

2019
U.S. Department of Agriculture
Rural Utilities Service

SUPPORTING STATEMENT
OMB Control No. 0572-0122

7 CFR Part 1779, “Water and Waste Disposal Programs Guaranteed Loans”

A. Justification

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

The Rural Utilities Service (RUS) 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 water and waste disposal facilities primarily serving rural residents. RUS is requesting OMB clearance of the reporting requirements for 7 CFR Part 1779, Water and Waste Disposal Programs Guaranteed Loans.

Water and Waste Disposal Programs (WW) have been in existence for over 70 years and provide insured loan and grant funds through the WW program to finance many types of projects varying in size and complexity. Implementation of the Water and Waste Disposal guaranteed loan program complies with the Appropriations Act of 1990 when Congress allocated funds for this authority. The guaranteed loan program encourages lender participation and provides specific guidance in the processing and servicing of guaranteed WW loans.

2. Indicate how, by whom, and for what purpose 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 is collected by Rural Development field offices from applicants/borrowers, their lenders, and consultants. The information is 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 regulation is as follows:

REPORTING REQUIREMENTS - NO FORMS

Legal Authority and Responsibility.

Each borrower must have, or obtain, legal authority necessary to own and operate the proposed facility, incur and repay debt, and pledge security for the loan. Copies of items such as charters, bylaws, and articles of incorporation are needed so RUS can determine the applicant has the proper authority to borrow money for the proposed project.

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 for loan approval.

Pre-application/Application Development.

The borrower/lender prepares information for pre-application and application packages which is necessary for proper analysis and the loan determination process performed by RUS. The information should include items listed in §1779.52(b) such as financial statements, audits, copies of organizational documents, existing debt instruments, and other items that are not described elsewhere. A financial feasibility analysis is required which includes an accurate projection of the usage, revenues, and expenses of the facility. Also included is an environmental report prepared in accordance with 7 CFR Part 1970. (Cleared under 0575-0197)

Construction started prior to receipt of application.

When applicants start construction prior to the submission of an application, documentation is required to ensure the construction was not started to circumvent environmental review requirements. In the past 20 years, we have had no such applications. Burden hours are included under Application Development.

Cancellation of Conditional Commitment for Guarantee.

The Agency must be advised immediately if the conditional commitment for guarantee is cancelled by the lender for any reason.

Construction Contracts.

At the end of construction, the lender must provide written certification that all guaranteed loan funds were utilized for authorized purposes and RUS design policies have been met. The lender will report any problems in the project development to the Agency.

Lender Notification of Inspections.

RUS requires the lender to notify the Agency of 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 case file as evidence of these inspections. The action is required by the Agency to ensure compliance with Agency regulations and to ensure construction is of satisfactory quality. Burden hours are included in the Application Development, Construction Contracts, and Loan Servicing/Audits.

Pre-guarantee Review.

The pre-guarantee review is necessary to ensure that all conditions for the loan guarantee have been met prior to loan closing. The lender provides documents and certifications to satisfy requirements of all conditions for the Loan Note Guarantee to be executed.

Lender Certification.

Before the Loan Note Guarantee is issued, the lender must certify that certain requirements have been met. The certification is usually in written form and ensures that the guaranteed loan is made in accordance with Agency regulations. The lender must certify that planned property acquisition has been completed and all development has been substantially completed in accordance with plans and specifications. Certification is also required that required insurance is in effect, National Historic Preservation, debarment, equal employment opportunity, and equity requirements have been met as spelled out in RUS regulations. The lender must 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-guarantee review and burden has been included under this section.

Loan Servicing/Audited 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 lender must notify the Agency of any violation of the loan agreement by the borrower within 30 days of such violation. The borrower is required, at a minimum, to provide the lender annual financial statements which the lender will analyze to determine the soundness of the borrower's operations. The lender provides a summary evaluation to RUS.

Borrower Default.

In case of borrower default, the lender is responsible for notifying RUS officials and preparing a plan to correct the default. The lender will keep the Agency informed until the loan is no longer in default. The position of both RUS and the lender may be jeopardized if curative actions are not taken promptly. Should the lender be requested by a holder to repurchase a loan in default, a copy of the holder's written demand and the lender's written response must be furnished to the Agency. Should the lender not

repurchase the loan, the Agency will purchase the guaranteed portion of the loan upon written demand of the holder.

Liquidation.

When liquidation is necessary, the lender will prepare a liquidation plan in accordance with the lender's loan agreement and Form RD 449-35. 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. A detailed list of the items to be included in the liquidation plan is at §1779.81(c).

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 RUS 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 RUS.

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

The lender will note all transfers and assumptions on all originals of Loan Note Guarantee(s) and provide RUS with a copy of the transfer and assumption agreement. The lender is responsible for notifying RUS 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 established. If the plan does not address disposition of acquired property, the lender will prepare and submit to RUS 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.

Lender's Request to Terminate Loan Note Guarantee or Contract of Guarantee.

The lender may request RUS 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 RUS 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 remain 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.

Replacement of Loan Note Guarantee and Assignment of Guarantee.

In incidences where the Loan Note Guarantee or Assignment of Guarantee is lost, stolen, destroyed, mutilated, or defaced, the Lender must notify RUS and request a replacement. The required documentation as described in §1779.73 must be included with the request. This would be considered part of loan servicing activities. To date, there has been no such request.

REPORTING REQUIREMENTS - FORMS APPROVED UNDER OTHER NUMBERS

Form RD 3575-1, "Application for Loan and Guarantee (Community Programs)."

(Cleared under 0575-0137)

This form is used by both the lender and borrower to make application for a RUS WW guaranteed loan. The form supplies information needed to determine the use of the requested funding and aids in evaluating the ability of the lender and borrower to meet objectives of the program.

Form RD 449-14, "Conditional Commitment for Guarantee." (Cleared under 0575-0137)

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 the form. The lender must read and understand the conditions of this commitment and sign as certification that he understands and agrees to abide by the conditions.

Form RD 449-30, "Loan Note Guarantee Report of Loss." (Cleared under 0575-0137)

In cases of bankruptcy, liquidation, and debt write-down, the lender is required to submit this form to RUS to report the amount of estimated loss on the loan. To date, the WW guaranteed loan program has not paid a loss.

Form RD 449-35, "Lender's Agreement." (Cleared under 0575-0137)

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 RUS official.

Form RD 449-36, "Assignment Guarantee Agreement." (Cleared under 0575-0137)

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, the agreement setting 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.

Form RD 1980-19, “Guaranteed Loan Closing Report.” (Cleared under 0575-0137)

The lender prepares and delivers a Guaranteed Loan Closing Report for each loan to be guaranteed and a guarantee fee to the Agency servicing office in return for the loan Note Guarantee.

All lenders complete this form for every loan guaranteed and data collected on this form is necessary to activate the guaranteed loan on the Guaranteed Loan System (GLS). Upon receipt of this form and the fee, the loan status moves from obligated to closed on GLS. Four other agencies also utilize the form, including Rural Housing Service’s Community Facilities and Single Family Housing, Rural Business Service, and Farm Service Administration.

Form RD 1980-43, “Lender’s Guaranteed Loan Payment to USDA.” (Cleared under 0575-0137)

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 payments received from the borrower or funds received by the lender in the process of liquidation.

Form RD 1980-41, “Guaranteed Loan Status Report.” (Cleared under 0570-0016)

This form is used by the lender to inform RUS of the principal and interest balance on outstanding guaranteed loans and the loan status (current or delinquent).

Form RD 1980-44, “Guaranteed Loan Borrower Default Status.” (Cleared under 0570-0016)

When a borrower defaults on a guaranteed loan, the lender is required to inform RUS of the borrower’s status by using Form 1980-44. The form is prepared on each borrower to keep RUS informed of the current status. The WW guaranteed loan program has had no borrowers in default to date.

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.

RUS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes. RUS makes forms for this program available electronically on the USDA Service Center eForms website (<http://forms.sc.egov.usda.gov/eForms/welcomeAction.do?Home>). Users may submit the form(s) electronically to the local field office.

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 and has determined that other loan programs are similar in intent and purpose. If there are simultaneous participation in more than one Agency loan program, RUS makes every effort to accommodate requests within the same set of applications and processing forms. The effort is presently facilitated by assignment of 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 are 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.

In accordance with 5 U.S.C. 601(6), the term “small entity” has the same meaning as the terms “small governmental jurisdiction,” “small business,” and “small organization”. The Small Business Administration (SBA) established a Table of Small Business Size Standards that matches to industries described in the North American Industry Classification System (NAICS). According to the standards, 100 percent (99 respondents) of the applicants and borrowers of the water and waste programs are classified as small entities. The information to be collected is the minimum necessary for RUS to evaluate applications and approve loans and grants, monitor borrower performance, and carry out the authorized programs. The agency headquarters and field staff are available for consultation and to assist in preparation, however, no unique methods are used to minimize the burden to small entities.

6. Describe the consequence 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. The Agency requires no more information than required by a prudent commercial lending institution. Information is collected only when needed, and no reduction of collection is possible. Without the collection, the Agency would be unable to meet its statutory mandates.

7. Explain any special circumstances that require 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 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 borrowers' 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 for the respondent to retain records for more than 3 years.

- e. That is not designed to produce valid and reliable results that can be generalized to the universe of study.

There are no such requirements.

- f. Requiring use of statistical sampling which has not been reviewed and approved by OMB.

There is no requirement for statistical sampling.

- g. Requiring a pledge of confidentiality.

There is no pledge of confidentiality required.

- 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 (if any), and on data elements to be recorded, disclosed, or reported.

As required by 5 CFR 1320.8(d), a notice to request comments was published in the Federal Register on April 29, 2019, at 84 FR 18002. No public comments were received.

The Agency contacted three lenders directly to discuss the paperwork burden. In general, none of the lenders interviewed stated that they felt the documentation was in excess. One lender did mention that she felt that the SF-424.1, Application for Federal Assistance, and RD 3575-1, Application for Loan and Guarantee, were duplicative. Further, none of the lenders had any issue with document accessibility, the frequency of data collection, the interpreting of eligibility criteria, or the application and reporting processes. The lenders contacted are:

- (a) Julia McCusker, Vice President, Water Services
CoBank
Greenwood Village, CO 80111
(303) 694-5858

CoBank is a frequent user of this program and has had several employees participate. Ms. McCusker utilized the program in Fiscal Year 2018. As such, she did not feel that the paperwork was excessive, nor did she have any issue with understanding or interpreting the eligibility or application processes. Related to duplication, she did feel that the SF-424.1, Application for Assistance, and RD 3575-1, Application for Loan and Guarantee, appear to be duplicative. It was suggested that we expand one of the two forms to incorporate any relevant data, and then remove the other from our processing standards. Also, Ms. McCusker recommended that we expand our electronic systems both in use and accessibility to continue to build a more user-friendly process.

- (b) E. Dawn Thompson, Senior Vice President, Government Relations
LiveOak Bank
Wilmington, NC 28403
(910) 550-1406

LiveOak Bank has recently created a water and wastewater lending division; however, they have been active with USDA's Rural Business's Business and Industry guaranteed program as well as the Small Business Administration's programs, so they are very familiar with government guarantee programs. There have been some learning pains, but they are associated with getting used to Rural Development's processes and not a program issue. The lending division's biggest concern is the preliminary engineering report (PER) requirements. They feel that it is too involved for smaller projects but are working with the state engineers to ensure completeness for the project scope. Other than the PER, they did not feel that the paperwork was excessive or difficult to understand

(C) Clint Almand, Senior Vice President
Citizens National Bank of Texas
(972) 938-4300

Rural Development recently made a guarantee to CNB of Texas for water supply improvements to the Sardis-Lone Elm Water Supply Corporation. He said he had no issues with the process and Rural Development was helpful guiding them through considering it was their first time using the WWD guarantee program. The paperwork wasn't burdensome at all from a processing standpoint especially when compared to other government type financing programs; i.e. Small Business Administration. All inclusive, their timeline was significantly longer than if it was all conventional; however, a good portion of the timeline was during the government shutdown or delays caused by the shutdown. He felt that if the shutdown out of the equation, the timing would have been much more reasonable. He was overall pleased with the process and is interested in doing additional, similar transactions.

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 contains no questions of a sensitive nature.

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

This renewal submission is for the following:

Regulation	Number of Respondents	Total Annual Responses	Total Annual Hours
7 CFR Part 1779	10	167	2,728

Wage Category	Hourly Wage and Benefits¹	Hours	Cost of Burden
Professional	\$65.04	2,046	\$133,071.84
Clerical	\$26.28	682	\$ 17,922.96
Respondents' Cost			\$152,165.52

The program level for Fiscal Year 2016 was five projects utilizing \$7,118,000, six projects totaling \$5,070,341 in FY 2017, and fifteen projects for \$21,571,642 in FY 2018. The cumulative average annualized is eight projects and \$11,253,327 in outlays. For this collection cycle, ten applications are expected and it is anticipated that eight will be funded.

RUS estimates the burden to be 2,728 total annual hours and estimates that professional time is required for 75% of the hours (2,046) and clerical time is required for 25% of the hours (682). Wage rates for the professional and clerical time were taken from the Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification wage rates at http://www.bls.gov/oes/current/oes_nat.htm#11-0000. Occupational Code 43-3031, Bookkeeping, Accounting and Auditing Clerks with a mean wage rate of \$20.25 was used for clerical time. Occupational Code 11-3011, Administrative Service Managers with a mean wage rate of \$50.11 was used for calculation of professional time.

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

(a) Total capital and start-up cost component (annualized over its expected useful life); and

There are no capital and start-up costs associated with this collection.

(b) Total operation and maintenance and purchase of services component.

There is no operation and maintenance or purchase of services costs associated with this collection.

¹ Benefit rates for private sector employees in Private trade, transportation, and utilities industry workers is provided by Bureau of Labor Statistics Historical Data issued in September 2018. See: Employer Costs for Employee Compensation, Supplemental Tables, Historical Data, December 2006 – December 2018, page 91. Retrieved from <https://www.bls.gov/web/ecec/ececqrtn.pdf>. Benefit as a percentage of total compensation for private sector employees in the utilities industry in December 2018 was 29.8%.

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

RUS estimates that each of the loans issued under the WW Guaranteed Loan Program requires approximately 29 hours and 36 minutes for cumulative documents cleared under this package, and that a total of 296 hours are required annually for review. National Office staff performs 112 hours (38%) of the total and field staff loan analysts perform approximately 184 hours (62%). Wage rates are \$40.51 and \$53.85 respectively based on the hourly wage rates for field loan analysts (GS 12, Step 5) for the locality pay area of Rest of United States and for national office loan specialists (GS 13, Step 5) for the locality pay area of Washington-Baltimore-Northern Virginia. The estimated rate of cost of total benefits for civilian Federal Government employees is 36.25% ² for percentage of benefits as a portion of total hourly wage and was provided by the OMB Memoranda referenced in the footnote below. RUS estimates the cost to the Federal Government to administer the activities of this program to be \$18,372.40 per year. A breakdown of the costs to the Federal Government to administer this program is as follows:

Wage Category	Hourly Wage and Benefits	Hours	Cost of Burden
National Office Loan Specialist GS 13, Step 5	\$73.37	112	\$8,217.44
Field Staff Loan Analyst GS 12, Step 5	\$55.19	184	\$10,154.96
Cost to Federal Government			\$18,372.40

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

This is a revision of a currently approved information collection. The increase of burden hours from 618 in the previous collection to 2,728 burden hours for this collection is due to a clarification for servicing requirements and inclusion of all financial statements due rather than just audited. That increase as well as the increase in wages and benefits since the completion of the last review account for the changes in items 13 and 14.

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

RUS has no plans to publish the information collected under the provisions of this program.

² Cost of total benefits as a percentage of total hourly compensation for civilian Federal Government employees exceeds that of private sector employees. OMB Memoranda indicate that the total Federal civilian position full fringe benefit cost factor is 36.25% See OMB Memoranda M-08-13(March 11, 2008).

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.

N/A

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

There are no exceptions requested.

B. Collection of Information Employing Statistical Methods.

This collection does not employ statistical methods.