

U.S. Department of Energy
Supporting Statement
Loan Programs Office
OMB Control Number: 1910-5134
10 CFR Part 690
“DOE Loan Guarantees for Energy Projects”

This supporting statement provides additional information regarding the Department of Energy (DOE or Department) request for revision of a previously approved information collection by the Loan Programs Office (LPO).

1. Explain the circumstances that make the collection of information necessary.
Identify any legal or administrative requirements that necessitate the collection.
Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

Approval of this Information Collection Request (ICR) is being requested to effectively manage LPO funds and ensure the Department meets public transparency and accountability standards.

Title XVII of the Energy Policy Act of 2005 (EPAct 2005) (42 U.S.C. 16511-16514) authorizes the Secretary of Energy, after consultation with the Secretary of the Treasury, to make loan guarantees for specified projects (Title XVII Program). The Tribal Energy Loan Guarantee Program, enacted by Section 2602(c) of the Energy Policy Act of 1992, as amended (TELGP), (25 U.S.C. 3502(c)) also authorizes the Secretary to make loan guarantees for specified projects. Regulations implementing Title XVII, the application requirements of which were also adopted for TELGP, located at 10 CFR part 609, establish the information required to be obtained from each applicant for a loan guarantee under either program; such requirements have been set forth in the solicitations of applications under each program.

This information collection is needed to obtain from applicants under either of such loan guarantee programs the information that needs to be evaluated by DOE in order to determine whether to issue a loan guarantee with respect to each applicant.

This information collection is also necessitated by requirements and requests for timely information on program activities to the Office of Management and Budget (OMB), Congress and the public.

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 collected will be used by DOE to plan, manage, and evaluate its loan guarantee program. The information will be used to answer congressional, budget, and

public inquiries. Additionally, the collection helps the LPO to manage its funds and make projections as to risks.

The information collected will be used to determine applicant eligibility for loan guarantees, to evaluate applications received, and to protect the government's financial interests.

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. Also describe any consideration of using information technology to reduce burden.

LPO requires that applications be submitted in electronic format through LPO's electronic application portal, which can be found at <http://apps.loanprograms.energy.gov>. Only the most basic information about the applicant will be entered by applicant at the application portal by typing such information, such as project names or brief descriptions, directly into text boxes. Other basic information (such as project or application categories) will be provided by the applicant by making selections from an online menu.. The remaining information required by the application will be collected by allowing the applicant to upload it electronically through the application portal. These means of collecting information were adopted to make submitting, retrieving, and using the information easier and cheaper, reducing the hour burden and the cost burden.

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.

Neither DOE nor other federal agencies collect similar information from applicants for DOE loan guarantees. Companies that sponsor projects that may be eligible for loan guarantees will necessarily develop similar information as they seek debt financing and equity investment. These companies will be able to use much of this information already assembled or prepared in responding to this information collection, thus reducing the burden on respondents.

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.

Most eligible projects will be larger than those that small businesses usually undertake. Nevertheless, LPO has taken steps to increase the attractiveness of the program to smaller businesses. The process of requiring a two-part application is designed, in part, to enable LPO to screen interested projects and provide an early indication of projects' eligibility for a loan guarantee under this program. LPO substantially reduced the Part I fee from the level of fee previously required (in the hundreds of thousands of dollars) to \$50,000 in the case of the Title XVII Program, and \$10,000 in the case of TELGP, in each case to make it more economical for smaller businesses to apply. LPO will use Part I of the

application to screen for project eligibility and readiness to proceed, before inviting an applicant to submit Part II of the application. Thus, by allowing LPO to engage in an initial review of project proposals, the two-part application may reduce the paperwork burden for small and larger businesses alike, or at least lessen the burden of a subsequent full application. Additionally, LPO substantially reduced the Part II fee from the level of fee previously required (\$925,000) to a variable fee based on the dollar amount of the financing in the case of the Title XVII Program. For the Title XVII Program Part II fee, applicants requesting an amount that does not exceed \$150,000,000 as the principal amount of the Guaranteed Obligation pay \$100,000; applicants requesting an amount that exceeds \$150,000,000 as the principal amount of the Guaranteed Obligation pay \$350,000. For the TELGP Part II fee, applicants will pay \$25,000. In order to allow newer entities, or even start-ups, to participate in the program, LPO allows applicants that are not able to provide a description of two full years of their experience in projects of similar scope to provide evidence of their expertise in an alternative description.

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.

If the information is not collected, DOE will be unable to implement the Title XVII Program or TELGP.

Additionally, if the information is not collected, DOE will be unable to effectively respond to congressional, budget, and general public inquiries about LPO program activity.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines. (a) requiring respondents to report information to the agency more often than quarterly; (b) requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it; (c) requiring respondents to submit more than an original and two copies of any document; (d) requiring respondents to retain records, other than health, medical government contract, grant-in-aid, or tax records, for more than three years; (e) in connection with a statistical survey, that is not designed to product valid and reliable results that can be generalized to the universe of study; (f) requiring the use of statistical data classification that has not been reviewed and approved by OMB; (g) that includes a pledge of confidentiality that is not supported by authority established in stature of 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; (h) requiring respondents to submit proprietary trade secrets, 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 are no special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines. The collection is consistent with OMB guidelines.

LPO notes that because the projects seeking loan guarantees may employ new or innovative technologies or otherwise depend on confidential business information, the applicants may submit proprietary trade secrets and other confidential business information from time to time in order to justify the extension of a loan guarantee by DOE. LPO can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden. 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, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

The information required to be submitted under the Title XVII Program was established under final regulations implementing Title XVII, located at 10 CFR part 609. The application requirements of such regulations were also adopted for purposes of TELGP, with certain immaterial modifications and omissions.

DOE published a Notice of Proposed Rulemaking, published in the Federal Register on October 3, 2016, Volume 81, Number 191, Page 67924, with respect to such requirements. The public comments and responses to such Notice of Proposed Rulemaking were previously detailed in connection with the prior extension of this information collection request. No changes have been made to such requirements since such time, and no additional comments have been received since such time.

In accordance with the requirements of the Paperwork Reduction Act, DOE also issued a notice and request for comments with respect to the proposed extension of its information collection for the Title XVII Program and TELGP. Such 60-day notice was, published in the Federal Register on August 15, 2018, Volume 83, Number 158, Page 40503.

DOE did not receive any public comments in response to such notice.

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

No payment or gift to respondents is being proposed under this information collection.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

The information and materials DOE requires from an applicant for the applicant to demonstrate compliance with the information collection requirements of 10 CFR Part 609 do not include any requests for personally identifiable information.

This information collection provides the following assurance of confidentiality to respondents, under the Freedom of Information Act (5 U.S.C. 552):

“Patentable ideas, trade secrets, proprietary and confidential commercial or financial information, disclosure of which may harm the Applicant, should be included in an Application only to the extent that such information is necessary to convey an understanding of the proposed project or facility. The use and disclosure of such data may be restricted, provided the Applicant specifically identifies and marks such data in accordance with 10 CFR 600.15 described below:

1. Upload the following legend on a separate page in response to Section B of Part I and/or Section A of Part II of the Application, respectively (be sure to specify the section number(s) from the Application that contain(s) such data): “Applicant hereby certifies that Section(s) [____] of this Application may contain trade secrets or commercial or financial information that is privileged or confidential and is exempt from public disclosure. Such information shall be used or disclosed only for evaluation purposes or in accordance the loan guarantee agreement, if any, entered in response to this Application. If this Applicant is issued a loan guarantee under Title XVII of the Energy Policy Act of 2005, as amended, as a result of, or in connection with, the submission of this Application, DOE shall have the right to use or disclose the data contained herein, other than such data that have been properly declared in the loan guarantee agreement to be trade secrets or commercial or financial information that is privileged or confidential and is exempt from public disclosure.”

2. Include the following legend on the first or cover page of each document or electronic file submitted that contains such data (be sure to specify the page numbers from such document or electronic file that contains such data): “Notice of Restriction on Disclosure and Use of Data Pages [____] of this document may contain trade secrets or commercial or financial information that is privileged or confidential and is exempt from public disclosure. Such information shall be used or disclosed only for evaluation purposes or in accordance with a financial assistance or loan agreement between the submitter and the Government. The Government may use or disclose any information that is not appropriately marked or otherwise restricted, regardless of source.”

3. Include the following legend on each page containing trade secrets or commercial or financial information that is privileged or confidential: "May contain trade secrets or commercial or financial information that is privileged or confidential and exempt from public disclosure."
4. In addition, each line or paragraph containing trade secrets or commercial or financial information that is privileged or confidential must be marked with brackets or other clear identification, such as highlighting."

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. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

No questions of a personally sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private are included in this information collection. The information collected is of a programmatic, technical, and financial nature. As a condition of the receipt of program assistance in the form of a loan guarantee, the information collection requires that respondents provide disclosure of income data, debts, and assets, and a history of business dealings that may be considered sensitive but which are customarily required even for private sector financing transactions of similar size and complexity. Respondents interviewed indicated no problems or concerns with providing the information requested by this collection. They understand the necessity due to the nature of the assistance and realize this is standard practice when requesting credit assistance. Disclosure by DOE is governed by the Privacy Act of 1974 and the Freedom of Information Act (5 U.S.C. § 552a).

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

The responses that are required in this information collection include technical and financial information, including information regarding their complex technologies and financial models. Accordingly, the estimate of hour burden of the information collection is as follows:

Total number of unduplicated respondents: 20

Reports filed per respondent: 1

Total annual responses: 20

Total annual burden hours: 2,600 hours

Average Burden

Per Collection: 130 hours

Per Respondent: 130 hours

The estimates above were made on the basis of the experience of LPO in administering the program and the collective experience in particular of LPO's staff collecting this information in connection with the LPO programs and working with applicants. The estimates are based on the assumption described in response to item 13 below regarding the type of applicant staff typically involved in furnishing the required information and the time required of each staff type.

13. Provide an estimate for 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 estimate of cost for the hour burden of the information collection is \$26,296 per applicant. A breakout estimating the various components of this estimated cost (e.g. collecting data, compiling information, reviewing, submitting, legal review), which takes into account the assumed salaries of the positions that would be required to prepare the application (e.g. clerical, engineer, legal) is:

ESTIMATED COST BURDEN TO APPLICANT			
FUNCTION	RATE	HOURS	TOTAL COST
Collecting information	\$ 79	40.0	\$ 3,155
Compiling information	\$ 79	40.0	\$ 3,155
Management review	\$ 263	20.0	\$ 5,259
Legal review	\$ 657	20.0	\$ 13,148
Submitting information	\$ 53	10.0	\$ 526
Other labor/services	\$ 21	2.5	\$ 52
General expense*	n/a	n/a	\$ 1,000
TOTAL			\$ 26,296

* General expenses include supplies, delivery charges, mailing, copying, telecommunications, etc.

In addition, as detailed above in item 5, there is a fee of \$50,000 (for Title XVII Program applicants) or \$10,000 (for TELGP applicants), payable to DOE when the initial application is submitted, with an additional application fee of up to \$350,000 (Title XVII Program applicants) and an additional application fee of \$25,000 (TELGP applicants) payable to DOE when the remainder of the application is submitted, for a maximum total application fee of \$400,000 (for Title XVII Program applicants) or \$35,000 (for TELGP applicants). Accordingly, the maximum total estimated annual cost for the information collection, including both the estimated burden cost of \$26,296 and the application fees is \$426,296 for Title XVII applicants and 61,296 for TELGP applicants. Other than the hour burden and the fee payable to DOE (which include an estimated amount for general expenses such as the cost of the CDs, if the applicant copies the application onto CDs, and express mailing, etc.), it should not be necessary for the respondents to incur any costs for capital, start-up, total operation, maintenance, or purchase of services other than what is usual and customary for normal business operations.

14. Provide estimates of annualized costs to the Federal government.

The estimated annual cost to the Federal government for reviewing the information requested in this information collection is between \$3,000,000 and \$8,000,000, or an average of \$5,500,000. The estimated cost incurred by LPO for the review of a single full application is estimated to be between \$150,000 and \$400,000, depending on the complexity of the application, based on the cost of the team of employees that processes the applications, including the employee salary, benefits, and miscellaneous expenses associated with the typical team (which varies from application to application) reviewing such applications, all based on the 2018 loaded wage rates for federal employees. On average, this amount is offset by the filing fees detailed above in the case of the Title XVII Program, which is required by Title XVII to cover the costs incurred by LPO through the collection of fees.

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

As described in Item 13, due to programmatic changes, DOE estimates fewer responses annually, reducing from 100 responses to 20 responses; assuming an almost identical hourly burden estimate per response (132.5 hours), the total hourly burden estimate has decreased from 13,000 to 2,650 hours annually. This change arises specifically from the program's efforts to better educate prospective applicants upfront about eligibility issues and related requirements of the application process, through which efforts DOE expects fewer, but higher quality applications each year in the future.

In addition, as described in item 14, as a result of an adjustment to the assumed hourly rate for response to the information request, applied across labor categories, the cost burden for each response has been adjusted slightly, increasing from \$25,000 to \$26,296 per response. However, as result of the programmatic change described above, the total cost to respondents has significantly decreased from \$2,500,000 to \$525,917.

The baseline hour and cost burdens were estimated after several years of experience with the program. As previously described for the existing information collection, the information that is being collected pursuant to this information collection request is information the applicants already have in their possession. The burden estimate for the information collection request is based on the estimated time it will take to organize and assemble responses. The burden estimate considers the time it will take to pull together, organize, and upload all of the information requested as part of an application. Compared to our prior extension of this information collection request, this calculation assumed an additional 2.5 hours in an additional labor category associated with the prior "general" expense category, reflecting time associated with expenses in that category (supplies, delivery charges, mailing, copying, telecommunications) that was previously omitted from the estimates. Based on LPO's experience administering these programs, LPO understands that its applicants have the information available requested by the application before it is requested by the LPO. Before making an application to the LPO (the

response to the information collection request) the applicants will have used the information in some form for the purposes of securing other lenders and raising equity.

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, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

There will be no collections of information whose results will be published for statistical use. The information collected is not intended to be published. No complex analytical techniques will be employed. There will not be a report on the information LPO collects, other than quarterly and annual reporting on the progress of the loan guarantee program as a whole.

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.

The OMB control number, OMB expiration date, and burden disclosure statement will be included on all forms and instructions, including the electronic forms found on DOE's application portal.

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 to the certification statement in item 19.