

U.S. Department of Agriculture
Generic Clearance for
Representations Regarding Tax Delinquent and Felony Conviction Status
for Corporate Applicants
in NonProcurement Programs
Renewal -- OMB Number 0505-0025

Justification

USDA's Office of the Chief Financial Officer requests renewal approval from the Office of Management and Budget (OMB) to submit this package as a data collection and receive clearance. The purpose is to aggregate the form's usage within USDA to determine the resulting data collection burden. USDA agencies that use the form will include and submit a generic Information Collection (IC) to 0505-0025 as a part of the renewal process for each of its collection packages using it. The generic IC will be available on paper and electronically and reflect the agency name, collection number, number of respondents, total burden hours and explanation of how the agency arrived at the figures. OMB's Memorandum M-18-24 (*Strategies to Reduce Grant Recipient Reporting Burden*, September 5, 2018) "effective January 1, 2020," established the General Services Administration's System for Award Management (GSA/SAM) as the central repository for common governmentwide certifications and representations required of Federal grant recipients."¹

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The Department of Agriculture (USDA) must comply with the restrictions set forth in Division E, Title VII §§ 744,745 of the Consolidated Appropriations Act, 2022, (Pub. L. 117-103, as amended and/or subsequently enacted), hereinafter Pub. L. 117-103. The restrictions apply to transactions with corporations that (1) have any "unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability and/or (2) were "convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction. The restrictions may not apply if a Federal agency considers suspension or debarment of the corporation and determines that such action is not necessary to protect the interests of the Government.

¹ GSA's *SAM.gov* is a governmentwide portal which consolidates the capabilities of multiple systems and information sources used by the Federal government in conducting acquisition and financial assistance processes. Registration in *SAM.gov* is required for eligibility for federal awards. Federal agencies use *SAM.gov* data to comply with award requirements. By completing the certs and reps in *SAM.gov*, grantee administrative processes are significantly streamlined making it easier to do business with the Federal Government. The certs and reps affirmations in this information collection address the statutory restrictions set forth in Division E, Title VII §§ 744, 745 of the Consolidated Appropriations Act, 2022, (Pub. L. 117-103), as amended and/or subsequently enacted).

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.

This information collection deals only with USDA nonprocurement programs and transactions. Categories of nonprocurement transactions covered include: nonprocurement contracts, grants, loans, loan guarantees, cooperative agreements, and some memoranda of understanding/agreement.

To comply with the statutory appropriations restrictions, this information collection requires corporate applicants for USDA programs to represent whether they have qualifying tax delinquencies and/or felony convictions which would prevent USDA from entering into a proposed business transaction with them. For nonprocurement programs and transactions the representations will be submitted by using the following form:

- AD-3030 - "Representations Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants" - This form will normally be included as part of the application package.

Use of this form or use of the boiler plate language below may occur.

This information assists with identifying corporations and applicants with unpaid Federal tax liability and felony conviction status before entering into USDA nonprocurement transactions.

The burden of a program's form use will be accounted for in their individual information collections. This method is optional.

The following is the boiler plate clause for:

Notices of Funds Availability

Prior to entering into any new non-procurement transaction with a corporation for any of the programs, agencies and staff offices will request that corporate applicants certify:

- Whether the applicant is an entity that has filed articles of corporation in one of the 50 states, District of Columbia or the various territories of the United States including American Samoa, Federated States of Micronesia, Guam, Midway Islands, Northern Mariana Islands, Puerto Rico, Republic of Palau, Republic of the Marshall Islands, or the U.S. Virgin Islands. Corporations include for-profit and non-profit entities;
- Whether the applicant has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability;

- Whether the applicant has been convicted of a felony criminal violation under any Federal law in the 24 months preceding the date of application.

The following are boilerplate clauses for:

All Memoranda of Understanding or Agreements for USDA Agencies Entered into with Corporations

By entering into this MOU/MOA, the undersigned attests that [insert corporation name] has not been convicted of a felony criminal violation under any Federal law within the preceding 24 months where the awarding agency is aware of the conviction fraud all administrative remedies have been exhausted or have lapsed, preceding the date of signature.

By entering into this MOU/MOA, the undersigned attests that [insert corporation name] does not have any unpaid Federal tax liabilities that have been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and are not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

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. Also describe any consideration of using information technology to reduce burden.

The form may be submitted in person to the FSA, RD, NRCS County Offices, with any new applications submitted for applicable agency programs. The form will also be available electronically and may be submitted electronically.

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

As discussed in the Justification, the certifications and representations sought by the form are captured in *SAM.gov* Financial Assistance General Certifications and Representations (certs and reps) during the registration process. USDA agencies and staff offices making financial assistance awards must comply with the governmentwide regulatory provision, [2 C.F.R. Part 25](#), which requires recipients of financial assistance to register in *SAM.gov* as a pre-condition for award. *SAM.gov* registrants must indicate whether or not they seek contracts, financial assistance, or both, and attest to certs and reps which include, but are not limited to, the statutory restrictions set forth in Division E, Title VII §§ 744,745 of the Consolidated Appropriations Act, 2022, ([Pub. L. 117-103](#)), as amended and/or subsequently enacted). Since there exists such representation in the Financial Assistance General Certifications and Representations in *SAM.gov*, USDA plans to limit the usage of the form to the Farm Service Agency, which has a *SAM.gov* registration exemption.

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 identical for all corporate applicants and offers no greater burden for smaller entities.

6. Describe the consequences 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.

The statutory restrictions set forth in Division E, Title VII §§ 744,745 of the Consolidated Appropriations Act, 2022, (Pub. L. 117-103) as amended and/or subsequently enacted, took effect as soon as they were signed into law. Failure to collect this information may cause inappropriate use of funds and violation of the Anti-Deficiency Act.

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;**

When a corporate applicant applies for a financial assistance award, it is required to acknowledge the entity's felony conviction and tax delinquency status.

- **Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it, N/A;**
- **Requiring respondents to submit more than an original and two copies of any document, N/A;**
- **Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years, N/A;**
- **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, N/A;**
- **Requiring the use of a statistical data classification that has not been reviewed and approved by OMB, N/A;**
- **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, N/A; or**

- **Requiring respondents to submit proprietary trade secret, 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.**

There are no other special circumstances that cause this information collection to be conducted in a manner that is inconsistent with 5 C.F.R. § 1320.

- 8. If applicable, provide a copy and identify the date and page number of the publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

On March 8, 2022, in Vol. 87, No. 45, pages 12925 to 12926, USDA's Office of the Chief Financial Officer (OCFO) published the notice of information collection and request for comments in the *Federal Register*. No comments were received. While the notice of information collection was available for comment, USDA learned from the Farm Production and Conservation (FPAC) Mission Area that only Form AD-3030 would be required, and only for the Farm Service Agency. In addition, FPAC, the only Mission Area using Form AD-3031 determined it was no longer needed.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instruction and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Agency consultation efforts with external stakeholders were conducted by:

OCFO contacted the FPAC Mission Area agency – FSA -- for this information. It provided a response; see Appendix A. FSA did not provide details on external stakeholder outreach. OCFO concludes that FSA's submission is a response in the aggregate for external stakeholders.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

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

No payments or gifts are 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 additional assurance of confidentiality is provided with this information collection. All information obtained in this collection shall not be disclosed except in accordance with the Privacy Act of 1974 (5 U.S.C. § 552a).

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

No requests of sexual behavior, attitudes, or religious beliefs are included in the new information collection. While acknowledging a felony conviction and tax delinquency may be of a sensitive nature, the information is required by the law and needed to properly evaluate new applications and comply with the statutory restrictions set forth in Division E, Title VII §§ 744,745 of the Consolidated Appropriations Act, 2022, (Pub. L. 117-103) as amended and/or subsequently enacted.

12. Provide estimates of the hour burden of the collection of information. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.

The Department estimates that approximately 75,580 respondents will apply for assistance for the applicable programs in a given fiscal year.

Out of the 75,580 respondents, some would apply and be awarded more than once while others would apply and be awarded only once during a given year for applicable programs. As such, an average of 2 responses were used per applicant and award. The information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering, and maintaining the data needed, and completing and reviewing the collection of information. The total annual burden is 37,790 hours (151,160 responses x 0.25 hours).

The respondents to this collection are corporate applicants for USDA programs. The frequency of the collection will occur when corporations apply to participate in USDA non-procurement programs.

13. Provide estimates of the total annual cost burden to respondents or recordkeepers resulting from the collection of information (do not include the cost of any hour burden shown in items 12 and 14). The cost estimates should be split into two components: (a) a total capital and start up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component.

There are no capital, startup, or ongoing operation/maintenance costs associated with this information collection to respondents or recordkeepers.

14. Provide estimates of annualized cost to the Federal government. Provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.

Government costs are covered separately by the Farm Service Agency under its information collections using the form. Because the form is computer generated, the cost of development, printing and distribution is minimal. In addition, as discussed in the Justification, the certs and reps sought by the form are captured in SAM.gov's Financial Assistance General Certifications and Representations during a registration process.

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

The decrease in the number of respondents, responses and burden hours is due to an amendment to the previous renewal request. We removed Form AD 3031 (*Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants*) which resulted in a reduction of 75,780 respondents; a reduction of two forms to one and 50 percent reduction in total burden.

16. For collection of information whose results are planned to be published, outline plans tabulation and publication.

There are no plans to publish the results of the information collected.

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

The Department is not requesting that the OMB expiration date not be displayed.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act," of OMB Form 83-1.

USDA certifies compliance with all provisions under Item 19 of OMB Form 83-1. There are no exceptions for this certification to the provisions found in the Paperwork Reduction Act of 1995 at 5 C.F.R. § 1320.9 for this collection.

19. How is this information collection related to the Customer County Office? Will this information be part of their one-stop shopping?

Applicants work with FSA, RD and NRCS County Offices administratively responsible for the form where they apply for programs and benefits. Staff in the county offices may assist users with the form.