

February 2, 2021
United States Department of Agriculture
Farm Service Agency
Supporting Statement
OMB Control Number 0560-NEW
Land Contract Guarantee Program and EM-Equine Loss Loan Program
General Program Administration
7 CFR 761

FSA is requesting an approval to obtain OMB clearance for a new information collection to support the Land Contract Guarantee Program and the Emergency Equine Loss Loan Program (EM). Once this package has been approved and the final rule has been published, the information in this package will be incorporated into FSA existing package approved under OMB control number 0560-0238. In the future, burden information for these programs will be included in the 3 year renewal package for OMB control number 0560-0238.

The 2008 Farm Bill amended Sections 310 F and 321 of the CONACT, authorizing the Secretary to make loans under the Land Contract Guarantee and Emergency Loans (EM) to equine farmers. Under the Land Contract Guarantee Program the agency will be providing guarantees of loans made by private sellers of a farm on a land contract sales basis. Section 321 of the CONACT expands eligibility for EM loans to equine farmers whose primary enterprise is to breed, raise and sell horses and have suffered production and physical losses due to drought, flooding, other natural disasters, and certain quarantines. There are no changes made to 7 CFR 761. Only information collections will be increased due to the Land Contract Guarantee loan and expansion of eligible applicants for EM. No new forms will be created as only existing forms with existing approval through OMB control number 0560-0238 will be used.

The information collection requirements are described below and on the attached form FSA-85-1, Reporting and Recordkeeping Requirements.

Justification

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

FSA's land contract guarantee program and Emergency Loans (EM) program provide assistance to help beginning farmers and socially disadvantaged farmers to acquire land and producers recover from production and physical losses due to drought, flooding, other natural disasters, or quarantine, respectively. The regulation covered by this information collection package describes the policies and procedures the agency uses to provide supervised credit to FLP applicants requesting assistance in accordance with the provisions of the Consolidated Farm and Rural Development Act (Act) (7 U.S.C. 1921) (Pub. L. 87-128), as amended. Supervised credit information collection requirements include planned and actual production and financial records, as well as the development and update of a loan assessment addressing the course of action to be followed, so that financing can be obtained through commercial credit sources.

Authority to establish the regulatory requirements contained in 7 CFR 761 is provided under 5 U.S.C. 301, which provides that “The Head of an Executive department or military department may prescribe regulations for the government of his department ... the distribution and performance of its business...” Furthermore, section 339 of the Act (7 U.S.C. 1989) provides that “the Secretary is authorized to make such rules and regulations, prescribe the terms and conditions for making... loans, security instruments and agreements, except as otherwise specified herein, and to make such delegations of authority as he deems necessary to carry out this title.” The Secretary delegated authority to administer the provisions of the Act applicable to FLP to the Under Secretary for Farm and Foreign Agricultural Services (FFAS) in section 2.16 of 7 CFR part 2. FFAS further delegated this authority to the FSA Administrator in section 2.42 of 7 CFR part 2.

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

Applicants who meet the eligibility requirements for the land contract guarantee program and EM equine loss loan will provide information to the local agency office serving the county in which their business is headquartered. The information is necessary to thoroughly evaluate the applicant’s request and is used by agency officials to determine the State where the agency must file the financing statements according to the Uniform Commercial Code requirements.

Legislation requires the agency to actively supervise these applicants and provide credit counseling, management advice, and financial guidance. Thus, the monitoring, reporting, evaluation, and consent requirements of this supervision increase the information collection burden on agency applicants above those imposed by commercial creditors.

The information collection requirements established in 7 CFR 761 are described below and on the attached form FSA-85-1, Reporting and Recordkeeping Requirements.

Form FSA-2037 Farm Business Plan Worksheet (Balance Statement)

7 CFR 761.102(a); 7 CFR 761.105(b)(1); 7 CFR 763.7 and 7 CFR 763.18; 7 CFR 764.51(c)(4); 7 CFR 764.401(c)(1); 7 CFR 764.402(a)(2); 7 CFR 764.51; 7 CFR 765.205; 7 CFR 765.404; 7 CFR 766.102

The information requested on FSA-2037 is provided by buyers under the land contract guarantee program, applicants requesting equine EM loans, existing borrowers requesting a servicing action, and borrowers, as provided on loan and security instruments or at the agency’s request, for the agency to determine the progress made. Use of FSA-2037 is not mandatory as buyers, applicants and borrowers may provide the information in any alternative format used for other purposes, as well as copies of balance sheets used to apply for loans from other creditors. The information collected on FSA-2037 is a detailed listing of the buyer, applicant or borrower’s assets and liabilities. The agency uses the information to make feasibility determinations and ensure that the requested loan will be repaid. A balance sheet is required from individual as well as entity member applicants and borrowers. The agency inputs in the Farm Business Plan information buyers, applicants and borrowers provided on FSA-2037. After the input is

complete and before the action requested is closed, buyers, applicants and borrowers sign the computer print-out that reflects the information provided. The agency has included in this information collection package the number of entity members required to provide a balance sheet, and has indicated the number of entity members required to provide the information.

The agency estimates that 63 applicants (51 individuals and 12 entity members are included in this number) will complete FSA-2037 as part of a complete application for direct loan making purposes.

The agency estimates that 46 FSA-2037 are completed per year for the agency to conduct the year-end analysis on the borrowers' operations. The agency is required to conduct year-end analysis on borrowers that received loans during the year, chattel subordination, or primary loan servicing. The time required to provide the information is estimated to be 60 minutes.

Borrowers request the agency subordinate its lien position to a commercial lender to obtain needed financing for the operation. For the agency to approve the subordination request, it needs to analyze the borrower's balance sheet to determine if the operation can repay the agency's loans as well as the loan being requested from the commercial lender. The agency estimates it will receive 16 subordination requests (15 individuals and 3 entity members are included in this number) per year. The time to complete FSA-2037 is estimated to be 10 minutes because the borrower will already have completed a balance sheet to provide the commercial lender and only needs to provide a copy to the agency.

The agency estimates it will process 1 request for assumption of a borrower's debt by an ineligible applicant per year. Ineligible applicants are required to provide a balance sheet for the agency to determine if the applicant will be able to repay the assumed debt. The time to complete FSA-2037 for this purpose is estimated at 60 minutes.

The agency receives 8 requests for primary loan servicing per year (6 individuals and 2 entity members are included in this number). Delinquent, as well as financially distressed, borrowers are required to provide a balance sheet for the agency to make feasibility and eligibility determinations on the borrower's request. It is estimated that it takes 60 minutes to complete FSA-2037 for primary loan servicing requests.

The Agency estimates that 10 applicants (5 individual applicants, 4 married applicants and 1 entity applicant with average of 3 members) will complete FSA-2037 for land contract guarantee loan making purposes. The agency estimates the time to complete this form is 75 minutes for these applicants as they will have to complete all parts of the form or provide the information in another format.

An annual balance sheet is needed on all Standard Land Contract guarantees, and the agency estimates that 2 applicants will complete FSA-2037 for this purpose and it will take 75 minutes to complete.

FSA-2038, Farm Business Plan – Income and Expense

7 CFR 761.2(b); 7 CFR 761.102(a); 7 CFR 761.104(a); 7 CFR 761.105(b)(1); 7 CFR 763.7; 7 CFR 763.18; 7 CFR 764.51(b)(c); 7 CFR 765.205(a)(b); 7 CFR 765.404; 7 CFR 766.102(a)

The information requested on FSA-2038 is provided by buyers under the land contract guarantee program, applicants requesting equine EM loans, existing borrowers requesting a servicing action, and borrowers, as provided on loan and security instruments or at the agency's request, for the agency to determine the progress made. Use of FSA-2038 is not mandatory as buyers, applicants and borrowers may provide the information in any alternative format used for other purposes, as well as copies of income and expenses used to apply for loans from other creditors. The information collected on FSA-2038 is a listing of the buyer, applicant or borrower's projected income and expenses for the current or upcoming production cycle. The agency uses the information to make feasibility determinations and ensure that the requested loan will be repaid. The agency inputs information in the Farm Business Plan buyers, applicants and borrowers provided on FSA-2038. After the input is complete and before the action requested is closed, buyers, applicants and borrowers sign the computer print-out that reflects the information provided.

The agency estimates that 42 applicants will complete FSA-2038 as part of a complete application for direct loan making purposes. The time to complete each FSA-2038 for loan making purposes is estimated to be 90 minutes.

The agency is required to conduct year-end analysis on borrowers who, during the year, received: a direct loan; chattel subordination; or primary loan servicing. It is estimated that 46 FSA-2038 will be completed per year for the purposes of year-end analysis. The time to complete it is estimated to be 90 minutes.

Borrowers request the agency subordinate its lien position to a commercial lender to obtain needed financing for the operation. For the agency to approve the subordination request, it needs to analyze the borrower's income and expenses to determine if the operation can repay the agency's loans as well as the loan being requested from the commercial lender. The agency estimates it will receive 16 subordination requests per year. The time to complete FSA-2038, or provide the agency with a copy of the income and expenses provided to the commercial lender, is estimated to be 10 minutes because the borrower will already have compiled income and expenses to provide the commercial lender.

The agency estimates it will process 1 request for assumption of a borrower's debt by an ineligible applicant per year. Ineligible applicants are required to provide a balance sheet for the agency to determine if the applicant will be able to repay the assumed debt. The time to complete FSA-2038 for this purpose is estimated at 60 minutes.

The agency estimates it will receive 8 requests for primary loan servicing per year. Delinquent, as well as financially distressed, borrowers are required to provide income and expenses for the agency to make feasibility determinations on the borrower's request. It is estimated that it takes 90 minutes to complete FSA-2038 for primary loan servicing requests.

The Agency estimates that 10 applicants (5 individual applicants, 4 married applicants and 1 entity applicant with average of 3 members) will complete FSA-2038 for land contract guarantee loan making purposes. The agency estimates the time to complete this form is 75 minutes for these applicants as they will have to complete all parts of the form or provide the information in another format.

An annual balance sheet is needed on all Standard Land Contract guarantees, and the agency estimates that 2 applicants will complete FSA-2037 for this purpose and it will take 75 minutes to complete.

Non-Forms

Development of the Loan Assessment

7 CFR 761.103 (a) and (b)

Under regulations, the agency develops a loan assessment with each applicant to determine the applicant's financial condition, organizational structure, management strengths and weaknesses, appropriate levels of agency oversight needed, credit counseling needs, and training needs. The financial information needed for the loan assessment is collected on FSA-2037 and FSA-2038, or any other format acceptable to the agency; however, information such as the operation's goals and the organizational structure must be discussed with the applicant. The information is normally obtained at the time the agency discusses the loan application with the applicant. The loan assessment is developed at the time of the initial application. After the agency obtains the information needed from the applicant, the agency inputs it in the Farm Business Plan. Before the loan is approved the applicant signs the printed loan assessment to acknowledge participation in its development. It is estimated that information to develop the assessment will be collected from 42 applicants. The response time is estimated at 30 minutes per applicant.

Copies of income tax returns

7 CFR 761.103; 7 CFR 763.7 (b)(7); 7 CFR 764.51; 7 CFR 766.102; 7 CFR 766.202

Cash flow projections used for processing loan making and servicing requests must be based on actual production, income, and expenses. One of the simplest methods of obtaining this information is to obtain copies of the applicant or borrower's tax returns. The agency maintains copies of documents, including tax returns, submitted by the applicant in the loan making process and the borrower during loan servicing; therefore, in many cases, only the most recent year's tax return must be submitted. However, respondents who are new applicants will have to provide copies of all three years of tax returns. The applicant or borrower is already required to collect and maintain this information for filing tax returns; therefore, no time is included for its collection. Time estimates are limited to submitting copies of the tax returns to the agency. It is estimated that a total of 73 applicants and borrowers will spend 15 minutes each submitting copies of tax returns.

The Agency estimates 10 requests will be submitted annually for the land contract guarantee program and it will take 15 minutes submitting copies of tax returns.

Travel Time

The agency estimates that applicants and borrowers required to provide information under this information collection docket will travel twice, once to the agency office to complete the application process and a second time to the closing agent's office to complete loan closing, or if loan closing is completed by an agency employee to the agency office. Therefore, the agency estimates that each visit will require one hour per visit (42 x 1 hr per visit x 2 visits) and this information collection docket imposes on the respondents 84 hours of travel time.

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 decisions for adopting this means of collection. Also describe any consideration of information technology to reduce burden.

Information collections obtained using agency forms may be submitted electronically provided the applicant has obtained and activated a USDA account with Level 2 access that allows for electronic submissions. All forms that the applicant has to complete in their entirety, or review and execute, are posted on the e-Gov website at <http://www.sc.egov.usda.gov>. For forms the applicant is required to complete in their entirety, the fillable version of the form, as well as detailed instructions on completing the form, are included on the e-Gov website. Forms prepared by the agency, that the public simply reviews and signs, are also provided on the e-Gov website. However, in lieu of detailed instructions for completing those forms, the instructions simply state that the forms are provided on the website for information purposes only.

Non-form information collections require providing copies of documents in the applicant's possession or providing written replies to agency requests or offers. Non-form collections, as well as all agency forms, may be submitted in person at the local agency office, by mail, or by facsimile. Further, applicants with established Level 2 accounts may provide non-form information collections as any kind of non-executable attachments, such as PDF, doc, xls, or text formats.

Even though forms are available on the e-Gov forms website, previous input by public on this information collection package indicated that very few applicants and borrowers utilize this option. Most respondents stated that they obtain and return forms and non-forms to the agency office as they feel a person-to-person meeting is beneficial. The information required from applicants and borrowers is mainly financial in nature, and farmers are not comfortable with providing it through electronic means, notwithstanding the adequacy of agency security safeguards in place. Most of the agency's applicants and borrowers reside in rural areas, which often do not have access to high speed internet connection. Moreover, applicants and borrowers often seek additional clarification and explanation of the requirements, as well as explanation of the consequences of not complying with the requirements, from agency officials.

Lastly, even though USDA and the agency have publicized and provided information in outreach materials, during stakeholder meetings, as well as agriculture-related meetings and symposiums, on the option to provide information electronically, applicants and borrowers still prefer going to

the agency office to obtain forms and information on how to apply for loans and servicing than obtaining forms and information from the internet. Therefore, the agency estimates that less than one percent of responses will be provided through the internet.

As noted above, electronic signature authentication is currently limited to applicants and borrowers who have obtained and activated a USDA account with Level 2 access. Therefore, all third parties (including lenders, providers of borrower training, etc.) that provide information to the agency on behalf of the applicant or borrower do so in paper format, as they cannot submit information electronically nor is there the ability to provide all third parties with a USDA account with Level 2 access.

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

Agency personnel with expertise in making loans have reviewed the information collections required to eliminate any duplicative or unnecessary collections of information. The information contained in this collection is made part of the case file and, when reasonably current, may be used in lieu of re-submission by the applicant. However, financial information that is collected at another time may be dated and not useful for the specific action being considered.

Various program areas within the agency share data; however, information collections established in this regulation would typically not be available from another agency. Therefore, the potential to share data with other USDA agencies is limited.

5. Methods to minimize burden on small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods to minimize burden.

The agency has made every effort to minimize burden on small businesses and small entities. The agency only requires collection of information when necessary to act on an applicant or borrower's request for assistance. The information required is financial in nature and similar to that required to complete Federal tax returns, make business decisions or to obtain a loan from any commercial lender. Thus, it places no additional burden on small businesses above that required in the normal course of 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.

Since the agency is mandated to provide supervised credit, failure to collect the information, or collecting it less frequently, could result in the failure of the farm operation or loss of agency security property. The collection of information is required as a result of an applicant's specific request, is obtained on an as-needed basis, and is used to document the applicant's eligibility for the requested loan. Accurate decisions when making a loan depend on current financial information and actual history and potential of the farming operation in order to carry out the program as intended. There is no regular reporting schedule related to the information collection

requirements. If the information were not collected, or collected less frequently, the agency would be unable to meet the congressionally mandated mission of its loan programs.

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

- a. Requiring respondents to report information more frequently than quarterly. There are no information collection requirements that require information more frequently than quarterly.
- b. Requiring written responses in less than 30 days. There are no information collection requirements that require written responses in less than 30 days.
- c. Requiring more than an original and two copies. There are no information collection requirements that require more than an original or single copy of a document.
- d. Requiring respondents to retain records for more than 3 years. There are no such requirements.
- e. No utilizing statistical sampling. There are no such requirements.
- f. Requiring the use of statistical sampling which has not been reviewed and approved by OMB. There are no such requirements.
- g. Requiring the pledge of confidentiality. There are no such requirements.
- h. Requiring submission of propriety trade secrets. There are no such requirements.

8. Describe efforts to consult with persons outside the Agency to obtain their view on the availability of data, frequency of collection, the clarity of instructions and record keeping, disclosure, or reporting format (if any), and on data elements to be recorded, disclosed, or reported.

This is a new information collection package. The 60-day public comment notice has been incorporated into the proposed rule that was published in the Federal Register.

FSA maintains close contact with borrowers through FSA's general field representatives (GFR) and a headquarters' staff. GFR's have direct personal contact with the borrower in connection with the fulfillment of FSA requirements. GFR's will pass on any substantive comments to the headquarters staff. FSA staff is readily available to the Agency's customers. FSA works closely with commercial lending institutions and a nationwide network of lending institutions as part of the Farm Credit System, which provides supplemental loan funds to borrowers.

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

There are no payments or gifts provided to respondents.

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

Agency forms that serve as collection instruments contain a Privacy Act statement identifying circumstances under which the information collected may be released. This statement is based on the Privacy Act, the Freedom of Information Act and the Agency's System of Records that

has been published in the Federal Register. Agency policies, as well as a copy of the System of Records, are published in FSA handbooks 2-INFO and 3-INFO. No further assurance of confidentiality is provided to applicants or borrowers.

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

The information collected is of a financial nature. As a condition for the receipt of program benefits, respondents must provide total disclosure of income data and a history of their business dealings that is often considered sensitive. Regardless, the information is required to properly document FSA's decision pertaining to loan making actions.

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

The Estimate of the hour burden of the information of collections is as follows:

Total number of Unduplicated Respondents.....	191
Reports filed Per Person.....	2.7
Total Annual Responses.....	521
Total Annual Burden Hours...(includes 72 hrs travel time).....	444
Average Burden per Collection.....(444/521).....	85 Minutes
per Respondent(444/191).....	2.32 Hrs.

The estimate of annual cost for the information collections is as follows:

Respondent's Cost per Hour - Farmers-Applicants	\$20.53
Total Annual Respondent Cost Farmers	444 Hrs. x \$20.53 = \$ 9,115

Respondent cost per hour was derived by using U.S. Bureau of Labor Statistics Occupational Employment and Wages, May 2009, Table 11-9012-Farmers and Ranchers. The U.S. mean household income, as measured by the Bureau of Labor is \$49,140 annually or \$20.53 hourly.

The proposed rule will govern the processing of the land contract guarantee loans and direct loans made under the EM-Equine Loss Loan Program and require these collections. The agency estimates a maximum of 10 requests will be made each fiscal year under the land contract guarantee program and 34 loans will be made under the EM-Equine Loss loan program. Cost per hour for all respondents was derived from the U.S. Department of Labor's Occupational Employment and Wages, May 2009, tables which are found at the Bureau of Labor Statistics website at <http://stats.bls.gov/oes>.

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

The regulations and associated information collection place no cost burden cost respondents for capital, start-up cost, operation, maintenance, or the purchase of services.

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

Agency employees review information provided by applicants, borrowers, and third parties and make feasibility determinations. The agency estimates that its employees spend 5,824 hours reviewing and processing the collections included in this docket.

The estimated annualized cost to the Federal Government is: \$215,488.00 (5,824 hrs. x \$37.00)

Averaging the GS-9 through GS-12 (2010 RUS-Salary Table) salaries indicates an average employee salary of \$56,480 per year. Standard adjustments recommended by FSA's Budget Division of 33.3% are added for benefits and miscellaneous expenses (\$18,808), for a total average cost for a Farm Loan Program employee salary of \$75,288 per year, which divided by 2080 hours equals an hourly salary of \$36.19. (Rounded to \$37.00)

<http://www.opm.gov/oca/10tables/pdf/RUS.pdf>

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

This is a new information collection for the Emergency Equine Loss Loan Program and Land Contract Guarantee Program.

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

There are no plans to publish the results of the information collected and no public disclosure of the information is anticipated.

17. If seeking approval to not display the expiration date of OMB approval of information collection, explain the reasons that display would be inappropriate.

While FSA forms will be made available electronically at www.sc.egov.usda.gov/, hard copies of each form are also maintained in State and county offices. Displaying the expiration date results in the need to dispose of existing supplies and reprinting of the form with the new expiration date each time the approval is renewed. This increases printing costs for the Agency and results in the need to revise forms posted to the website.

18. Explain each exception statement to the certification statement identified in Items 19 and 20 on OMB Form 83-I.

There are no exceptions to this certification statement requested.

19. Explain how this information collection relates to the Secretary of Agriculture's Service Center Implementation Team initiative?

This information is collected through the Service Center. The collection is required from the public for use by Service Center employees who assist the public in gathering and completing required loan documents. FSA State Office personnel will then analyze the information for eligibility and feasibility determinations and processing and closing FSA loans.