

**United States Department of Agriculture  
Farm Service Agency  
Supporting Statement  
OMB Control Number 0560-0238  
7 CFR 761, General Program Administration**

**Background**

The Agency is requesting approval on an extension with revision of a currently approved information collection that supports General Program Administration.

FSA's Farm Loan Programs (FLP) provides loans to family farmers to purchase real estate and equipment, and finance agricultural production. FSA also provides the requirements associated with Farm Ownership, Operating, Emergency and Farm Storage Facility loan programs as well as servicing actions for all loan types. Information collections established in the regulation are necessary for the Agency to evaluate the loan applicant's request and determine if eligibility, loan repayment and security requirements can be met. Information collection requirements include financial and production records of the operation to ensure that cash flow projections are based on actual production history, loans are adequately secured, applicants/borrowers meet established eligibility requirements for loan making and servicing and that lenders and contractors provide proper documentation to meet agency requirements.

In this analysis, where appropriate, the agency revised the (1) number of respondents; (2) responses per respondent, and (3) response time to reflect current program use.

**Justification**

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

FLP provides loans to family farmers to purchase real estate and equipment and finance agricultural production. The regulations covered by this information collection package describe the policies and procedures the agency uses to provide supervised credit to direct FLP applicants and borrowers in accordance with the provisions of the Consolidated Farm and Rural Development Act (Act) (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. In addition, the regulations address construction and development requirements that must be met by applicants and borrowers.

Authority to establish the regulatory requirements contained in 7 CFR 761 is provided in 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 administrator the provisions of the Act applicable to FLP to the Under Secretary of Farm and Foreign Agriculture Services (FFAS) in section 2.16 of 7CFR 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.**

Information collections are submitted by FLP direct applicants and borrowers to the local FSA office serving the county in which their business is headquartered. The information is necessary to provide supervised credit as legislatively mandated and is use by Agency Officials to:

- Ensure that when loan funds or insurance proceeds are used for construction and development, projects, work is completed according to applicable state and local requirements, and in a manner that protects the Agency’s financial interest.
- Ensure that the loan repayment plan is developed using realistic data, based on the actual history of the operation and any planned improvements.
- Identify potential concerns limiting the success of the operation and develop a loan assessment outlining the course of action to be followed, to improve the operation so that commercial credit is available.

The general nature of a loan from FSA is very similar to that of any conventional commercial creditor. However, FSA applicants and borrowers tend to pose more of an economic risk of loss than those operations financed by commercial credit sources, as applicants most document that no other source of credit is available at the time of application. Legislation requires FSA to actively supervise these borrowers and provide credit counseling, management advice, and financial guidance.

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

**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); 7 CFR 1436.4.

The information requested on FSA-2037 is provided by applicants requesting 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 s 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 applicant or borrower's assets and liabilities. The agency uses the information to make feasibility and eligibility determinations and ensure that 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 in the Farm Business Plan information applicants and borrowers provide on FSA-2037. After the input is complete and before the action requested is closed, 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 24,000 FSA-2037 are completed per year for the agency to conduct year-end analysis on borrower' operations as well as conduct reviews of borrowers with limited resource interest rates. This number has decreased over the past few years due to the fact that interest rates are now at historically low rates and rates that are below the limited resource rate. As a result many borrowers have been removed from limited resource and no new loans are being made which would require annual limited resource reviews. The time requirement for those who are still on limited resource and need annual reviews is estimated to be 60 minutes.

The agency estimates that 26,500 applicants (19,000 individuals and 7,500 entity members are included in this number) will complete FSA-2037 for loan making purposes. The agency receives applications from 5,500 new applicants per year. Since the agency has no prior history or lending relationship with these applicants, the agency estimates the time to complete FSA-2037 is 90 minutes for these applicants, as they will have to complete all parts of the form or provide the information in another format. For existing applicants the agency estimates that it takes 60 minutes to complete the form. The agency requires an updated balance sheet if loan closing occurs 90 days after loan approval. It is estimated that 2,340 FSA-2037 will be provided for this reason (1,800 individual and 540 entity members) and the time to provide the updated balance sheet is estimated to be 15 minutes s the applicant only needs to provide updates to any items that have changed. Further, under the final rule, the agency will not automatically approve a loan when an adverse decision is overturned on an appeal, but the agency will reevaluate the applicant's information taking into consideration the hearing officer's determination. The agency estimates that in 25 cases an updated balance sheet will be required for the agency to continue processing the loan application after the conclusion of the appeals process. The time to complete FSA-2037 at the conclusion of the appeals process is estimated to be 15 minutes.

As provider of temporary credit the agency is required to conduct graduation reviews of its borrowers to determine their ability to graduate to other sources of credit. To conduct the review, the agency needs balance sheet information. It is estimated that 9,500 graduation reviews are conducted per year. This number is slightly reduced because interest rates have been at historic lows resulting in many borrower graduating to other credit, this will reduce the number of

graduation reviews in the future. The time to complete FSA-2037 for graduation purposes is estimated to be 60 minutes.

Borrowers/Lenders 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 receives 9,066 subordination requests (6,974 individuals and 2,092 entity members are included in this number) per year. The time to complete FSA-2037 is estimated to be 10 minutes because the borrower already has completed a balance sheet to provide to the commercial lender and only needs to provide a copy of that balance sheet to the agency.

The agency processes 150 requests 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 3,716 requests for primary loan servicing per year (2,858 individuals and 858 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. Further, 22 financially distressed borrowers will become delinquent before their request for primary loan servicing is complete. Therefore, these borrowers will have to provide an updated balance sheet and the time to complete it is estimated at 15 minutes.

72 borrowers (54 individuals and 18 entity members are included in this number) who request amortization of their shared appreciation agreements have to provide a balance sheet for the agency to make a feasibility determination. It takes 60 minutes for borrowers to complete FSA-2037 for this purpose.

The agency receives 14 requests for voluntary conveyance of real estate and chattel per year. (11 individual and 3 entity members are included in this number). It takes 30 minutes to complete FSA-2037 for this purpose as the balance sheet for these borrowers will be less complicated due to the fact liquidation of chattel and real estate may be already completed and the borrower is in the process of settling debt with other creditors.

Lastly, the agency receives 1,000 requests for Farm Storage Facility Loans. FSA-2037 is required for the agency to make feasibility determinations. The time to complete it is estimated to be 90 minutes. Often these applicants do not have existing loans and are unfamiliar with the form. This collection was not previously reported because these loans are made by Farm Programs rather than FLP. Even though the loans are made by FP, FSA-2037 is required.

### **FSA-2038, Farm Business Plan – Income and expense**

7 CFR 762.1(b); 7 CFR 761.102(a); 7 CFR 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) & (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 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); 7 CFR 1436.4

The information requested on FSA-2038 is provided by applicants requesting 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 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 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 applicants will be able to repay the requested loan. The agency inputs in the Farm Business Plan information applicants and borrowers provide on FSA-2038. After the input is complete and before the action requested is closed applicants and borrowers sign the computer print-out that reflects the information provided.

In cases where the loan approval or servicing request exceeds one production cycle and FSA-2038 is atypical due to cash, inventory on hand, new enterprises, carryover debt, atypical planned purchases, operating changes, or other reasons, the applicant must provide FSA-2038 that reflects a typical cycle. The second FSA-2038 will include only income and expenses that are typical for the operation. It is estimated that 182 applicants and 143 borrowers (total 325) borrowers requesting loan servicing will have to provide the second FSA-2038. The time to provide it is estimated at 15 minutes, since the applicant or borrower has already provided the atypical FSA-2038 to the agency.

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. In addition, the agency is required to evaluate borrowers with limited resource rates to determine if the operation will continue to remain feasible with regular interest rates. It is estimated that 24,000 FSA-2038 will be completed per year for the purposes of year-end analysis and limited resource reviews. This number has been significantly reduced due to the fact that interest rates have been at historically low rates and due to that most borrowers with limited resource rates have already been changed to regular rates resulting in no need for annual reviews for limited resource. Due to historically low interest rates many borrowers have been able to graduate to conventional credit. This has also reduced the number of year-end analysis. The time to complete it is estimated to be 90 minutes.

The agency receives 19,000 loan applications a year and the agency assumes that all applications will contain FSA-2038. The time to complete each FSA-2038 for loan making purposes is estimated to be 90 minutes. The agency requires updated income and expenses for loan closing

occurs 90 days after loan approval; it is estimated that 1,800 FSA-2038 will be provided for this reason and the time to provide the updated income and expenses is estimated to be 15 minutes as applicants have to provide updates for only the items that have changed. Further the agency will not automatically approve a loan when an adverse decision is overturned on appeal, but the agency will reevaluate the applicant's information taking into consideration the hearing officer's determination. The agency estimates that in 25 cases updated income and expense information will be required for the agency to continue processing the loan application after the conclusion of the appeals process. The time to complete FSA-2038 at the conclusion of the appeals process is estimated to be 15 minutes as the applicant have to provide updates only to items revised do to the appeal.

As a provider of temporary credit the agency is required to conduct graduation reviews of its borrowers to determine their ability to graduate to other sources of credit. To conduct the review, the agency needs balance sheet information. It is estimated that 9,500 graduation reviews are conducted per year and the time to complete FSA-2038 for graduation purposes is estimated to be 90 minutes. This number has been reduced because many borrowers have already refinanced their loans due to favorably low interest rates.

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 receives 6,974 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 to the commercial lender.

Borrowers must obtain the agency's consent before granting a junior lien on the security used to secure the agency loan. Before granting consent, the agency must ensure that borrower's operation will be able to repay the agency loan as well as the junior lien. Annually 740 borrowers request agency consent to grant junior liens and the time to complete FSA-2038, or provide the agency with a copy of the income and expenses provided to the junior lien holder, is estimated to be 10 minutes as borrowers will have already compiled income and expenses to provide the junior lien holder.

For loans secured by real estate, a borrower may request the agency grant consent to a severance agreement so that chattel acquired in the future by the borrower will not become part of the real estate securing the agency debt. One of the conditions under which the agency may grant consent is that the transaction will not jeopardize the borrower's ability to repay all outstanding debts to the agency. 740 borrowers request severance agreements annually and 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 as the borrowers will already have compiled income and expenses to provide to the creditor from whom the chattel security is being acquired.

Borrowers may request agency consent to cease operating security, if several conditions are met. One of the conditions is inability to graduate to commercial credit; therefore, the agency needs to analyze the operation's income and expenses to verify the borrower is unable to graduate. It is estimated that 740 borrowers request agency consent to cease operating security. The agency estimates the time to complete FSA-2038 for this purpose to be 30 minutes as borrowers making such a request have arranged for the security to be leased and the operation's income is known to the borrower.

150 borrowers request that their debt be assumed by a transferee and request the agency to release them from liability. Subsequently, the agency processes 150 requests for assumption of a borrower's debt by an ineligible applicant per year. Ineligible applicants are required to provide income and expenses for the agency to determine if the applicant will be able to repay the assumed debt. It is estimated the time to complete FSA-2038 for this purpose is 90 minutes. Further, the borrower is required to provide income and expenses for the agency to determine if the release of liability request should be granted. The time to complete FSA-2038 is estimated at 30 minutes since completion of the form for this purpose is not complicated. Usually in these cases the borrower has stopped farming.

Borrowers unable to make their payments due to a natural disaster may request the agency set-aside the payment due in the year the disaster occurred. Borrowers are required to provide income and expense records for the agency to verify that the payments cannot be made. The agency processes 7,396 disaster set-aside requests per year and the time to complete FSA-2038 is 90 minutes. This collection has increased significantly due to the number of designated disasters and the fact that regulations have changed allowing borrowers to apply for more than one set-aside and has included a set-aside based on economic conditions.

The agency receives 2,858 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. In addition, 22 financially distressed borrowers will become delinquent before their request for primary loan servicing is complete. Therefore, these borrowers will have to provide updates to income and expenses and the time to provide the updates is estimated at 15 minutes.

150 divorced spouses withdrawing from the farming operation request to be released from liability at the time an application for primary loan servicing is considered. Withdrawing spouses are required to provide income and expense statements for the agency to consider the request. The time to complete FSA-2038 for this purpose is estimated to be 30 minutes because to be released from liability divorced spouses may not have repayment ability and may not own non-essential assets; therefore, the income and expense statement will not be complicated or time consuming.

Borrowers who meet the eligibility requirements may be granted loan deferral when they apply for primary loan servicing. The agency requires that the borrower's operation reflect a feasible post-deferral plan; therefore, 807 borrowers develop post-deferral FSA-2038 that requires 30 minutes to complete. The time requirement is less because borrowers have already completed

FSA-2038 as part of the request for primary loan servicing that includes deferral of loan payments and know which expenses are projected to be paid off by the end of the deferral period.

Borrowers requesting pre or post-acquisition homestead protection are required to provide updated income and expenses for the agency to determine if the borrowers will be able to make the rental payments on the homestead protection property. The agency processes 21 requests for homestead protection (18 for pre-acquisition and 3 for post-acquisition); FSA-2038 takes 30 minutes to complete for this purpose because borrowers are required to provide only updates to income and expenses submitted to the agency when it was considering the borrower's primary loan servicing request.

54 borrowers who request amortization of their shared appreciation agreement have to provide income and expense records for the agency to make feasibility determinations. It takes 90 minutes for borrowers to complete FSA-2038 for this purpose.

The agency receives 1,000 requests for Farm Storage Facility Loans. FSA-2038 is required for the agency to make feasibility determinations. The time to complete it is estimated to be 90 minutes. Often these applicants do not have existing loans and are unfamiliar with the form. This collection was not previously reported because these loans are made by Farm Programs rather than FLP. Even though the loans are made by FP, FSA-2038 is required.

#### **FSA-2039 – Farm Business Plan – Worksheet Summary of Year's Business**

FSA-2039 is an optional form the agency developed to assist applicants in determining if their request is feasible before they apply for a loan. Applicants complete FSA-2037 and FSA-2038, or any other format, before attempting to complete FSA-2039, as all the information to be input on this form is found on the applicable lines on FSA-2037 and FSA-2038. It is the agency's experience that most applicants either do not complete or partially complete FSA-2037 and FSA-2038; therefore, the agency estimates that about one percent, or 1,800, applicants attempt to complete FSA-2039. The agency estimates that, for applicants attempting it, the time to complete FSA-2039 is 20 minutes.

#### **FSA-2140 – Deposit Agreement and FSA-2141, Interest-Bearing Deposit Agreement**

7 CFR 761.51(a)(3)(iii), 7 CFR 761.35, (b)& (d), 7 CFR 764.402(e)(3); and 7 CFR 765.352(a)(3) (iii)

As mandated by the Act, the agency provides supervised credit to farmers unable to secure commercial financing. As part of the supervised credit process, it may be necessary to deposit loan funds, insurance proceeds, or proceeds from partial release of real estate security into a supervised bank account. These accounts may be used to assure correct use of funds planned for capital purchases or debt refinancing when electronic funds transfer or treasury check processes are not practicable. Supervised bank accounts require signature by both the agency and the borrower to withdraw funds. It is estimated that 500 applicants and borrowers will be required to select a financial institution and execute FSA-2140 to establish a supervised bank account. The response time is estimated to be 10 minutes.



In addition, a representative of the financial institution selected by the applicant or borrower must also sign FSA-2140. Since the use of supervised bank accounts is limited and the applicant/borrower selects the financial institution, it is estimated that 400 different institutions will be selected and that their representatives will spend 10 minutes completing the form.

Numbers for collection of FSA-2140 are significantly reduced because few commercial banks will accept supervised bank accounts and because electronic transfer of funds using multiple advances directly into the borrower's existing personal bank accounts has reduced the use of supervised bank accounts.

Lastly, in very limited situations where loan funds are not immediately needed and electronic funds transfer or multiple advances are not practicable or feasible, or where insurance proceeds are going to be used over a period of time, the agency may require that the excess funds be deposited in an interest-bearing account. The agency estimates that 10 FSA-2141 will be completed for this purpose. The time to complete it is estimated to be 10 minutes for the applicant or borrower and 10 minutes for the financial institution.

### **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. Such evaluation is essential in assuring that the operation will generate the cash flow used in determining loan repayment. 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 1,317 applicants or borrowers conduct construction projects; of whom 920 will conduct construction under the

borrower method; 100 will use the single contract method, and 297 will use multiple contracts to complete construction or development. The time to provide the documentation required is estimated to be 15 minutes per response, notwithstanding the method of construction selected.

### **FSA-2153 – Release by Claimants and FSA-2154 – Release by Contractor**

7 CFR 761.10(f)

Before the final advance of funds is disbursed under the contract for construction and development, the applicant or borrower must obtain lien waivers from the contractors that performed the development. If the applicant or borrower fails to obtain FSA-2153 and FSA-2154 contractors or subcontractors not paid in full may file mechanics lien against the agency's security. The agency estimates that 345 subcontractors will complete FSA-2153 annually. Further, the agency estimates that 1,367 FSA-2154 will be completed annually (122 for single contract method and 1,245 for multiple contract method). The time to complete both FSA-2153 and FSA-2154 is estimated at 15 minutes. Further, the agency estimates that 467 borrowers will have to obtain FSA-2153 and FSA-2154, as appropriate. The time to obtain it is estimated at 30 minutes. Previous approval of this collection did not include burden imposed on borrowers.

### **Non-form collections**

#### **7 CFR 761.10(c)(5); 7 CFR 761.10(d)(5); and 7 CFR 761.10(d)(6) – Technical Data, Tests, and Engineering Evaluations**

The agency's FLP staff has the education and training necessary for making and servicing loans; however, FLP staff does not have sufficient training and education to evaluate complex construction projects; therefore, applicants or borrowers are required to provide copies of technical data, tests, or engineering evaluations, when necessary to protect the agency's financial interest.

Further, FLP staff does not have the expertise necessary to evaluate the plans and specifications associated with complex construction projects. Agency regulations require that the applicant provide written certification that the final drawings and specifications conform to local or state building requirements. The certification must be obtained from individuals or organizations trained and experienced in the compliance, interpretation, or enforcement of the applicable standards and may include licensed architects, professional engineers, local building officials, or national code organizations. The applicant routinely obtains this information in the construction process to protect their interests; therefore, no time was included for the collection of this data. It is estimated that 1,151 applicants will spend 30 minutes submitting this information to the agency.

#### **7 CFR 761.10(e)(2) and (e)(3) – Written Certification of Inspections**

The final rule requires the applicant to obtain professional inspections when necessary to protect the agency and the applicant's interest. Inspections are necessary to ensure construction

complies with the plans and specifications and are routinely obtained by the applicant during the construction process; therefore, no time was included for the collection of this data. It is estimated that 540 applicants will spend 15 minutes submitting copies of the inspection reports.

#### **7 CFR 761.10(g) – Surety Requirement**

The final rule further requires the applicant obtain a surety bond from the contractor used to complete construction and development to guarantee the contractor's payment and performance when necessary to protect the Government's interests. It is estimated that 25 contractors will be required to provide a surety bond and that each contractor will spend an average of 10 minutes providing bond documentation. Further, if the planned development changes from the original proposal, the agency requires that the contractor provide surety bond to cover the change. The agency estimates that 25 contractors have to provide surety bond for changes in construction, and the time is estimated to be 10 minutes per response.

#### **7 CFR 761.10(h) – Request to Change Planned Development**

The agency's approval of a loan to finance construction is based on cash flow projections developed using specific plans, specifications, and costs, as well as a projected completion schedule. Any changes to the planned development can impact the total cost, completion date, or even the value of the loan security. Therefore, to protect the agency's interests, prior approval is required for any changes to construction and development plans. It is estimated that 72 applicants and borrowers will spend 15 minutes submitting documentation to change planned development.

#### **7 CFR 761.51(e) – Pledge of Collateral When SBA Balance Will Exceed \$100,000**

When the amount deposited into a supervised bank account will exceed \$100,000, the amount insured by FDIC, the financial institution must agree to pledge acceptable collateral to the Federal Reserve Bank for the excess over \$100,000 before the deposit is made. The pledge of collateral is necessary to protect the agency and the applicant or borrower's financial interests. It is estimated that 10 lenders will be required to pledge collateral each year and that each lender will spend an average of 10 minutes providing documentation to the agency.

#### **7 CFR 761.51(e)(2) – Request to Release Collateral Pledged for a Supervised Bank Account**

Financial institutions that have pledged collateral for supervised bank accounts may request a release of part or all of the collateral when the balance of the account has been reduced below \$100,000. It is estimated that 10 financial institutions will spend an average of 10 minutes each making such requests.

#### **7 CFR 761.54 – Withdrawal of Funds from a Supervised Bank Account**

As previously described, funds may be withdrawn from a supervised bank account when both the agency and the borrower have provided authorization. Borrowers typically make multiple withdrawals from a supervised bank account. It is estimated that 750 borrowers will each make

5 requests for withdrawals each year. Each request is estimated to take 10 minutes. The use of multiple advances and direct deposit into the borrower's personal bank account will likely reduce the number supervised bank accounts and number of withdrawals.

### **7 CFR 761.103; 7 CFR 764; 7 CFR 766.102; 7 CFR 766.202 – Copies of Income Tax Returns**

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, 5,531 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 6,825 applicants and borrowers will spend 15 minutes each submitting copies of tax returns.

### **7 CFR 761.103 (a) and (b) – Development of the Loan Assessment**

Under the provisions of the Act, 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 5,531 applicants. The response time is estimated at 30 minutes per applicant.

### **7 CFR 761.103(c) and (d) – Assessment Update**

The Act further requires that an assessment update be prepared for each subsequent loan. At the time of the assessment update, the agency and the applicant or borrower review the existing assessment to determine the progress made toward goals and graduation to commercial credit. The assessment update is normally completed in the Farm Business Plan for each subsequent loan requested and when the year-end analysis is completed. Applicants and borrowers provide the information needed to update the assessment and sign the printed copy. Therefore, it is estimated it takes 10 minutes to provide the information needed to update the assessment and sign it to acknowledge participation in the update. It is estimated that 16,450 applicants and borrowers will work with the agency to update their loan assessment.

## **7 CFR 761.104(d) – Evidence of Premium Price for Commodities**

On a state-by-state basis, the agency sets agricultural commodity prices that are to be used by applicants in developing operating plans. Applicants may enter into contracts to sell the commodities produced by the operation at a price above than the price established by the agency; therefore, the agency requires those applicants to provide evidence that the higher price will be received for the commodities produced. Evidence provided may include a copy of the contract entered into with the specific price for each commodity. It is estimated that 1,645 applicants will provide written evidence and the time estimated to provide the information is estimated to be 10 minutes per response.

## **7 CFR 761.105(b) – Actual Income, Production and Expenses and Other Financial Records**

The agency completes a year-end analysis to compare actual income and expenses with planned income and expenses for borrowers who:

- Received a loan, subordination or primary loan servicing within the last year.
- Are financially distressed or delinquent.
- Have a loan deferral.
- Are receiving a limited resource interest rate.

This action is part of the agency's supervised credit procedures. It is estimated that 24,000 borrowers will provide actual income, production and expenses records, as well as other financial records, to the agency to complete the year-end analysis. Since borrowers will provide only the actual records, it is estimated that each will spend 60 minutes providing this information. This existing information collection was previously unapproved. The number of respondents has been significantly reduced due to the fact that historically low interest rates being offered by commercial lenders and FSA regular loan rates being below the limited resource rates have increase the number of borrowers graduating to other credit and FSA removing borrowers from limited resource. This has resulted in fewer year-end analysis and the need for borrowers to submit records of actual income, production and expenses.

## **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. Therefore, the agency estimates that this information collection docket imposes on the respondents 40,424 hours of travel time. This figure remains the same from other years due to budgets restraints and limitations on travel.

**Note:** There is no travel time imposed on lenders or financial institutions providing information on behalf of the applicant or borrower, or on contractors providing development and construction services.

**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.

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 and contractors) 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.**

Existing CFR parts have been consolidated to remove duplicative requirements. Much of the remaining burden established in this regulation is required under the provisions of the Act which mandates specific actions be taken when making and servicing loans to direct FLP borrowers.

Agency personnel with expertise in making and servicing loans have reviewed the information collections required under this CFR part for eliminating any duplication 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 or borrower; 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 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. There are 2192 small entities in this information collection request.

**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 is mandated to provide supervised credit; therefore, 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 or borrower's specific request, is obtained on an as-needed basis, and is used to document the applicant or borrower's eligibility for the requested benefit, as well as to make feasibility determinations. Accurate decisions, when making a loan or servicing an account, largely depend on current financial information and actual history and the potential of the farming operation to carry out the purposes for which the loan was made. There is no regular reporting schedule related to the information collection requirements in this part. 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.**

On June 16, 2010 (FR Doc. 2010-14428) the agency published a notice regarding its intention of requesting OMB for the extension of the existing information collection and inviting comments. There were no comments received on the notice.

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 applicants in connection with the fulfillment of FSA requirements. GFR's pass on any substantive comments to the headquarters staff. Staff is readily available to assist/help the Agency's customers. FSA works closely with lending institutions and a nationwide network of lending institutions as part of the Farm Credit System, which provides supplemental loan funds to borrowers.



Suggestions and comments are always considered by the Agency and FSA remains committed to pursuing further reductions in both the burdens placed upon our borrowers/customers and the total volume of regulations imposed.

FSA has a website containing general information about the Agency, specific information about the major programs administered by the Agency; a directory of various program staff and how to communicate with them; many Agency regulations, forms, and bulletins; and links to other relevant sites.

**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 FSA 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 under this docket is of a financial nature. As a condition for the receipt of program benefits, applicants and borrows 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 the agency'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	92,947
Reports Filed Per Person	2.4
Total Annual Responses	220,483
Total Annual Burden Hours	248,551

Average Burden Per Collection	(248,551/220,483=)	1 hour 12 minutes
Per Respondent	(248,551/92,947=)	2 hours 40 minutes

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

Respondent's Cost Per Hour - Farmers	\$23.62
- Financial Institutions	\$30.55
- Contractors	\$30.55
Total Annual Respondent Cost – Farmers	\$5,857,382
- Financial Institutions	\$ 2,933
- Contractors	\$ 13,198
- Total	\$5,873,513

Cost per hour for all respondents was derived from the U.S. Department of Labor's Occupational Employment and Wages, May 2008, 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 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.**

Agency employees review information provided by applicants, borrowers, and third parties and make eligibility and feasibility determinations, service loans and insure that all other agency regulations are met. The agency estimates that its employees spend 437,000 hours reviewing and processing the collections included in this docket.

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

Therefore, the estimated annual cost to the Federal Government is:  
 $437,000 \times \$36.19 = \$15,815,030$ .

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

There is an adjustment of -38,637 hours due to the changes in the number of respondents reflecting current program use. The annual number of responses was decreased by 35,731. There is an overall decrease from the last approval of 287,188 to 248,551 hours.

**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 made available electronically at [www.sc.egov.usda.gov](http://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 to 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 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 applicant or 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 applicants and borrowers. Information collected is stored at the Service Center.