

SUPPORTING STATEMENT'
for the
GSM-102 EXPORT CREDIT GUARANTEE PROGRAM
(0551-0004)

A. JUSTIFICATION

Summary

The GSM-102 Export Credit Guarantee Program (GSM-102) is administered by the U.S. Department of Agriculture's (USDA) Foreign Agricultural Service (FAS) on behalf of USDA's Commodity Credit Corporation (CCC). This program provides guarantees to exporters in order to maintain and increase overseas importers' ability to purchase U.S. agricultural goods. The GSM-102 underwrites credit extended by U.S. private banks to approved foreign banks using dollar-denominated, irrevocable letters of credit. The GSM-102 program covers credit terms up to 18 months.

Sales under this program are considered normal commercial sales. Thus, the majority of the information required for program participation, including the guarantee application, evidence of export report, assignment notice, and filing of notices of default, is information that would already be in the possession of the participant. The only information not normally available, or additionally required, would be: (1) the amount of the guaranteed value and (2) the amount of the guarantee fee, which are both derived from simple mathematical calculations. The requirement that an exporter must maintain or provide information which would normally be necessary to conduct export transactions or maintain records for accounting or tax purposes is not overly burdensome.

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

The information collection is necessary to enable exporters, U.S. banks and foreign banks to receive the benefits of the program and to ensure compliance with the Federal Funding Accountability and Transparency Act (FFATA), the Debt Collection Improvement Act (DCIA), and non-procurement suspension and debarment regulations found at 2 CFR Parts 180 and 417.

Summarized below are the requirements for the information collection associated with the rule at 7 CFR 1493 Subpart B.

Information Required for Collection	Reason for Information Collection	Legal Requirement
Qualification Requirements for Exporters - Evidence of an organized business, citizen or legal resident of the U.S.	<p>Permits FAS to determine if an applicant is legally registered to conduct business in the U.S. and provides small business information.</p> <p>Protects the U.S. government from contracting Exporters that are debarred or suspended, in violation of Federal or State antitrust statutes, presently charged by a government entity, or in delinquent status on nontax debt to the United States.</p>	1493.30
U.S. and Foreign Financial Institution qualification	Enables FAS to determine if the U.S. and Foreign Financial Institution is eligible to be approved for participation in the program.	1493.40; 1493.50
Certification of business regarding participation in U.S. government administered programs	Protects the U.S. government from contracting with Exporters and U.S. and Foreign Financial Institutions that are debarred or suspended, in violation of Federal or State antitrust statutes, presently charged by a government entity, in delinquent status on nontax debt to the United States, and ensures that all applicants are in compliance with the Foreign Corrupt Practices Act of 1977.	1493.60
Application for a Payment Guarantee	<p>Enables FAS to determine if the export sales contract can be approved for coverage.</p> <p>Protects the U.S. government from doing business with debarred or suspended companies or individuals.</p>	1493.70
Participant's signature and certifying statements as to the accuracy of the information submitted and compliance with CCC regulations and U.S. laws	In order for the payment guarantee to be valid through the length of the agreement, all submitted information must be accurate. FAS will assume this to be the case if the program participant certifies this to the U.S. Government. Falsified	1493.80; 2 CFR 180

	information submitted may subject the participant to suspension, debarment, civil or criminal action by the U.S. government. The exporter also certifies that he has checked the importer on SAM.	Foreign Corrupt Practices Act of 1977, as amended
Amendments to the application for a payment guarantee	Alerts FAS to any proposed changes under the original contract to ensure that the payment guarantee originally issued is still valid. In evaluating proposed changes, FAS must determine the validity of sales under the current program announcements and regulations.	1493.100
Guarantee fees	1) To recover a portion of the costs of any claims paid and offset administrative costs. 2) To reduce speculative sales.	1493.110
Assignment notification of the payment guarantee	Enables FAS to determine to whom the guarantee has been assigned, determine the eligibility of the entity receiving the assignment, and to assure that the rights of the new guarantee holder are protected.	1493.120
Evidence of Export	Demonstrates actual performance under the sales contract. Also establishes the amount CCC is liable for in the case of default.	1493.130
Proof of Entry	Demonstrates to FAS that the U.S. Agricultural Commodities covered by a Payment Guarantee arrived in the country or region shown on the Payment Guarantee.	1493.150; Ag Trade Act of 1978, as amended
Notice of default	Alerts FAS that a default has occurred and a claim for loss may be filed in the near future. Prevents FAS from providing additional coverage on sales involving defaulting party.	1493.160
Claim for loss with a copy of all documents relating to that guarantee's transactions	CCC becomes liable for payment under the payment guarantee upon submission of these documents in good order. Provides evidence to FAS that sale and	1493.170

	shipment of goods occurred in conformity with the guarantee. All documentation must be in order before CCC will pay a claim. Enables CCC to obtain the right to collect from the party obligated to make payment.	
Maintenance of Records	Enables USDA to review exporter documentation related to program participation.	1493.191(a)

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

Information is collected from participating U.S. exporters and U.S. and Foreign Financial Institutions in order to determine their eligibility for program benefits. The information is also utilized in fulfilling the CCC's obligation under the issued payment guarantee. Information may be provided in writing via email or the internet. There are no specific forms for information provided via email; however, the Internet system is form-based, and participants are prompted for all required information. Information is collected whenever an exporter desires to participate in the programs. This information is not shared with organizations outside of USDA (unless provided as required under FOIA).

Qualification Requirements - This information ensures FAS that all participants have a business office in the United States and are not debarred or suspended from participating in government programs. FAS also collects a description of the applicant's business, including whether it is a small or medium enterprise, and information on any related companies currently qualified to participate in the program. This information is provided by exporters. There is a form on the FAS website that an exporter can complete and either submit to FAS electronically or print and email.

U.S. and Foreign Financial Institution Qualification – This information ensures FAS that all participating financial institutions comply with regulatory laws, are not debarred or suspended from participating in government programs and provides FAS with adequate information to determine appropriate levels of risk. This information is provided by the financial institutions.

Certification of Business – This certification protects the U.S. government from contracting with debarred or suspended Exporters and U.S. and Foreign Financial Institutions. It further ensures that all applicants are in compliance with the Foreign Corrupt Practices Act of 1977, are not being charged by a government entity, do not have any delinquent nontax debt to the United States, or is not controlled or owned by someone with delinquent nontax debt to the United States.

Application for Payment Guarantee - The application is used to determine sale(s) eligibility for program coverage. The information requested in the application also provides FAS with adequate information to meet program goals and statutory requirements. This information is provided by exporters.

Signature and Certifying Statements - Certifications are made when the exporter signs the application for the payment guarantee. These certifications are necessary for program integrity and to ensure exporter compliance with regulatory requirements.

Amendments - Amendments to the payment guarantee are submitted in the same method as the application and reviewed to ensure that any changes to the initial application will not adversely impact a sale's eligibility for coverage. This information is submitted by exporters.

Guarantee Fees - The guarantee fee is submitted by the exporter. The exporter submits the fee through a wire transfer. The payment guarantee will not be approved until the fee has been received.

Assignment - A notice of assignment of the payment guarantee to a financial institution must be submitted if the exporter wants to secure payment at the time of export. Notices are submitted electronically and signed and/or acknowledged electronically by the exporter, U.S. bank, and FAS.

Evidence of Export - Evidence of export reports are required for each shipment made under the program and used to accurately determine CCC's liability, consistent with Credit Reform legislation. The evidence of export reports also contain certifications that ensure the exporter's compliance with program provisions. (Proof of entry documents are necessary to ensure the commodity/product exported under the programs arrived in the stated country of destination. Exporters are required to obtain proof of entry documentation for each shipment, but are not required to submit these documents to FAS unless specifically requested. Any request for such documents would be to ensure there had been no diversion of the commodity, which is prohibited by the program regulations and by statute.)

Notice of Default - Notice of default information must be filed in writing with FAS by the exporter or exporter's assignee within 5 business days after the date that payment was due from the foreign bank. This informs FAS that a default in payment has occurred and there may be a claim filed or debt rescheduled in the near future. FAS also uses this information to preclude additional business with an obligor that is in default.

Claim for Loss - A claim for loss must be made within 180 calendar days from the due date of the defaulted payment. The claim for loss is submitted by the holder of the payment guarantee: either the exporter or the exporter's assignee. This information is used to determine and confirm CCC's liability under a defaulted transaction before any payment is made by CCC.

Record Keeping - For a period of 5 years after the date of expiration of the coverage of a payment guarantee, the exporter and assignee must maintain accurate records related to the export sale. The regulation and statute gives USDA officials the authority to review these records during regular business hours. FAS routinely audits a sampling of program participants to ensure compliance with all regulatory requirements. In addition, this information may be reviewed by the Office of Inspector General if FAS has any reason to suspect fraud in a transaction.

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.

CCC's Internet-based system allows program participants to submit the following documents via the Internet: exporter qualification applications, applications for payment guarantees, electronic signatures/certifying statements, evidence of export reports, notices of default, and notices of assignment. All program participants are eligible to use this Internet-based system, which is advertised on FAS's Web site.

Exporter qualification applications may also be submitted using the separate form on the FAS Web site, as the exporter may be prepared to qualify for participation before gaining access to the online system. The form (see attachment) is located on our website for exporters to utilize.

U.S. and foreign financial institutions submit qualification materials both electronically and in hardcopy.

Claims documentation may be submitted in hardcopy or electronically.

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.

No similar information exists.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-1), describe any methods used to minimize burden.

The information required from any size entity does not vary, and thus does not lend in itself to making special provisions for small businesses. Exporters are required to self-certify whether they are a small business when applying to participate in the program. FAS estimates approximately 20 percent of active program participants are small businesses.

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.

FAS would be unable to determine if export sales under the programs are eligible for coverage or, if coverage conformed to program requirements. Credit Reform Act legislation also requires the collection of information to assess outstanding liability.

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

- requiring respondents to report information to the agency more often than quarterly

Once a payment guarantee is issued, respondents are required to submit information as required under section 1493.130 within 30 calendar days from the date of export, depending upon the mode of transportation. A notice of default under Section 1493.160(a) must be submitted by the exporter or the exporter's assignee to FAS not later than 5 business days after the date that payment was due from the foreign obligor. The purpose of the 5 day limitation is to ensure FAS does not guarantee any further transactions with the defaulting party once the default has occurred.

- requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it

There is no such written response required in fewer than 30 days.

- requiring respondents to submit more than an original and two copies of a document

Submissions do not require more than an original and two copies.

- requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years

Program participants are required by statute to retain all records in connection with export sales for five years after the date of expiration of the coverage of a payment guarantee. The Secretary of Agriculture or the Comptroller General of the United States must have full access to such records in order to uphold and protect the interests of the U.S. Government in the case of a default and claim.

- in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study

No statistical survey is designed under this collection.

- requiring the use of a statistical data classification that has not been reviewed and approved by OMB

No statistical data is required.

- that includes a pledge of confidentiality that is not supported by authority established in statute or 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

No such pledge of confidentiality is involved.

- requiring respondents to submit proprietary trade secret, 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.

Confidential sales contract information, which is considered a proprietary trade secret, is required to establish approval of a credit guarantee. The Freedom of Information Act (FOIA) has two exclusionary sections that pertain to proprietary business practices. Under Section 552(b) of the FOIA, trade secrets and confidential commercial or financial information are both lawfully allowed to be withheld from any FOIA request. FAS has internal guidelines in place for responding to FOIA requests in a manner to ensure market sensitive or confidential data is not released.

8. Provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 C.F.R. 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received.

Request for comment was included in the Notice of Request for a Renewal of a Currently Approved Information Collection published in the Federal Register November 24, 2020 (85 FR 74973). No comments were received related to this information collection.

The following organizations were consulted regarding this information collection:

Cargill/Cassandra Cantor (952-984-4984)
Bungle Latin America/Sittaya Changpakorn (914-356-3238)
Commerce Bank/Paul Toskin (314-746-7317)

No adjustments in the burden estimates were needed following the consultations.

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 respondents and the basis for the assurance in statute, regulation, or agency policy.

No such assurances are given.

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.

No such questions are asked.

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

The attached charts entitled “Hour Burden for Collection of Information” details the hour burden under the GSM-102 program. FAS reviewed internal data from the past three years to determine the number of participants, respondents and applications and received input from several active program participants to determine burden estimates. Final burden figures are based on the number of submissions received on-line. All burden times are in hours.

The total estimated burden for this collection is 1,130 hours. The estimated annualized cost to respondents for the hour burden of information collection is \$64,387 based on an average compensation (including fringe benefits) hourly rate of \$56.98.

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

No capital or long term maintenance costs are associated with this information collection.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses, and any other expense that would not have been incurred without this collection of information.

The annualized cost to the Federal government is estimated at \$1,582,294 and is attributed to the compensation costs of officials administering the program. These costs include salaries and fringe benefits. Staff members in grades 7 to 14 are involved in GSM registration and record keeping. A separate spreadsheet is provided with the details.

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

There is a decrease in the number of respondents (from 88 to 47), but an increase in responses (from 3,700 to 4,067). As the program is commercial in nature, program usage tends to run countercyclical to the economy. During the past year, the negative effects of the pandemic on the global economy resulted in an increase in program use among the current participants, causing the increase in responses. Total burden hours decreased overall (from 1,423 to 1,130), despite the increase in total responses, because of the shift to nearly 100% online submissions.

The online submission process takes substantially less time per response than other submission options.

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.

No collections of information results will be published.

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.

There are no plans to seek such approval.

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.