

## 2022 SUPPORTING STATEMENT

### 7 CFR Part 1956-C, Debt Settlement - Community and Business Programs (OMB No. 0575-0124)

#### A. Justification

##### **I. Explain the circumstances that make the collection of information necessary.**

Rural Development (including the Rural Housing Service (RHS), the Rural Business-Cooperative Service (RBCS), and the Rural Utilities Service (RUS)), hereinafter referred to as Agency, are the credit agencies for agricultural and rural development for the United States Department of Agriculture. The Agency offers supervised credit to develop, improve, and operate family farms, modest housing, essential community facilities, and business and industry across rural America.

The Community Facilities loan program of RHS is authorized by Section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926). The purpose of the Community Facilities loan program is to make loans to public entities, nonprofit corporations, and Indian tribes for the development of essential community facilities for public use in rural areas.

The Business and Industry program is authorized by Section 310 B 7 (U.S.C. 1932) (Pub. L. 92-419, August 30, 1972) of the Consolidated Farm and Rural Development Act to improve, develop, or finance business, industry, and employment and improve the economic and environmental climate in rural communities. The Business and Industry programs eligible for debt settlement under this provision are limited to Business and Industry direct loans. Debt Settlement of Economic Opportunity Cooperative Loans, Claims Against Third Party Converters, Non-program loans, Rural Business Enterprise/Television Demonstration grants, Rural Development Loan Fund loans, Intermediary Relending Program loans, and Nonprofit National Corporation loans and grants, are not authorized. Under independent statutory authority, settlement under these programs is handled pursuant to the Federal Claims Collection Joint Standards, 4 CFR parts 101-105.

The debt settlement program provides the delinquent client with an equitable tool for the compromise, adjustment, cancellation, or charge-off of a debt owed to the Agency. The term settlement is used for convenience in referring to compromise, adjustment, cancellation, or charge off actions individually or collectively. If a debt is eligible for settlement, the debt settlement authorities are extended to the debtor. All debtors are entitled to impartial treatment and uniform consideration under this subpart. The information collected is similar to that required by a commercial lender in similar circumstances.

This is a request for revision of clearance of 7 CFR 1956-C, which provides policies and procedures as well as a mechanism for debt settlement in connection with Community Facilities loans, Association Recreation loans; Rural Renewal loans; direct Business and Industry loans; Rural Development Loan Fund loans; Intermediary Relending Program loans; and the Rural Microentrepreneur Assistance Program (RMAP) loans and repayable portions of RMAP grants; and Shift-in-land-use loans.

Note: Farm Service Agency and Rural Utilities Service no longer utilizes this package.

**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.**

In order to determine borrower eligibility, financial capacity, and derive an equitable resolution, information (particularly financial information) is required from a client. This information is gathered from borrowers, consultants, lenders, attorneys, and by field offices for analysis, evaluation, and recommendation. The information enables field staff to process the request in a timely, but prudent fashion, in accordance with the applicable laws and regulations.

The specific items that impose a burden under this regulation are:

**REPORTING REQUIREMENTS – NO FORMS**

**System for Award Management (SAM) Registration, General Certifications and Representations.** At the time of application, each applicant must have an active registration in SAM before submitting its application in accordance with 2 CFR 25. This registration must remain current, accurate, and complete at all times during which the applicant has an active Federal award or an application under consideration.

**Disappeared Debtors.** The Agency may cancel debts when the debtor(s) has disappeared and cannot be found without undue expense. Reasonable efforts will be made to locate the debtor. These efforts generally include contact with members of the public who may have knowledge of the debtor's location.

The public burden is limited to responding to the Agency's contact and supplying information, if any is available, concerning the debtor's location. The Agency's contact and the response may be in person, by telephone, or by letter. Based on past performance, we anticipate there will be no cases of disappeared debtors.

**Requesting Additional Information.** The decision whether to accept or reject a compromise, adjustment, cancellation, or charge off, of the Agency's debt is usually based on the information contained on Form RD 1956-1. Occasionally, the approval official must obtain more information upon which to base the decision to settle the debt. When this is done, the servicing official will contact the debtor by telephone, in person, or by letter to obtain the additional information to complete the debt settlement action.

The information requested should be readily available from the respondent's financial records; therefore, the response time is limited to the time required to locate the information and respond to the servicing official's questions.

**Delinquent Adjustment Agreements.** Debtors who make adjustment agreements, promising to pay a reduced amount of debt over a fixed period of time in return for cancellation of the remaining debt, occasionally become delinquent on the agreed payments. When they become delinquent, servicing officials will contact them to ascertain the reasons for the delinquency. The public burden is limited to responding to the Agency's contact and supplying information on changed circumstances that justify the delinquency. The Agency contact, and the response may be in person, by telephone, or by letter.

**Request for debt restructuring.** This information from the borrower includes a letter requesting debt restructuring and financial projections, including balance sheet, budget, and cashflow statements for 3 years. The financial statements are to show the amount of cashflow available to support some restructured amount of debt, plus an amount to fund the Rural Development Reserve Account.

**Operations Review.** This review is to be performed by a firm contracted and paid by the Agency. The contractor will be on the premises of the borrower, gathering information and data for the final written report, which is to consist of a complete business and financial analysis of the borrower's operations. The report will cover such areas as: general, administrative, dietary, housekeeping, laundry, nursing, physical plant, social services, income potential, Federal and State insurance payments, rate analysis, etc.

**Appraisal.** The appraisal of the borrower's security property is to be performed by an independent, qualified fee appraiser. However, a small amount of time will be needed by the appraiser to discuss matters with borrower personnel.

**Meetings with the borrower.** Rural Development personnel will be performing debt restructuring and net recovery value calculation, based upon the operations review, appraisal, and other information. In this process, it is anticipated that contacts, meetings, and additional information will be needed from the borrower in order to finalize the calculations.

**Appeal.** The outcome of the final Rural Development determinations may bring disagreement from some borrowers. In these instances, the borrowers may request an appeal of the Agency's determination.

**Borrower Accepts Restructuring.** For borrowers who accept the debt restructuring and net recovery value calculations, certain additional information (including the signing of a Shared Appreciation Agreement and possible new debt instruments) may be necessary.

**Borrower Accepts Net Recovery Buyout.** For borrowers whose debt analysis calculations indicate that debt restructuring cannot be approved, and that Net Recovery Buyout is in order, they must pay off the Agency and execute a Net Recovery Buyout Recapture Agreement.

**Debt Settlement Under the Federal Claims Collection Act.** For borrowers whose debt and claims fall under the Federal Claims Collection Act, settlements must be submitted to, and approved by, the United States Attorney or Department of Justice.

## **REPORTING REQUIREMENTS – (FORMS APPROVED UNDER THIS OMB DOCKET)**

**Form RD 1956-1 “Application for Settlement of Indebtedness- OMB No. (0575-0124)** -This form must be executed by the debtor's approval official for Agency consideration of all settlement actions under this regulation. This includes consideration for compromise, adjustment, cancellation, or charge off of a debt owed to the Agency.

The Agency has made the instructions to forms available on the USDA eForms website at <https://forms.sc.egov.usda.gov/eForms/welcomeAction.do?Home>.

**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.**

Every effort has been made to use information the borrower would already have on hand and to maximize the use of available information technology. Information collected under this regulation is considered to be the minimum necessary to comply with the requirements involved. All the information involved is specific to the particular case; therefore, automation would not reduce or eliminate the burden.

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

The information collected under this regulation relates specifically to loan servicing requests and actions. Therefore, the request and supporting documentation will be unique for each borrower. The borrower is allowed to submit existing financial information rather than completing our form, if it is in a similar format, to avoid duplication. We use the applicant's/borrower's organizational documents for various servicing actions.

**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 collection required under the regulation places no burden on small entities beyond that performed in normal business practice.

**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 the burden.**

Information is only collected when it is needed to make a decision on a servicing request. This information is needed to determine which servicing tools should be used. The course of action taken must be in the best interest of the Government, the borrower, and the community receiving the services.

**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 information collection requirements that require specific reporting on more than a quarterly basis.

b. Requiring written responses in less than 30 days.

There are no specific information collection requirements that require less than 30 days response.

c. Requiring more than an original and two copies.

There are no specific information requirements that require more than an original and two copies.

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

There are no such requirements.

e. Not utilizing statistical sampling.

There are no such requirements.

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

No such requirements exist.

g. Requiring pledge of confidentiality.

There are no such requirements.

h. Requiring submission of proprietary trade secrets.

There are no such requirements.

**8. 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 record keeping, disclosure, reporting format (if any), and on data elements to be recorded, disclosed, or reported.**

As required by 5 CFR 1320.9(d), the Agency published a 60-day Notice in the *Federal Register* on July 22, 2022; Docket # RHS-22-CF-0010; Vol 87; No. 140; Page 43780. The public was given until September 20, 2022, to submit comments on the collection. 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. The Agency did not receive any comments.

Debt settlement actions are generally conducted with the full cooperation of our clients/borrowers. Direct feedback on data collection, clarity of instructions, recordkeeping, disclosure, reporting format, etc., is received at that time. Appropriate changes are made based on actual experience and feedback from clients.

Information was gathered from the following borrowers who completed debt settlement applications:

- (1). Executive Director,  
Business Loan Fund of the Palm Beaches, Inc.

(2). Board of Directors Chairman,  
The Family Maternity Center of the Northern Neck

(3). Secretary,  
Angel Food Ministries, Inc.,

All the representatives indicated that they did not consider the paperwork associated with the Community Facilities program to be excessive due to the manner in which the processing office assisted them in working through the applications under this authority. They felt the paperwork and reporting burden were not any greater than other Federal and State programs they dealt with. All representatives stated that the paperwork, the reporting burden, and the frequency of information collection were not problems for them. The Agency assisted in preparing the form. Most of the time spent by the Borrower was for reviewing the documents and obtaining signatures.

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

There is no payment or gift to respondents.

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

The control and assurance of confidentiality is carried out in accordance with the Freedom of Information Act. The Agency published a Privacy Act of 1974, System of Records (SORN) in the **Federal Register** on May 14, 2019 (84 FR 21315). A copy of that document can be found at <https://www.govinfo.gov/content/pkg/FR-2019-05-14/pdf/2019-09874.pdf>.

**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.**

Financial information is being requested for analysis purposes; therefore, the information collection requirements of this regulation do not include any questions of a sensitive nature, such as sexual behavior and attitude, religious beliefs, or other matters that are commonly considered private.

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

The burden for collecting information is based on an estimated combined 205 annual responses and 1,265 estimated total man-hours. This estimate is based on information in existing reports and reflects first-hand experience by Agency employees. The estimated total annual cost burden to the public reflects a combine grand total of \$91,640 with 29.6% included for benefits. This figure was based on multiplying the estimated total man-hours of 1,265 by the average wage class. The wage class used for requesting additional information, delinquent adjustment agreements, accepting a restructuring offer,

and net recovery buyout, was \$40 per hour as determined by the Department of Labor. For functions that frequently require the participation of the borrower, attorney, and accountant, we used an average rate of \$79 per hour as determined by the Department of Labor. These functions include preparing the application for settlement, the request for debt restructuring, operations review, appraisal, meetings with borrower, and appeals.

Please see the attached spreadsheet for a complete breakdown.

<b>Estimate of the Hour of Burden of the Collection of Information</b>					
<b>Program</b>	<b>Total Annual Respondents</b>	<b>Total Annual Responses</b>	<b>Total Annual Burden Hours</b>	<b>Hourly Cost Per Response</b>	<b>Total Cost</b>
CF	56	116	850	Combination of \$40/hr. and \$79/hr.	\$62,002
RBS	41	89	415	Combination of \$40/hr. and \$79/hr.	\$29,638
<b>Total:</b>	<b>97</b>	<b>205</b>	<b>1,265</b>		<b>\$91,640</b>

The total number of responses and respondents include the number of SAMs Registration, Certifications and Representations.

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

There are no capital or startup costs.

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

The annual cost to the Federal Government, which includes salaries, benefits, travel, communication, supplies, etc., to administer this regulation is estimated \$137,025. This cost was developed by estimating the number of hours that the Agency employees will spend in completing the required forms (1,015 hrs.) at approximately \$135/hr. This cost is based on a GS 12 step 5 loan specialist in each state spending 1% of their time on activities related to this regulation, based on 48 state offices; and one GS-13 step 5 loan specialists in the National Office, both with 36.25% included for benefits.

<b>Staff Position</b>	<b>Wage GS xx/x</b>	<b>Fringe Benefits %</b>	<b>Time (Hrs./Wk.)</b>	<b>Total Cost to the Federal Government</b>
CF	GS 12/13, step 5; 43.10/hr. & \$51.25/hr. Avg. \$47/hr.	36.25%	811hrs.	\$51,934
RBS	GS 12/13, step 5; 43.10/hr. & \$51.25/hr. Avg. \$47/hr.	36.25%	383 hrs.	\$24,526
<b>Total Cost:</b>				<b>\$76,460</b>

**15. Explain the reasons for any program changes or adjustments reported in items 13 or 14.** This submission includes an adjustment in the number of responses and burden hours for Rural Business-Cooperative Service (RBCS). During the time used to estimate the burden hours, RBCS had less applicants in 1951-C than in previous years, due to the lack of B&I direct loan funding and servicing need for other intermediary loan programs. As a result, the number of burden hours for RBCS was decreased from 928 to 415, and the number of responses was decreased from 97 to 89.

The Community Facilities (CF) program is reporting an increase in the number of responses and burden hour. This increase is due to the program's efforts to undertaking the resolution of longtime delinquencies from its portfolio. To accomplish this task, four Asset Risk Managers were dispensed to work with State Office staff to review and resolve accounts that had been delinquent for several years. This effort resulted in the increased number of CF responses from 46 to 116, and the number of burden hours from 62 to 850.

The overall combined number of responses reported for RBCS, and CF include the estimated 2 hours it takes an applicant to gather the information and input it in SAMs which resulted in a combined total of 205 responses, and 1,265 burden hours.

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

There is no specific collection of information requirement in this rule that 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.**

RD will display the expiration date of OMB approval.

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

There are no exceptions requested.

**19. How is this information collection related to the Service Center Initiative (SCI)? Will the information collection be part of the one-stop shopping concept?**

This information is not related to, and will have no impact on, the Service Center Initiative. The information collection under this regulation is case specific.