

**2017 SUPPORTING STATEMENT**  
**7 CFR Part 3575, Subpart A, “Community Programs Guaranteed Loans”**  
**(OMB No. 0575-0137)**

**1. Explain the circumstances that make 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 Facilities Division of RHS is considered Community Programs under the 7 CFR, part 3575, subpart A.

The RHS is authorized by Section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) to make loans to public agencies, nonprofit corporations, and Indian tribes for the development of essential community facilities primarily serving rural residents.

Community Programs (CP) has been in existence for approximately 40 years and has provided insured loan funds and grants through the Community Facilities program to finance many types of projects varying in size and complexity from large general hospitals to small fire engine loans.

The Community Programs guaranteed loan program began in 1990 when Congress allocated funds for this program. The guaranteed loan program encourages lender participation and provides specific guidance in the processing and servicing of guaranteed Community Facilities loans.

**2. Indicate how, by whom, and for what purpose information is to be used.**

The Rural Development field offices will collect information from applicants/ borrowers, their lenders, and consultants. This information will be used to determine applicant/borrower eligibility, project feasibility, and to ensure borrowers operate on a sound basis and use loan funds for authorized purposes. Failure to collect proper information could result in improper determinations of eligibility, improper use of funds, and/or unsound loans.

Specifically, the burden to be cleared with this docket is as follows:

**REPORTING REQUIREMENTS - NO FORMS**

**Proof of Lender Eligibility.** This requirement is necessary to ensure the lender is capable of meeting the requirements of the enabling legislation as well as providing a reasonable assurance to the Government that the lender will provide maximum protection of the Government’s investment in the borrower's operation.

**Intergovernmental Review.** Executive Order 12372 requires consultation with State officials on projects proposed for Federal financing. States may choose the Federal programs they wish

to review. Clearinghouse review and approval is necessary to ensure the project is consistent with state planning purposes.

**Financial Feasibility Analysis.** In order to provide necessary information to make sound decisions on the financial feasibility of proposed projects an overall review of the applicant's financial status, including a review of all assets and liabilities must be part of the docket review by the Agency. The level of analysis varies by project and applicant; however, all applicants must provide a feasibility evaluation.

**Pre-application and /Application Packaging.** The lender packages information for preapplication and application packages that are completed by both the lender and applicant, which is necessary for proper analysis and the loan determination process performed by Rural Development.

**Change in Approved Interest Rate.** The lender must notify the Agency of any changes in interest rate between the date of issuance of the Conditional Commitment for Guarantee and before the issuance of the Loan Note Guarantee with sufficient information to ensure that the proposed project is still financially feasible at the new rate and to allow the Agency to modify its Conditional Commitment as appropriate.

**Design and Plan Authorization.** The lender and borrower must authorize plans and design for the proposed facility based on the preliminary architectural report approved by the lender to ensure that the facility is constructed using sound construction practices and codes.

**Construction Monitoring.** The lender is responsible for monitoring the progress of construction and doing the necessary reviews and inspections to ensure that construction proceeds according to the approved plans, specifications and contract documents and that funds are used for eligible project costs.

**Construction Monitoring Problem Report.** The lender must report expeditiously to the Agency, any problems in project development so that a determination can be made as to whether the facility can be completed, that funds were used for eligible project costs and that the project, as a whole, is still financially feasible.

**Certification Prior to Issuance of Loan Note Guarantee.** Before the Loan Note Guarantee is issued, the lender must certify that certain requirements have been met. This certification is usually in written form and ensures that the guaranteed loan is made in accordance with Agency regulations. The lender must certify that all planned property acquisition has been completed and all development has been substantially completed in accordance with plans and specifications. Certification is also required that all required insurance is in effect, all truth in lending, National Historic Preservation, debarment, equal employment opportunity, and equity requirements have been met as spelled out in Rural Development regulations. The lender must also certify that the loan has been properly closed, the borrower has marketable title to the collateral owned by the borrower, and the loan proceeds have been disbursed for purposes and in amounts consistent with the Conditional Commitment for Guarantee. This is considered part of the Pre-guaranteed review and burden has been included under this section.

**Lender Notification of Inspections.** Rural Development requires the lender to notify the Agency of any scheduled field inspections during construction and after issuance of the Loan Note Guarantee. The notification normally should be in written form and will be placed in the borrower's casefile as evidence of these inspections. This action is required by the Agency to ensure compliance with Agency regulations and to ensure that the construction is of satisfactory quality. Burden hours are included in the Application Development, Construction Contracts, and Loan Servicing/Audits.

**Determination of Valid Fair Housing Marketing Plan.** If the borrower is required to complete a Fair Housing Marketing Plan, the lender is required to ensure that a valid plan is in place at all times and to review and determine that the plan is acceptable and being followed. Fair Housing Marketing Plans are required for all projects that have 5 or more units or 5 or more beds that provide voluntary housing for more than 30 days to ensure that all residents of a facility's service area, especially those least likely to learn of the facility and apply for admission through normal means (newspapers, etc.), are provided the information in a format or language that enables them to take advantage of the services offered. The plans are in writing and are required as part of the application package and are renewed every 3 years thereafter.

**Notification of Default.** The lender is required to notify the Agency, in writing, of any default, monetary and non-monetary, by the borrower within 30 days of the default. The notification allows the lender and Agency to determine the best course of action in the event the default action continues and jeopardizes the ability of the facility to continue as a going concern thereby jeopardizing the lender and Agency's position.

**Receipt and Review of Financial Statements.** The lender is responsible for servicing the entire loan. Failure to properly service the loan may result in cancellation of the guarantee or an adjustment in the percent of guarantee.

The borrower is required to provide the lender, at a minimum, an annual financial statement, which the lender will analyze to determine the soundness of the borrower's operations. The lender must ensure that the financial statements provided comply with the Conditional Commitment for Guarantee and the Loan Note Guarantee. The lender provides a summary evaluation to Rural Development.

**Replacement of Loan Note Guarantee or Assignment Guarantee Agreement.** In the event that a Loan Note Guarantee or Assignment Guarantee Agreement is lost, stolen, destroyed, mutilated or defaced the lender must submit the required documents and an indemnity bond to the Agency prior to the issuing a replacement document. The Loan Note Guarantee is the signed commitment from the Agency and constitutes an obligation supported by the full faith and credit of the United States. The Assignment Guarantee Agreement passes that commitment to holders of portions of the guaranteed loan.

**Repurchase of Loan.** In the event of a default or servicing action, it may be necessary for the lender to repurchase the assigned or participated portions of the guaranteed loan from the holders. This must be done within 30 days of demand from the holders. The lender must notify

the holders and the Agency, in writing, of its decision to repurchase within 30 days of receipt of the demand.

**Change in Interest Rate.** During the life of the loan, the lender, borrower and holders (if any) may effect a permanent reduction in the interest rate on their guaranteed loan. The lender is required to notify the Agency, in writing, within 10 calendar days of the change. The notification is necessary to ensure that the Agency has the correct interest rate on record as after a permanent rate reduction, the Loan Note Guarantee will only cover the reduced interest rate. Non-notification could result in the Agency paying more than the lender is entitled to in the event of loan liquidation.

**Protective Advances.** The lender may make protective advances, such as payment of taxes, insurances, annual assessments and ground rent, in order to protect the value of the security for the loan. The lender must provide documentation to and receive written approval from the Agency for cumulative advances of \$5,000 to the same borrower. As these advances are covered by the Loan Note Guarantee, the Agency must provide concurrence to ensure that the costs are reasonable and necessary.

**Future Recovery.** After liquidation and a final loss have been paid, any additional funds recovered by the lender will be pro-rated between the lender and the Agency in accordance with the guaranteed percentage. The lender must promptly remit the Agency's share.

**Liquidation.** When liquidation is necessary, the lender will prepare a liquidation plan in accordance with the lender's loan agreement and the Lender's Agreement. The plan will contain information on how liquidation will be conducted, proof of the lender's ownership of the note and other security instruments, information concerning the borrower's assets, proposed method of obtaining maximum collection, and an estimate of the market and potential liquidated value of collateral.

**Bankruptcy Responsibilities.** The lender must protect the guaranteed loan debt and all collateral securing it in case of bankruptcy proceedings. The lender will file a proof of claim, where necessary, and all required papers and pleadings, participate in meetings of creditors and all court proceedings, adequately protect the collateral, and keep Rural Development informed, in writing, of all aspects of the proceedings.

**Transfers and assumptions.** In case of a transfer and assumption either to an eligible or ineligible borrower, the lender is responsible for collecting and submitting a one-time non-refundable standard fee plus the cost of the appraisal to Rural Development.

The lender is responsible for making a complete credit analysis to determine viability of the project and will provide Rural Development with a statement that the transaction can be properly transferred and will file, register, or record all conveyance instruments as appropriate.

The lender will note all transfers and assumptions on all originals of Loan Note Guarantee(s) and provide Rural Development with a copy of the transfer and assumption agreement. The lender

is responsible for notifying Rural Development before any borrower or guarantor is released from liability.

**Disposition of Acquired Property.** The lender will develop a plan as soon as possible to ensure all collateral is fully protected and a method of disposing of collateral is affected. If the plan does not address disposition of acquired property, the lender will prepare and submit to Rural Development a plan on the best method of sale considering all prospective purchasers. Failure to develop a plan and proceed according to the plan may result in a non-recoverable loss to the Government.

**Termination of Loan Note Guarantee or Contract of Guarantee.** The lender may request Rural Development to terminate the Loan Note Guarantee for any reason provided the lender holds all the guaranteed portions of the loan. In this case, the lender is required to provide Rural Development with a written notice that the loan(s) is paid in full and/or notice of the termination of the Loan Note Guarantee. These requests are kept in the borrower's file as evidence that the request(s) was in accordance with Agency regulations. This notice can be indicated on the Guaranteed Loan Status Report and the burden is included in this form.

**Appeal.** If an applicant or lender wishes to appeal an adverse decision by Rural Development, they must jointly execute a written request for review of the decision. Both the lender and the applicant must participate in the appeal.

## **REPORTING REQUIREMENTS – FORMS**

**Form RD 3575-1, "Application for Loan and Guarantee (Community Programs)."** This form is used by both the lender and organization to make application for a Rural Development CP guaranteed loan. The form supplies information needed to determine the use of the requested funding and aids in making an evaluation of the ability of the lender's and organization's qualifications to meet objectives of the program.

**Form RD 449-14, "Conditional Commitment for Guarantee."** This form is used to advise the lender that the loan has been conditionally approved for a guarantee, subject to the lender meeting the conditions set forth on this form. The lender is required to read and understand the conditions of this commitment and sign as certification that he understands and agrees to abide by the conditions.

**Form RD 1980-19 "Guaranteed Loan Closing Report."** The lender is required by the Agency to submit a Guaranteed Loan Closing Report for every loan to be guaranteed. All lenders complete this form for every loan guaranteed. The form includes information necessary for the Agency to complete the transactions to set-up the account correctly in the accounting system.

**Form RD 449-35, "Lender's Agreement."** When the Loan Note Guarantee is issued, Form RD 449-35 is issued. This agreement sets forth the lender's loan responsibilities and is signed by both the lender and the Rural Development official.

**Form RD 449-36 “Assignment Guarantee Agreement.”** If a lender assigns the guaranteed portion of a loan to a holder(s), the lender, the Agency and the holder(s) will execute Form RD 449-36. This is the agreement that sets forth the terms and conditions of the assignment. A copy of this form is filed by the Agency approving office as documentation that the assignment was executed in accordance with Agency regulations. The assignment can be done at either the loan closing or anytime during the life of the loan; therefore, the form is listed under “closing” and “servicing.”

**Form RD 400-1, Equal Opportunity Agreement.** This form is required for all construction contracts in excess of \$10,000 where the contractor must comply with Executive Order 11246, “Equal Employment Opportunity”. The borrower and lender are responsible for ensuring that the contractor complies with these requirements.

**Form RD 400-6, Compliance Statement.** This form is required for all construction contracts in excess of \$10,000 where the contractor must comply with Executive Order 11246, “Equal Employment Opportunity”. The borrower and lender are responsible for ensuring that the contractor complies with these requirements.

**Form RD 1980-41, “Guaranteed Loan Status Report.”** This form is used by the lender to inform Rural Development of the principal and interest balance on outstanding guaranteed loans and to inform Rural Development of the loan status (current or delinquent).

**Form RD 1980-44, “Guaranteed Loan Borrower Default Status.”** When a borrower defaults on a guaranteed loan, the lender is required to inform Rural Development of the borrower’s status by using Form 1980-44. This form is prepared on each borrower in default to keep Rural Development informed of the current status.

**Form RD 449-30, “Guarantee Loan Report of Loss.”** In cases of bankruptcy, liquidation, and debt writedown, the lender is required to submit this form to Rural Development to report the amount of estimated and final loss on the loan.

**Form RD 1980-43, “Lender’s Guaranteed Loan Payment to USDA.”** This form is used by the lender to transmit payments due to USDA as a holder. These are funds due to USDA when USDA has purchased all or a part of the guaranteed portion of the loan including USDA’s pro-rata share of any payments received from the borrower or any funds received by the lender in the process of liquidation.

## **REPORTING REQUIREMENTS – FORMS APPROVED UNDER OTHER NUMBERS**

**SF-424, Application for Federal Assistance, OMB No 4040-0004.** The form is used by non-Federal entities to apply for grants, and by Federal grants management staff to evaluate applicants for Federal financial assistance. It is approved under OMB No. 4040-0004.

**HUD Form 935.2A, Affirmative Fair Housing Marketing Plan, OMB No 2529-0013.** In order to ensure that those least likely to know of and apply for the program benefits are notified of the proposed and existing facility, Affirmative Fair Housing Marketing Plans are required from each borrower that has a facility with 5 or more units or 5 or more beds that provide voluntary housing for more than 30 days. The form is required at the time of application and then again every 3 years thereafter. The burden for the two different reviews is different and is counted separately on this collection. This form is approved under OMB No. 2529-0013.

**Environmental Report (ER), OMB No 0575-0197.** At a minimum, the ER will include a complete description of all components of the applicant's proposal and any connected actions, including its specific location on detailed site plans as well as location maps equivalent to a U.S. Geological Survey (USGS) quadrangle map; and information from authoritative sources acceptable to the Agency confirming the presence or absence of sensitive environmental resources in the area that could be affected by the applicant's proposal. The ER submitted must be accurate, complete, and capable of verification. This document replaces form RD 1940-20 "Request for Environmental Information" which was made obsolete by the discontinuation of OMB collection package 0575-0094. This report is approved under OMB No. 0575-0197.

**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, and the basis for deciding to adopt these collection methods.**

Information needed is specific to each applicant, many of which may be small organizations not equipped for high technology information gathering. Rural Development attempts to use data from borrower and lender, the majority of which is generally available although perhaps not through use of latest technology. Rural Development has many requirements that involve certifications from the borrower and lender as well as other parties involved in the project. Rural Development could not comply with legislative mandates without these certifications.

**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 loan programs that are similar. If there were simultaneous participation in more than one Agency loan program, 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 by 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 the 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 consequence to Federal program or policy activities if collection conducted is not 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. Additionally, the Agency does not require any more information than a prudent commercial lending institution usually requires. Information is collected only when needed, and we believe no reduction of collection is possible. Without this collection, the Agency would not be able to meet its statutory mandates.

**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.

**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 the lender and borrower to provide the Agency with information as soon as possible. The Agency cannot provide the lender with program benefits until documentation is received to support the lender'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 availability of data, frequency of collection, clarity of instructions and recordkeeping, disclosure, or reporting format.**

A Federal Register Notice was published on March 31, 2017 [Vol. 82, No.61, page number 16024]. No comments were received.

Three active guaranteed lenders were contacted by phone and surveyed regarding the burden of collecting information at the time of application and to meet ongoing servicing requirements. Overall, the lenders were positive in their views of the collection of information. Their comments are summarized below:

Steve Saltzman, Director of Food System Finance and K-12 Educational Lending, Center for Community Self-Help/Help Credit Union/Self-Help Ventures, North Carolina – *Completing and compiling the application and servicing materials is really easy and the instructions are clear. The frequency and amount of data collected is very reasonable. We would like to see more flexibility for when a 3<sup>rd</sup> party feasibility report is required. The CF program is one of the most nimble & flexible to work with – we love our partnership with USDA.*

Bob Madsen, Vice President – Rural Capital Network, AgStar Financial Services, Minnesota - *Completing and compiling the application and servicing materials is very easy and the instructions are clear. The only exception is the requirement to provide a sample loan agreement can be difficult at the application stage on large complex transactions. The frequency and amount of data collected is reasonable. However, we could use more time to provide the lender's analysis for borrowers undergoing audits.*

Jeff Hollingsworth, VP Special Finance Group, Cedar Rapids Bank & Trust, Iowa - *Completing and compiling the application and servicing materials is very easy and the instructions are clear. The frequency and amount of data collected is very reasonable. When I did have questions on my first transaction, I was able to contact the State Office and get my questions answered quickly.*

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

This submission is for 680 respondents with 2,797 responses and 12,401 man-hours for completing all individual reporting requirements. The number of respondents combine 650 existing loan respondents and 30 new loan respondents. This estimate was based on information in existing reports, experience of Agency employees in handling the elements in the burden and discussions with lenders. The cost per hour represents the average salary for a loan officer as listed in the May 2015 National Occupational Employment and Wage Estimates published by the Bureau of Labor Statistics ([www.bls.gov/oes/current/oes\\_nat.htm](http://www.bls.gov/oes/current/oes_nat.htm)). We used the 90-percentile salary since the commercial loan officers are usually the higher paid loan officers.

Please 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, (do not include the cost of any hour burden shown in items 12 and 14). The cost estimates should be split into two components: (a) a total capital and start-up cost component annualized over its expected useful life; and (b) a total operation and maintenance and purchase of services component.**

There are no start-up or operation and maintenance costs involved.

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

The annual cost, for the Agency to administer this program is \$3,733,156. Below is a breakdown of the employee positions and grade levels that will administer this program. Salaries are based on a Step 5 for each grade level as of January 2017.

	Number of	Grade	Salary	Time	Cost
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	People				
<b>National Office</b>					
Division Director	1	15	\$149,337	.10	\$14,934
Loan Specialist	4	13	\$107,435	.30	\$128,922
<b>State Office</b>					
Program Director	47	13	\$97,258	.10	\$ 457,113
Loan Specialist	47	12	\$81,792	.15	\$ 576,634
<b>Area Office</b>					
Area Director	141	13	\$ 97,258	.01	\$ 137,134
Area Specialist	141	11	\$ 68,236	.15	\$1,443,192
Area Technician	141	7	\$ 46,110	.15	\$975,227
TOTAL					\$3,733,156

Staff time will vary with appropriation levels because the amount of available resources does affect how many applicants will apply and need evaluation for funding and how many projects will need monitoring and servicing as well as the number of individuals involved. This estimated cost is based on the loan being processed and serviced in the Area Office.

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

The reduction in burden of 3,205 hours is primarily the result of evaluating and updating the numbers to reflect the past three years of activity in the Community Facilities guarantee program. The previous burden assumed approximately 54 applications per year while the current data reflects approximately 30 applications per year. The reduction in number can likely be attributed to (1) an increase in Community Facilities direct loan funds which shifted priority to utilization of direct loan dollars; and (2) the average dollar guarantee increased from \$3 million in the previous burden package to \$5 million. While the program dollars available have remained mostly stable, the requests have been larger resulting in fewer applications and obligations.

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

Rural Development has no plans to publish the information collected under the provisions of this 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. CP 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-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 collection is not related to the Service Center Initiative.