

SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSIONS\

A. JUSTIFICATION

Summary

The Commodity Credit Corporation's (CCC) Facility Guarantee Program (FGP) offers credit guarantees to facilitate the financing of U.S. manufactured goods and services to improve or establish agricultural infrastructure and/or facilities in emerging markets, with the goal of increasing U.S. agricultural commodity exports. Sales under FGP are considered normal commercial sales.

Thus, the majority of the information required for program participation, including the guarantee application, evidence of performance 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) payment of the application fees; (2) application information on the benefits of the transaction to U.S. agricultural exports, how the project will encourage privatization of the country's agricultural sector, and environmental and social impact information; and (3) certain information related to certifications for qualification and when submitting documents to obtain program benefits.

USDA's CCC issued a proposed rule on June 15, 2015. Specifically, the proposed rule proposed to:

- implement a revision in the Food, Conservation, and Energy Act of 2008 that will permit USDA to cover non-U.S. goods under the FGP if determined that U.S. goods are not available or not practicable;
- restructure the FGP rule to be consistent with the recently finalized GSM-102 Export Credit Guarantee Program rule, and incorporates many of the revisions found in that similarly structured program;
- implement changes to the program application process designed to reduce burden on participants; and
- implement changes to ensure the program's compliance with the Organisation for Economic Cooperation and Development's Arrangement on Officially Supported Export Credits (OECD Arrangement), including requirements for screening of potential environmental and social impact of supported projects.

CCC is now ready to issue a final rule with comments after incorporating changes to strengthen compliance with environmental and social impact requirements.

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 sellers and U.S. and foreign financial institutions to receive the benefits of the program. It ensures participants comply with all program regulatory and statutory requirements; protects the assets of the U.S. Government; and allows CCC to comply with the Federal Funding Accountability and Transparency Act (FFATA), the Debt Collection Improvement Act (DCIA), and non-procurement suspension and debarment regulations found at 2 CFR Parts 180 and 417.

Information Required for Collection	Reason for Information Collection	Legal Requirement
Qualification Requirements for Sellers	<p>Permits CCC to determine if an applicant is legally registered to conduct business in the U.S. (and is thus eligible to participate in the program) and provides small business information.</p> <p>Protects the U.S. government from approving sellers 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>	<p>7 C.F.R. 1493.220</p> <p>FFATA</p>
Qualification Requirements for U.S. and Foreign Financial Institutions	Enables CCC to determine if the U.S. or Foreign Financial Institution (FFI) is eligible to be approved for participation in the program. Specifically ensures FFI meets CCC creditworthiness criteria.	<p>1493.230; 1493.240</p> <p>FFATA</p>
Certification of business regarding participation in U.S. government programs.	Protects the U.S. government from approving sellers 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 applicant banks are in compliance with the Foreign Corrupt Practices Act of 1977.	<p>1493.250</p> <p>2 C.F.R. 180 and 2 C.F.R. 417</p> <p>31 C.F.R. 285</p>
Letter of Interest	Allows CCC to provide preliminary feedback to the seller on whether a specific transaction may be eligible under the program, thus reducing burden on the seller. (This step is at the option of the seller and is not required by CCC.)	1493.260(a)

<p>Initial Application for payment guarantee</p> <p>Final Application for payment guarantee</p>	<p>Enables CCC to determine whether the transaction meets all regulatory requirements and is eligible for coverage. Also ensures the seller has a legitimate sales contract in place as required by the regulation, thus avoiding speculative applications and ensuring efficient use of program resources.</p> <p>Initial application allows CCC to provide feedback to the seller that is required by the seller to complete the final application.</p>	<p>1493.260(b)</p> <p>1493.260(d)</p>
<p>Application and guarantee fees</p>	<p>1) To recover a portion of the costs of any claims paid and offset administrative costs. 2) To reduce speculative applications.</p>	<p>1493.260</p> <p>1493.300</p>
<p>Environmental and Social Screening Document</p>	<p>Ensures CCC compliance with OECD Environmental Guidelines and ensures the U.S. government does not finance transactions that could pose adverse environmental and social impacts.</p>	<p>1493.260(b)</p>
<p>Environmental and Social Impact Assessment (if required)</p>	<p>Ensures CCC compliance with OECD Environmental Guidelines and ensures the U.S. government does not finance transactions that could pose adverse environmental and social impacts.</p>	<p>1493.260(c)</p>
<p>Environmental and Social Impact Reporting (if required)</p>	<p>Ensures CCC compliance with OECD Environmental Guidelines and ensures the U.S. government does not finance transactions that could pose adverse environmental and social impacts.</p>	<p>1493.260(f)</p>

Amendments to the application for a payment guarantee.	Alerts CCC to any proposed changes under the transaction so that the payment guarantee originally issued remains valid. In evaluating proposed changes, CCC must be able to determine the transaction's continued compliance with the regulations and announcements, including the effect on U.S. agricultural exports.	1493.290(j)
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.	1493.310
Evidence of Performance	Demonstrates performance for each contractual event occurring under the payment guarantee. Also establishes the amount CCC is liable for in case of default.	1493.320
Proof of Entry	Ensures that goods covered by an FGP guarantee arrived in the stated country of destination as listed on the guarantee. Diversion of goods is prohibited by program regulations and by statute.	1493.340
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.	1493.350
Claim for default	CCC becomes liable for payment under the payment guarantee upon submission of these documents in good order. 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.	1493.360
Maintenance of Records	Enables CCC to review seller documentation related to program participation.	1493.385(a)
Dispute Resolution and Appeals	Enables CCC to determine the appropriate resolution of any disputes arising under the FGP, ensuring due process for participants.	1493.390

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 the participating U.S. seller, U.S. financial institution, or foreign financial institution in order to determine their eligibility for FGP benefits. The information is also utilized in fulfilling the CCC obligation under the issued payment guarantee. Information must be provided in writing and is generally collected in a letter format via email or facsimile. Participants may also submit information via U.S. mail or courier service (such as Federal Express). Forms for this submission include the qualification form for the seller, which has already been approved for use with the GSM-102 program and is available on the USDA website for submission via the Internet, and the Environmental and Social Screening document. Information is required for program participants to obtain and maintain program benefits. Information collected is shared publicly as required by the Freedom of Information Act, and may be shared with other U.S. Government agencies for law enforcement/investigatory purposes. Otherwise, information is not shared with organizations outside of USDA.

Qualification Requirements –

- **Sellers:** this information ensures CCC that all participants have a business office in the United States and are not debarred, suspended or otherwise prohibited from participating in government programs. CCC is required to submit certain information (such as DUNS number) when reporting on recipients of Federal financial assistance in compliance with FFATA.
- **U.S. Financial Institutions:** This information ensures approved U.S. banks meet all regulatory requirements and are not prohibited from participation.
- **Foreign Financial Institutions:** CCC uses this information to conduct a thorough financial review of each institution to determine its ability to repay debt guaranteed by the U.S. government under the FGP. Based on this review, CCC establishes a dollar limit representing the maximum amount of exposure the CCC should undertake with the institution.

Letter of Interest – Allows the seller the option of providing CCC with basic information regarding a proposed transaction so that CCC can make an initial determination of whether the transaction may be eligible for the FGP. This step is completely optional on the part of the seller and will only be collected if the seller determines to provide it.

Initial and Final Application for Payment Guarantee - The application, which contains information primarily from the seller's sales contract with the buyer, is used to determine a transaction's eligibility for FGP coverage. The information is used by CCC to:

- determine whether the seller has a valid sales contract, buyer, and potential project;
- analyze the proposed project to ensure it meets the statutory requirement to benefit U.S. agricultural exports; and
- determine whether to allow coverage of non-U.S. goods (in accordance with the statute).

Application Fees - Serves as a disincentive to the submission of speculative applications and must accompany a letter of interest (if submitted) and the initial application. The seller may submit the fee in the form of a check payable to CCC, via mail or courier service, or through a wire transfer.

Guarantee Fee - The guarantee fee is submitted by the seller along with the final application. The guarantee fee reflects the risk of the transaction to CCC and covers a portion of the costs of any claims paid and administrative costs incurred under the program. The seller 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.

Environmental and Social Screening Document – This document provides CCC with the information to determine if the transaction could entail negative environmental or social impacts and thus require a more in-depth environmental or social analysis. It also allows CCC to categorize proposed transactions and determine any additional information needed for CCC to evaluate the environmental and social effects of the transaction.

Environmental and Social Impact Assessment – When applicable, sellers must provide CCC with a full assessment and potential mitigation plans related to proposed transactions to ensure the U.S. government does not finance transactions that could pose adverse environmental and social impacts. CCC will use the Environmental and Social Screening Document to determine if the seller has to conduct a “minimal” or “full” assessment.

Environmental and Social Impact Reporting – The seller may be required to report on a regular basis to ensure compliance with any agreed actions to mitigate environmental and social impacts. Reporting requirements are based on the potential environmental/social impacts.

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 the sale’s eligibility for coverage.

Assignment - A notice of assignment of the payment guarantee to an approved U.S. financial institution must be submitted if the seller wants to secure payment at the time of performance. Sellers 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. This information provides CCC with information regarding which entity is CCC’s risk-share partner in the transaction.

Evidence of Performance – The seller is required to provide CCC with an evidence of performance report for each contractual event occurring under the payment guarantee to accurately determine CCCs liability, consistent with Credit Reform legislation. The evidence of performance report also contains certifications that ensure the seller’s compliance with program provisions.

Proof of Entry - Documents are necessary to ensure the goods covered by an FGP payment guarantee arrived in the stated country of destination. Sellers are required to obtain and maintain proof of entry documentation, 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 goods, 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 seller or seller’s assignee within 5 business days after the date that payment was due from the foreign financial institution. This informs CCC that a default in payment has occurred and that 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 in order for the seller to receive payment. The claim for loss is submitted by the holder of the payment guarantee: either the seller or the seller's assignee. This information is used to determine and confirm CCC's liability under a defaulted transaction before any payment is made by CCC. It also allows CCC to be subrogated the rights to the full amount of the debt in default, thus allowing CCC to pursue collection from the defaulting party after a claim is paid.

Record Keeping - For a period of 5 years after the date of expiration of the coverage of a payment guarantee, the seller and assignee must maintain accurate records related to the sale. The regulation gives USDA officials the authority to review these records during regular business hours. This provision ensures program participants comply with statutory requirements for record maintenance.

Dispute resolution/appeals – This information (appeal letter and associated documentation) is required from a seller or U.S. or foreign financial institution only if the entity wishes to appeal a program decision made by the Director. CCC will utilize this information to make a determination on the merits of an appeal and whether a decision should be reversed.

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.

Seller qualification requirements may be submitted using a form on the FAS Web site. This form, approved under collection 0551-0004, can be found at www.fas.usda.gov/excredits/cccapp.html. Participants may submit all other required and optional information via fax, email, U.S. mail, or courier service.

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.

FAS is the only agency that collects this specific information. CCC will use previously supplied qualification information for sellers and U.S. financial institutions already approved under the GSM-102 program, thus avoiding the need for these entities to re-qualify.

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. The online Qualification Application allows CCC to identify small businesses that apply for participation in the program.

Of the seven respondents during the comment period, CCC estimates five 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 sales under the FGP would be eligible for coverage or, if coverage conformed to program requirements – thus making CCC unable to ensure appropriate and efficient use of government resources. CCC would also be unable to comply with statutory and regulatory requirements such as FFATA, DCIA, and Credit Reform Act legislation, which 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 1493.320 within 30 days from the date of performance. Section 1493.350 requires the seller or the seller's assignee to submit a notice of default to CCC not later than 5 business days after the date that payment was due from the foreign bank.

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 and by regulation to retain all records in connection with sales under the FGP for 5 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 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 a 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 an FGP guarantee. The Freedom of Information Act 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 data is not released.

8. Provide a copy and identify the date and page number of publication in the Federal Register of the agency notice, required by 5 CFR 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 proposed rule published in the Federal Register June 15, 2015 (80 FR 34080). Comments were received from seven organizations during the comment period, primarily offering support for the program and/or expressing how the program could benefit their industry and export sales. One commenter suggested flexibility in waving domestic content and offered suggestions on what's included in the down payment. CCC addressed these items in the rule.

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

There are no payments or gifts to respondents provided.

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 chart entitled “Hour Burden for Collection of Information” details the hour burden under the FGP program. All burden times are in hours.

The total estimated burden for this collection is 360.45 hours. The estimated annualized cost to respondents for the hour burden of information collection is \$20,906.10 based on an average hourly wage of \$58.00 (the mean hourly salary for a mid-level operations manager, according to the Department of Labor).

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

The estimated cost of the Environmental and Social Impact Assessment is \$25,000. This is incurred as a startup cost prior to the guarantee being issued. No additional 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 attached chart titled “Cost to Federal Government” details the annualized cost to the Federal Government. Total estimated cost is \$160,806 and is attributed to the salary costs of staff administering the program. Approximately 17 staff in grades 6 to 15, 1 SES employee, and one hired contractor are anticipated to be involved in program administration.

In order to approve a project under the FGP, the statute requires that CCC determine the project will primarily benefit U.S. agricultural commodity exports; 7 CFR 1493 Subpart C imposed this analysis on the participant. The final rule will shift this burden from the participant to U.S. government staff, thus resulting in an increase in the annualized cost to the Federal Government compared to the previous information collection.

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

This is a reinstatement and restructuring of a previously approved collection (0551-0032), resulting in 360.45 burden hours. In order to approve a project under the FGP, the statute requires that CCC determine the project will primarily benefit U.S. agricultural commodity exports; 7 CFR 1493 Subpart C imposed this analysis on the participant. There is an increase in burden hours in this final rule from the proposed rule and the prior ICR due to changes made to ensure compliance with OECD regulations regarding environmental and social impact assessments.

Changes that will contribute to an increase in respondent burden:

- The requirement for an Environmental and Social Screening document to be submitted with applications for guarantee;
- The requirement for a Minimal Environmental and Social Screening Assessment to be submitted with applications for guarantee;

- The requirement for an Environmental and Social Impact Assessment to be submitted with applications of guarantee;
- The addition of annual reporting to be submitted under an application for guarantee.

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.