

**United States Department of Agriculture
Farm Service Agency
Supporting Statement
OMB Control Number 0560-0238
7 CFR 761, General Program Administration**

Background

FSA's Farm Loan Programs (FLP) provide loans to family farmers to purchase real estate and equipment, and finance agricultural production. Information collected is used to administer the loan making and servicing of Farm Ownership, Operating, and Emergency loans. Information collections established in 7 CFR 761 are necessary for FSA to evaluate the applicant's loan making or servicing request and determine if eligibility, loan repayment and security requirements can be met. Information collection requirements include financial and production records of the operation to ensure that cash flow projections are based on actual production history, loans are adequately secured, applicants/borrowers meet established eligibility requirements for loan making and servicing and that lenders and contractors provide needed documentation to meet FSA requirements.

Information collection instruments approved under 7 CFR 761, are also used by FLP when borrowers enter into a guarantee land contract with sellers. It should be noted that there has been no utilization of this program by borrowers for the last 3 years; therefore, FLP will be reporting zero respondents for this program.

FSA's Farm Storage Facility Loan (FSFL) program utilizes information collection instruments approved under this Control Number to determine applicants' feasibility. While information collections for FSFL's are exempt, FSA is accounting for the collection.

Therefore, FSA is requesting approval on an extension with a revision of the currently approved information collection to support the above collection.

Justification

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

Authority to establish the regulatory requirements contained in 7 CFR 761 and 7 CFR 763 is derived from 5 U.S.C. 301 which provides that "The Head of an Executive department or military department may prescribe regulations for the government of his department,...the distribution and performance of its business..." Furthermore, section 339 of the Consolidated Farm and Rural Development Act(Act) (7 U.S.C. 1989) provides, in part, that "the Secretary is authorized to make such rules and regulations, prescribe the terms and conditions for making... loans, security instruments and agreements, except as otherwise specified herein, and to make such delegations of authority as he deems necessary to carry out this title." The Secretary has delegated the authority to administer the provisions of the Act applicable to FLP to the Under Secretary of Farm Production and Conservation (FPAC) in section 2.16 of 7 CFR part 2. FPAC has further delegated this authority to the FSA Administrator in section 2.42 of 7 CFR part 2.

FLP provides loans to family farmers to purchase real estate and equipment and finance agricultural production. This information collection package describes the policies and procedures FSA uses to provide supervised credit to direct FLP applicants and borrowers in accordance with the provisions of the CONTACT (Pub. L. 87-128), as amended. Supervised credit information collection requirements include planned and actual production and financial records, as well as the development and update of a loan assessment addressing the course of action to be followed, so that financing can be obtained through commercial credit sources. In addition, it addresses construction and development requirements that applicants and borrowers must meet when using loan funds for such purpose.

FSFL applicants provide balance sheet and income and expense information to FSA to make feasibility and eligibility determinations. FSFL program requirements are established under 7 CFR 1436. However, FSFL information collections are exempt from the requirements of the Paperwork Reduction Act according to the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246, Title I, Subtitle F – Administration). This submission, while it accounts for FSFL applicants' use of FSA-2037 and FSA-2028, provides that their use is exempt.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for new collections, indicate the actual use FSA has made of the information received from the current collection.

Information collections are submitted by applicants and borrowers to the local FSA office serving the county in which their business is headquartered. The information is necessary to provide supervised credit as legislatively mandated and is used by FSA to:

- Ensure that when loan funds or insurance proceeds are used for construction and development projects, work is completed according to applicable state and local requirements, and in a manner that protects the government's financial interest.
- Ensure that the loan repayment plan is developed using realistic data, based on the operation's actual history and any planned improvements.
- Identify potential concerns limiting the success of the operation and develop a loan assessment outlining the course of action to be followed, to improve the operation so that commercial credit is available.

The general nature of a loan from FSA is very similar to that of any conventional commercial creditor. However, FSA applicants and borrowers tend to pose more of an economic risk of loss than those operations financed by commercial credit sources, as applicants must document that no other source of credit is available at the time of application. Legislation requires FSA to actively supervise these borrowers and provide credit counseling, management advice, and financial guidance.

The information collection requirements are described below and on the attached FSA-85-1, Reporting and Recordkeeping Requirements.

Forms

FSA-2037, Farm Business Plan – Balance Sheet

7 CFR 761.102(a); 7 CFR 761.105(b)(1); 7 CFR 763.7(b)(2); 7 CFR 763.18(b)(6); 7 CFR 764.51(b)(2)(ii) and (iii); 7 CFR 764.51(e)(6); 7 CFR 764.401(c)(1); 7 CFR 764.402(e)(2); 7 CFR 765.51(a); 7 CFR 765.101(c); 7 CFR 765.205(a)(2); 7 CFR 765.404(b)(1); 7 CFR 766.102(a)(7); 7 CFR 766.102(d); 7 CFR 766.204(a)(2); 7 CFR 766.353(a)(2); 7 CFR 766.354(a)(2); 7 CFR 1436.4.

The information requested on FSA-2037 is provided by applicants requesting loans, existing borrowers requesting a servicing action, and borrowers, as provided on loan and security instruments or at FSA's request, for FSA to determine the progress made. Use of FSA-2037 is not mandatory, as applicants and borrowers may provide the information in any alternative format used for other purposes, as well as copies of balance sheets used to apply for loans from other creditors. The information collected on FSA-2037 is a detailed listing of the applicant or borrower's assets and liabilities. FSA uses the information to make feasibility and eligibility determinations and ensure that applicants will be able to repay the requested loan. A balance sheet is required from individuals as well as entity members. FSA inputs information applicants and borrowers provide on FSA-2037 in the Farm Business Plan. After the input is complete and before the action requested is closed, applicants and borrowers sign the computer print-out that reflects the information provided. FSA has included in this information collection package the number of entity members required to provide a balance sheet, and has indicated the number of entity members required to provide the information.

FSA is required to evaluate borrowers with limited resource rates to determine if the operation will continue to remain feasible with regular interest rates. However, the interest rates charged on FLP loans have not exceeded the applicable program's limited resource rate, therefore, FSA has not conducted any limited resource reviews. As it is not known when interest rates may be increased to a level exceeding the limited resource rate, FSA will include the reference to limited resource interest rates in this information collection package. Therefore, FSA will report 0 respondents and 0 hours for this purpose.

FSA receives applications from 5,573 new applicants per year. Since there is no prior history or lending relationship with these applicants, FSA estimates the time to complete FSA-2037 is 90 minutes, as they complete all parts of the form or provide the information in another format. FSA estimates that 18,562 individual and 5,540 entity member applicants complete FSA-2037 for loan making purposes. For existing applicants FSA estimates that it takes 60 minutes to complete it. Therefore, for loan making purposes, the average estimated time for completion is 75 minutes.

An updated balance sheet is required if loan closing occurs 90 days after loan approval. It is estimated that 1,299 individual and 459 entity member applicants will provide an updated balance sheet and the time to provide it is estimated to be 15 minutes as applicants only need to provide updates for any items that have changed. Further, FSA will not automatically approve a

loan when an adverse decision is overturned on an appeal, but will reevaluate the applicant's information taking into consideration the hearing officer's determination. FSA estimates that in 25 cases an updated balance sheet will be required for FSA to continue processing the loan application after the conclusion of the appeals process. The time to complete FSA-2037 at the conclusion of the appeals process is estimated to be 15 minutes.

As provider of temporary credit, FSA is required to conduct graduation reviews of its borrowers to determine their ability to graduate to other sources of credit. To conduct the review, FSA needs balance sheet information. It is estimated that 28,870 graduation reviews are conducted per year. The time to complete FSA-2037 for graduation purposes is estimated to be 60 minutes.

Borrowers, as well as lenders, request FSA subordinate its lien position to a commercial lender to obtain needed financing for the operation. For FSA to approve the subordination request, it needs to analyze the borrower's balance sheet to determine if the operation can repay FSA's loans as well as the loan being requested from the commercial lender. FSA receives subordination requests from 1,680 individuals and 387 entity members per year. The time to complete FSA-2037 is estimated to be 10 minutes because the borrower already has completed a balance sheet to provide to the commercial lender and only needs to provide a copy of that balance sheet to FSA.

FSA processes 129 requests for assumption of a borrower's debt by an ineligible applicant per year. Ineligible applicants are required to provide a balance sheet for FSA to determine if the applicant will be able to repay the assumed debt. The time to complete FSA-2037 for this purpose is estimated at 60 minutes.

FSA receives requests for primary loan servicing per year from 4,391 individuals and 1,009 entity members. Delinquent as well as financially distressed borrowers are required to provide a balance sheet for FSA to make feasibility and eligibility determinations on the borrower's request. It is estimated that it takes 60 minutes to complete FSA-2037 for primary loan servicing requests. Further, 22 financially distressed borrowers will become delinquent before their request for primary loan servicing is complete. Therefore, these borrowers will have to provide an updated balance sheet and the time to complete it is estimated at 15 minutes.

Further, 2 individuals who request amortization of their shared appreciation agreements have to provide a balance sheet for FSA to make a feasibility determination. It takes 60 minutes for borrowers to complete FSA-2037 for this purpose.

FSA receives requests for voluntary conveyance of real estate and chattel per year from 17 individuals and 3 entity members. It takes 30 minutes to complete FSA-2037 for this purpose as the balance sheet for these borrowers will be less complicated due to the fact that liquidation of chattel and real estate may be already completed and the borrower is in the process of settling debt with other creditors.

In addition, FSA provides either a prompt payment or standard guarantee plan to sellers who enter into a land contract with a beginning or socially disadvantaged farmers. However, FSA has

not received any requests for land contracts; therefore, it is estimated that there will be 0 respondents.

FSA receives 1,200 FSFL requests per year. FSFL applicants complete FSA-2037 for FSA to make eligibility and feasibility determinations. The time to complete it is estimated to be 75 minutes. Note that FSFL information collections are exempt from the requirements of the Paperwork Reduction Act according to the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246, Title I, Subtitle F – Administration).

Note: As provided above, FSA-2037 is used for several different purposes for which the time required to complete it varies. FSA estimates that the average time to complete it for all different purposes is 1.25 hours; therefore, the estimated completion time included on FSA-2037 is 1.25 hours.

FSA-2038, Farm Business Plan – Income and expense

7 CFR 761.2(b); 7 CFR 761.102(a); 7 CFR 761.104(a); 7 CFR 761.105(b)(1); 7 CFR 763.18(b) (6); 7 CFR 764.51(b)(9); 7 CFR 764.401(c)(1); 7 CFR 764.402(e)(2); 7 CFR 765.51(a); 7 CFR 765.101(c); 7 CFR 765.205(a) & (b); 7 CFR 765.206(b); 7 CFR 765.207(d); 7 CFR 765.253(b); 7 CFR 765.404(b)(1); 7 CFR 406(b)(4); 7 CFR 766.52(a); 7 CFR 766.53(a); 7 CFR 766.54(b); 7 CFR 766.102(a)(7); 7 CFR 766.102(d); 7 CFR 766.102(f)(4); 7 CFR 766.109(a)(4); 7 CFR 766.151(a)(3); 7 CFR 766.151(b)(3); 7 CFR 766.204(a)(2) & (4); 7 CFR 766.353(a)(3); 7 CFR 766.354(a)(3); 7 CFR 1436.4

The information requested on FSA-2038 is provided by applicants requesting loans, existing borrowers requesting a servicing action and borrowers as provided on loan and security instruments or at FSA's request, for FSA to determine the progress made. Use of FSA-2038 is not mandatory as applicants and borrowers may provide the information in any alternative format used for other purposes, as well as copies of income and expenses used to apply for loans from other creditors. The information collected on FSA-2038 is a listing of the applicant or borrower's projected income and expenses for the current or upcoming production cycle. FSA uses the information to make feasibility determinations and ensure that applicants will be able to repay the requested loan. FSA inputs the information applicants and borrowers provide either on FSA-2038 or any other format in the Farm Business Plan. After the input is complete and before the action requested is closed, applicants and borrowers sign the computer print-out that reflects the information provided.

When the loan approval or servicing request exceeds one production cycle and FSA-2038 is atypical due to cash, inventory on hand, new enterprises, carryover debt, atypical planned purchases, operating changes, or other reasons, the applicant must provide FSA-2038 that reflects a typical cycle. The second FSA-2038 will include only income and expenses that are typical for the operation. It is estimated that 182 applicants and 143 borrowers (total 325) requesting loan servicing will have to provide the second FSA-2038. The time to provide it is estimated at 15 minutes, since the applicant or borrower has already provided FSA the atypical FSA-2038.

FSA is required to evaluate borrowers with limited resource rates to determine if the operation will continue to remain feasible with regular interest rates. However, the interest rates charged on agency loans have not exceeded the applicable program's limited resource rate, therefore, FSA has not conducted any limited resource reviews for several years. As it is not known when interest rates may be increased to a level exceeding the limited resource rate, FSA will include the reference to limited resource interest rates in this information collection package; however, 0 respondents and 0 hours will be reported.

FSA receives 18,562 loan applications a year and FSA assumes that all applications will contain FSA-2038. (Note: this number does not include OL and FO microloan applications; the microloan application is all-encompassing for applicants to provide income and expense information and therefore, those numbers are not included in this request.) The time to complete FSA-2038 for loan making purposes is estimated to be 90 minutes.

Updates to income and expenses are required when loan closing occurs 90 days after loan approval; it is estimated that 1,299 FSA-2038 will be provided for this reason and the time to provide the updates is estimated to be 15 minutes as applicants update only the items that have changed. Further, FSA will not automatically approve a loan when an adverse decision is overturned on appeal, but FSA will reevaluate the applicant's information taking into consideration the hearing officer's determination. FSA estimates that in 25 cases updated income and expense information will be required for FSA to continue processing the loan application after the conclusion of the appeals process. The time to complete FSA-2038 at the conclusion of the appeals process is estimated to be 15 minutes as the applicant provides updates only to items revised due to the appeal.

As a provider of temporary credit, FSA is required to conduct reviews of its borrowers to determine their ability to graduate to other sources of credit. Therefore, FSA needs to review the borrower's income and expense information. It is estimated that 28,870 graduation reviews are conducted per year and the time to complete FSA-2038 for this purpose is estimated to be 90 minutes.

Borrowers request FSA subordinate its lien position to a commercial lender to obtain needed financing for the operation. For FSA to approve the subordination request, it needs to analyze the borrower's income and expenses to determine if the operation can repay the FSA's loans as well as the loan being requested from the commercial lender. FSA receives 1,680 subordination requests per year. The time to complete FSA-2038, or provide FSA with a copy of the income and expenses provided to the commercial lender is estimated to be 10 minutes because the borrower will already have compiled income and expenses to provide to the commercial lender.

Borrowers must obtain FSA's consent before granting a junior lien on the property used to secure the loan. Before granting consent, FSA must ensure that the borrower will be able to repay the loan as well as the junior lien. Annually, 740 borrowers request FSA consent to grant junior liens and the time to complete FSA-2038 or provide FSA with a copy of the income and expenses provided to the junior lien holder, is estimated to be 10 minutes as borrowers will have already compiled income and expenses to provide the junior lien holder.

For loans secured by real estate, a borrower may request FSA grant consent to a severance agreement so that chattel acquired in the future by the borrower will not become part of the real estate securing FSA debt. One of the conditions under which FSA may grant consent is that the transaction will not jeopardize the borrower's ability to repay all outstanding debts to FSA. It is estimated that 740 borrowers request severance agreements annually and the time to complete FSA-2038, or provide FSA with a copy of the income and expenses provided to the lender, is 10 minutes as the borrower will already have compiled income and expenses to provide to the lender that is providing the financing.

Borrowers may request agency consent to cease operating security, if several conditions are met. One of the conditions is inability to graduate to commercial credit; therefore, FSA needs to analyze the operation's income and expenses to verify the borrower is unable to graduate. It is estimated that 740 borrowers request agency consent to cease operating security. FSA estimates the time to complete FSA-2038 for this purpose to be 30 minutes as borrowers making such a request have arranged for the security to be leased and the operation's income is known to the borrower.

129 borrowers request that their debt be assumed by a transferee and request FSA to release them from liability. Subsequently, FSA processes 129 requests for assumption of a borrower's debt by an ineligible applicant per year. Ineligible applicants are required to provide income and expenses for FSA to determine if the applicant will be able to repay the assumed debt. It is estimated the time to complete FSA-2038 for this purpose is 90 minutes. Further, 129 borrowers will provide income and expenses for FSA to determine if the release of liability request should be granted. The time to complete FSA-2038 is estimated at 30 minutes since completion of the form for this purpose is not complicated. In these cases usually the borrower has stopped farming.

Borrowers unable to make their payments due to a natural disaster may request FSA set-aside the payment due in the year the disaster occurred. Borrowers are required to provide income and expense records for FSA to verify that the payments cannot be made. FSA processes 932 disaster set-aside requests per year and the time to complete FSA-2038 is 90 minutes.

FSA receives 4,728 requests for primary loan servicing per year. Delinquent, as well as financially distressed borrowers are required to provide income and expenses for FSA to make feasibility determinations on the borrower's request. It is estimated that it takes 90 minutes to complete FSA-2038 for primary loan servicing requests. In addition, 22 financially distressed borrowers will become delinquent before their request for primary loan servicing is complete. Therefore, these borrowers will have to provide updates to income and expenses and the time to provide the updates is estimated at 15 minutes.

150 divorced spouses withdrawing from the farming operation request to be released from liability at the time an application for primary loan servicing is considered. Withdrawing spouses are required to provide income and expense statements for FSA to consider the request. The time to complete FSA-2038 for this purpose is estimated to be 30 minutes because to be released from liability divorced spouses may not have repayment ability and may not own non-

essential assets; therefore, the income and expense statement will not be complicated or time consuming.

Borrowers who meet the eligibility requirements may be granted loan deferral when they apply for primary loan servicing. FSA requires that the borrower's operation reflect a feasible post-deferral plan; therefore, 345 borrowers develop post-deferral FSA-2038 that requires 30 minutes to complete. The time requirement is less because borrowers have already completed FSA-2038 as part of the request for primary loan servicing that includes deferral of loan payments and know which expenses are projected to be paid off by the end of the deferral period.

Borrowers requesting pre or post-acquisition homestead protection are required to provide updated income and expenses for FSA to determine if the borrowers will be able to make the rental payments on the homestead protection property. FSA processes 15 requests for homestead protection (12 for pre-acquisition and 3 for post-acquisition); FSA-2038 takes 30 minutes to complete for this purpose because borrowers are required to provide only updates to income and expenses submitted to FSA when it was considering the borrower's primary loan servicing request.

2 borrowers who request amortization of their shared appreciation agreement have to provide income and expense records for FSA agency to make feasibility determinations. It takes 90 minutes for borrowers to complete FSA-2038 for this purpose.

In addition, buyers requesting servicing of their land contract will complete FSA-2038. FSA estimates that it will take buyers 75 minutes to complete it. However, the guaranteed land contract program is not used; therefore, 0 responses and 0 hours are reported in this request.

FSA receives 1,200 FSFL requests per year. Applicants complete FSA-2038 for FSA to make feasibility determinations. The time to complete it is estimated to be 90 minutes. Note however, that FSFL information collections are exempt from the requirements of the Paperwork Reduction Act according to the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246, Title I, Subtitle F – Administration), and therefore, 1,800 hours will be requested as exempt.

Note: As provided above, FSA-2038 is used for several different purposes for which the time required to complete it varies. FSA estimates that the average time to complete it for all different purposes is 1.25 hours; therefore, the estimated completion time included on FSA-2038 is 1.25 hours.

FSA-2039 – Farm Business Plan – Worksheet Summary of Year's Business

FSA-2039 is an optional form developed to assist applicants in determining if their request is feasible before they apply for a loan. Applicants complete FSA-2037 and FSA-2038, or any other format, before attempting to complete FSA-2039, as all the information to be input on this form is found on the applicable lines on FSA-2037 and FSA-2038. It is FSA's experience that most applicants either do not complete or partially complete FSA-2037 and FSA-2038; therefore, FSA estimates that about 50 applicants may attempt to complete FSA-2039. FSA estimates that, for applicants attempting it, the time to complete FSA-2039 is 20 minutes.

FSA-2140 – Deposit Agreement and FSA-2141, Interest-Bearing Deposit Agreement

7 CFR 761.51(a)(3), (b)& (d); 7 CFR 764.402(e)(3); and 7 CFR 765.352(a)(3)

As mandated by the Act, FSA provides supervised credit to farmers unable to secure financing from commercial sources. As part of the supervised credit process, it may be necessary to deposit loan funds, insurance proceeds, or proceeds from partial release of real estate security into a supervised bank account. These accounts may be used to assure correct use of funds planned for capital purchases or debt refinancing when electronic funds transfer or treasury check processes are not practicable. Supervised bank accounts require signature by both FSA and the borrower to withdraw funds. FSA has been promoting the use of electronic funds transfer, multiple advances and treasury checks instead of using supervised bank accounts. Further, in very limited situations where loan funds are not immediately needed and electronic funds transfer or multiple advances are not practicable or feasible, or where insurance proceeds are going to be used over a period of time, FSA may require that the excess funds be deposited in an interest-bearing account. Therefore, it is estimated that 10 applicants and borrowers will be required to select a financial institution and execute FSA-2140 to establish a supervised bank account or establish an interest-bearing account. The response time is estimated to be 10 minutes.

A representative of the financial institution selected by the applicant or borrower must also sign FSA-2140. Since the use of supervised bank accounts is limited and the applicant/borrower selects the financial institution, it is estimated that 10 different institutions will be selected and that their representatives will spend 10 minutes completing the form.

FSA-2150 – Development Plan

7 CFR 761.10(b)(1); 7 CFR 761.10(c)(1); 7 CFR 761.10(d)(4); 7 CFR 765.205 (b)(14); and 7 CFR 765.352(a)(3)

Applicants may use loan proceeds for construction or development; borrowers requesting real estate subordination or partial release may use proceeds for construction or development; and borrowers may use insurance proceeds for loss or damage to agency security for construction or development. If all construction or development is to be performed under a single contract, only a copy of the contract is required to be provided to FSA. If multiple contracts will be used, the development plan as well as copies of all the contracts is required to be provided to FSA. Further, the cost estimate needs to be provided if it is not included in the contracts.

The applicant or borrower must provide information describing the planned development, the proposed schedule, and the manner in which the development will be completed. FSA requires copies of drawings and specifications for planned construction projects as necessary to protect the Government's financial interests. The estimate of the total cost of the planned construction or development is necessary for FSA to determine that sufficient funds are available for its completion. Such evaluation is essential in assuring that the operation will generate the cash flow used in determining loan repayment. The description of the construction project or

development is necessary for FSA to evaluate it and ensure that projections, including costs, are reasonable. This information is routinely obtained by applicants or borrowers considering construction; therefore, no collection time is included as the only additional collection imposed by the regulation is submission to FSA. Further, drawings and specifications are routinely obtained during the construction process; therefore, no time is included for the collection of data. Applicants or borrowers may use FSA-2150 or other documentation that provides similar information.

It is estimated that 250 applicants or borrowers conduct construction projects. The time to provide the documentation required is estimated to be 15 minutes per response.

FSA-2153 – Release by Claimants and FSA-2154 – Release by Contractor

7 CFR 761.10(f)

Before the final advance of funds is disbursed under the construction and development contract, the applicant or borrower must obtain lien waivers from the contractors that performed the construction. If the borrower fails to obtain FSA-2153 and FSA-2154, contractors or subcontractors not paid in full may file mechanics lien against FSA's security. FSA estimates that 90 subcontractors will complete FSA-2153 annually. FSA also estimates that 140 FSA-2154 will be completed annually. The time to complete both FSA-2153 and FSA-2154 is estimated at 15 minutes. In addition, FSA estimates that 140 borrowers will have to obtain FSA-2153 and FSA-2154, as appropriate. The time to obtain it is estimated at 30 minutes.

FSA-2155 – Vendor Appraiser Registration

7 CFR 761.7(a)

FSA must obtain an appraisal on real estate that will serve as security for a loan. The appraisal must comply with the requirements established by Uniform Standards of Professional Appraisal Practice. As FSA does not have an adequate number of appraisers on staff it relies on state-certified appraiser vendors to conduct the appraisals needed. Before FSA can use the services of a state-certified appraiser vendor, the vendor must provide certain information such as name, appraiser license number, and billing information. FSA estimates that 150 vendors will complete FSA-2155 and it will take 10 minutes per response.

Non-form collections

7 CFR 761.10(c)(5); 7 CFR 761.10(d)(5); and 7 CFR 761.10(d)(6) – Technical Data, Tests, and Engineering Evaluations

Applicants completing construction and development projects are required to provide copies of technical data, tests, or engineering evaluations, when necessary to protect FSA's financial interest. Further, applicants provide written certification that the final drawings and specifications conform to local or state building requirements. The certification must be obtained from individuals or organizations trained and experienced in the compliance, interpretation, or enforcement of the applicable standards and may include licensed architects,

professional engineers, local building officials, or national code organizations. The applicant routinely obtains this information in the construction process to protect their interests; therefore, no time was included for the collection of this data. It is estimated that 140 applicants will spend 30 minutes submitting this information to FSA.

7 CFR 761.10(e)(2) and (e)(3) – Written Certification of Inspections

Applicants must obtain professional inspections when necessary to protect FSA and their interest. Inspections are necessary to ensure construction complies with the plans and specifications and are routinely obtained by the applicant during the construction process; therefore, no time was included for the collection of this data. It is estimated that 140 applicants will spend 15 minutes submitting copies of the inspection reports.

7 CFR 761.10(g) – Surety Requirement

Applicants obtain a surety bond from the contractor used to complete construction and development to guarantee the contractor's payment and performance when necessary to protect the Government's interests. It is estimated that 10 contractors will be required to provide a surety bond and that each contractor will spend an average of 10 minutes providing bond documentation. Further, if the planned development changes from the original proposal, FSA requires that the contractor provide surety bond to cover the change. FSA estimates that 3 contractors have to provide surety bond for changes in construction, and the time is estimated to be 10 minutes per response.

7 CFR 761.10(h) – Request to Change Planned Development

FSA's approval of a loan to finance construction is based on cash flow projections developed using specific plans, specifications, and costs, as well as a projected completion schedule. Any changes to the planned development can impact the total cost, completion date, or even the value of the loan security. Therefore, to protect FSA's interests, prior approval is required for any changes to construction and development plans. It is estimated that 10 applicants and borrowers will spend 15 minutes submitting documentation to change planned development.

7 CFR 761.51(e) – Pledge of Collateral When SBA Balance Will Exceed FDIC maximum amount and 7 CFR 761.51(e)(2) – Request to Release Collateral Pledged for a Supervised Bank Account

When the amount deposited into a supervised bank account will exceed the amount insured by FDIC, the financial institution must agree to pledge acceptable collateral to the Federal Reserve Bank for the excess before the deposit is made. The pledge of collateral is necessary to protect FSA and the applicant or borrower's financial interests.

In addition, financial institutions that have pledged collateral for supervised bank accounts may request a release of part or all of the collateral when the account's balance has been reduced below the maximum amount. While the amount insured by FDIC has increased, FSA's use of

supervised bank accounts has been minimized. Therefore, FSA will report 0 respondents and 0 hours for this submission.

7 CFR 761.54 – Withdrawal of Funds from a Supervised Bank Account

Funds may be withdrawn from a supervised bank account when both FSA and the borrower have provided authorization. It is estimated that 10 borrowers will request withdrawal from a supervised bank account each year. Each request is estimated to take 10 minutes.

7 CFR 761.103; 7 CFR 763.7; 7 CFR 764; 7 CFR 766.102; 7 CFR 766.202 – Copies of Income Tax Returns

Cash flow projections used for processing loan making and servicing requests must be based on actual production, income, and expenses. One of the simplest methods of obtaining this information is to obtain copies of the applicant or borrower's tax returns. FSA maintains copies of documents, including tax returns, submitted by the applicant in the loan making process and the borrower during loan servicing; therefore, in many cases, only the most recent year's tax return must be submitted. The applicant or borrower is already required to collect and maintain this information for filing tax returns; therefore, no time is included for its collection. Time estimates are limited to submitting copies of the tax returns to FSA. It is estimated that a total of 5,573 applicants and borrowers will spend 15 minutes submitting copies of tax returns.

7 CFR 761.103 (a) and (b) – Development of the Loan Assessment

FSA develops a loan assessment with each applicant to determine the applicant's financial condition, organizational structure, management strengths and weaknesses, appropriate levels of agency oversight needed, credit counseling needs, and training needs. The financial information needed for the loan assessment is collected on FSA-2037 and FSA-2038, or any other format acceptable to FSA; however, information such as the operation's goals and the organizational structure must be discussed with the applicant. The information is normally obtained at the time FSA and the applicant discuss the loan application. The loan assessment is developed at the time of the initial application. After FSA obtains the information needed from the applicant, FSA inputs it in the Farm Business Plan. Before the loan is approved the applicant signs the printed loan assessment to acknowledge participation in its development. It is estimated that 5,573 applicants will spend 30 minutes providing information for the loan assessment.

7 CFR 761.103(c) and (d) – Assessment Update

An assessment update is required to be prepared for each subsequent loan. At the time of the assessment update, FSA and the applicant or borrower review the existing assessment to determine the progress made toward goals and graduation to commercial credit. Applicants and borrowers provide the information needed and FSA completes the assessment update in the Farm Business Plan at the time a subsequent loan is requested or when the year-end analysis is completed. FSA estimates that 15,826 applicants and borrowers will spend 10 minutes to provide the information needed and sign the assessment update acknowledging their participation.

7 CFR 761.104(d) – Evidence of Premium Price for Commodities

On a state-by-state basis, FSA sets agricultural commodity prices that are to be used by applicants in developing operating plans. Applicants may enter into contracts to sell the commodities produced by the operation at a price above than the price established by FSA; therefore, FSA requires those applicants to provide evidence that the higher price will be received for the commodities produced. Evidence provided may include a copy of the contract with the specific price for each commodity. It is estimated that 1,645 applicants will provide written evidence and the time estimated to provide the information is estimated to be 10 minutes per response.

7 CFR 761.105(b) – Actual Income, Production and Expenses and Other Financial Records

FSA completes a year-end analysis to compare actual income and expenses with planned income and expenses for borrowers who:

- Received a loan, subordination or primary loan servicing within the last year.
- Are financially distressed or delinquent.
- Have a loan deferral.
- Are receiving a limited resource interest rate.

This action is part of FSA's supervised credit procedures. It is estimated that 18,562 borrowers will provide actual income, production and expenses records, as well as other financial records, to FSA to complete the year-end analysis. Since borrowers will provide only the actual records, it is estimated that each will spend 60 minutes providing this information.

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 decisions for adopting this means of collection. Also describe any consideration of information technology to reduce burden.

Information collections obtained using agency forms may be submitted electronically provided the applicant or borrower has obtained and activated a USDA account with Level 2 access that allows for electronic submissions. All forms that applicants or borrowers have to complete in their entirety, or review and execute, are posted on the e-Gov website at <https://www.sc.egov.usda.gov>. For forms applicants or borrowers are required to complete in their entirety, the fillable version of the form, as well as detailed instructions for completing the form, are provided. Forms prepared by FSA, that applicants or borrowers simply review and sign, are also provided on the e-Gov website. However, in lieu of detailed instructions for completing those forms, the instructions simply state that the forms are provided on the website for information purposes only.

Non-form information collections are mostly limited to copies of documents in the applicant's possession or providing written replies to agency requests or offers. Non-form collections, as

well as all agency forms, may be submitted in person at the local agency office, by mail, or electronically to the extent possible. Further, applicants with established Level 2 accounts may provide non-form information collections as any kind of non-executable attachments, such as PDF, doc, xls, or text formats.

Even though forms are available on the e-Gov forms website, FSA's experience indicates that very few applicants and borrowers utilize this option. Most applicants obtain and return forms and non-forms to FSA offices as they feel a person-to-person meeting is beneficial. The information required from applicants and borrowers is mainly financial in nature, and farmers are not comfortable with providing it through electronic means, notwithstanding the adequacy of agency security safeguards in place. Most of FSA's applicants and borrowers reside in rural areas, which often do not have access to high speed internet connection. Moreover, applicants and borrowers often seek additional clarification and explanation of the requirements, as well as explanation of the consequences of not complying with the requirements, from agency officials.

FSA can only accept forms electronically from individual applicants. Electronic signature authentication for entity borrowers is not currently available.

Lastly, even though USDA and FSA have publicized and provided information in outreach materials, during stakeholder meetings, as well as agriculture-related meetings and symposiums, on the option to provide information electronically, applicants and borrowers still prefer going to FSA office to obtain forms and information on how to apply for loans and servicing than obtaining forms and information from the internet. Therefore, FSA estimates that less than one percent of responses is currently provided through the internet.

As noted above, electronic signature authentication is currently limited to applicants and borrowers who have obtained and activated a USDA account with Level 2 access. Therefore, all third parties (including lenders and contractors) that provide information to FSA on behalf of the applicant or borrower do so in paper format, as they cannot submit information electronically nor is there the ability to provide all third parties with a USDA account with Level 2 access.

4. Describe efforts to identify duplication. Show specifically why similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

Most of the information collections established in this regulation is required under the provisions of CONTACT which mandates specific actions be taken when making and servicing direct loans to FLP borrowers.

Agency personnel with expertise in making and servicing loans have reviewed the information collections required under this CFR part for eliminating any duplication or unnecessary collections of information. The information contained in this collection is made part of the case file and, when reasonably current, may be used in lieu of re-submission by the applicant or borrower; however, financial information that is collected at another time may be dated and not useful for the specific action under consideration. Various program areas within FSA share data;

however, information collections established in this regulation would typically not be available from another agency. Therefore, the potential to share data is limited.

5. Methods to minimize burden on small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods to minimize burden.

FSA has made every effort to minimize burden on small businesses and small entities. FSA only requires collection of information when necessary to act on an applicant or borrower's request for assistance. The information required by this regulation is financial in nature and similar to that required to complete Federal tax returns, make business decisions or to obtain a loan from any commercial lender. Thus, it places no additional burden on small businesses above that required in the normal course of business. There are 3,223 small businesses or entities in this collection.

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.

FSA is mandated to provide supervised credit; therefore, failure to collect the information, or collecting it less frequently, could result in the failure of the farm operation or loss of agency security property. The collection of information is needed as a result of an applicant or borrower's specific request, is obtained on an as-needed basis, and is used to document the applicant or borrower's eligibility for the requested benefit, as well as to make feasibility determinations. Accurate decisions, when making a loan or servicing an account, largely depend on current financial information and actual history and the potential of the farming operation to carry out the purposes for which the loan was made.

There is no regular reporting schedule related to the information collection requirements. If the information were not collected, or collected less frequently, FSA would be unable to meet the Congressionally-mandated mission of its loan programs.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- a. Requiring respondents to report information more frequently than quarterly. There are no information collection requirements that require information more frequently than quarterly.
- b. Requiring written responses in less than 30 days. There are no information collection requirements that require written responses in less than 30 days.
- c. Requiring more than an original and two copies. There are no information collection requirements that require more than an original or single copy of a document.
- d. Requiring respondents to retain records for more than 3 years. There are no such requirements.
- e. No utilizing statistical sampling. There are no such requirements.
- f. Requiring the use of statistical sampling which has not been reviewed and approved by OMB. There are no such requirements.

- g. Requiring the pledge of confidentiality. There are no such requirements.
- h. Requiring submission of propriety trade secrets. There are no such requirements.

8. Describe efforts to consult with persons outside FSA to obtain their view on the availability of data, frequency of collection, the clarity of instructions and record keeping, disclosure, or reporting format (if any), and on data elements to be recorded, disclosed, or reported.

On February 20, 2020 (84 FR 9722) FSA published a notice regarding its intention of requesting OMB's extension of the existing information collection and inviting comments. There were no comments received.

FSA maintains close contact with borrowers through its field representatives as well as its headquarters' staff. Field employees have direct personal contact with applicants and borrowers and are readily available to assist in obtaining the information needed as well as completing forms. Field employees pass applicants and borrowers' substantive comments to the National Office to make appropriate changes to information collected. Through this indirect input from applicants and borrowers, the National Office has revised information collections instruments in the past. Suggestions and comments are always considered and FSA remains committed to ensuring that no unnecessary information collections are imposed on its applicants and borrowers.

In addition, FSA works closely with lending institutions such as the Farm Credit System, that provide guaranteed loans to borrowers able to graduate from FSA's direct loan programs. FSA maintains its website that contains specific information about the major programs it administers, including its loan programs; a directory of program staff and contact information; agency regulations, handbooks and forms; and links to other relevant sites.

As COVID-19 has affected the way the agency is conducting business, direct input from applicants and borrowers is not possible. However, the following field employees maintain close contact with applicants and borrowers for loan making and loan servicing activities and have provided observations and comments they have received from customers. All 4 employees that were consulted to obtain input on this IC, stated that their customers believe the information requested is essential for the services provided; they believe that the agency cannot obtain it from any other source; the amount of time the agency estimates is correct; and agency employees provide assistance in completing the forms and obtaining the information needed.

James Bauermeister
Farm Loan Manager
3276 53rd Avenue
Columbus, NE 68601
Phone number 402-564-0506

Tyler Burysek
Farm Loan Manager
253 D Hopkinsville Road,

Russellville, KY 42276
Phone number 270-726-3006

Brian Turner
Farm Loan Manager
925 Lovers Lane
Bowling Green, KY 42103
270-843-1111

Latisha A. Kahn
Farm Loan Manager
3800 Cornucopia Way, STE E.
Modesto, CA 95358
Direct (209) 287-3633
Office (209) 287-3669

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

There are no payments or gifts provided to respondents.

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

Forms that serve as collection instruments contain FSA's Privacy Act statement identifying circumstances under which the information collected may be released. This statement is based on the Privacy Act, the Freedom of Information Act and the FSA System of Records that has been published in the Federal Register. Agency policies, as well as a copy of the System of Records, are published in FSA handbooks 2-INFO and 3-INFO. No further assurance of confidentiality is provided to applicants or borrowers.

11. Provide additional justification for any question of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

The information collected under this docket is financial in nature. As a condition for the receipt of program benefits, applicants and borrowers disclose income data and history of their business dealings that is often considered sensitive. However, the information is required to properly document FSA's decision pertaining to loan making and servicing actions.

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

The estimate of hour burden of this information collection is as follows:

| | |
|--|--------|
| Total Number of Unduplicated Respondents | 64,802 |
|--|--------|

| | | |
|-------------------------------|--------------------|--------------------|
| Reports Filed Per Person | | 2.5 |
| Total Annual Responses | | 164,483 |
| Total Annual Burden Hours | | 168,029 |
| Average Burden Per Collection | (168,029/164,483=) | 1 hour 2 minutes |
| Per Unduplicated Respondent | (168,029/64,802=) | 2 hours 40 minutes |

The estimate of annual cost for the information collections is as follows:

| | | |
|--|--|-------------|
| Respondent's Cost Per Hour - Farmers | | \$38.63 |
| - Business | | \$36.64 |
| Total Annual Respondent Cost – Farmers (167,885X\$38.63) | | \$6,485,405 |
| - Business (144X\$36.64) | | \$ 5,263 |
| - Total | | \$6,490,668 |

Respondent cost per hour was derived by using U.S. Bureau of Labor Statistics Occupational Employment and Wages, May 2019, Table 11-9013-Farmers and Ranchers, and Other Agricultural Managers. The U.S. mean hourly wage plus benefit cost for this group is \$38.63 hourly and \$80,360 annually, as measured by the Bureau of Labor Statistics.

Respondent cost per hour was derived by using U.S. Bureau of Labor Statistics Occupational Employment and Wages, May 2019, Table 13-2072-Loan Officers. The U.S. mean for loan officer's income plus benefit cost, as measured by the Bureau of Labor Statistics is \$76,200 annually or \$36.64 hourly.

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

The regulation and associated information collections place no burden costs on respondents for capital, start-up, operation, maintenance, or the purchase of services.

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

FSA employees review information provided by applicants, borrowers, and third parties and make eligibility and feasibility determinations, service loans and insure that all other regulations are met. FSA estimates that its employees spend 401,541 hours reviewing and processing the collections included in this docket.

Averaging the GS-9 through GS-12 (202016 RUS-Salary Table) salaries indicates an employee salary of \$74,653 per year. Standard adjustments recommended by FSA's Budget Division of 33.3% are added for benefits and miscellaneous expenses (\$24,859), for a total average cost for an employee salary of \$99,512 per year, which divided by 2,080 hours equals an hourly salary of \$47.84.

Therefore, the estimated annual cost to the Federal Government is:
401,541 X \$47.84 = \$19,209,721.

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

Overall, the number of respondents decreased by 20,181 while the annual responses decreased by 40,198, and the annual burden hours decreased by 61,208. Those decreased numbers were due to FSA not conducting limited resource reviews in several years as the regular interest rates have been far below the 5% of the limited resource interest rates. When the regular interest rates rise above the limited resource rates, borrowers meeting the eligibility requirements will once again be requesting those rates. Also, there were fewer respondents using of FSA-2037 and FSA-2039 and noted that applicants and borrowers do not complete FSA-2039. FSA has not been utilizing supervised bank accounts as other methods to disburse loan funds to be more effective and efficient. That has almost eliminated the need for financial institutions to open supervised bank accounts, and borrowers need to contact FSA multiple times to release loan funds. In addition, applicants in general do not use loan funds for construction purposes, thus reducing the number of contractors responding to information collection requirements.

FSA was no longer included travel times in this request. Respondents may submit applications by mail and many respondents go to the county offices to do regular and customary business with FSA for other FSA programs and can complete and submit the farm loan programs forms during this time; this means no travel time is required specifically for this information collection.

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

The information collections under this OMB control number will not be tabulated or published.

17. If seeking approval to not display the expiration date for the OMB approval of information collection, explain the reasons that display would be inappropriate.

FSA will display OMB expiration date upon OMB approval.

18. Explain each exception statement to the certification statement identified in Items 19 and 20 on OMB Form 83-I.

There are no exceptions requested.