

## 2014 SUPPORTING STATEMENT

### **7 CFR 1951-E - Servicing of Community and Direct Business Programs Loans and Grants OMB No. 0575-0066**

#### **A. Justification**

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

Rural Development, hereinafter referred to as Agency, is the credit agency for agriculture and rural development for the United States Department of Agriculture. The Agency offers supervised credit to build and operate modest housing, water and sewer systems, essential community facilities, and business and industrial operations in rural areas. The water and waste program under the Rural Utilities Services (RUS) is no longer covered under this regulation.

This is a request for revision and extension of clearance of 7 CFR 1951-E, which prescribes policies and responsibilities for servicing actions necessary in connection with Community Facilities loans and grants, and direct Business and Industry loans. Sections 331 and 335 of the Consolidated Farm and Rural Development Act, as amended, authorize the Secretary of Agriculture, acting through the Agency, to establish provisions for security servicing policies for the loans and grants in question. Servicing actions become necessary due to the development of financial or other problems and may be initiated by either a recipient that recognizes a problem exists, and wishes to resolve it, or by the Agency. When there is a problem, a recipient of the loan, grant, or loan guarantee must furnish financial information that is used to aid in resolving the problem through reamortization, sale, transfer, debt restructuring, liquidation, or other means provided in the regulation. The information involved is similar to that which would be 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 information will be collected by Rural Development field offices from applicants, borrowers, consultants, lenders and attorneys. This information is used to determine applicant/borrower eligibility and project feasibility for various servicing actions. This information enables field staff to ensure that borrowers operate on a sound basis and use loan and grant funds for authorized purposes.

#### **Reporting Requirements - Forms Approved With This Docket**

##### **Form RD 1951-33, "Reamortization Request"**

This form is partially prepared by the borrower, with assistance from the Agency, and is executed by the borrower's authorized representative. It is

used to request reamortization of the Agency's loans. The form also states the terms of the reamortization and the reasons the request is being made.

**Form RD 1951-15, "Community Programs Assumption Agreement"**

This form is used to transfer loans to a different entity. The form is prepared by the Agency and executed by the borrower's authorized representative.

**Form RD 1951-10, "Community Programs Workout Agreement"**

This form is used to document corrective actions that must be undertaken by problem borrowers to eliminate delinquencies or other problems in lieu of referring the loan for collection under the treasury offset program or cross-servicing.

**Form RD 465-1, "Application for Partial Release, Subordination, or Consent"**

This form is used by the borrower to apply in writing for a partial release, subordination, or consent. The form provides the Agency with the terms of proposed agreements and specifies the use of all proceeds.

**Form RD 465-5, "Transfer of Real Estate Security"**

This form is used by field staff to assemble information necessary to transfer real estate security. The form is signed by the transferor and the transferee.

**Form RD 400-4, "Assurance Agreement"**

This form is used to confirm that recipients of Agency loans and grants have been reminded of their obligations to comply with all the provisions of the Civil Rights Act of 1964 and Agency regulations.

**Reporting Requirements - Non Forms Approved**

**Balance Sheet**

Balance sheets are routinely prepared as part of normal financial recordkeeping procedures. This information is required so the servicing official can review the borrower's current financial position to determine whether or not they are eligible for the servicing request.

**New Debt Instrument**

A new debt instrument may be used when a reamortization is being processed. The new debt instrument can be structured to include the entire outstanding Agency indebtedness including the delinquency or it may be for only the delinquent amount plus interest.

**Rescheduling Agreement**

A rescheduling agreement may be used for a public body when a delinquent or problem loan cannot be reamortized by issuing a new debt instrument due to State statutes, or when the cost of preparation and closing is prohibitive.

**Legal Opinions**

When debts are reamortized, we require an opinion of a local attorney or a bond counsel as to the effect that modifications to debt instruments would

have on the Agency's security instruments. In order to protect the Agency's lien position, it is necessary to record any amendments in the public record and to obtain a legal opinion that no intervening liens would adversely affect the Agency's security position.

#### **Credit Report**

A credit report from an independent source is required to supplement financial information on transferees and on debt settlement actions.

#### **Borrower's Request to Change Interest Rate**

Pub. L. 99-88 requires that on or after November 12, 1983, borrowers be provided the option of choosing the lower of the interest rates in effect at the time of loan approval or loan closing. Since existing borrowers were provided with the option previously and it is provided to new borrowers with loans closed after October 25, 1985, under 7 CFR part 1942, any future cases handled under 7 CFR 1951-E would be those not previously provided the option due to oversight. At this time, we believe that all existing borrowers were properly notified; therefore, we do not estimate any responses for this item.

#### **Financial Statements**

We are requiring copies of monthly financial statements prepared by problem borrowers who execute workout agreements for Community Facilities and Water and Waste program loans. The financial information is needed to monitor financial progress in order that the agency may provide additional supervision and assist problem borrowers to make changes necessary to remove financial problems.

#### **Reporting Requirements - Forms Approved Under Other OMB Numbers**

##### **Form RD 442-2, "Statement of Budget, Income, and Equity"**

This form provides a format for the borrower to submit budget and cash flow information. This form gives the Agency information on the borrower's financial situation. This form was approved under OMB No. 0575-0015.

##### **Form RD 442-3, "Balance Sheet"**

This form provides a format for the borrower to submit current financial information to the Agency. This form was approved under OMB No. 0575-0015.

##### **Form RD 1942-46, "Letter of Intent to Meet Conditions"**

This form is used to establish requirements to be met in connection with a transfer and assumption. The transferee is required to execute the form prior to closing the transfer. This form was approved under OMB No. 0575-0015.

##### **Form RD 442-7, "Operating Budget"**

This form provides a format for the borrower to submit an operating budget to the Agency. This form gives the Agency information on the borrower's projected income and expenses through the first full year of operation, following completion of planned improvements. This form was approved under OMB No. 0575-0015.

**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.**

The information required is specific to each borrower, many of which may be small organizations and not equipped for high technology information gathering. The information involved is unique to the particular case; therefore, automation would not reduce or eliminate the burden. Every effort has been made to use information the borrower would already have on hand and to maximize the use of available information technology. The forms are available at <http://www.rurdev.usda.gov/regs/formstoc.html> and can be submitted electronically. The programs covered by this package are not collecting this information electronically because the forms involved require an original signature.

**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 collected under this regulation relates specifically to loan servicing requests and actions. Therefore, the request and supporting documentation will be unique for each borrower. We do allow the borrower to submit their existing financial information rather than completing our form, if it is in a similar format, to avoid duplication. We use the applicant's/borrower's organizational documents for various servicing actions.

**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 collection required under this regulation places no burden on small entities beyond that performed in normal business practice. Of the 132 total respondents, the agency estimates that 10% are small business.

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

Information is only collected when it is needed to make a decision on a servicing request. The information is needed to determine which servicing tools should be utilized. The course of action taken must be in the best interest of the Government, the borrower, and the community receiving the services.

**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.

If a borrower is in a workout situation, we could require them to submit financial information on a monthly basis to enable us to monitor their progress.

b. Requiring written responses in less than 30 days.

There are no specific information collection requirements that require less than 30 days response. However, in many cases, if a borrower's financial situation has changed, it benefits the borrower to provide the Agency with information as soon as possible. The Agency cannot provide the borrower with increased program benefits until documentation is received to support the borrower's request.

c. Requiring more than an original and two copies.

There are no specific information requirements that require more than an original and two copies.

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

There are no such requirements.

e. Not utilizing statistical sampling.

There are no such requirements.

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

No such requirements exist.

g. Requiring pledge of confidentiality.

There are no such requirements.

h. Requiring submission of proprietary trade secrets.

There are no such requirements.

**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 published a 60-Day Notice in the Federal Register on July 24, 2014, [Vol. 79, No. 142, page number 43024] soliciting comments from the public. No comments were received.

We spoke with the borrower's representatives on general recordkeeping and data collection. These borrowers were satisfied with the amount of information that needs to be recorded and reported and the clarity of the instructions. No negative comments were received. The contact information for the borrowers we met with follows:

(1)Ms. Sue Bafus, Endicott, WA: city hall; (2) Ms. Janet Aho, Raymond, WA: police vehicle; (3) Ms. Jeannie Hayward, San Andreas, CA: program director

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration 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.**

There is no assurance of confidentiality provided to respondents for the information required in this regulation.

**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.**

The information collected does not contain any questions of a sensitive nature such as sexual behavior, religious beliefs, or other matters commonly considered private.

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

The burden for collecting information under this regulation is based on an estimated 1392 total annual responses and 1143 estimated total man hours. Please see the attached spreadsheet for a complete breakdown of the hour burden and cost of the required collection information. This estimate is based on information in existing reports and experience of Agency employees.

The estimated total annual cost of the burden on the public is \$73,489. The wage class used for RHS and RBS was \$43 per hour, which reflects the average wage, with the exception for legal services, for the individuals involved with these programs. We estimated that legal opinions would average \$220 per hour when title services or bond counsel opinions are required in conjunction with rescheduling or reamortization of loans. The dollar amounts used for the wage grade come from mean wages from the Bureau of Labor Statistics, May 2012 National Occupational Employment and Wage Estimates United States ([http://www.bls.gov/oes/current/oes\\_nat.htm](http://www.bls.gov/oes/current/oes_nat.htm)).

The number of respondents was calculated as follows:

Workout Agreement	90
Balance Sheet	<u>42</u>

132 Estimated Number of Respondents

**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.)**

There are no start-up costs involved.

**b. Total operation and maintenance and purchase of services component.**

Purchase of services component is not required.

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

The annual cost, which includes benefits, travel, communication, supplies, etc., for the Agency to develop and administer this regulation is \$2,470,934. These costs are based on a GS-12 step 5 loan specialist in each state spending 10% of their time on servicing and six full-time GS-13 step 5 loan specialists in the National Office, three from Community Facilities and three from Rural Business-Cooperative Programs.

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

There was an increase of 256 responses and 164 burden hours since our last submission. This increase is due to the fact that there has been an increase of funding availability for the direct Community Facilities loan program over the past few years.

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

The Agency does not publish the information collected under this regulation.

**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.**

We are requesting not to display expiration dates because several forms are used in other PRA packages and having expirations dates would cause confusion as there be different dates for each package the form is covered under.

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

There are no exceptions requested.

**19. How is this information collection related to the Service Center Initiative (SCI)? Will the information collection be part of the one stop shopping concept?**

This information is not related to and will have no impact on the Service Center Initiative. The information collection under this regulation is case specific.