

2010 - SUPPORTING STATEMENT
7 CFR Part 1956-C, Debt Settlement - Community and Business Programs
0575-0124

NOTES: The Rural Utilities Service implemented its own regulation 1782, Servicing of Water Program Loans and Grant and, therefore, no longer uses this regulation, but does use Form RD 1956-1.

The Farm Service Agency (FSA), Farm Loan Programs provide supervised credit in the form of loans to family farmers to purchase land and finance agricultural production. While FSA does not utilize 7 CFR part 1956, subpart B, it does use Form RD 1956-1, as well as some non-form collections approved under this docket, to compromise, adjust, reduce, and charge-off debts under the provisions of section 331 (b)(4) of the Consolidated Farm and Rural Development Act.

A. Justification

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

The Rural Housing Service (RHS), and Rural Business-Cooperative Service (RBS), hereinafter referred to as Agency, are the credit agencies for agricultural and rural development for the United States Department of Agriculture. The Agency offers supervised credit to develop, improve, and operate essential community facilities, and business and industry across rural America.

The Community Facilities (CF) loan program of RHS is authorized by Section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926). The purpose of the CF loan program is to make loans to public entities, nonprofit corporations, and Indian tribes for the development of essential community facilities for public use in rural areas.

The Business and Industry (B&I) program is authorized by Section 310B (7 U.S.C. 1932) of the Consolidated Farm and Rural Development Act to improve, develop, or finance business, industry, and employment and improve the economic and environmental climate in rural communities. The B&I programs eligible for debt settlement under this provision are limited to B&I direct loans. Debt Settlement of Economic Opportunity Cooperative Loans, Claims Against Third Party Converters, Non-program loans, Rural Business Enterprise/Television Demonstration grants, Rural Development Loan Fund loans, Intermediary Relending Program loans, and Nonprofit National Corporation loans and grants, are not authorized. Under independent statutory authority, settlement under these programs is handled pursuant to the, 4 CFR parts 101-105.

The debt settlement program provides the delinquent client with an equitable tool for the compromise, adjustment, cancellation, or chargeoff of a debt owed to the Agency. The term settlement is used for convenience in referring to compromise, adjustment, cancellation, or chargeoff actions individually or collectively. If a debt is eligible for settlement, the debt settlement authorities are extended to the debtor. All debtors are entitled to impartial treatment and uniform

consideration under this subpart. The information collected is similar to that required by a commercial lender in similar circumstances.

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.

In order to determine borrower eligibility, financial capacity, and derive an equitable resolution, information (particularly financial information) is required from a client. This information is gathered from borrowers, consultants, lenders, attorneys, and by field offices for analysis, evaluation, and recommendation. The information enables field staff to process the request in a timely, but prudent fashion, in accordance with the applicable laws and regulations.

The specific items that impose a burden under this regulation are:

REPORTING REQUIREMENTS - NO FORMS

Disappeared Debtors. The Agency may cancel debts when the debtor(s) has disappeared and cannot be found without undue expense. Reasonable efforts will be made to locate the debtor. These efforts generally include contact with members of the public who may have knowledge of the debtor's location.

The public burden is limited to responding to the Agency's contact and supplying information, if any is available, concerning the debtor's location. The Agency's contact and the response may be in person, by telephone, or by letter. Based on past performance, there will be no cases of disappeared debtors for RBS and CF. There will be an estimated 180 cases of disappeared debtors for FSA. The average response time is estimated to be 15 minutes per response.

Requesting Additional Information. The decision whether to accept or reject a compromise, adjustment, cancellation, or chargeoff of the Agency's debt is usually based on the information contained on Form RD 1956-1. Occasionally, the approval official must obtain more information upon which to base the decision to settle the debt. When this is done, the servicing official will contact the debtor by telephone, in person, or by letter to obtain the additional information to complete the debt settlement action.

The information requested should be readily available from the respondent's financial records; therefore, the response time is limited to the time required to locate the information and respond to the servicing official's questions. The average public response time is estimated to be 1 hour for each of the 13 RBS and CF respondents. For FSA, the average response time is estimated to be one half hour for each of the 900 respondents.

Delinquent Adjustment Agreements. Debtors who make adjustment agreements, promising to pay a reduced amount of debt over a fixed period of time in return for cancellation of the remaining debt, occasionally become delinquent on the agreed payments. When they become delinquent, servicing officials will contact them to ascertain the

reasons for the delinquency. The public burden is limited to responding to the Agency's contact and supplying information on changed circumstances that justify the delinquency. The Agency contact and the response may be in person, by telephone, or by letter. The average public response time is estimated to be 2 hours for each of the 5 RBS and CF respondents. For FSA, the average response time is estimated to be one half hour for each of the 43 respondents.

Request for debt restructuring. This information from the borrower includes a letter requesting debt restructuring and financial projections, including balance sheet, budget, and cashflow statements for 3 years. The financial statements are to show the amount of cashflow available to support some restructured amount of debt, plus an amount to fund the Rural Development Reserve Account. The average public response time is estimated to be 40 hours for each of the 2 respondents.

Operations Review. This review is to be performed by a firm contracted and paid by the Agency. The contractor will be on the premises of the borrower, gathering information and data for the final written report, which is to consist of a complete business and financial analysis of the borrower's operations. The report will cover such areas as: general, administrative, dietary, housekeeping, laundry, nursing, physical plant, social services, income potential, Federal and State insurance payments, rate analysis, etc. We estimate that the time required for the borrower to gather information, run reports, and discuss issues with the contractor will average 40 hours per study.

Appraisal. The appraisal of the borrower's security property is to be performed by an independent, qualified fee appraiser. However, a small amount of time will be needed by the appraiser to discuss matters with borrower personnel. The average public response time is estimated to be 40 hours for each of the 4 respondents.

Meetings with the borrower. Rural Development personnel will be performing debt restructuring and net recovery value calculation, based upon the operations review, appraisal, and other information. In this process, it is anticipated that contacts, meetings, and additional information will be needed from the borrower in order to finalize the calculations. This is estimated to be 2 hours for each of the 14 respondents.

Appeal. The outcome of the final Rural Development determinations may bring disagreement from some borrowers. In these instances, the borrowers may request an appeal of the Agency's determination. This is estimated to be 15 hours for each response, but we do not anticipate any responses based on past activity.

Borrower Accepts Restructuring. For borrowers who accept the debt restructuring and net recovery value calculations, certain additional information (including the signing of a Shared Appreciation Agreement and possible new debt instruments) may be necessary. This is estimated to be 2 hours for the one respondent.

Borrower Accepts Net Recovery Buyout. For borrowers whose debt analysis calculations indicate that debt restructuring cannot be approved and

that Net Recovery Buyout is in order, they must pay off the Agency and execute a Net Recovery Buyout Recapture Agreement. We estimate this time to be 2 hours for each response, but we do not anticipate any responses based on past activity.

Debt Settlement Under the Federal Claims Collection Act. For borrowers whose debt and claims fall under the Federal Claims Collection Act, settlements must be submitted to, and approved by, the United States Attorney or Department of Justice. We estimate this time to be 8 hours for the one respondent.

REPORTING REQUIREMENTS - FORM

Form RD 1956-1 "Application for Settlement of Indebtedness." This form must be executed by the debtor's approval official for Agency consideration of all settlement actions under this regulation. This includes consideration for compromise, adjustment, cancellation, or charge-off of a debt owed to the Agency. The Rural Utilities Service no longer uses the 1956-C regulation, but does use this form for their Water Program. The estimated number of respondents is 25 with an estimated 13 total man hours for RBS, RUS and CF. For FSA, the estimated number of respondents is 1,800 for a total of 900 man hours.

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.

Every effort has been made to use information the borrower would already have on hand and to maximize the use of available information technology. Information collected under this regulation is considered to be the minimum necessary to comply with the requirements involved. All the information involved is specific to the particular case; therefore, automation would not reduce or eliminate the 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.

The information collected under this regulation relates specifically to loan servicing requests and actions. Therefore, the request and supporting documentation will be unique for each borrower. The borrower is allowed to submit existing financial information rather than completing our form, if it is in a similar format, to avoid duplication. We use the applicant's/borrower's organizational documents for various servicing actions.

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 collection required under the regulation places no burden on small entities beyond that performed in normal business practice.

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 the burden.

Information is only collected when it is needed to make a decision on a servicing request. This information is needed to determine which servicing tools should be used. The course of action taken must be in the best interest of the Government, the borrower, and the community receiving the services.

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, if a borrower's financial situation has changed, it benefits the borrower to provide the Agency with information as soon as possible. The Agency cannot provide the borrower with increased program benefits until documentation is received to support the borrower's request.

- c. Requiring more than an original and two copies.

There are no specific information requirements that require more than an original and two copies.

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

There are no such requirements.

- e. Not 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 pledge of confidentiality.

There are no such requirements.

- h. Requiring submission of proprietary trade secrets.

There are no such requirements.

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.

A Notice was published in the Federal Register on October 30, 2009, [74 FR 56172] soliciting comments from the public. No comments were received. A copy of this Notice is attached.

Debt settlement actions are generally conducted with the full cooperation of our clients/borrowers. Direct feedback on data collection, clarity of instructions, recordkeeping, disclosure, reporting format, etc., is received at that time. Appropriate changes are made based on actual experience and feedback from clients.

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

There is 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.

The control and assurance of confidentiality is carried out in accordance with the Freedom of Information Act.

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.

Financial information is being requested for analysis purposes; therefore, the information collection requirements of this regulation do not include any questions of a sensitive nature, such as sexual behavior and attitude, religious beliefs, or other matters that are commonly considered private.

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

The burden for collecting information is based on an estimated 92 annual responses and 347 estimated total man-hours. Please see the attached spreadsheet for a complete breakdown. This estimate is based on information in existing reports and reflects first-hand experience by Agency employees.

The estimated total annual burden cost to the public is \$71,576.

The wage class used for RHS, and RBS for requesting additional information, delinquent adjustment agreements, accepting a restructuring offer, and net recovery buyout, was \$60 per hour. For functions that frequently require the participation of the borrower, attorney, and accountant, we used an average rate of \$115 per hour. These functions include preparing the application for settlement, the request for debt restructuring, operations review, appraisal, meetings with borrower, and

appeals. The wage class previously reported utilized wages based on 2006 figures.

For FSA, respondent cost per hour for farmers was derived by using U.S. Bureau of Labor Statistics Occupational Employment and Wages, May 2008, Table 11-9012 – Farmers and Ranchers. The U.S. mean household income, as measured by the Bureau of Labor is \$49,140 annually or \$23.62 (rounded to \$24) hourly.

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/startup or operation/maintenance costs associated with this collection.

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

The annual cost for RBS, RUS and CF, which includes salaries, benefits, travel, communication, supplies, etc., to administer this regulation is estimated at \$92,472.00. This cost is based on a GS-12, step 5 loan specialist in each state spending 1% of their time on activities related to this regulation, based on 48 state offices; and two GS-13, step 5 loan specialists in the National Office, (one from RHS and one from RBS), spending 5% of their time. Wage rates in effect as of October 2009 for the Washington, DC area and the rest of the United States were used for these calculations.

Based on averaging the GS-9 through GS-12 (2010 RUS- Salary Table) salaries indicates an average yearly employee salary of \$56,480. Standard adjustments recommended by FSA's Budget Division of 33.33% are added for benefits and miscellaneous expenses, to a total average cost for FSA employee salary of \$75,288 per year. It is estimated that FSA employees spend 22,664 hours processing debt settlement requests from borrowers. Therefore, the estimated annual cost for FSA is \$820,210. The overall total cost to the Federal Government is \$912,682.

15. Explain the reasons for any program changes or adjustments reported in items 13 or 14.

In the previous submission the burden of 66 hours for Form RD 1956-1 was inadvertently omitted from the overall burden total. Also, burden hours were not accounted for the use of Form RD 1956-1 by FSA. In addition, per response time of 2 hours and the number of reports filed annually of 3 were incorrectly shown on the spreadsheet. The corrected response time is 30 minutes and reports are only filed one time annually. The number of respondents has increased since the last submission from 16 to 1825 with this renewal. A comparison of responses to the previous package follows:

	<u>2007</u>	<u>2010</u>
Application for Settlement of Indebtedness	33	1825
Disappeared debtor (FSA)	0	180
Requesting Additional Information	32	926
Delinquent Adjustment Agreements	2	48

Request for debt restructuring	4	2
Operations Review	1	0
Appraisal	9	4
Meetings with Borrower	28	28
Appeal/Mediation	2	0
Borrower accepts restructuring	5	1
Borrower Accepts Net Recovery Buyout	1	0
Debt Settlement Federal Claims Collection	1	1
Total Annual Responses	85	3,015
Estimated Total Man-Hours	702	1,772

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

There is no specific collection of information requirement in this rule that will 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.

The Agency is requesting approval to not display the expiration date on the form, which is used in other collections approved under other OMB numbers that have varying expiration dates.

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, and will have no impact on, the Service Center Initiative. The information collection under this regulation is case specific.

