

September 6, 2011

## SUPPORTING STATEMENT

7 CFR 1700, Subpart D - Substantially Underserved Trust Areas (SUTA)

This package is being submitted as a new collection at the proposed rulemaking stage. It should be reviewed by OMB and filed with comment.

### A. Justification

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

The Rural Utilities Service (RUS) makes loans (direct and guaranteed) to finance electric telecommunications, and water and waste infrastructure in rural areas.

The RUS Electric Program is a leader in lending to upgrade, expand, maintain, and replace the vast rural American electric infrastructure while the Telecommunications Program make loans to furnish and improve telecommunications and services in rural areas. The Water and Waste program provides loans, grants and loan guarantees for drinking water, sanitary sewer, solid waste and storm drainage facilities in rural areas and cities and towns of 10,000 or less..

The Electric and Telecommunications programs are authorized by the Rural Electrification Act (RE Act) of 1936 (7 U.S.C. 901 et. seq.) and the Water and Waste program is authorized by the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1926).

The 2008 Farm Bill (P.L. 110-246, codified at 7 U.S.C. 906f) authorized the Substantially Underserved Trust Area (SUTA) initiative. The SUTA initiative gives the Secretary of Agriculture certain discretionary authorities relating to financial assistance terms and conditions that can enhance the financing possibilities in areas that are underserved by certain RUS electric, water and waste, and telecom and broadband programs. The SUTA initiative identifies the need and improves the availability of RUS programs to reach trust areas when they are determined by the Secretary of Agriculture (such authority has been delegated to the Administrator of RUS) to be substantially underserved. The RUS programs that are affected by this provision include: Rural Electrification Loans and Guaranteed Loans, and High Cost Energy Grants; Water and Waste Disposal Loans, Guaranteed Loans and Grants; Telecommunications Infrastructure Loans and Guaranteed Loans; Distance Learning and Telemedicine Loans and Grants; and Broadband Loans and Guaranteed Loans.

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

Applicants will submit the required application package to the program area for which they are seeking funding. The burden for the application package is covered under other packages.

Electric program – 0572-0032

Telecommunications program – 0572-0079

Broadband program – 0572-0130

Water and Waste program – 0572-0121

Grant program are covered under various other burden packages.

Burden specific to this collection consists of an eligible applicant notifying RUS in writing, at the time of application, that it seeks consideration under the requirements of 7 CFR 1700, subpart D, and identifying the discretionary authority it seeks to have applied to its application.

The written request must include the following:

1. A description of the applicant, documenting eligibility;
2. A description of the community to be served, documenting eligibility;
3. An explanation and documentation of the high need for the benefits of the eligible program, which may include:
  - (i) Data documenting a lack of service (i.e. no service or unserved areas) or inadequate service in the affected community;
  - (ii) Data documenting significant health risks due to the fact that a significant proportion of the community's residents do not have access to, or are not served by, adequate, affordable service.
  - (iii) Data documenting economic need in the community, which may include: (A) Per capita income of the residents in the community, as documented by the U.S. Department of Commerce, Bureau of Economic Analysis;

(B) Local area unemployment and not-employed statistics in the community, as documented by the U.S. Department of Labor, Bureau of Labor Statistics and/or the U.S. Department of the Interior, Bureau of Indian Affairs;

(C) Supplemental Nutrition Assistance Program participation and benefit levels in the community, as documented by the U.S. Department of Agriculture, Economic Research Service;

(D) National School Lunch Program participation and benefit levels in the community, as documented by the U.S. Department of Agriculture, Food and Nutrition Service;

(E) Temporary Assistance for Needy Families Program participation and benefit levels in the community, as documented by the U.S. Department of Health and Human Services, Administration for Children and Families;

(F) Lifeline Assistance and Link-Up America Program participation and benefit levels in the community, as documented by the Federal Communications Commission and the Universal Service Administrative Company;

(G) Examples of economic opportunities which have been or may be lost without improved service.

(H) Data maintained and supplied by Indian tribes or other tribal or jurisdictional entities on "trust land" to the Department of Interior, the Department of Health and Human Services and the Department of Housing and Urban Development that illustrates a high need for the benefits of an eligible program.

(4) The impact of the specific authorities sought under this subpart.

The applicant must provide any additional information RUS may consider relevant to the application which is necessary to adequately evaluate the application under this subpart.

The information will be used in order to determine eligibility and compare applications for high need to determine priority for funding.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection.

RUS is committed to meeting the requirements of the E-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Applicants will submit the required documentation in the manner that they submit their loan application package.

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

Each application will be for a new project and new purpose, therefore, information will be unique and will not be duplicated. Where an existing borrower requests a new loan, certain organizational information, maintained in RUS files, will not need to be resubmitted.

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

The Agency believes it has minimized the burden on both large and small entities and that the required information is the least amount needed to determine applicant eligibility and project feasibility. It is estimated that 100 percent of the respondents will be small entities located in substantially underserved trust areas. Trust area means a community in “trust land” as defined in section 3765 of title 38, United States Code. The term “trust land” means any land that—

**(A)** is held in trust by the United States for Native Americans;

**(B)** is subject to restrictions on alienation imposed by the United States on Indian lands (including native Hawaiian homelands);

**(C)** is owned by a Regional Corporation or a Village Corporation, as such terms are defined in section 3(g) and 3(j) of the Alaska Native Claims Settlement Act, respectively (43 U.S.C. 1602 (g), (j)); or

**(D)** is on any island in the Pacific Ocean if such land is, by cultural tradition, communally-owned land, as determined by the Secretary

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 required information is submitted at the time of application and is necessary in order for RUS to make a prudent loan decision; therefore, this information cannot be submitted less frequently.

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

a. Requiring respondents to report information more than quarterly.

There is no requirement to respond more than quarterly.

b. Requiring written responses in less than 30 days.

Responses are required at the time of application.

c. Requiring more than an original and two copies.

There is no requirement for more than an original and two copies.

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

There is no requirement to retain records for more than 3 years.

e. That is not designed to produce valid and reliable results that can be generalized to the universe of study.

This information collection does not involve statistical information.

f. Requiring use of statistical sampling which has not been reviewed and approved by OMB.

The collection does not require the use of statistical sampling.

g. Requiring a pledge of confidentiality.

There is no requirement for a pledge of confidentiality.

h. Requiring submission of proprietary trade secrets.

There is no requirement for the submission of proprietary trade secrets.

8. If applicable, identify the date and page number of publication in the Federal Register of the agency's notice soliciting comments on the information collection. Summarize public comments received and describe actions taken by the agency in response to these comments. Describe efforts to consult with persons outside the Agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, reporting format (if any), and on data elements to be recorded, disclosed, or reported.

The agency will publish a notice soliciting comments for 60 days in the proposed rulemaking and will summarize any comments received at the final rule stage.

The USDA Office of Native American Programs (since renamed the Office of Tribal Relations, hereinafter OTR) and RUS began exploring a potential SUTA initiative in 2008 after passage of the Farm Bill. RUS in conjunction with OTR interpreted this to include formal USDA Tribal Consultation in working with stakeholders that are federally recognized tribes. Pursuant to this determination and in accordance with President Obama's November 5, 2009, Memorandum on Tribal Consultation, RUS conducted sixteen (16) direct tribal consultations, seven (7) regional consultations, one listening session and three (3) internet and toll free teleconference based webinars on implementation of the SUTA provision with Indian tribes from across the country. Additionally, the agency heard from six Federal agencies at three separate consultations on how best to implement the SUTA provision.

As a result of categorizing and analyzing the comments received at both sets of consultations, RUS was able to identify certain issues that impact both the underserved areas who seek better access to RUS programs, and the federal agencies who have similar yet sometimes competing interests in these areas. This regulation is informed by the insight gained through the consultations, and is designed to complement existing loan, grant, and combination loan and grant programs with the SUTA provisions that authorize the Administrator to apply certain discretionary authorities (2 percent interest and extended repayment terms; waivers of nonduplication restrictions, matching fund requirements, or credit support requirements; and highest funding priority) for the benefit of eligible communities, and the entities that serve them, in underserved Trust areas.

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

There has been no decision to provide payment or gifts to respondents.

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

No assurances of confidentiality have been provided to respondents.

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

There are no questions of a sensitive nature.

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

The Agency estimates the cost to respondents will be estimated at \$730 annually, computed as follows:

Regulation	Number of Respondents	Total Annual Responses	Total Manhours	Wage Class	Total Costs
7 CFR 1700-D	10	1	20	\$36.49	\$729.80

RUS used \$36.49 per hour based on 2010 wages for management occupations (NAICS 999300 Local Government, Bureau of Labor Statistic).

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

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

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

There are no capital and start-up costs nor operation and maintenance costs associated with this collection of information.

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

The cost to the Federal Government to collect and evaluate this information is estimated to be approximately \$407 annually based on the following calculations:

Review of request eligibility and high need:

Loan Analyst review -  $\$40.66^* \times 10 \text{ requests} \times 1 \text{ hours} = \$406.60.$

\* Salary rate for a GS-12, step 5

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

This is a new collection.

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

The agency is required to make annual reports to Congress on (a) the progress of the SUTA initiative, and (b) recommendations for any regulatory or legislative changes that would be appropriate to improve services to substantially underserved trust areas. It is anticipated that the agency would include information in the annual report regarding the number and type of requests that are received.

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

No such approval is requested.

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

There are no exceptions to the certification statement.



B. Collection of Information Employing Statistical Methods.

This collection does not involve statistical methods.