

SUPPORTING STATEMENT

7 CFR Part 1924-F – Complaints and Compensation for Construction Defects
OMB No. 0575-0082

A. Justification

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

Section 509 of Title V of the Housing Act of 1949, as amended, authorizes the Rural Housing Service (RHS) to pay the costs for correcting defects or compensate borrowers of Section 502 Direct loan funds for expenses from defects to newly constructed dwellings and new manufactured housing units with funds authorized under this title.

This is a reactionary-type procedure implemented to fulfill a need to inform field offices on how to deal with complaints generated by the public. The objective of this procedure is to be responsive to the public served by the Agency; and to minimize claims and civil actions against the Government by instituting a procedure to resolve complaints.

This regulation provides instruction to all RHS personnel for them to implement a procedure to accept and process complaints from the borrowers/owners against builders and dealers/contractors, to resolve the complaint informally and when the complaint involves structural defects which cannot be resolved by the cooperation of the builder or dealer/contractor, authorizes expenditure to resolve the defect with grant funds. Resolution could involve expenditure for (1) repairing defects; (2) reimbursing for emergency repairs; (3) paying temporary living expenses or (4) conveying dwellings to RHS with release of liability for the RHS loan.

The intent is to provide individual homeowners with housing that is free of defects which directly and significantly reduces the useful life, the habitability, or integrity of the dwelling or unit. However, claims must be filed within the first 18 months after the date financial assistance was granted to build a single family dwelling or a manufactured housing unit.

Without the provisions of this instruction, RHS will be unable to provide the necessary guidance to new homeowners, builders, and dealer/contractors for the resolution of complaints.

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.

The information is collected from the Agency borrowers and the local Agency office serving the county in which the dwelling is located. This information is used by the Rural Housing Staff to evaluate the request and assist the borrower in identifying possible causes and corrective actions. The information is collected on a case-by-case basis when initiated by the borrower. RHS has reviewed the program's need for the collection of information versus the burden placed on the public and determined the program's need is necessary and beneficial. Failure by RHS to correct

structural defects will be costly to the Government in that property serving as security for the Government loan would have reduced property value. In addition, failure to correct the defects would result in the loss of the available housing stock for the public.

The specific burden of information to be cleared includes the following:

Reporting Requirement – No forms

Notice to Contractor from Borrower of Construction Defects (Complaints)

Complaints in this subpart refer to expressions of dissatisfaction made by RHS borrowers, a person(s) who has received program assistance to purchase a newly constructed dwelling or newly manufactured housing unit under Section 502 [42 USC 1472] of Title V of the Housing Act of 1949, as amended, to RHS concerning alleged defects in the construction of their dwelling or unit. In addition, it serves as a request for formal assistance from the Agency to aid the borrower in obtaining corrective relief from the builder/warrantor of the property. Complaints can be made to the RHS Community Development Manager in writing or orally.

It is estimated that 300 complaints are received annually.

Notice of Non-Compliance from Borrower to RHS

Non-compliance in this subpart refers to the builders or dealer/contractor's inability or unwillingness to correct construction defects. Non-compliance also refers to the builders or dealer/contractor's failure to respond to the request for repairs. This serves as notice to RHS that the borrower's attempt to resolve the discrepancies with the builder/dealer/contractor has been unsuccessful. This notification is made by the borrower to the local RHS county office which services the loan.

Of the estimated 300 complaints received annually, approximately 20 percent, or 60 borrowers need intervention by the RHS.

Reporting Requirements – Forms

Form RD 1924-4, "Documentation of Construction Complaint/Request for Compensation for Construction Defects"

This form is completed by the borrower with the assistance of the Rural Housing Staff and submitted as an application for assistance. This establishes formal communication between the applicant and RHS. It allows the Agency to determine the borrower's eligibility, provides a description of the defects for which compensation is requested, the type of assistance requested, the action to be taken against the contractor, and amount of claim.

Of the estimated 60 complaints which require RHS intervention, approximately 25 percent will not be satisfactorily resolved. Thus, it is estimated that approximately 15 borrowers will actually complete this form.

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 use of automated, electronic, and mechanical or technological collection techniques is not applicable to this type of collection nor would these techniques assist us in reducing the burden to the public.

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.

Similar information from other sources cannot be substituted for information needed as described in item 2. Information is not collected at any time during the loan making or servicing process; therefore, duplication is not a problem.

5. If the collection of information impacts small businesses or other small entities (item 5 of OMB Form 83-1), describe any methods used to minimize burden.

The information required by this regulation places no burden on small businesses or other small entities beyond that performed in the course of normal business.

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 collection of information is considered to be the minimum necessary to conform to the requirements of program regulations. Without the collection of such information, RHS would be unable to ensure that eligible borrowers would receive compensation to repair defects to their newly constructed dwellings, as well as maintain the market value of the property serving as security for the Section 502 loan.

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 requirements that require reporting on more than a quarterly basis.

b. Requiring written responses in less than 30 days.

There are no time frames established in the regulation for the information collection.

c. Requiring more than an original and two copies.

There are no specific information collection requirements for 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 requirement exists.

- 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.

The 60-day Federal Register Notice was published October 29, 2009, Volume 74, No. 208, page 55805. No comments were received.

This form is infrequently used by program borrowers. Borrowers often work with the field office to fill this form out therefore, this information was obtained internally.

Contacts:

Don Harris, Tennessee Single Family Housing Program Director.
Phone number (615) 783-1300

Tennessee has used this program during the past fiscal year. I feel that the amount of documentation required is not a burden given the amount of additional funding the agency provides. Extra measures should be used by the field offices to verify that when defects exist, the proper steps have been taken to ensure program compliance. RD form 1924-4 is user friendly and self-explanatory. It is reviewed at length by the borrower and Rural Development Manager prior to beginning the repairs of the defective work.

Additional documentation varies depending on the defect and the amount of work involved.

The RD Construction Defect Program is valuable in assisting homeowner's that have had an adverse construction experience. I do not feel the burden on the borrower or Rural Development is excessive.

John O. Jones, Mississippi Single Family Housing Program Director,
Phone number (601) 965-4325

We do find that our field offices have to complete the 1924-4 several times as the requested repair list is negotiated with the borrowers. Sometimes this leads to the impression that the complaint was not timely, when in fact it may take several months to agree on the repair items, get cost estimates, etc. But, I do not know what the solution to this would be. I think our letters of recommendation to the National Office need to address the original complaint dates in order to document the validity of the requests. Due to the complexity of most construction defect complaints I do not know of anything that would expedite or streamline the process any better than the current forms and regulations. It may prove beneficial to add a field in the top portion of the 1924-4 that reflects the original complaint date.

The suggestion of adding a field to display the original complaint date has merit and will be taken into consideration by the Agency.

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

There will be no payment or gift to respondents.

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

There is no formal assurance of confidentiality provided to respondents; however, it is the Agency's policy to only release information with the respondent's written consent.

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 information collection of a sensitive nature.

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

See attached spreadsheet.

Explanation:

The number of respondents for burden determination was based on an estimated 300 borrowers complaining of defects. Approximately 20 percent or 60 borrowers would require intervention by RHS.

It is estimated that 120 man-hours will be the burden on the public. The annual cost to the public for this collection of information is \$2,000. Cost and time estimates were based on the following breakdown per number of respondents per average hours.

300	Respondents to Exhibit A to RD Instruction 1924-F
25	Average hours
75	Subtotal Burden Hours
60	Respondents to Exhibit C to RD Instruction 1924-F
.25	Average hours
15	Subtotal Burden Hours
15	Respondents to Form RD 1924-4
2	Average hours
30	Subtotal Burden Hours
120	Total Estimate Burden hours
<u>\$27.03</u>	Estimated cost per hour
\$3,243.60	Total Estimated Annual Cost

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

a. Total capital and start-up cost component (annualized over its expected useful life).

There are no capital/start-up costs involved.

b. Total operation and maintenance and purchase of services component.

There are no operation/maintenance costs involved.

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

RHS estimates the cost to the Federal Government to administer this program to be \$38,422 a year. This cost includes the salary expense for Government employees involved in the information collection process.

This figure was obtained by calculating the hourly salaries for a GS-13 employee and a GS-11 employee as an average for those working on the project. The figures are based on the estimate of time spent by each employee handling the case (GS-11 / 2.5 hours, GS-13 / 1.25 hours). The salary cost for the GS-13 employee is \$38.53 per hour and the GS-11 employee is \$27.03 per hour. We are also including \$1,500 for training costs and \$2,200 for any publishing and supplies cost for the program.

GS-13 Employee	\$14,449
GS-11 Employees	\$20,273
Training	\$1,500
Publishing and Supplies	\$2,200

Total Cost:	\$38,422
--------------------	-----------------

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

There is a decrease in the number of construction defect notices. This decrease accounts for the decrease of -80 burden hours since the last submission.

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

The 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.

We are not requesting approval to not display an expiration date.

18. Explain each exception to the certification statement identified in item 19 on OMB 83-1.

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 is not related to the Service Center Initiative and is not related to this program.