

2013 SUPPORTING STATEMENT
(0572-0137)

7 CFR Part 1782 – Servicing of Water Programs Loans and Grants

A. **Justification**

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

This information collection package covers loan and grant servicing regulations, 7 CFR Part 1782, “Servicing of Water Programs Loans and Grants,” the regulations prescribing policies and responsibilities for servicing actions necessary in connection with Rural Utilities Service (RUS or the Agency) Water and Environmental Programs (WEP) loans and grants. Authority for servicing Water Programs Loan and Grants is contained in Section 306c of the Consolidated Farm and Rural Development Act, as amended. Servicing actions become necessary due to the development of financial or other problems and may be initiated by a recipient who recognizes that a problem exists and wishes to resolve it, or by the Agency. If servicing a WEP loan or grant is required, the recipient of the loan, grant, or loan guarantee must furnish financial information that is utilized to work toward problem resolution through re-amortization, sale, transfer, debt restructuring, liquidation, or other means provided in the regulation. The information required is similar to that required by a commercial lender in similar circumstances.

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

The Agency provides forms and/or guidelines to assist in collection and submission of the information required to service loans and grants. In some cases, use of Agency forms is optional and the borrower may submit the information required on other forms. The Agency utilizes existing Rural Development forms to the greatest extent possible to continue to meet the needs of the program. The forms or related items completed by the borrower are submitted to and evaluated by the Agency servicing office. The information, mostly financial in nature, is required to determine if borrowers, based on their individual situations, qualify for the various servicing authorities.

The specific items, which impose burden under this regulation, are:

REPORTING REQUIREMENTS OF THIS COLLECTION – NO FORMS APPROVED

• **Subordination or parity of security (Written)**

Borrowers may find it necessary to secure funding from outside sources to finance portions of their facility. The process may require that the Agency subordinate or lower its security position to a parity

level. In order to approve a borrower's request to subordinate or parity debt, the Agency requires a written request from the borrower with supporting documentation as cited in 7 CFR 1782.17(a). The estimated number of annual requests from subordination or parity are 10 and the burden is estimated at 1 hour (based on current caseload and previous experience).

- **Environmental evaluation (Written)**

Certain servicing actions require borrowers to submit evidence that security property has been evaluated for releases of hazardous substances of petroleum products. The Agency requires that borrowers, as a minimum, complete a questionnaire prior to transaction approval. The requirement is necessary to protect the Government's interest when taking possession of property subject to environmental contamination.

It is estimated the burden for this requirement is 12 hours and estimated number of respondents is 10.

- **Agree to terms of grant agreement/Assume terms of grant agreement (Written)**

RUS requires borrowers/transferees and leasees to assume all rights and obligations of the grant agreement for sales, transfers, or leases of a facility. The burden for this requirement is the time the borrower/transferee must read and sign the grant agreement when the facility is purchased or transferred.

The estimated number of respondents is 10 and the burden required to comply is estimated at 15 minutes (based on current caseload and previous experience).

- **Written consent of lienholders**

The Agency must approve all transfers to eligible transferees. In order to protect the Agency's security interest, a determination must be made that no liens, judgments or similar claims against the security exist prior to transferring the property. Rural Development requires the written consent of any other lienholder as a condition of approving the transfer.

The impact on the public is limited to obtaining the written consent of lienholders. The estimated number of respondents is 10 and the burden is estimated to be 1 hour (based on current caseload and previous experience).

- **Insurance (Written)**

Prior to the Agency approving a transfer, borrowers must obtain adequate insurance to protect the Government's financial interest.

The insurance requirement is limited to the time required to read, sign, and obtain insurance. The estimated burden is 2 hours. The estimated respondents are 10 (based on current caseload and previous experience).

- **Preparation of new debt instruments (Written)**

Depending on the type of organizational structure and State statutes, it may be necessary to prepare new debt instruments to affect transfers requested by borrowers. Transfers may require issuance of new debt instruments if more than one type of loan is used in financing a project or if loans were obligated in different fiscal years.

The estimated burden to comply with the preparation of new debt instruments is 2 hours and estimated number of respondents is 10 (based on current caseload and previous experience).

- **Management Agreements (Written)**

When an Agency financed facility is to be leased or managed by other parties, the borrower must furnish copies of the proposed management agreement for approval by the Agency. The review and approval is necessary to protect the Government's interest. The borrower is ultimately responsible for operating, maintaining and managing the facility even though the functions are performed by a third party under a management agreement.

The estimated burden to comply with the requirement is 1 hour and the estimated number of respondents is 25 (based on current caseload and previous experience).

- **Surveying lenders (Written)**

The Agency contacts lenders annually to determine if other credit is available to refinance RUS debt. Interested lenders must provide information on the types of loans and amounts they would consider for financing. The information is necessary to comply with the Agency's graduation requirements. Participation by lenders is optional and the requirement is necessary to fulfill the Agency's responsibility to provide credit only when it is not available from commercial sources.

The estimated burden to comply with the survey request is 1 hour and the estimated number of respondents is 250 (based on current caseload and previous experience).

- **Written evidence**

Borrowers unable to graduate must provide RUS with written evidence of their inability to secure commercial financing. The requirement provides written documentation to support a borrower's position that they cannot graduate their RUS debt.

The estimated burden to comply with this requirement is 1 hour and the estimated respondents are 100 (based on current caseload and previous experience).

- **Written repayment agreement**

Borrowers subject to the Treasury Offset Program are provided an opportunity to avoid being submitted by entering into a written repayment agreement. The repayment agreement allows borrowers to avoid future Federal assistance payments offset by agreeing to a new repayment agreement.

The repayment agreement is prepared by RUS, signed by the borrower, and the estimated burden is 1 hour and includes an estimated 3 respondents (based on current caseload and previous experience).

- **Rescheduling Agreement (Written)**

The Agency requires completion of Exhibit E when the borrower is requesting debt rescheduling. It is sometimes advantageous for borrowers to reschedule debt instead of issuing a new debt instrument to effect re-amortization of a loan. The Agency provides Exhibit E to Staff Instruction 1782-1, which may be used for this purpose. Since the Agency prepares the agreements and the borrower's time is limited to that needed to review, authorize, and execute the agreement, the time required is estimated at 30 minutes for 10 respondents (based on current caseload and previous experience).

REPORTING REQUIREMENTS – FORMS APPROVED UNDER OMB CONTROL NUMBER 0572-0137 AND OTHER OMB CONTROL NUMBERS

- **Application to Subordinate, Form RD 465-1 (Also approved under OMB Control Number 0575-0066)**

Borrowers requesting approval to subordinate RUS debt must submit Form RD 465-1. The form is necessary in order for the Agency to approve subordination requests, junior liens, or partial release from the terms of real estate security instruments. The burden to comply with this requirement is limited to the time necessary to prepare Form RD 465-1. There are an estimated 10 respondents under this collection and the estimated burden is 1 hour.

- **Balance Sheet, Form RD 442-3 (Also approved under OMB Control Number 0575-0015)**

A balance sheet is required in order for the Agency to perform a thorough graduation review to determine if the borrower has the financial capability to secure financing from commercial sources. This form is approved under OMB Control Numbers 0572-0137 and 0575-0015. The estimated burden is 1 hour and the estimated number of respondents is 500.

- **Operating Budget, Form RD 442-7 (Also approved under OMB Control Number 0575-0015)**

Borrowers requesting parity, for projects where construction is involved, will submit Form RD 442-7 with the request for parity documenting the operating budget for the project. This form is approved under OMB Control Numbers 0572-0137 and 0575-0015. There are an estimated 10 respondents and the estimated hour burden is 5 hours.

- **Statement of Budget, Income, & Equity, Form RD 442-2 (Also approved under OMB Control Number 0575-0015)**

The Agency requires submission of Form RD 442-2 in order to perform a thorough graduation review to determine if the borrower has the financial capability to secure financing from commercial sources. The form is approved under OMB Control Numbers 0572-0137 and 0575-0015. There are an estimated 500 respondents and the estimated hour burden is 2.50 hours.

- **Assurance Agreement, Form RD 400-4 (Also approved under OMB Control Numbers. 0575-0018, 0570-0061 and 0570-0062)**

Form RD 400-4 is prepared by RUS and signed by borrowers purchasing or exchanging property. It establishes that the property will be used for similar purposes as the loan or grant was made and the borrower will comply with civil rights provisions contained in 7 CFR Part 1901. The impact on the borrower is limited to the time required to read and include a signature on Form RD 400-4. The estimated hour burden for completion is .25 hours and the estimated number of respondents is 125.

- **Letter of Intent to Meet Conditions, Form RD 1942-46 (Also approved under OMB Control Numbers 0575-0015, 0570-0021, 0570-0061 and 0570-0062)**

Borrowers must sign Form RD 1942-46 prior to the Agency approving all transfers. The form is necessary because it outlines conditions related to the operation of the facility and repayment of the loan that the borrower must adhere to. There are an estimated 25 respondents and the estimated hour burden is 1 hour.

- **Assumption Agreement, Form RD 1951-15 (Also approved under OMB Control Number 0575-0066)**

Form RD 1951-15 is used to affect the transfer of Rural Development loans to a different entity and the form establishes the effective date of the transfer. Borrowers must sign the assumption agreement to finalize a transfer and assumption of Agency debt. Form RD 1951-15 is approved under OMB Control Numbers 0572-0137 and 0575-0066. The estimated hour burden is .50 and there are an estimated 11 respondents.

- **Workout Agreement, Form RD 1951-10 (Also approved under OMB Control Number 0575-0066)**

Borrowers unable to bring delinquent accounts current are requested by the Agency to adopt a workout agreement, Form RD 1951-10. This agreement is necessary in order to develop a plan to eliminate the delinquent amount and provide written documentation of steps to be taken to ensure the agreement is completed as planned. There are an estimated 20 respondents and the estimated hour burden is 3.00.

- **Application for Settlement of Indebtedness, Form RD 3560-57 (Also approved under OMB Control Number 0575-0189)**

Prior to approving debt settlement actions, RUS prepares and the borrower must sign Form RD 3560-57. This form is prepared to effect a write-off of a borrower's Rural Development debt. Form RD 3560-57 is also approved under docket 0575-0189. The estimated hour burden is 1.00 hours and there are an estimated 10 respondents.

- **Re-amortization Request, Form RD 1951-33 (Also approved under OMB Control Number 0575-0066)**

Form RD 1951-33 is used to re-amortize an existing loan and to modify the terms of the original loan agreement. The borrower prepares and signs the form with the assistance of the Rural Development servicing official. This form is also approved under docket 0575-0066. The estimated hour burden is .25 hour and there are an estimated 20 annual respondents.

- **Offer to Convey Security, Form RD 1955-1**

Form RD 1955-1 is used to document the conveyance real estate security property to the Government. The borrower prepares and signs the form with the assistance of the Rural Development servicing official. Form RD 1955-1 is also approved under docket 0575-0172. There are an estimated 10 respondents and the hour burden is .25 hours.

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

RUS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes. The agency encourages applicants to submit material electronically and the forms associated with this collection are fillable and printable on the USDA eForms website. 7 CFR 1782 requires borrowers to submit information and does not exclude electronic transmission. Borrower request and information can be accepted electronically.

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

The information required to determine eligibility for various servicing options is not captured on other forms and is specific to each borrower. Each form required is unique to that particular servicing benefit. To combine these forms would only serve to confuse the borrower since each benefit has certain responsibilities to be carried out by the borrower to continue receiving the benefit. Therefore, no duplication exists. The use of available Agency forms is optional, however, and the borrower may submit the information required on other forms. Other forms or the borrower's forms or documents may be used to consider eligibility for various servicing options. For example, a current balance sheet and statement of revenue is required from the borrower to determine the borrower's financial position.

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 term "small entity" has the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction" in accordance with 5 USC 601(6). The Small Business Administration (SBA) establishes a Table of Small Business Size Standards which matches to industries described in the North American Industry Classification System (NAICS). According to the established SBA standards, 100 percent of RUS WEP programs are classified as small entities. RUS is conscious of the needs of small entities. All forms are available electronically and RUS does not prohibit transmission of the information electronically. The information collected is unique to each borrower and is the minimum necessary to administer the servicing program.

6. Describe the consequences to Federal program or policy activities in the collection is not conducted or conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The collection of information is obtained only when needed for purposes related to loan security. The information is specific to each servicing incident and cannot be collected on a less frequent basis. Failure to collect adequate information from borrowers could result in improper determinations of eligibility and need for servicing.

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.

Information is submitted based on the request for a servicing action.

- b. Requiring written responses in less than 30 days.

No such requirement

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

The Agency does not request more than an original and two copies of any document.

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

The Agency does not require applicants 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 collection does not involve statistical information.

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

This collection does not involve statistical sampling.

- g. Requiring a pledge of confidentiality.

This collection does not require a pledge of confidentiality.

- h. Requiring submission of proprietary trade secrets.

This collection does not require 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.

As required by 5 CFR 1320.8(d), a Notice to request public comments was published in the Federal Register on July 3, 2013 at 78 FR 40096 (78). The Agency received no comments.

The following individuals were consulted to obtain their views on the availability of data, clarity of instruction, frequency of collection and recordkeeping, and other concerns or comments:

Larry Foster
General Manager
Jackson County Water, Inc.
124 West Huron Street
Jackson, Ohio 45640
Tel: (740) 286-5929

Mr. Foster stated the following:

The USDA has a very robust and exhaustive evaluation system, but it's very worthwhile. The amount of reporting has not been counterproductive. The system of checks and balances is good. Taxpayers need agencies to follow up on how money is being spent and repaid. The design work on new projects with project engineers is the most difficult part of the loan making process, but that part is outside of the work done directly with the agency. When questions arise, the local area office staff is very helpful.

Diana Mason
Office Manager
Maxwell Public Utility District
P.O. Box 294
Maxwell, California 95955
Tel: (530) 438-2505

Ms. Mason believes that the information requested by RUS is very available. She also stated that the frequency with which RUS requests documentation is average and that those requests come with clear instructions. She noted that if questions arise concerning submission of borrower information, the RUS staff is always courteous and extremely helpful. She does not believe that the recordkeeping required by RUS is an abnormal amount. Ms. Mason considers the paperwork for loan servicing required by RUS acceptable, helpful and of average amount.

Mickey Barger
Manager
Watts Bar Utility District (WBUD)
123 Pawnook Farm Road
Lenoir City, Tennessee 37771

Mr. Barger made the following statement:

WBUD's annual audit and budget are both required by the State of Tennessee. It is not a problem to forward that information to RUS. As RUS adds questions to their compliance review, WBUD adjusts their customer contract so that they can gather that information easily. As a result, questions concerning minority make-up, etc, are easily answered. Inspections are a necessary part of any construction project and helpful to us all so there are no objections to inspections. The new System for Award Management (SAM) program is NOT user friendly at

all. WBUD also questions the applicability of SAM to a utility like ours. At this point, the paperwork is not excessive. As long as RUS keeps the information required simple and easy to obtain, it will not be a burden to WBUD. However, SAM does seem to be unnecessary.

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

There is no payment or gift to respondents.

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

No assurance of confidentiality has been provided to the respondents. Information submitted to RD by borrowers is covered by the provisions of the Freedom of Information Act (5 U.S.C. 552).

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

Financial information is being requested to determine the eligibility for various servicing benefits. There are no questions of a sensitive nature.

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

Based on the current WEP caseload and the number of previous loans and grants serviced by water programs pursuant to 7 CFR 1782, the agency estimates that there are 991 respondents comprised of 793 municipalities, townships, federal tribes etc. and 198 non-profit organizations with 1,675 responses and 2,500.75 rounded to 2,500 burden hours. The servicing regulation is different because it only covers servicing actions that may come up during the life of existing borrowers loan repayment term (up to a 40 year term). The type of servicing actions listed on the spreadsheet varies from year to year along with how many respondents participate in a particular action. Not all 991 respondents will participate in a single action nor in every servicing action, yet, a respondent can participate in multiple actions. Therefore, the respondent column total does not add to the 991 respondents. See separate spreadsheet (RUS Form 36) for complete breakout of burden.

The total cost to respondents is estimated to be \$92,500. The estimated wage rate of \$28.56 is based on information from the Bureau of Labor Statistics, median hourly wage for Business and Financial Operations Occupations in a non-metropolitan area (Occupation Code 11-3011) found at http://www.bls.gov/oes/current/oes_37620.htm#11-0000. With the addition of cost of benefits in the amount of \$8.40 per hour, the total hourly wage is \$36.96 rounded to \$37. The calculation of estimated cost of labor for the hours required to comply with this information collection is illustrated in the following chart:

Estimated Annual Respondents	Total Annual Responses	Total Hour Burden	Hourly Wage/Benefit	Total Respondent Cost
991	1,675	2,500	\$37.00	\$92,500

Historical data provided by the Bureau of Labor Statistics, [Employer Cost for Employee Compensation Supplemental Tables Historical Data December 2006-September 2012](http://www.bls.gov/ncs/ect/sp/ecsupt.pdf) is utilized to calculate the total cost of benefits. Benefits as a percentage of total compensation for Private trade, transportation and utilities industry workers were 29.4% of total hourly compensation. See, <http://www.bls.gov/ncs/ect/sp/ecsupt.pdf>, Page 91.

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

There are no capital or start-up costs required.

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

There are no operation and maintenance and purchase of services required.

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

Servicing actions become necessary due to the development of financial or other problems and may be initiated by a recipient who recognizes that a problem exists and wishes to resolve it, or by the Agency. In servicing RUS Water Program loans and grants the RUS employee utilizes financial information to work toward problem resolution through re-amortization, sale, transfer, debt restructuring, liquidation, or other means provided in the loan and grant servicing regulations at 7 CFR part 1782. The Agency servicing office evaluates the information to determine if borrowers, based on their individual situations, qualify for the various servicing authorities.

The Agency may be called on to review written requests from borrowers that the Agency subordinate its security position to a parity level, evaluate environmental reports from borrowers taking possession of property subject to environmental contamination, and/or approve transfers by determining that no liens, judgments or claims against the security exist prior to transferring the property. The Agency is required to review and approve of proposed management agreements, of contacting lenders annually to determine if other credit is available to refinance RUS debt and to review borrowers written evidence when they have been unable to secure commercial financing. The Agency protects the interest of the Federal government by preparing written repayment agreements in order to allow borrowers to avoid being submitted to the Treasury Offset Program by agreeing to a new repayment agreement. When the borrower requests debt rescheduling, the Agency prepares the agreements so that the borrower may review, authorize and execute the agreement.

There are reporting requirements such as the submission of balance sheets, operating budgets, statements of budget, income and equity and the Agency must perform a thorough graduation review to determine if the borrower has continued financial capability to secure financing from commercial sources. When a borrower seeks to purchase or exchange property they must submit a Letter of Intent to Meet Conditions, Assumption Agreement, and civil rights assurance agreement and the agency must review and ratify this information. Prior to approving debt settlement actions, RUS prepares the Application for Settlement of Indebtedness, Form RD 3560-57 to affect a write-off of a borrower's RUS debt. If a borrower meets the qualifications for modification of the terms of the original loan agreement or amortization of the borrower's existing loan, the Agency assists in the preparation and submission of the Re-amortization Request. The Agency also assists the qualified borrower in preparing Form RD 1955-1 to document the conveyance of real estate security property to the Government in offers to convey security. There is an analysis and review of borrower's documents and information that is labor intensive on the RUS loan and grant servicing staff.

The annual cost to the Federal Government to administer the activities of this program is estimated to be \$6,600,000. The cost was derived by proportionally distributing the FY 2012 Salary and Expense appropriation for Rural Development. Cost estimates include the total cost of staff time and the addition

of overhead costs such as printing, publication of regulations, travel, etc. Staff time may vary based on the number of problem projects and delinquencies that require monitoring and servicing, however, we estimate that 150 RUS loan analysts (GS 12/Step 5) spend 35% of their time on duties related to servicing actions. The annual wage for GS 12/Step 5 in a non-metropolitan area is \$77,987 rounded to \$78,000 and the cost of total annual benefits¹ is \$28,270 rounded to \$28,000 for a total annual wage cost to the Federal Government of \$106,257 rounded to \$106,000 per employee. The cost of overhead is included in the calculation and total annualized cost to the Federal Government is calculated as follows:

Federal Pay Grade	Total Annual Salary/Benefits	Number of Employees	Cost of 35% Percentage of time spent on servicing	Cost of 18% Percentage overhead cost	Total Cost to Federal Government
GS 12/Step 5	\$106,000	150	\$5,565,000	\$1,001,700 (round to \$1,000,000)	\$6,565,000 (round to \$6.6 million)

- 150 RUS employees nationwide working on servicing actions related to this collection;
- GS 12/Step 5, is the average grade for a loan analyst working on servicing actions;
- 35 percent of these employees time is spent on servicing duties, and;
- 18 percent for overhead.

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

In this collection, RUS uses several Rural Housing Service (RHS) forms that are approved in different RHS collection packages. Previously, RHS carried the RUS burden associated with the forms in its own OMB approved ICR's.

This renewal submission is now accounting for RUS' own responses and burden hours for these forms approved under the RHS OMB collection numbers. During the change, it was discovered that of the eleven forms, three of the forms, RD 465-1; RD 3560-57 and RD 1955-1 had been inadvertently dropped from the last renewal submission of the approved RHS collection packages resulting in a violation of 23 burden hours (shown as a program change). The other eight forms are currently approved in RHS packages and once this collection is approved, a reduction in burden hours for the affected RHS packages will be submitted to OMB to avoid duplication of burden.

This change has resulted in an overall increase of 1,142 responses, 533 to 1,675 and 1,849 hours from 651 to 2,500 for this renewal submission. See separate spreadsheet for complete breakdown of burden information.

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

There are no plans for publication of information collected.

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.

¹ Cost of total benefits as a percentage of total compensation for Federal Government employees has been calculated by multiplying 36.25% by the annual OPM wage and adding that amount in accordance with OMB Memorandum M-08 13.

The Agency is requesting an exemption from displaying OMB expiration dates since these are now covered in multiple collection packages with varying expiration dates.

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

There are no exceptions requested to the certification statement involved with this collection request.

B. Collection of Information Employing Statistical Methods.

This collection does not involve a survey. Thus, this collection does not employ statistical methods.