

2016

**SUPPORTING STATEMENT
OMB Control No. 0572 – 0116**

**Settlement of Debt Owed by Electric Borrowers
7 CFR Part 1717, Subpart Y**

A. JUSTIFICATION

1. Circumstances that make this collection of information necessary.

The Rural Utilities Service (RUS) makes mortgage loans and loan guarantees to electric systems to provide and improve electric service in rural areas pursuant to the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 et seq.,)[RE Act].

This information collection requirement stems from passage of P.L. 104-127, on April 4, 1996, which amended section 331 (b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.,)[Con Act] to extend to the RUS' loans and loan guarantees the Secretary of Agriculture's authority to compromise, adjust, reduce, or charge-off debts or claims owed to the Government (collectively, debt settlement) with respect to loans made or guaranteed by RUS. Only those electric borrowers that are unable to fully repay their debts to the government and who apply to RUS for relief are affected by this information collection. The amendment also extended to the security instruments, leases, contracts, and agreements administered by RUS, the Secretary's authority to adjust, modify, subordinate, or release the terms of those documents.

The settlement authority granted to the Secretary of Agriculture by P.L. 104-127 is in addition to, rather than a replacement of, the settlement authority of the Attorney General. The RUS Administrator is required to notify the Attorney General whenever the Administrator intends to use his or her settlement authority. The Attorney General retains the authority under existing law to settle debts and claims against a borrower that is in bankruptcy or that has filed for protection under the bankruptcy laws or other laws. In addition, any debt or claim that has been referred in writing to the Attorney General would not be settled under the Administrator's authority unless the Attorney General approves.

RUS' regulation (7 CFR 1717, subpart Y, Settlement of Debt Owed by Electric Borrowers) stipulates the policies, standards, and procedures the Administrator would use in settling (restructuring) debts and claims arising from loans made or guaranteed to rural electric borrowers under the RE Act. A copy of the regulation is attached to this statement. As defined in the regulation, *claim* means any claim of the government arising from loans made or guaranteed under the RE Act to a rural electric borrower; *debt* means outstanding debt of a rural electric borrower (including, but not necessarily limited to, principal, accrued interest, penalties, and the government's cost of debt collection) arising

from loans made or guaranteed under the RE Act; and *settle* means to reamortize, adjust, compromise, reduce, or charge-off a debt or claim.

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

This information collection will require information only from those RUS electric borrowers who request assistance to settle a debt or claim owed to the Government arising from loans made or guaranteed or administered by RUS. The information required from the borrower is limited to that which would be essential for determining: need for debt settlement; the amount of debt the borrower can repay; the future scheduling of debt repayment; and, range of opportunities for enhancing the amount of the debt that can be recovered. The information collected is similar to that which any prudent lender would need in order to determine that debt settlement is required and the amount of relief that is needed. Since the need for relief is expected to vary substantially from borrower to borrower, so will the required information collected.

It is RUS' policy that, wherever possible, debt owed to the government, including but not limited to principal and interest, shall be collected in full in accordance with the terms of the borrower's loan documents. The determination of a borrower's ability to meet its financial obligations will be based on analyses and documentation by RUS of the borrower's historical, current, and projected costs, revenues, cash flows, assets, opportunities to reduce costs and/or increase revenues, and other factors that may be relevant on a case by case basis. In the current collection period, estimates indicate that borrowers requiring debt settlement are smaller with less complex systems servicing smaller areas.

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 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, for other purposes. RUS encourages borrowers to use the most advanced technology to prepare the required information and accepts documents electronically when possible. There may be no feasible alternative other than receiving some of the information in hard copy, according to varying debt restructuring situations. There is at present no feasible alternative to requiring that some of information be submitted to RUS in hard copy, with computer-generated charts and graphs as supporting data where appropriate. RUS recognizes that computer capabilities differ widely among the diverse small and large rural electric borrowers and works to accommodate the borrower.

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.

In this collection there is no duplication of information collection because required information is specific to each borrower involved. RUS accepts and encourages submission from borrowers of relevant analyses which may have been prepared for their own utilization or for their State regulatory commissions, where such information is available. However, there is usually no similar information available for a particular borrower from other sources. For example, a borrower must submit an in-depth analysis supporting the borrower's contention that it is unable or will not be able to meet its financial obligations; an explanation and analysis of the causes of the borrower's inability to meet its financial obligations within the period of 24 months following the month the borrower submits its application for debt settlement; and, other analyses and documentation prescribed by RUS on a case by case basis. However, in cases where the necessary information already exists, RUS will accept whenever possible copies of current relevant information a borrower may have prepared for another purpose.

5. If the collection of information impacts small businesses or other small entities (item 5 of OMB Form 82-1), describe any methods used to minimize burden.

Ninety percent of RUS electric program borrowers meet the Small Business Administration criteria for small business. RUS makes every effort to ensure the information collected is in the format that will minimize the paperwork burden on small business. RUS believes that the information requested is the minimum necessary for RUS to meet statutory requirements with respect to both large and small entities. RUS headquarters and field staff are available to assist borrowers in preparing documents. In addition, RUS has designated the Policy Analysis and Risk Management (PARM) office primary responsibility for 'settlement of debt' matters with affected electric borrowers. PARM also coordinates with the RUS electric program officials/staff throughout the entire 'settlement of debt' process. It must be emphasized that 'settlement of debt' is a process that is initiated by an individual borrower when the borrower feels it is unable or will not be able to meet its financial obligations in accordance with loans made or guaranteed by the RUS as stated in detail above.

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.

This information is collected only from the limited number of electric borrowers make the decision to seek settlement of RUS debt. If this information were not collected, RUS could not thoroughly assess the economic impact of a borrower's debt which would impair the agency's obligation under the RE Act to ensure that security for the Government's loans is reasonably adequate. As noted previously, each collection is unique to each proposed debt restructuring and is submitted to RUS after the borrower

initiates the process and the information cannot be collected less frequently or without initiation by electric borrowers.

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

a. Requiring respondent to report information more than quarterly.

There is no requirement to respond more frequently than quarterly.

b. Requiring written response in less than 30 days.

There is no requirement to respond in less than 30 days.

c. Requiring more than an original and two copies.

There is no requirement of more than original and two copies to be submitted.

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

There is no such requirement.

e. 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.

This collection is not a survey.

f. Requiring the use of a statistical data classification that has not been reviewed and approved by OMB.

This collection does not employ statistical sampling.

g. Requiring 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.

There is no requirement of a pledge of confidentiality.

h. 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.

There is no requirement to submit propriety 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 comments was published on September 24, 2015, at 80 FR 57569 (185). No public comment was received.

RUS maintains close contact with borrowers through both general field representatives (GFR) and field accountants (FA) located throughout the country, and through a headquarters staff. GFR's and FA's have direct personal contact with the approximately 800 active electric borrowers on a regular basis in connection with the fulfillment of RUS pre and post loan requirements and in providing technical assistance. RUS borrowers are located throughout the United States, Guam, Puerto Rico, Virgin Islands, Micronesia, Northern Mariana Islands, and Palau.

RUS conducts seminars for borrowers and participates in statewide, regional, and national organizations' meetings of borrowers. RUS staff maintains contact with and serves on committees of national organizations representing borrowers, e.g., the National Rural Electric Cooperative Association. RUS works closely with lending institutions such as the National Rural Utilities Cooperative Finance Corporation and CoBank, a nationwide network of lending institutions and part of the Farm Credit System, which provide supplemental loan funds to rural electric borrowers. RUS also works closely with state and other Federal agencies including the National Association of Regulatory Utility Commissions, Department of Energy, U.S. Environmental Protection Agency, Federal Communications Commission, Department of Justice, Treasury Department and others.

RUS has designated the Policy Analysis and Risk Management (PARM) office primary responsibility for 'settlement of debt' matters with affected electric borrowers. PARM also coordinates with the RUS electric program officials/staff throughout the entire 'settlement of debt' process. RUS remains committed to pursuing further reductions in both the burdens place upon borrowers/customers and total volume of regulations imposed. Suggestions and comments are always considered by the RUS. During the previous collection period, one respondent was required to provide information under this collection. The following respondent was contacted for comments concerning this collection:

Paul Bryant
Manager
Metlakatla Power and Light
P.O. Box 359
3.5 Mile Airport Road
Metlakatla, AK 99926

Tel: (907) 886-4451

The respondent stated that the information required is that which would be required in normal business practice. An in-depth analysis supporting containing an explanation and analysis of the causes of inability to meet financial obligations would be required of any lending institution. The collection of information is not overly burdensome.

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

Payments or gifts are not 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 assurance of confidentiality is provided.

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.

This information does not contain questions of a sensitive nature.

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

There was a 50 percent decrease in burden hours from the last collection period, from 2,000 to 1,000 burden hours. RUS estimates only one debt restructuring action will be submitted over the next three years and, as stated in response to Question 2, the relief requested by the borrower can vary substantially. Based upon past experience and discussions with program staff concerning the complexity of the restructuring, it is estimated that the burden hours be adjusted to 1,000 burden hours per response because of the type of relief requested by the borrower that are estimated to seek debt settlement. These borrowers also serve much smaller areas and systems are much less complex than borrowers who have sought debt settlement in previous collections.

In accordance with RUS' regulation, there are certain things which the borrower must submit; however, regulations stipulate that "Other analyses and documentation prescribed by RUS on a case-by-case basis" may be required. In addition, the regulation states the "RUS may require that an independent consultant provide analysis of the efficiency and effectiveness of the borrower's organization and operation, and those of its member systems in the case of a power supply borrower." Other requirements which may apply, depending on circumstances, include: corporate restructuring; sale of all or a portion of plant facilities, or other assets; replacement of senior management and/or hiring outside experts acceptable to the Administrator; credit support from its member systems, as well as pledges and action plans by the members to change their operations, management, and organizational structure; and, conveyance of some or all of a borrower's assets to the

Government.” Therefore, as indicated in the regulation, there are those things which a borrower must provide and there are other things that RUS may require a borrower to provide on a case-by-case basis.

The agency estimates that 80 percent of the total burden, or 800 hours, required to prepare and submit this information is professional which is split between a senior manager and a lower level professional, 20 percent of the burden, or 200 hours, for Senior Manager and 60 percent of the burden, or 600 hours, to the lower level professional. The remaining 20 percent of the respondent time is administrative support. The wage rates for the three wage categories are selected from the Department of Labor, Bureau of Labor Statistics, May 2014 National Occupational Employment and Wage Estimates located at http://www.bls.gov/oes/current/oes_nat.htm#11-0000. The two professional categories are Senior Manager (Occupation Code 11-1021) at \$46.77 per hour and Management Analyst (Occupation Code 13-111) at \$38.89 per hour. The clerical is for Executive Administrative Assistant (Occupational Code 43-6011) at \$24.65 per hour. Data provided by the Bureau of Labor Statistics indicates that employer cost for employee benefits for the private industry was 30.5% of wages. See; Bureau of Labor Statistics Employer Costs for Employee Compensation – June 2015, <http://www.bls.gov/news.release/ecec.nr0.htm>. After calculating employer cost for employee benefits, total wage rates for Senior Manager are \$61.03 per hour; for Management Analyst the total hourly cost is \$50.75; and Administrative Assistant is \$32.17. The calculation for annualized estimated respondent cost is shown below:

Job Position	Hours Required	Hourly Wage/Benefit	Cost
Senior Manager	200	\$61.03	\$12,206
Management Analyst	600	\$50.75	\$30,450
Administrative Ass't	200	\$32.17	\$6,434
Total Respondent Cost			\$49,090

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

There are no recordkeeping burdens related to this collection. There are no capital and start-up costs and purchase of service components with this collection. This information collection is required only when an electric borrower initiates the process by expressing interest in RUS settlement of the borrower’s debt.

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

The annual estimated cost to the Federal Government for collection and evaluation of this information is \$53,473. All documents submitted to RUS must be carefully reviewed and analyzed by the RUS staff. RUS estimates that the annualized cost to the Federal

government involves exclusively professional time for each borrower submittal for debt restructuring. In addition to the analysis of the documents submitted, time is spent negotiating terms of the restructuring and finally the drafting and reviewing of final documentation. The time includes hours provided by the Office of General Counsel during negotiations and document preparation. The amount of professional time allocated is an estimate of the expected number of projects relative to other assigned duties of the position. The wage categories used for calculating Federal costs are OPM salary schedules for SES and for GS. Senior Executive Service mid-point of the OPM annual salary is \$150,000, or \$72.12 per hour. With the addition of cost of benefits¹, the total hourly SES wage and benefits is \$98.26. The GS 14, Step 5 hourly salary is \$58.28 and with the addition of cost of benefits is \$79.41. The estimates are based on discussions with staff concerning their experience indicating that 10 percent of annual SES hours would be devoted to reviewing and structuring debt settlement and 20 percent of annual hours for GS 14, Step 5 is allocated to reviewing debt settlement. There are 2,080 hours of work in a year and professional time is allocated according to the information provided below:

Professional time

SES Level = 2,080 hours X 10 percent = 208 X \$98.26/hr = \$20,438
GS 14/5 = 2,080 hours X 20 percent = 416 X \$79.41/hr = \$33,035

Total cost to the Government \$53,473

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

This is an agency adjustment of a currently approved information collection. There is a reduction of burden hours from 2,000 to 1,000. The program conducted a review and based on the complexity of recent restructuring under the regulation and on the size of the borrowers anticipated to seek resettlement, reduced the annualized burden hour estimate. Borrowers estimated to seek debt resettlement serve a much smaller area and have systems that are much less complex than borrowers during past collection periods. Based upon the complexity of the debt restructuring during the last information collection period, the agency made an adjustment to reflect the reduced respondent hours.

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

There are no plans to publish this information collection.

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 hourly compensation for Federal Government employees has been calculated by multiplying 36.25% by the hourly OPM wage in accordance with OMB Memorandum M-08 13.

The agency is not requesting an exemption to not display the OMB expiration date.

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

There are no exceptions requested.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This information collection does not employ statistical methods.