

2021
SUPPORTING STATEMENT
OMB Docket No. 0572-0156

**Special Authority to Enable Funding of Broadband and Smart Utility Facilities
Across Select Rural Development Programs (Smart Utility)**
7 CFR Part 1980

A. Justification

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

The Rural Utilities Service, Rural Business-Cooperative Service, and Rural Housing Service, agencies that comprise the Rural Development Mission Area within the United States Department of Agriculture, are issuing this final rule to establish the authority authorized by Section 6210 of the Agriculture Improvement Act of 2018, which will assist rural families and small businesses in gaining access to broadband service by permitting recipients of a loan, grant, or loan guarantee from RD to use up to 10 percent of the amount provided to construct broadband infrastructure in areas not served by minimum acceptable level of broadband service. This rule describes the procedures by which these agencies will consider projects eligible for special broadband authority.

On December 20, 2018, Congress passed The Agricultural Improvement Act of 2018 (2018 Farm Bill) (Pub. L. 115-334). In addition to sweeping changes in broadband program authorities, Congress provided for special use of funding from other RD programs for broadband deployment in Section 6210, “Smart Utility Authority for Broadband.” The provision granted the Secretary of Agriculture the discretion to allow recipients of grants, loans, or loan guarantees under RD programs to use not more than 10 percent of such funding to finance broadband infrastructure in areas not served by the minimum acceptable level of broadband service, as defined in this Part, and which will not result in competitive harm to a current RD loan, grant, or loan guarantee. While Section 6210 only imposes the competitive harm restriction with respect to RUS loan, grant, and loan guarantee recipients, RD has determined to apply the restriction RD-wide, consistent with the statutory guidance on conflicts and duplications of awards provided in 7 USC 2204b(d)(2).

Rural community leaders, businesses and utilities must consider broadband availability and uses as they plan for, and implement, new and improved facilities and services to support community and economic development. While integration of communications technology into a planned investment can be used for internal purposes, it can also serve as a catalyst to rural broadband deployment efforts. For example, investment in health care, public safety and businesses can be enhanced or leveraged to expand the availability and utilization of advanced broadband in rural areas. Smart highways can facilitate vehicle to infrastructure communications to enhance driver safety; smart water systems can remotely detect contaminants before they pose a health risk; smart pipelines can report leaks and structural weaknesses before they become dangerous; and smart grid systems deliver enhanced security and energy efficiency, as well as speed recovery after an electric outage. Through this

regulation, RD enables limited integration of broadband deployment with other rural investments funded through its broad suite of programs. It does so without adding the burden of seeking funding through separate program areas.

Note however that this regulation is not intended to affect existing authority available under Rural Development programs that can fund smart utility and broadband infrastructure. Notwithstanding such authority, such funding will be subject to this regulation with respect to the public notice and reporting requirements contained in this Part when retail broadband service is provided.

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

The collection of information described in this supporting statement is necessary for the identified RD programs that have established their respective programs requirements, to determine an applicant's ability to borrow under the terms of Sec. 6210 of the 2018 Farm Bill and comply with statutory, regulatory, and administrative eligibility requirements for loan assistance. Applicants for RD programs that wish to will apply under the appropriate program regulation and follow the application requirements of that specific regulation. As part of that submission, applicants are required to provide a service area map, where applicable, of their entire service territory.

These RD programs include but are not limited to the programs listed in the section below and, the burden is accounted for under the relevant OMB docket number assigned to each program. The burden associated with this authority is limited to the public notice filing requirement pursuant to Sec. 6207 of the 2018 Farm Bill.

Public Notice requirements -- Applicants seeking funding to finance retail broadband projects under Smart Utility authority which include activities where assistance may be provided under section 601 of the Rural Electrification Act 1936 are generally expected to comply with the rules related to broadband funding under Title VI of the Rural Electrification Act. To be considered for funding under smart utility authority applicants must provide:

- (1) a description of the proposed retail broadband project
- (2) a map of the proposed service area to be funded under smart utility authority of the applicant;
- (3) the amount and type of support requested by the applicant;
- (4)) the estimated number and proportion of service points in the proposed service territory without fixed broadband service, whether terrestrial or wireless; and
- (5) any other information required of the applicant in a funding notice.

(6) any other information required of similar applicants under Title VI of the Rural Electrification Act.

Fully Searchable Data Base -- The applicant information provided will be made part of a fully searchable database which could disclose to the public the information above.

Public Notice Survey – The agency will post a public notice filing on the Agency’s web site. The link to the public notice filing will be provided in the final rule when it is published in the **Federal Register**. Incumbent service providers in the area may respond to the public notice filing by providing a public notice response. The filer must provide specific information and provide mapping of their service territory as required by 7 CFR 1790.

BURDEN ACCOUNTED FOR UNDER OTHER OMB DOCKET NUMBERS

7 CFR 1710 – General and Pre-Loan Policies and Procedures Common to Electric Loans and Guarantees - OMB Docket No. 0572-0032.

The Electric Program makes loans and loan guarantees to finance the construction of electric distribution, transmission, and generation facilities, including system improvements to improve electric service in rural areas, as well as demand side management, smart grid, energy efficiency and conservation programs, and on-grid and off-grid renewable energy systems.

7 CFR 1779 - Water and Waste Disposal Program Guaranteed Loans - OMB Docket No. 0572-0122.

This program helps private lenders provide affordable financing to qualified borrowers to improve access to clean, reliable water and waste disposal systems for households and businesses in rural areas.

7 CFR 1780, Water and Waste Loans and Grants - OMB Docket No. 0572-0121.

This program provides funding for clean and reliable drinking water systems, sanitary sewage disposal, sanitary solid waste disposal, and storm water drainage to households and businesses in eligible rural areas.

7 CFR 1783, Revolving Funds for Financing Water and Wastewater Projects (Revolving Fund Program) (RFP) - OMB Docket No. 0572-0138.

This program helps qualified nonprofits create revolving loan funds that can provide financing to extend and improve water and waste disposal systems in rural areas.

7 CFR 1942, Subpart A Community Facility Loans - OMB Docket No. 0575-0015.

These programs provides affordable funding to develop essential community facilities in rural areas. An essential community facility is defined as a facility that provides an essential

service to the local community for the orderly development of the community in a primarily rural area, and does not include private, commercial, or business undertakings.

7 CFR 3560 – Direct Multi-Family Housing Loans and Grants - OMB Docket No. 0575-0189.

This program provides competitive financing for affordable multi-family rental housing for low-income, elderly, or disabled individuals and families in eligible rural areas.

7 CFR 3565 – Guaranteed Rural Rental Housing Program - OMB Docket No. 0575-0179.

The loan guaranteed program works with qualified private-sector lenders to provide financing to qualified borrowers to increase the supply of affordable rental housing for low- and moderate-income individuals and families in eligible rural areas and towns.

7 CFR 3570, Subpart A - Community Facilities Grant Program - OMB Docket No. 0575-0015.

These programs provides affordable funding to develop essential community facilities in rural areas. An essential community facility is defined as a facility that provides an essential service to the local community for the orderly development of the community in a primarily rural area, and does not include private, commercial, or business undertakings.

7 CFR 3575, Subpart A - Community Programs Guaranteed Loans - OMB Docket No. 0575-0179.

This program provides loan guarantees to eligible private lenders to help build essential community facilities in rural areas.

Intermediary Relending Program (IRP) - OMB Docket No. 0570-0021 - 7 CFR 4274.

This program, also known as IRP, provides 1 percent low-interest loans to local lenders or “intermediaries” that re-lend to businesses to improve economic conditions and create jobs in rural communities.

7 CFR 4279 Subparts A&B - Business and Industry Loans (Guaranteed Loan Program) - OMB Docket No. 0570-0018.

This program bolsters the availability of private credit by guaranteeing loans for rural businesses.

7 CFR 4279, Subpart C and 7 CFR 4287 - Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance Loans - OMB Docket No. 0570-0065.

This program, also known as the Section 9003 Program, provides loan guarantees to assist in the development of advanced biofuels, renewable chemicals, and biobased products manufacturing facilities.

7 CFR 4280, subpart A, Rural Economic Development Loan and Grant - OMB Docket No. 0570-0035.

This program, also known as REDLG, provides funding for rural projects through local utility organizations. USDA provides zero-interest loans to local utilities which they, in turn, pass through to local businesses (ultimate recipients) for projects that will create and retain employment in rural areas. The ultimate recipients repay the lending utility directly. The utility then is responsible for repayment to USDA.

IRP

7 CFR 4280, Subpart B - Rural Energy for American Program - OMB Docket No. 0570-0067.

This program, also known as REAP, provides guaranteed loan financing and grant funding to agricultural producers and rural small businesses to purchase or install renewable energy systems or make energy efficiency improvements.

7 CFR 4280, Subpart E, Rural Business Development Grants - OMB Docket No. 0570-0070.

This program, also known as RBDG, is designed to provide technical assistance and training for small rural businesses. Small means that the business has fewer than 50 new workers and less than \$1 million in gross revenue.

- 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.**

RD is committed to meeting the requirements of the E-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. Some RD programs have access to the use of the RD Apply Online Application Intake System for submitting requests for financial assistance to provide increased opportunities for citizens to access federal government program information and services.

The Mapping Tool serves three purposes. First, this tool will be used by existing borrowers or those interested in applying for funding under the Infrastructure Loan Program (Infrastructure Program), the Broadband Loan and Loan Guarantee Program (Broadband Program) and the Community Connect Grant Program (Community Connect) to draw their existing or proposed service area maps.

This tool is also used by RUS to post Public Notices of the proposed funded service areas for received loan applications and can be used by existing service providers to submit information regarding their service offerings. Lastly, this tool will be used by any state, local, or other entity that wishes to upload an authenticated map of existing broadband services.

- 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.**

Each application will be for a new project and new purpose, therefore information to determine broadband availability will be unique and will not be duplicated.

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

The information collected is the minimum needed by the Agency to approve loans, grants and loan guarantees and monitor borrower performance. The Agency believes it has minimized the burden on both large and small entities and that the required information is the least amount needed to determine applicant eligibility and project feasibility. It is estimated that 100 percent of the 53 respondents qualify as small businesses.

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.

Much of the information collected under these programs is the minimum necessary to conform to the requirements of the program regulations established by law. In particular for the collections required by statute or regulations, the information is collected when needed and cannot be collected less frequently to meet the requirements of the programs. Failure to collect proper information could result in improper determinations of eligibility or improper use of funds. For the remaining information collected as indicated, USDA has exercised discretion that the information is needed to appropriately award grants, loans and loan guarantees for the program.

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

a. Requiring respondents to report information more than quarterly.

There are no such requirements.

b. Requiring written responses in less than 30 days.

There are no such requirements.

c. Requiring more than an original and two copies.

There are no such requirements.

d. Requiring respondents to retain records for more than 3 years.

There are no such requirements

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

This information collection does not involve statistical information.

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

This information collection does not involve statistical sampling.

- g. **Requiring a pledge of confidentiality.**

There is no such requirement.

- h. **Requiring submission of proprietary trade secrets.**

There is no such requirement.

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 the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, reporting format (if any), and on data elements to be recorded, disclosed, or reported.**

As required by 5 CFR 1320.9(d), a Notice to request public comments was published on September 15, 2020 at 85 FR 57077. No comments were received.

The RUS Electric Program has spoken with cooperatives regarding this information collection. Below are the contacts of three borrowers that went through the process. None of the borrowers raised any issues with the process or the items in the list above. As this was a new process, there were delays in processing the data which were attributable to internal agency processes and getting ahead of the "learning curve." Those issues have since been resolved. The contact information for the borrowers are as follows:

Luis A. Reyes Jr.

Chief Executive Officer
Kit Carson Electric Cooperative, Inc

Srinivasa ("Veni") Venigalla, P.E.

Deputy General Manager, EISD
Navajo Tribal Utility Authority

Jon-Cameron Smallwood

General Manager/CEO

United Cooperative Services, Inc

As always, suggestions and comments are always considered by the Agency, and RD remains committed to pursuing further reductions in both the burdens placed upon our borrowers/customers and the total volume of regulations imposed.

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

No such decision has been made.

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

No assurances have been made. Information submitted to RD by grantees, borrowers and applicants is covered by the provisions of the Freedom of Information Act (5 U.S.C. 552).

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.

There are no questions of this nature.

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

Please reference the separate spreadsheet for a breakdown of the official, approved burden of the burden hours that is accounted for in this collection package.

The burden associated with this authority is limited to the public notice filing requirement (section 6207 of the 2018 Farm Bill) and is an estimate given that it is a new collection. The estimate of the public filing is based on the Agency's experience with public notice filings in the RUS Broadband Loan Program and ReConnect programs.

Number of annual estimated respondents/projects for the identified RD Programs:

20	7 CFR 1710 - GENERAL AND PRE-LOAN POLICIES AND PROCEDURES COMMON TO ELECTRIC LOANS AND GUARANTEES
5	7 CFR 1779 - WATER AND WASTE DISPOSAL PROGRAMS GUARANTEED LOANS
5	7 CFR 1780 - WATER AND WASTE LOANS AND GRANTS.
3	7 CFR 1783 - REVOLVING FUNDS FOR FINANCING WATER AND WASTEWATER PROJECTS (RFP).
3	7 CFR 1942, SUBPART A - COMMUNITY FACILITY LOANS

1	7 CFR 3560 - DIRECT MULTI-FAMILY HOUSING LOANS AND GRANTS
1	7 CFR 3565 - GUARANTEED RURAL RENTAL HOUSING PROGRAM
5	7 CFR 3570, SUBPART B - COMMUNITY FACILITIES GRANT PROGRAM
3	7 CFR 3575, SUBPART A - COMMUNITY PROGRAMS GUARANTEED LOANS
1	7 CFR Part 4274, SUBPART D - INTERMEDIARY RELENDING PROGRAM (IRP)
2	7 CFR 4279, SUBPART B - BUSINESS AND INDUSTRY LOANS (B&I)
1	7 CFR 4279, SUBPART C - BIOREFINERY, RENEWABLE CHEMICAL, AND BIOBASED PRODUCT MANUFACTURING ASSISTANCE LOANS
1	7 CFR, Part 4280, SUBPART A - RURAL ECONOMIC DEVELOPMENT LOAN AND GRANT (REDLEG)
1	7 CFR 4280, SUBPART B - RURAL ENERGY FOR AMERICA PROGRAM (REAP)
1	7 CFR Part 4280, SUBPART E - RURAL BUSINESS DEVELOPMENT GRANTS RBDG
53	

Total Number of Annual Respondents	* Total Number of Responses per Respondent	Total Annual Responses	Estimated Hours per Response	Total Burden Hours
53	3	159	1.50	239

* A public filing will be posted for each of the approximate 53 applicants/respondents. The Agency estimates that on average each posting will have 3 responses for a total of 159 responses.

Number of Respondents	Total number of public notice filings per respondent	Total Annual Responses	* Cost per Professional Time plus Benefits: https://www.bls.gov/news.Release/pdf/ecec.pdf	Estimated Total Cost	Estimated Cost Per Respondent
53	3	159	\$49.83 plus 29.9% \$48.45 + \$14.89 = \$64.72	\$10,290.48	\$194.16

* Wage Estimates Data Source:

May 2020 National Occupational Employment and Wage Estimates, United States; Bureau of Labor Statistics, https://www.bls.gov/oes/current/oes_nat.htm/oes111021.htm6. Find Occupation Code 11-1021, General and Operations Managers. Refer to Median hourly wage.

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

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

There are no capital or start-up costs involved with this collection.

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

There are no operation and maintenance, or purchase of services costs involved with this collection.

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

The cost to the Federal Government is estimated as follows:

Rural Development does not expect the proposed action to result in additional costs to either the government or the public. The agency will use existing appropriated program funds (no new funding is necessary). In addition, this new rule is being implemented within the existing application processes for which costs have been approved.

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

There have been no changes in burden since the submission of the emergency request.

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

There are no plans for publication.

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

The agency is not seeking such approval.

18. Explain each exception to the certification statement identified in item 19 on OMB 83-1.

There are no exceptions.

B. Collection of Information Employing Statistical Methods.

This collection does not involve statistical methods.