

2013 SUPPORTING STATEMENT
7 CFR Part 1942, Subpart A - “Community Facility Loans”
OMB No. 0575-0015

A. Justification

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

The Rural Housing Service (RHS) is a credit agency within the Rural Development mission area of the United States Department of Agriculture. The Community Programs Division of the RHS administers the Community Facilities program under 7 CFR Part 1942, Subpart A. The Rural Utilities Service (RUS) services outstanding Water and Waste loans under 7 CFR part 1942, subpart A, and utilize a few of the forms in the package. The written portion for RUS is covered under OMB No. 0572-0121.

Rural Development provides loan and grant funds through the Community Facilities program to finance many types of projects varying in size and complexity, from large general hospitals to small fire trucks. The facilities financed are designed to promote the development of rural communities by providing the infrastructure necessary to attract residents and rural jobs.

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 and consultants. This information is used to determine applicant/borrower eligibility, project feasibility, and to ensure borrowers operate on a sound basis and use loan and grant funds for authorized purposes.

REPORTING REQUIREMENTS – FORMS APPROVED IN THIS DOCKET

Form RD 442-7, “Operating Budget”

The form is used by all applicants to project income and expense items and a complete cash flow through the first full year of operation after use of the loan proceeds. These projects are necessary in determining the source and reliability of the projected income and the adequacy of resources to repay the loan in a timely manner, operate and maintain the facility and maintain adequate reserves.

Form RD 442-3, “Balance Sheet”

This form is used by all applicants and borrowers to present their assets, liabilities, and net worth. It may be used by borrowers at year-end whose gross annual income is less

than \$100,000 and is necessary for all applicants. This form is prepared by the applicant and presents the balance sheet items of the most current year as compared to the prior year.

Form RD 1942-19, “Agreement for Engineering Services”

The form may be used between the applicant, its engineer and Rural Development for providing financial assistance. The form contains the necessary services to be provided by the engineer.

Form RD 1942-8, “Resolution of Members or Stockholders”

This form is prepared by the nonprofit applicant to indicate that the governing body has the authority to enter into a loan of a particular amount with Rural Development.

Form RD 1942-46, “Letter of Intent to Meet Conditions”

The applicant completes this form to indicate the intent to meet the conditions of the loan previously established by Rural Development. This information is necessary in order to determine whether the Agency should continue further processing of the loan application.

Form RD 442-20, “Right-of-Way Easement”

Form RD 442-21, “Right-of-Way Certificate”

Form RD 442-22, “Opinion of Counsel Relative to Rights-of-Way”

These three forms may be used by the applicant and their attorney in obtaining continuous and adequate rights-of-way and interest in land needed for the construction, operation, and maintenance of the facility.

Form RD 1942-47, “Loan Resolution (Public Bodies)”

This form is used for public bodies (applicant) and sets forth the agreement between the applicant and Rural Development for providing financial assistance. The form contains the necessary covenants to be complied with as long as the loan is outstanding.

Form RD 1942-9, “Loan Resolution Security Agreement”

This form is used by non-public organizations (applicant) and sets forth the agreement between the applicant and Rural Development for providing financial assistance. Among other items, it establishes the rates and terms of the loan, certain accounts which are to be established and other compliance items so long as the loan is outstanding.

Form RD 440-11, “Estimate of Funds Needed for 30-Day Period Commencing _____”

This form is a request used by the applicant to indicate the amount of funds required in construction projects for a 30-day period. It is concurred in by Rural Development as to the reasonableness of the amount.

Form RD 442-2, “Statement of Budget, Income, and Equity”

This form serves the dual purpose of a budget and an income and expense statement. For new borrowers, it is generally required each quarter for the first 3 years in order to monitor financial progress in the early years of operation. The report is then discontinued for those who are progressing satisfactorily. As a budget form, borrowers are to submit their budget estimates prior to the beginning of each fiscal year. In these cases only, column three is to be completed. Borrowers, at their option, as a year-end income and expense statement may also use this form when audited financial statements are not prepared.

Form RD 442-30, "Water Purchase Contract"

This form may be used to purchase water or other utility service from private or public sources. Rural Development review and approval of such contracts should take place prior to the execution by owner.

Form RD 442-28, “Bond Registration Book”

This form may be used as a guide to assist borrowers in the preparation of a bond registration book in those cases where a registration book is necessary and is not provided in connection with the printing of the bonds.

Form RD 440-24, “Position Fidelity Schedule Bond Declarations”

This form may be used by organizations (where permitted by state law) to provide fidelity bond coverage for certain officials entrusted with funds.

REPORTING REQUIREMENTS – NO FORMS

Application to Obtain Additional Funding

Borrowers whose loans were sold to the Trust and wish additional assistance under this program use this application. Concurrence by the master servicer is required by the previous loan conditions. This application provides the master servicer with the needed information and serves as the request for concurrence.

Statement on Ability to Obtain Credit Elsewhere

Applicants must certify in writing that they are unable to finance the proposed project from their own resources or through commercial sources at reasonable rates and terms.

The Consolidated Farm and Rural Development Act, as amended through the Federal Agriculture Improvement and Reform Act of 1996, requires the credit elsewhere statement.

Notification of Declination of Service

Applicants that are to provide utility-type service shall notify all persons living in the service area of the availability of such services. When persons wish to decline use of this service and user agreements are used, it is necessary to afford these persons the opportunity to decline the service by signing this declination statement.

Liens on Real and Chattel Property

A lien on real and chattel property with an assignment of income will be taken on essential community facilities other than utility-type projects. A lien is a method of encumbering the property of a borrower and is necessary to protect the interest of the Government.

Financing Statement

A financing statement is necessary to perfect a lien on assured income to be generated by the facility for the life of the loan. A lien is a method of encumbering sources of assured income and is necessary to protect the interest of the Government.

Public Information

The applicant is required to conduct a public information meeting to allow public input into the proposed project when an election by the membership or public referendum is not required. Minutes of this meeting serve as documentation of this meeting.

Preliminary Architectural or Engineering Report

Applicants are requested to submit a preliminary architectural or engineering report prepared by a qualified architect or engineer indicating areas to be served, scope and need of the project, cost estimate, annual operating expenses, etc. This report is necessary for Rural Development to determine project feasibility.

Agreement for Professional Services

When the services of a professional representative such as an engineer, architect, attorney, bond counsel, accountant, auditor, appraiser, or financial advisor are needed for the proper planning and development of a facility, contracts between the applicant and their professional representatives are required and are subject to Rural Development concurrence. This is necessary to ensure the needed services will be available at reasonable cost.

Positive Programs to Encourage Connections

Applicants for utility-type projects, where all or part of the debt repayment will come from user fees, must provide evidence or documentation to Rural Development that a positive program to encourage connections by all users, as soon as service is made available, has been provided.

Interim Financing

When funds can be borrowed at reasonable rates on an interim basis from commercial sources for the construction period, such interim financing must be obtained to preclude the necessity for multiple advances of Rural Development funds. The applicant must provide the name of the proposed interim lender so Rural Development can inform the lender of Rural Development's commitment. The Rural Development loan will then be used to retire the interim indebtedness. Before the Rural Development loan is closed, the applicant must provide statements from the contractor, engineer, architect, and attorney that they have been paid to date in accordance with their contracts. This is necessary to protect the Government from mechanic's liens and ensure the Rural Development funds are used for authorized purposes.

Property Insurance

Liability and Property Damage Insurance

Flood Insurance

Worker's Compensation Insurance

These forms of insurance are normal in any organization and Rural Development requires them to be available at the time of loan closing or start of construction, whichever occurs first. However, these insurance requirements will not normally exceed those proposed by the borrower.

Evidence of Disbursement of Other Funds

When funds from other sources are planned to complete projects being partially funded by Rural Development, applicants must present evidence of the commitment of those funds. This is needed to ensure the necessary funds are available to complete the project.

Acquisition of Land, Easements, Water Rights, and Existing Facilities

Applicants are responsible for acquiring all property rights necessary for the project and determine that prices are reasonable and fair.

-

Appraisal Report

In some instances, applicants are requested to provide an appraisal report prepared by an independent qualified appraiser on properties presently owned or to be purchased that

will be taken by Rural Development as security for a loan. This is necessary in order to determine present market value of the property.

Lease/Management Agreement

When the facility to be financed is to be leased or managed by other parties, the applicant must furnish copies of the proposed agreements for Rural Development's approval. However, the applicant is responsible for operating, maintaining, and managing the facility even though these functions are performed by a third party under contract, management, or written lease.

Notes, Bonds, Warrants, or Other Contractual Obligations

These are various debt instruments pledged by the applicant to evidence issuance of debt as security for the loan. All Rural Development loans will be secured by the best security position practicable in a manner which will adequately protect the interest of the Government during the repayment period of the loan.

Construction Contract Forms

Contracts for construction to be paid for with Rural Development funds must be submitted to Rural Development for review and concurrence. It is important to ensure that such contracts are adequate to protect the interests of both the borrower and Rural Development.

Certification by Borrower's Attorney

The attorney of the borrower is to certify in writing that all legal requirements of loan closing have been met. This is necessary in order to have assurance that the proper legal matters required of the borrower have been satisfied before proceeding with the closing of the loan.

Contracts Awarded Prior to Application

When applicants have awarded construction contracts prior to the submission of their application, documentation is required to ensure that the contract was awarded in a manner to meet procurement regulations. This is needed to ensure the applicant has not circumvented the regulations and is in compliance.

Resident Inspector Resume

The resident inspector for a construction project is required to submit a resume so that a determination can be made that the inspector is qualified to perform the duties.

Daily Inspection Report

The construction inspector for a construction project is required to maintain a daily log of progress, problems, and any other items which may affect construction. This is needed to provide information to serve as a basis for decisions for payment, change orders, or other actions.

Evidence That Facility Cannot be Provided by a Public Body

Non-public body applicants will provide statements documenting efforts to persuade an existing public body to provide the intended services.

Financial Feasibility Report

All applicants are expected to submit a financial feasibility report prepared by a qualified firm or individual which fully discloses and analyzes all significant factors which will likely have a favorable or adverse effect on the financial success of the facility. A copy of the preliminary engineering/architectural report should be made a part of this report.

Organizational Documents

Applicants are to provide documentation they they are legally organized and have the authority to borrow funds, construct, operate, management the facility, etc. This requirement is necessary in order to know that such organization does legally exist and is authorized to perform certain functions.

Borrower Request to Choose Interest Rate

The applicant may request the lower of either the interest rate at loan obligation or at closing. The interest rate at obligation is automatically used unless a written request is made.

Five-Year Financial History

Applicants using their successful operating history as a basis for their ability to operate the proposed facility are requested to submit financial information for the previous 5 years for analysis and documentation. This enables the Agency to reasonably determine that the facility will succeed financially.

Exceptional Community Support and Documentation

When applicants, other than utility types, cannot meet certain security requirements, evidence or demonstration of exceptional community support may be considered. These may be such factors as financial contributions and aggressive leadership in formation of the organization and the proposed project which indicates commitment of the community.

Other Security

Other than public-body applicants can pledge or assign as security mortgages or other security instruments encumbering the private properties of the members. They can be taken as additional security in cases where Rural Development's interest will not otherwise be adequately protected. Unless the loan approval official determines that the interest of Rural Development otherwise is secured adequately, a lien will be taken on the interest of the applicant in all land, easements, rights-of-way, water rights, water purchase contracts, sewage treatment contracts, and similar property rights, including leasehold interests, used, or to be used, in connection with the facility whether owned at the time the loan is approved or acquired with loan funds.

Malpractice Insurance

This type of insurance is only considered for health care facilities and when determined necessary in order to provide protection from malpractice claims.

Land Purchase Contract

When the applicant wishes to develop on a parcel of land that is not owned but being purchased under a contract for deed, the contract is needed by the Agency to ensure interests of the Government and the applicant are protected.

Certificate of Need

Applicants for health care facilities are required to provide a statement from the appropriate State agency that the proposed health care facility is not inconsistent with the State Medical Facilities Plan. This is needed to coordinate Rural Development assistance with other agencies and to ensure Rural Development is not a party to unneeded duplication of facilities that increase the cost of medical care.

Certification of Appropriate Regulatory Agencies

Each applicant must provide comments, certifications, and recommendations of any appropriate regulatory or other agency having expertise in the planning, operation, management of similar facilities. This is needed to ensure that facilities financed by Rural Development are coordinated with appropriate Federal, State, and local agencies and comply with applicable Federal, State, and local regulations.

Positive Action Plan

Borrowers who are delinquent on Rural Development payments or have other financial problems are required to prepare a positive action plan to resolve the financial problems. The plan is reviewed with Rural Development and updated quarterly. The plan helps borrowers resolve financial problems and what is being done about them.

Audits

Annual audits are required from all borrowers with gross incomes over \$100,000. The audits help Rural Development determine if the operations are sound and the intended services are being provided to the public. Often Rural Development can use the audits to predict developing financial problems and suggest corrective steps before the problems become serious.

Financial Statements for Borrowers With Less Than \$100,000 Gross Income

Borrowers who do not have an annual audit are required to submit annual financial statements including a verification of the balance sheet and statement of income and expenses by an official of the organization.

Utilization of Small Business and Minority-owned Business

Borrowers for construction projects are required to make efforts to utilize small and minority-owned business sources in the construction and to submit a statement or other evidence of their efforts. This helps to ensure that such businesses have the opportunity to participate in Rural Development-financed construction.

Procurement When Other Than Bid or Negotiation Is Used

If an applicant wishes to use a method of procurement of construction services other than bid or negotiation, the applicant is required to make the request in writing along with the reasons for using another method.

Unconventional Contracting Methods

If an applicant wishes to use construction management methods of contracting for construction services, the applicant and the proposed provider are required to submit documentation regarding the procurement and qualifications of the provider.

State Clearinghouse Review

This is an OMB Circular A-95 requirement. Applicants are requested to obtain written comments from their State and/or regional clearinghouses as to whether the proposed project will be consistent and will not conflict with plans, goals, or objectives of the State or region in which the proposed project will be located.

Approval of Audit

The applicant is required to submit for approval documentation of its accounting and financial reporting system. This is needed to ensure that adequate documentation is maintained for financial analysis.

Governing Body Members and Terms of Office

Borrowers are required to submit a list, annually, of the names and addresses of all members of the governing body including their terms of office. Rural Development needs this information to help ensure the organization is being maintained and to know who to contact about loan matters.

REPORTING REQUIREMENTS – FORMS APPROVED UNDER OTHER OMB NUMBERS

RD 1927-9, “Preliminary Title Opinion”: The form may be used by the applicant's attorney to furnish a preliminary title opinion for facility being purchased with CF funds. We have approval to collect this information under OMB Control number 0575-0147. The average public response time is estimated to be 1.5 hours for each of the 1,531.

RD 1927-10, “Final Title Opinion”: The form may be used by the applicant's attorney to furnish the required final title opinion on the facility being purchased with CF funds. We have approval to collect this information under OMB Control number 0575-0147. The average public response time is estimated to be 0.33 hour for each of the 1,531.

RD 1924-18, “Partial Payment Estimate”: The form is used by the contractor to request partial payments on construction work completed to show estimate of payments needed for construction costs. We have approval to collect this information under OMB Control number 0575-0042. The average public response time is estimated to be 0.5 hour for each of the 2,613.

RD 1924-7, “Contract Change Order”: The form is used by the contractor, the borrower, or engineer/architect to request changes to the project. We have approval to collect this information under OMB Control number 0575-0042. The average public response time is estimated to be 0.25 hours for each of the 2,003.

Form RD 1940-20, “Request for Environmental Information”: The form is completed by the applicant to provide environmental information on various elements of its project. We have approval to collect this information under OMB Control number 0575-0094. The average public response time is estimated to be 0.25 hours for each of the 1,531.

RD 400-1, “Equal Opportunity Agreement”: Form is completed by the borrower when construction work is subject to the provisions of the Civil Rights compliance requirements that contractors cannot discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. We have approval to collect this information under OMB Control number 0575-0018. The average public response time is estimated to be 0.167 hour for each of the 1,531.

RD 400-4, “Assurance Agreement”: The form is completed by the borrower and used to confirm that recipients of Rural Development loans and grant assistance have been reminded of their obligation to comply with all provisions of the Civil Rights Act of

1964 and regulations of Rural Development. We have approval to collect this information under OMB Control number 0575-0018. The average public response time is estimated to be 0.25 hour for each of the 1,531.

SF 424, “Application for Federal Assistance”

The applicant completes the form when applying for construction funds. This is a common form, and as such, the numbers have been accounted for through the Request for Common Forms. The average public response time is estimated to be 0.75 hour for each of the 1,385.

RECORDKEEPING REQUIREMENTS

Borrower Shall Maintain Accounting Records for 3-Years

These records are required so the Agency or the Comptroller General (or their representatives) may review them to determine that the borrower has complied with all financial requirements.

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.

Information needed is specific to each applicant, many of which may be small organizations not equipped for high technology information gathering. The Agency has many requirements that involve certifications from the borrower as well as other parties involved in the project. The Agency could not comply with legislative mandates without these certifications. All of the public use forms have been automated and put on the internet to comply with the Government Paperwork Elimination Act; however, at this time, the Agency is not collecting any of this information electronically. Based on the eGov initiative all efforts will be made to comply with the migration of federal forms into web-based fillable format consistent with the Agency’s timeline.

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 Agency has reviewed all loan programs it administers to determine which programs may be similar in intent and purpose. The Agency has other loans that are similar. If there were simultaneous participation in more than one Agency’s loan programs, the Agency would make every effort to accommodate the requests within the same set of applications and processing forms. This effort is presently facilitated by assignment of management of these programs to the same program area of responsibility. If an

applicant is applying for or receiving a loan from another Federal agency, forms and documents furnished by the other agency would be utilized to the extent possible.

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.

Information to be collected is in a format designed to minimize the paperwork burden on small businesses and other small entities. The information collected is the minimum needed by the Agency to approve loans and monitor borrower performance.

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.

The information collected under this program is considered to be the minimum necessary to conform to the requirements of the program regulations established by law. Information is collected only when needed, and we believe no reduction of collection is possible. Failure to collect proper information could result in improper determinations of eligibility, improper use of funds, and/or unsound loans.

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.

There are no information collection requirements that require specific reporting on more than a quarterly basis. All information used in concordance with this regulation does not facilitate the use of figures more than on a quarterly basis.

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, especially where a borrower's income or financial situation has declined, it benefits a borrower to provide the Agency with information as soon as possible. The Agency cannot provide the borrower with 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 collection 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 a 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.

A Notice was published on April 12, 2013 [Vol. 78, No. 71, page number 21907] soliciting comments on this information collection. No comments were received.

Telephone interviews were conducted with the following:

(1) Ms. Sue Bafus, Endicott, WA: city hall; (2) Ms. Janet Aho, Raymond, WA: police vehicle;

Both of these borrowers indicated they did not consider the paperwork associated with the Community Facilities program to be excessive due to the manner in which the processing office assisted them in working through the applications under this authority. They felt the paperwork and reporting burden was less than other State and Federal agency. All representatives stated the paperwork, the reporting burden, and the frequency of information collection were not problems for them.

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

No such decisions or payments were made.

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 was provided. The information collected under the provisions of this program is not considered to be of a confidential nature. Organizations such as nonprofit entities and public bodies from which the information is collected ordinarily are required to make their activities available for public scrutiny.

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 cost of the regulations as a burden to the public was computed on the basis of \$52.00 per hour. Averaging the data collected through sampling of borrowers we arrived at this figure. The \$52.00 represents the average salary of persons completing the forms: administrative staff of municipalities (public bodies) such as town clerks, secretary/treasurer; public bodies, or nonprofits, town clerks, secretary or treasurer of nonprofit organizations, volunteer firefighters, attorneys, architects, other professionals, and those volunteering their services to the project. Based on these estimates, the direct cost to the public is \$2,907,046.

See attached spreadsheet for breakdown.

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

There are no start-up costs.

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 \$22 million. This cost is based on a GS-12 loan specialist in each state office and one GS-13 loan specialist in the National Office from both of the program areas covered by this regulation. We are estimating that it will cost \$996 to process each respondent; this is based on an estimated 21,792 responses, which would result in a total cost of \$22 million to the Federal Government. The dollar amount relating to the individual respondents is an estimated value based on the overall cost associated with this regulation. This cost includes analyses and management assistance related to the completion of the forms associated with this regulation. This figure includes both Rural Housing Service and Rural Utilities Service utilizing this regulation.

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

There was no change in burden for this package.

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

There are no plans to publish the information collected under the provisions of the program.

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.

These forms are used in other Rural Development information collections; therefore, it is not practical to include an OMB expiration date because of the different expiration dates for each collection. RHS is seeking approval to not display the OMB expiration date on these forms.

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

No exceptions are 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 collection is not related to the Service Center Initiative.