>Form RD 4279-1, "Application for Loan Guarantee (Business and Industry and Section 9006 Program</u>)" - The information collected on the form is used by the Agency to determine applicant eligibility for program assistance and to provide financial and other data about the applicant 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. In an effort to reduce paperwork and make Rural Development forms more consistent with each other, thereby improving customer service, the form is used by the Renewable Energy Systems and Energy Efficiency Improvements Program. The form is revised to clarify and strengthen Debt Collection Improvement Act provisions.

<u>Form 4279-1A, "Application for Loan Guarantee (Business and Industry Short Form – One-Doc and Section 9006 Program</u>)" – This form is used to file applications of up to $600,000, determine applicant eligibility for program assistance, and provide financial and other data about the applicant and lender. The form contains two parts. The borrower completes Part I, the lender completes Part II, and the Agency has sections to evaluate and comment throughout the document. In an effort to reduce paperwork and make Rural Development forms more consistent with each other, thereby improving customer service, the form is used by the Renewable Energy Systems and Energy Efficiency Improvements Program. The form is revised to clarify and strengthen Debt Collection Improvement Act provisions.

<u>Form 4279-2, "Certification of Non-Relocation and Market and Capacity Information Report</u>" - The 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 which will increase direct employment by more than 50 employees. The information is used to determine if competing businesses would be adversely impacted by the federally guaranteed loan. In an effort to reduce paperwork and make Rural Development forms more consistent with each other, thereby improving customer service, the form is used by the Renewable Energy Systems and Energy Efficiency Improvements Program.

<u>Form 4279-3, "Conditional Commitment (Business and Industry and Section 9006 Program)</u>" - 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. In an effort to reduce paperwork and make Rural Development forms more consistent with each other, thereby improving customer service, the Community Facilities (CF) and Water and Waste Disposal (WWD) Guaranteed Loan Programs and the Renewable Energy Systems and Energy Efficiency Improvements Program also use this form. The burden associated with the other Rural Development programs is included in this package.

Form 4279-4, "Lender's Agreement (Business and Industry Guaranteed Loan Program and Section 9006 Program)"- This form is the signed agreement between USDA and the lender setting forth the lender's loan responsibilities. In an effort to reduce paperwork and make Rural Development forms more consistent with each other, thereby improving customer service, the CF and WWD Guaranteed Loan Programs and the Renewable Energy Systems and Energy Efficiency Improvements Program also use this form. Each lender will execute the form once. It will then apply to all B&I, CF and WWD Guaranteed Loans, and Renewable Energy Systems and Energy Efficiency Improvements Program loans the lender makes thereafter. The form is also used to document Certified Lender status for B&I. The burden associated with the other Rural Development programs is included in this package.

Form 4279-6, "Assignment Guarantee Agreement (Business and Industry and Section 9006 Program)" - The form is the signed agreement among 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. In an effort to reduce paperwork and make Rural Development forms more consistent with each other, thereby improving customer service, the CF and WWD Guaranteed Loan Programs and Renewable Energy Systems and Energy Efficiency Improvements Program also use this form. The burden associated with the other Rural Development programs is included in this package.

Form 4279-14, "Unconditional Guarantee" – The form is used to obtain an unconditional guarantee from an individual or corporate entity that owns more than 20 percent interest. This form will replace guarantee forms used by lenders. The Agency is establishing uniformity in obtaining and collecting against guarantees and will treat all guarantors consistently and rectify any ambiguities regarding its ability to refer delinquent debts to the Treasury for collection under DCIA.

Form RD 1980-41, "Guaranteed Loan Status Report." The Agency requires the lender to complete this form twice per year, June and December. The lender has the primary records on a guaranteed loan. The Agency uses this information collected from the lenders to determine the status of the guaranteed loan and forecast losses. The information is also used in the completing the Agency financial statements.

Form RD 1980-44, "Guaranteed Loan Borrower Default Status." The Agency requires the lender to complete this form on all delinquent loans every two months. The Agency uses this information to determine the lender's compliance with the Lender's Agreement in properly servicing delinquent accounts.

REPORTING REQUIREMENTS - FORMS APPROVED UNDER OTHER NUMBERS

Form RD 1940-20, "Request for Environmental Review" (0575-0094) - The information collected from the applicant is used by the Agency in preparing the environmental assessment. It is needed only for specific loanmaking or servicing actions. No requirement in this section imposes a burden that is not specified in the specific program regulation.
Form RD 1980-19, "Guaranteed Loan Closing Report" (0575-0137) - 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 1980-43, "Lender's Guaranteed Loan Payment to USDA" (0575-0137) The Agency requires the lender to use of this form to send guaranteed loan payments to the Agency Finance Office on loans repurchased from the secondary market.

Form RD 449-30, "Loan Note Guaranteed Report of Loss" (0575-137) The Agency requires the lender to use of this form to process estimated and final reports of loss on guaranteed loans.

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.

The Agency has automated various forms used to apply for loan guarantees, and fillable forms are available on the USDA Service Center and Rural Development website. The Agency has developed the capability to receive the biennial and bimonthly status reports electronically. However, only lenders with a high volume of guaranteed loans have elected to utilize them.

Lenders may complete the automated forms and submit hard copies of the forms with original signatures to the Agency. Loan application forms are not currently submitted electronically due to security concerns and the lack of electronic signature capability. However, some application materials are accepted electronically, such as the preapplication letter, lender's analysis, financial statement spreads, credit reports, proposed loan agreements, and business plans. The Agency is working on the e-Gov initiative that will eventually be capable of receiving applications and other forms electronically. A concern that will need to be addressed is how to accept appraisals and feasibility studies electronically while ensuring validity and environmental information that may contain several different types of maps such as site, flood, and wetlands maps. It is important to understand that electronic submission of all the paperwork required for a loan will not reduce burden to applicants as it is the same paperwork that must be completed, regardless of the mode of submission. In fact, the electronic scanning of appraisals and feasibility studies could actually increase burden.

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.

All loan programs administered by the Agency have been reviewed, and there are no known programs that duplicate this information. The Agency has attempted to avoid duplication of its requirements and the burden by clarifying regulations and closely verifying the information submitted by the lender and its applicant. The Agency communicates with other institutions involved with business development for the purpose of sharing information and coordinating respective activities. When similar information is identified, action is taken to avoid duplication.

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

Only the minimum information needed to determine program eligibility and the creditworthiness of a credit proposal is requested. Lenders making loans without guarantees typically require as much or almost as much information from a business applicant. The information required of lenders is needed to determine a lender and borrower eligibility and creditworthiness.

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 needed for loan approval is typically needed only once for each application. If the information is not collected or collected with less information, the Agency would be more likely to guarantee substandard loans, thus increasing Agency losses. The Agency would not be able to make prudent credit decisions nor monitor the lenders' servicing activities and thus minimize losses under the program.

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.

(b) Requiring written responses in less than 30 days.

(c) Requiring more than an original and two copies.

(d) Requiring respondents to retain records for more than 3 years.

(e) Not utilizing statistical sampling.

(f) Requiring use of statistical sampling which has not been reviewed and approved by OMB.

(g) Requiring a pledge of confidentiality.

(h) Requiring submission of proprietary trade secrets.

There are no special circumstances. The collection of information is consistent with the guidelines in 5 CFR 1320.6.

8. 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 record keeping, disclosure, reporting format (if any), and on data elements to be recorded, disclosed, or reported.

The 60 day comment period for the collection of information was embedded in the notice of the American Recovery and Reinvestment Act of 2009 Business and Industry Guaranteed Loan Program and was published on July 24, 2009, Vol. 74 page 36649. No comments were received.

As part of the Agency's internal control measures, during the Business Program Assessment Review, existing borrowers, Agency field employees, and others are interviewed. Lenders are interviewed as a part of the review of the State Office operation regarding the lenders' knowledge and experience with the B&I program and request their analyses of the public burden associated with completing and processing a guaranteed B&I loan package and servicing the guaranteed loan. Among the many topics discussed during these interviews, we ask the interviewees if they feel any of the Agency-imposed requirements are excessive or could be handled differently, and incorporate their suggestions into program regulations.

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

No payments or gifts are provided to respondents.

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

Confidentiality is not assured. Requests for release of records and information are processed in accordance with the Privacy Act of 1974.

11. Provide additional justification for any question of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private.

There is no collection of any information that would be considered sensitive in nature or commonly considered private.

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

This collection is based on processing 350 applications after January 31, 2010, and on servicing 700 loans being guaranteed with Recovery Act funds. Most of the respondents are relatively highly paid professionals including bank officers, accountants, attorneys, certified appraisers, environmental and other consultants, insurance providers, and contractors. The cost to the public for loans guaranteed with Recovery Act funds over the next three years is estimated to be $1,034,456 using an hourly wage rate of $65 per hour. The hourly wage rate is obtained from the Department of Labor Occupational Wage List.

Over the next three years, the cost to the public for preparing and submitting loan applications will be incurred in first year only. The estimated cost for these loan applications is $743,496. However, servicing of loans guaranteed with Recovery Act funds will occur over each of the next three years. The total servicing cost is estimated to be $290,960, with an average annual servicing cost of $96,987 over the next three years.

The attached spreadsheet provides the specific estimates.

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

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

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

After January 31, 2010, the cost to the Federal Government to collect, evaluate and administer the activities of the B&I loan program and servicing actions guaranteed with Recovery Act funds is estimated to be $638,250. Most of the review work is completed by GS-9 & 11 State Loan Specialists and GS-13 State Program Directors, with GS-7 & 8 Loan Technicians and clerks doing most of the computer data entry and typing. Accordingly, the average rate was determined to be $35 per hour. For work performed at the National Office, an hourly wage rate of $40 was used. The hours were computed by estimating the average time it takes to review a preapplication package including Department of Labor clearance when required; an application package including the lender analysis and conducting negotiations and conferences with lender, a site visit, and environmental assessment; approving and obligating the loan, including preparing the Conditional Commitment; and issuing the Loan Note Guarantee including reviewing the lender's certification and comparing it against conditions of the loan and program regulations.

A common servicing action would be for a GS-8 or GS-9 State Loan Technician to run a Guaranteed Loan System report for the Program Director (GS-13), which identifies the borrowers and the financial statement requirements. A letter is prepared by the State Loan Technician or Program Clerk (GS-5) for the Program Director's signature (GS-13) or State Director's signature (SES) requesting the lender to provide the financial statements and analysis to the Agency. The lender will provide this information, if available to the Agency. It will be reviewed by the State Program Loan Specialist (GS-12) and should any adverse trends be noted, a letter will be prepared by the State Program Clerk (GS-5) and signed by the Program Director (GS-13) or State Director (SES). The letters are signed on Rural Development standard letterhead. No other specific government form is required for this process.

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

Applications from the public have been received and the cost to the public for those applications has already been incurred. After January 31, 2010, fewer applications will be prepared by the public. As a result, the hours of burden and cost to the public will decrease. The total hours are estimated to decrease from 23,945 to 15,915 for a decrease of 8,030 hours. The total cost is estimated to decrease from $1,556,354 to $1,034,456 for a decrease of $521,898.

Similarly, the cost to the government is estimated to decrease because it will have fewer applications to process. The estimated decrease is from $1,043,950 to $638,250.

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

The results of this collection of information will not be published.

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.

No approval is being sought.

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

The Agency is able to certify compliance with all provisions under 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?

Recipients of B&I loan assistance are rural businesses, but typically are not agricultural. Consequently, very little of the information collected for this program would be useful in the SCI. The information is used only for administering the B&I program.