

**United States Department of Agriculture
Farm Service Agency
Supporting Statement
OMB Control Number 0560-NEW
Conservation Loan Program
7 CFR 761, General Program Administration**

FSA is requesting an emergency approval to obtain OMB clearance for a new information collection on Conservation Loan Program (CL). This information collection will be incorporated into the existing approved information collection package of 0560-0238. FSA will be using the existing forms and the processing of the loans in the information collection request of 0560-0238 for the Conservation Loan Program. FSA will add the conservation loan requirements in some of the existing forms.

This document supports the information collection requirements of the interim rule to be published as part of the Farm Service Agency's (FSA) effort to implement provisions under the Food, Conservation and Energy Act of 2008 (Farm Bill). Section 5002 of the 2008 Farm Bill (Public Law 110-246) authorizes the Secretary to make or guarantee qualified conservation loans to eligible farmers.

The interim rule is part of an effort by the Agency to comply with the 2008 Farm Bill. The Agency will incorporate new provisions of the Conservation Loan (CL) Program that include:

- CL loans will be made available to qualified farmers who intend to implement qualified conservation plans and other conservation projects.
- Eligibility applicants may obtain direct loan under the new provisions and be extended to persons who are beginning famers and socially disadvantage farmers.
- Amend current program requirements under 7 CFR Part 761.
- Incorporate the new instructions into internal handbooks used by State and County Offices in administering agency conservation loan programs.
- Further, as required by Departmental guidance and the Freedom to E-File Act, agency handbooks and forms must be made available in electronic format.

This interim rule will require persons to complete various forms and documents. These include: Application, balance sheet, income and expenses, and approved NRCS conservation plans. In addition, the collected information is needed to ensure the financial accountability needed to operate and administer the Conservation Loan Program.

Consequently, FSA personnel will underwrite these loans and be processed using existing FSA forms and regulations. The current general program procedures are published in 7 CFR part 761.

FSA will incorporate the new provisions into existing regulations after final publication of the interim rule.

FSA conservation loans will be funded using Natural Resources and Conservation Service (NRCS) allocations. Direct and Guarantee Farm Ownership (FO) loan allocation and funds will be available for each state. Because FO funding is often very limited, and applications will be funded through NRCS appropriations, the agency believes the Conservation Loan Program will allow more farmers to receive loans to promote conservation and enhance conservation practices approved by NRCS.

This analysis includes collection instruments, and provides the information collection requirements contained in the proposed rule utilizing current program data and adjusted accordingly to accurately assess the burden it imposes on applicants, borrowers, commercial lenders, as well as agency employees.

The information collection instruments included in this submission are in the interim stage because the Agency needs to obtain OMB's approval of the information collection and be assigned a new control number.

Justification

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

FSA's FLP Direct Loans, provides loans to family farmers to purchase real estate, equipment and finance agricultural production, promote soil and water conservation and protection. The regulation covered by this information collection package describes the policies and procedures the agency uses to provide supervised credit to FLP applicants requesting direct loan assistance in accordance with the provisions of the Consolidated Farm and Rural Development Act (Act) (7 U.S.C. 1921 *et seq.*) (Pub. L. 87-128), as amended. Direct loan making information collection requirements include financial and production records of the operation, as well as information necessary to obtain liens on collateral, provide evidence of the indebtedness, and ensure repayment of the loan.

Authority to establish the regulatory requirements contained in 7 CFR 764 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.

FSA will adopt similar application requirements for both direct and guaranteed loans. However, some of the eligibility requirements for conservation loans will be waived under this interim rule. Exceptions under the new Conservation Loan program for applicants who meet the LO-Doc requirements include; no test for credit, cash flow, historical performance, farm operating plan, year end analysis, graduation to other credit, or meet the definition of family size farmer.

Applicants who meet the eligibility requirements for direct loan assistance 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 for a direct loan and is used by agency officials to:

- Ensure that when loan funds are used to carry out qualified conservation projects.
- Ensure that a loan is adequately secured.
- Ensure the applicant meets the statutorily established program eligibility requirements.

The Agency estimates 50 percent of the farmers who apply for direct loan annually will meet the eligibility requirements for LO-Doc Conservation loan. For those applicants who do not meet the requirements the general nature of a loan from the agency is very similar to that of any commercial creditor. 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.

Direct Forms

FSA-2037 "Farm Business Plan" (Balance Sheet)

7 CFR 761.102(a); 7 CFR 761.105(b)(1); 7 CFR 764.51(b)(2)(ii); 7 CFR 764.51(c)(4); 7 CFR 764.401(c)(1); 7 CFR 764.402(a)(2); 7 CFR 765.51(a); 7 CFR 765.101(c); 7 CFR 765.205(a)(2); 7 CFR 765.404(b)(1); 7 CFR 766.102(a)(2); 7 CFR 766.102(d); 7 CFR 766.204(a)(2); 7 CFR 766.353(a)(3); 7 CFR 766.354(a)(2)

The information requested on FSA-2037 is provided by applicants requesting conservation loans. Use of FSA-2037 is not mandatory as applicants 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 applicant assets and liabilities. The agency uses the information to make feasibility and eligibility

determinations and ensure that buyer/applicants will be able to repay the requested loan. A balance sheet is required from individual as well as entity member applicants and borrowers.

The agency inputs applicant's information in the Farm Business Plan provided on the FSA-2037. After the input is complete and before the action requested is closed, applicants 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 1500 direct loan applicants (1350 individuals & married applicants and 150 entity applicants are included in this number) will complete FSA-2037 for loan making purposes. The agency estimates the time to complete FSA-2037 is 1.25 hours (75 minutes) for these applicants, as they will have to complete all parts of the form or provide the information in another format.

For loan servicing the agency estimates that 224 applicants will complete this information as part of loan related subordination request and 80 borrowers will provide this information as part of a complete application for primary loan servicing on conservation loans. The time to complete FSA-2037 for these purposes is estimated to be 1.25 hours (75 minutes) and approved under OMB-Control Number 0560-0238.

Form FSA-2038 Farm Business Plan Worksheet (Income and Expenses/Cashflow):

7 CFR 761.2(b); 7 CFR 761.102(a); 7 CFR 761.104(a); 7 CFR 761.105(b)(1); 7 CFR 764.51(b)(9); 7 CFR 764.51(c)(4); 7 CFR 764.401(c)(1); 7 CFR 764.402(a)(2); 7 CFR 765.51(a); 7 CFR 765.101(c); 7 CFR 765.205 (a)(5) & (b)(4); 7 CFR 765.206(b)(1) & (5); 7 CFR 765.207(d); 7 CFR 765.253(b); 7 CFR 765.301(d); 7 CFR 765.302(f); 7 CFR 765.351(a)(1), (5) & (8); 7 CFR 765.352(a)(3); 7 CFR 765.404(b)(1); 7 CFR 765.406(b)(4); 7 CFR 766.52(a)(2), (4) & (5); 7 CFR 766.53(a)(2); 7 CFR 766.53(b); 7 CFR 766.54(b)(1) 7 CFR 766.102(a)(7); 7 CFR 766.102(d); 7 CFR 766.102(f)(4); 7 CFR 766.109(a)(4); 7 CFR 766.151(a)(3); 7 CFR 766.151(b)(3); 7 CFR 766.204(a)(2) & (4); 7 CFR 766.353(a)(3); 7 CFR 766.354(a)(3)

The information requested on FSA-2038 is provided by applicants requesting loans and existing borrowers. Use of FSA-2038 is not mandatory as applicants 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 applicant projected income and expenses for the current or upcoming production cycle. The agency uses the information to make feasibility determinations and ensure that applicants will be able to repay the requested loan. The agency inputs in the Farm Business Plan information applicant's provided on FSA-2038. After the input is complete and before the action requested is closed, applicants sign the computer print-out that reflects the information provided. The form is approved under OMB Number 0560-0238.

The agency estimates that 1500 applicants will complete FSA-2038 for loan making purposes. The agency estimates half (750) will qualify for direct LO-Doc and not be required to submit the income and expenses for direct loan application request. The agency estimates the time to

complete FSA-2038 is 1.25 hours (75 minutes) for these applicants, as they will have to complete all parts of the form or provide the information in another format.

For loan servicing, the agency estimates that 224 applicants will complete this information as part of direct conservation loan related subordination request and that 80 borrowers will provide this information as part of a complete application for primary loan servicing on conservation loans. The time to complete FSA-2038 for these purposes is estimated to be 1.25 hours (75 minutes) and approved under OMB-Control Number 0560-0238.

FSA-2150 – Development Plan

7 CFR 761.10(b)(1); 7 CFR 761.10(c)(1); 7 CFR 761.10(d)(4); 7 CFR 765.205 (b)(14); and 7 CFR 765.352(a)(3)(v)

Applicants may use loan proceeds for construction or development; borrowers requesting real estate subordination or partial release may use proceeds for construction or development; and borrowers may use insurance proceeds for loss or damage to agency security for construction or development. If all construction or development is to be performed under a single contract, the final rule requires only a copy of the contract be provided to the agency. If multiple contracts will be used, the final rule requires the development plan as well as copies of all the contracts be provided to the agency. Further, the cost estimate needs to be provided if it is not included in the contracts.

The applicant or borrower must provide information describing the planned development, the proposed schedule, and the manner in which the development will be completed. The agency requires copies of drawings and specifications for planned construction projects as necessary to protect the Government's financial interests. The estimate of the total cost of the planned constructions or development is necessary for the agency to determine that sufficient funds are available for its completion. The description of the construction project or development is necessary for the agency to evaluate it and ensure that projections, including costs, are reasonable. This information is routinely obtained by applicants or borrowers considering construction; therefore, no collection time was included as the only additional collection imposed by the regulation is submission to the Agency. Further, drawings and specifications are routinely obtained during the construction process; therefore, no time was included for the collection of data. Applicants or borrowers may use FSA-2150 or other documentation that provides similar information.

It is estimated that 1,500 applicants or borrowers will execute the FSA-2150 and the time to provide the documentation required is estimated to be 15 minutes per response, notwithstanding the method of construction selected and is approved under OMB Control Number 0560-0238.

Travel Time

The agency estimates that applicants and borrowers required to provide information under this information collection docket will travel once to the agency office. The information collection will be considered under other burden package OMB-0237 Direct Loan Making. Therefore, the agency does not estimate any travel time for the applicant.

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, public input 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.

Currently, the agency can only accept forms electronically from individual applicants. Electronic signature authentication for entity borrowers is not currently available; however, the agency is anticipating that this option will be available in the near future, provided adequate appropriations are received from Congress to ensure that appropriate system security safeguards are met. Further, the agency is currently exploring options available for applicants and borrowers to respond to, and provide information to, agency-initiated actions. This option will allow the agency to pre-fill forms with information already in its possession, as there are several instances in the loan making process where the agency completes part of the information collection instrument and provides it to the applicant to review and execute. In turn, when this option becomes available, the agency may initiate interactions and transactions that only require

the applicant or borrower's review and approval or disapproval, as in those situations the applicant or borrower may not need to visit the agency office to complete the transaction.

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 under this CFR part 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 by this regulation 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.

The agency relies on current information to carry out the business of the program as intended with this interim rule. Failure to collect information will result in insufficient data necessary to properly administer CL in a financially sound manner.

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 comment period will be incorporated into the interim rule.

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.

All information collected is treated as confidential. Agency policy prohibits the giving out of individual information. This information is handled according to the Privacy Act and Freedom of Information Act.

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 and servicing actions.

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

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

Total Number of Unduplicated Respondents.....1804

Reports Filed Per Person.....2

Total Annual Responses.....4358

Total Annual Burden Hours.....3948

Average Burden Per Collection.....54 minutes

Per Respondent.....2.19 hours

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

Total Annual Respondent Cost - Farmers.....\$20.53

Total\$81,052

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 \$42,710 annually or \$20.53 hourly.

The interim rule will govern the processing of direct loans made under the Conservation Loan Program and requires these collections. The agency estimates a maximum of 1500 Conservation loans will be made each fiscal year.

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 the respondents or record keepers resulting from the collection of information.

The regulation and associated information collections place no burden costs on respondents for capital, start-up, operation, maintenance, or the purchase of services.

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

The estimated annualized cost to the Federal Government is: \$222,000.00

Agency employees review information provided by applicants, borrowers, and third parties and make eligibility and feasibility determinations. The agency estimates that its employees spend 6000 hours reviewing and processing the collections included in this docket. (4 hours per employee x 1500 application/year = 6000 hours x \$37.00/hour)

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>

Note: The agency utilized the County Office Workload for FY 2007 to estimate the costs to the Federal Government.

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 Conservation Loan Program.

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

The information collections required under this regulation will not be tabulated or published.

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

While agency forms are 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 forms 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. We are seeking approval to not display the OMB expiration date on the forms associated with this information collection.

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

There are no exceptions requested.

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

Agency employees collect the required information from the borrower. Information collected is program specific and would not be part of one-stop shopping, except for basic information dissemination between Service Center agencies. Employees utilize information already available

at the Service Center and work directly with other FSA programs and USDA agencies to minimize the amount of information collected from borrowers. Information collected is stored at the Service Center.