

SUPPORTING STATEMENT'
for the
GSM-102 EXPORT CREDIT GUARANTEE PROGRAM
(0551-0004)

A. JUSTIFICATION

Summary

The GSM-102 Export Credit Guarantee Program (GSM-102) is administered by the Commodity Credit Corporation (CCC) of the U.S. Department of Agriculture (USDA). This program provides guarantees to exporters in order to maintain and increase overseas importers' ability to purchase U.S. agricultural goods. The GSM-102 underwrites credit extended by U.S. private banks to approved foreign banks using dollar-denominated, irrevocable letters of credit. The GSM-102 program covers credit terms up to 2 years.

Sales under this program are considered normal commercial sales. Thus, the majority of the information required for program participation, including the guarantee application, evidence of export report, assignment notice, and filing of notices of default, is information that would already be in the possession of the participant. The only information not normally available, or additionally required, would be: (1) the amount of the guaranteed value and (2) the amount of the guarantee fee, which are both derived from simple mathematical calculations. The CCC's requirement that an exporter must maintain or provide information which would normally be necessary to conduct export transactions or maintain records for accounting or tax purposes is not overly burdensome. Under the provisions of the Food, Conservation and Energy Act of 2008, the Supplier Credit Guarantee Program and the Intermediate Term Guarantee Program (GSM-103) were repealed.

On Friday, December 27, 2013, USDA's CCC issued a second proposed rule with a 30-day comment period ending January 27, 2014. A first proposed rule was issued on July 27, 2011. This second proposed rule was issued because we received a significant number of comments on the first proposed rule, and in response made a number of changes.

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

The information collection is necessary to enable exporters, U.S. banks and foreign banks to receive the benefits of the program and to allow CCC to comply with the Federal Funding Accountability and Transparency Act (FFATA), the Debt Collection Improvement Act (DCIA), and nonprocurement suspension and debarment regulations found at 2 CFR Parts 180 and 417.

Summarized below are the changes in the information collection associated with the proposed rule at 7 CFR 1493 Subpart B.

Information Required for Collection	Reason for Information Collection	Legal Requirement
Qualification Requirements for Exporters - Evidence of an organized business, citizen or legal resident of the U.S.	<p>Permits CCC to determine if an applicant is legally registered to conduct business in the U.S. and provides small business information</p> <p>Protects the U.S. government from contracting Exporters that are debarred or suspended, in violation of Federal or State antitrust statutes, presently charged by a government entity, or in delinquent status on nontax debt to the United States.</p>	1493.30
U.S. and Foreign Financial Institution qualification	Enables CCC to determine if the U.S. and Foreign Financial Institution is eligible to be approved for participation in the program.	1493.40; 1493.50
Certification of business regarding participation in U.S. government administered programs	Protects the U.S. government from contracting with Exporters and U.S. and Foreign Financial Institutions that are debarred or suspended, in violation of Federal or State antitrust statutes, presently charged by a government entity, in delinquent status on nontax debt to the United States, and ensures that all applicants are in compliance with the Foreign Corrupt Practices Act of 1977.	1493.60
Application for a Payment Guarantee	<p>Enables CCC to determine if the export sales contract can be approved for coverage.</p> <p>Protects the U.S. government from doing business with debarred or suspended companies or individuals.</p>	1493.70
Participant's signature and certifying statements as to the accuracy of the information submitted and compliance with CCC	In order for the payment guarantee to be valid through the length of the agreement, all submitted information must be accurate. CCC will assume this to be the case if the program participant certifies	1493.80

regulations and U.S. laws	this to the U.S. Government. Falsified information submitted may subject the participant to suspension, debarment, civil or criminal action by the U.S. government.	Foreign Corrupt Practices Act of 1977, as amended
Amendments to the application for a payment guarantee	Alerts CCC to any proposed changes under the original contract to ensure that the payment guarantee originally issued is still valid. In evaluating proposed changes, CCC must determine the validity of sales under the current program announcements and regulations.	1493.100
Guarantee fees	1) To recover a portion of the costs of any claims paid and offset administrative costs. 2) To reduce speculative sales.	1493.110
Assignment notification of the payment guarantee	Enables CCC to determine to whom the guarantee has been assigned, determine the eligibility of the entity receiving the assignment, and to assure that the rights of the new guarantee holder are protected.	1493.120
Evidence of Export	Demonstrates actual performance under the sales contract. Also establishes the amount CCC is liable for in the case of default.	1493.130
Proof of Entry	Demonstrates to CCC that the U.S. Agricultural Commodities covered by a Payment Guarantee arrived in the country or region shown on the Payment Guarantee. This is also a requirement of the Ag Trade Act of 1978, as amended.	1493.150
Notice of default	Alerts CCC that a default has occurred and a claim for loss may be filed in the near future. Prevents CCC from providing additional coverage on sales involving defaulting party.	1493.160
Claim for loss with a copy of all documents relating to that guarantee's transactions	CCC becomes liable for payment under the payment guarantee upon submission of these documents in good order.	1493.170

	Provides evidence to CCC that sale and shipment of goods occurred in conformity with the guarantee. All documentation must be in order before CCC will pay a claim. Enables CCC to obtain the right to collect from the party obligated to make payment.	
Maintenance of Records	Enables CCC to review exporter documentation related to program participation.	1493.191(a)

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

Information is collected from participating U.S. exporters and U.S. and Foreign Financial Institutions in order to determine their eligibility for program benefits. The information is also utilized in fulfilling the CCC’s obligation under the issued payment guarantee. Information may be provided in writing (via fax or email) or via the internet. There are no specific forms for information provided via fax or email; however, the Internet system is form-based, and participants are prompted for all required information. Information is collected whenever an exporter desires to participate in the programs. This information is not shared with organizations outside of USDA (unless provided as required under FOIA).

Qualification Requirements - This information ensures CCC that all participants have a business office in the United States and are not debarred or suspended from participating in government programs. CCC also collects a description of the applicant’s business, including whether it is a small or medium enterprise, and information on any related companies currently qualified to participate in the program. This information is provided by exporters. There is a form on the FAS website that an exporter can fill out and either submit to CCC electronically or print and fax.

U.S. and Foreign Financial Institution Qualification – This information ensures CCC that all participating financial institutions comply with regulatory laws, are not debarred or suspended from participating in government programs, and provides CCC with adequate information to determine appropriate levels of risk. This information is provided by the financial institutions.

Certification of Business – This certification protects the U.S. government from contracting with debarred or suspended Exporters and U.S. and Foreign Financial Institutions. It further ensures that all applicants are in compliance with the Foreign Corrupt Practices Act of 1977, are not being charged by a government entity, do not have any delinquent nontax debt to the United

States, or is not controlled or owned by someone with delinquent nontax debt to the United States.

Application for Payment Guarantee - The application is used to determine sale(s) eligibility for program coverage. The information requested in the application also provides CCC with adequate information to meet program goals and statutory requirements. This information is provided by exporters.

Signature and Certifying Statements - Certifications are made when the exporter signs the application for the payment guarantee. These certifications are necessary for program integrity and to ensure exporter compliance with regulatory requirements.

Amendments - Amendments to the payment guarantee are submitted in the same method as the application and reviewed to ensure that any changes to the initial application will not adversely impact a sale's eligibility for coverage. This information is submitted by exporters.

Guarantee Fees – The guarantee fee is submitted by the exporter. The exporter may submit the fee in the form of a check payable to CCC, via the mail or courier service, or through a wire transfer. The payment guarantee will not be approved until the fee has been received.

Assignment - A notice of assignment of the payment guarantee to a financial institution must be submitted if the exporter wants to secure payment at the time of export. Exporters submit notices of assignment to the assignee (U.S. financial institution) for approval and signature, and then the notices of assignment are forwarded to CCC.

Evidence of Export - Evidence of export reports are required for each shipment made under the program and used to accurately determine CCC's liability, consistent with Credit Reform legislation. The evidence of export reports also contain certifications that ensure the exporter's compliance with program provisions. (Proof of entry documents are necessary to ensure the commodity/product exported under the programs arrived in the stated country of destination. Exporters are required to obtain proof of entry documentation for each shipment, but are not required to submit these documents to CCC unless specifically requested. Any request for such documents would be to ensure there had been no diversion of the commodity, which is prohibited by the program regulations and by statute.)

Notice of Default - Notice of default information must be filed in writing with CCC by the exporter or exporter's assignee within 5 business days after the date that payment was due from the foreign bank. This informs CCC that a default in payment has occurred and there may be a claim filed or debt rescheduled in the near future. CCC also uses this information to preclude additional business with an obligor that is in default.

Claim for Loss - A claim for loss must be made within 180 calendar days from the due date of the defaulted payment. The claim for loss is submitted by the holder of the payment guarantee:

either the exporter or the exporter's assignee. This information is used to determine and confirm CCC's liability under a defaulted transaction before any payment is made by CCC.

Record Keeping - For a period of 5 years after the date of expiration of the coverage of a payment guarantee, the exporter must maintain accurate records related to the export sale. The regulation and statute gives USDA officials the authority to review these records during exporters' regular business hours. FAS routinely audits a sampling of program participants to ensure compliance with all regulatory requirements. In addition, this information may be reviewed by the Office of Inspector General if CCC has any reason to suspect fraud in a transaction.

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.

CCC's Internet-based system allows program participants to submit the following documents via the Internet: qualification requirements, applications for payment guarantees, electronic signatures/certifying statements, evidences of export, notices of default, and notices of assignment. All program participants are eligible to use this Internet-based system, which is advertised on FAS's Web site. Copies of all screens and the user guide are attached to this submission. CCC is requesting updated approval of these screens, which have had some changes since the last submission. Changes made have been in response to participant suggestions to make the system more "user friendly", to make the screens comply with the updated regulations and requirements by USDA that all web pages have a similar "look and feel".

Qualification requirements may also be submitted using the separate form on the FAS Web site, as the exporter may be prepared to qualify for participation before gaining access to the on line system. This form can be found at www.fas.usda.gov/excredits/cccapp.html. A copy of this form is included in this submission.

Claims documentation must be submitted in hardcopy because participants must submit certain documents (such as a subrogation agreement) which must be original.

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.

No similar information exists.

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

The information required from any size entity does not vary, and thus does not lend in itself to making special provisions for small businesses. Although current data collection does not

include information that enables CCC to identify small businesses, CCC estimates approximately 50 percent of program participants are small businesses.

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

CCC would be unable to determine if export sales under the programs would be eligible for coverage or, if coverage conformed to program requirements. Credit Reform Act legislation also requires the collection of information to assess outstanding liability.

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

requiring respondents to report information to the agency more often than quarterly

Once a payment guarantee is issued, respondents are required to submit information as required under section 1493.130 within 30 calendar days from the date of export, depending upon the mode of transportation. A notice of default under Section 1493.160(a) must be submitted by the exporter or the exporter's assignee to CCC not later than 5 business days after the date that payment was due from the foreign obligor. The purpose of the 5 day limitation is to ensure CCC does not guarantee any further transactions with the defaulting party once the default has occurred.

requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it

There is no such written response required in fewer than 30 days.

requiring respondents to submit more than an original and two copies of a document

Submissions do not require more than an original and two copies.

requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years

Program participants are required by statute to retain all records in connection with export sales for five years after the date of expiration of the coverage of a payment guarantee. The Secretary of Agriculture or the Comptroller General of the United States must have full access to such records in order to uphold and protect the interests of the U.S. Government in the case of a default and claim.

in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study

No statistical survey is designed under this collection.

- requiring the use of a statistical data classification that has not been reviewed and approved by OMB

No statistical data is required.

- that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use

No such pledge of confidentiality is involved.

- requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

Confidential sales contract information, which is considered a proprietary trade secret, is required to establish approval of a credit guarantee. The Freedom of Information Act (FOIA) has two exclusionary sections that pertain to proprietary business practices. Under Section 552(b) of the FOIA, trade secrets and confidential commercial or financial information are both lawfully allowed to be withheld from any FOIA request. CCC has internal guidelines in place for responding to FOIA requests in a manner to ensure market sensitive or confidential data is not released.

8. Provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 C.F.R. 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received.

Request for comment was included in the preamble of the proposed rule for 7 CFR 1493 Subpart B. This proposed rule was published in the Federal Register December 27, 2013 (78 FR 79254).

The following organizations were consulted regarding this information collection:

Bunge/Sittaya Changpakorn (914-684-3402)
Deutsche Bank/Rudy Effing (212-250-9610)
GSTS/Terry Weibust (713-532-0300)

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 respondents and the basis for the assurance in statute, regulation, or agency policy.

No such assurances are given.

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

No such questions are asked.

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

The attached charts entitled “Hour Burden for Collection of Information” details the hour burden under the GSM-102 program. Burden estimates were obtained by contacting several active program participants for input. As previously noted, many of the required submissions for the program can be submitted via fax or an Internet-based on-line system; times for each of these methods are specified in the attached charts for each collection that is submitted using both methods. Final burden figures are weighted based on the number of submissions received via fax versus on-line. All burden times are in hours.

The total estimated burden for this collection is 2,637 hours. The estimated annualized cost to respondents for the hour burden of information collection is \$152,946 based on an average hourly wage of \$58.00.

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

No capital or long term maintenance costs are associated with this information collection.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses, and any other expense that would not have been incurred without this collection of information.

The annualized cost to the Federal government is estimated at \$1,788,378 and is attributed to the salary costs of officials administering the program. Staff members in grades 6 to 14 are involved in GSM registration and record keeping. Calculations of record keeping burden hours of employees include only the staff members specifically involved in the GSM-102 registration application process. Guarantee fees collected from applicants for the risk of issuing payment guarantees are set at a rate to cover potential payments of claims and administrative costs and are therefore not included in the annualized cost.

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

There is an increase in the number of respondents (from 73 to 84), responses (from 5,941 to 7,274), and burden hours (from 2,555 to 2,637) from the last approval. The increases are due to the addition of U.S. and Foreign Financial Institutions qualification and Certificate of business regarding participation in U.S. government administered programs and other changes from comments received from the proposed rule issued on July 27, 2011.

16. For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project.

No collections of information results will be published.

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.

There are no plans to seek such approval.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

There are no exceptions.