

2024 SUPPORTING STATEMENT
7 CFR Part 1902-A, Supervised Bank Accounts
OMB Number 0575-0158

A. Justification

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

The Rural Housing Service (RHS) is the credit agency within the U.S. Department of Agriculture (USDA) that supports rural communities by offering a variety of programs to build or improve housing and essential community facilities in rural areas. The legislative authority for requiring the use of supervised accounts is contained in Section 339 of the Consolidate Farm and Rural Development Act (CONACT), as amended (7 U.S.C. 1989) and Section 510 of the Housing Act of 1949 (Housing Act), as amended (42 U.S.C. 1480).

This regulation prescribes the policies and responsibilities for the use of supervised accounts. In carrying out its mission as a supervised credit Agency, this regulation authorizes the use of supervised accounts for the disbursement of funds. The supervised accounts are used on a comparatively limited basis. The use may be necessitated to disburse Government funds consistent with the various stages of any development (construction or rehabilitation) work achieved. Another use is for depositing Multi-Family Housing (MFH) reserve account funds in a manner that ensures Government security is adequately protected against fraud, waste, and abuse. A supervised account is also used to provide credit counseling and oversight to those being assisted, who demonstrate an inability to handle their financial affairs responsibly. The Agency's approval is required prior to the withdraw of reserve account funds. RHS will only utilize one aspect of this information collection package which is the RD Form 402-1, "Deposit Agreement."

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 purpose of supervised accounts is to reduce the potential for fraud, waste, and abuse. Supervised accounts are used to temporarily store funds until Agency agreement can be finalized, such as when loan or grant funds must be held until conditions established for release are met, or when borrower funds must be held until conditions for action such as a partial release of security or a consent to sale are met. In addition, supervised accounts are used as a servicing tool, for short periods of time, in unusual circumstances, to provide financial counseling to those having difficulty upholding their responsibilities. Often these are borrowers who have entered loan servicing or workout plans.

The consequence to Federal program and policy activities if the collection of the described information was not conducted would be detrimental to both the Government and to borrowers. Removing a means to ensure loan and grant funds meet the conditions for disbursement before release, including prior approval of the Agency, could provide greater opportunities for fraud, waste and abuse. Eliminating the use of supervised accounts for a financial counseling tool would be detrimental to both the Government and the borrower, as the prospect for monetary default would likely be greater without this servicing tool.

The Office of the Inspector General (OIG) has issued audit warnings and report findings highlighting that reserve funds are being withdrawn without Agency approval and are being used for purposes which are not consistent with program objectives. Subjecting reserve accounts to sound methods of routine oversight reduces the level of fraud, waste, and abuse occurring in the Agency's MFH programs.

Specifically, the burden to be cleared with this docket is as follows:

REPORTING REQUIREMENTS – FORMS APPROVED UNDER THIS DOCKET:

Deposit Agreement, RD Form 402-1 and Deposit Account Control Agreement, RD Form 402-1A

RHS - The RD Form 402-1 may be used for any program administered by the Agency. The RD Form 402-1A may be used by MFH programs as an alternate form which eliminates the need for Agency countersignatures when fully executed. The forms are executed with new loan closings and occasionally thereafter with certain administrative changes and may require the holding of funds for very short periods of time in a non-interest-bearing account.

REPORTING REQUIREMENTS – NO FORM NUMBERS

Co-signature MFH Withdrawals

Borrowers with MFH reserve accounts with an executed RD Form 402-1 will subject the withdrawal of reserve account funds to co-signature by an authorized RHS Official. Co-signature presents no added public burden.

Where RD Form 402-1A is executed, a co-signature will not be required. Historical trends show the ability to adhere to the responsibilities agreed upon as a condition for the loan (i.e., a borrower reports financial information needed to determine if regulations governing the reserve account were followed, uses reserve funds for authorized purposes, obtains prior Agency consent for the withdrawal of reserve account funds, etc.).

Interest Bearing Deposit Agreement (Exhibit B)

Interest Bearing Deposit Agreements will typically be used to hold loan, grant, and reserve account funds that are not required for immediate disbursement. The Exhibit B is obsolete and has been replaced by RD Form 402-1/402-1A for MFH programs. In accordance with 7 CFR 3560.306, all MFH reserve account funds must be held in interest-bearing accounts. Compliance with this requirement is routinely monitored by Agency staff. This agreement may be used for any program administered by the Agency which may require the holding of funds in an interest-bearing account.

Establishing Supervised Bank Accounts

Reserve accounts must be established and used in the manner set out in Agency regulations, 7 CFR 3560.306. The Agency's approval is required prior to withdrawing funds from the reserve account.

Collateral Pledge

Collateral pledges will be required in some instances under Agency regulations. Funds held by financial institutions are prohibited from being pledged or taken as security without the Agency's prior consent. MFH seldom receives collateral pledge requests. Collateral pledges are primarily required when funds are over the Federal insurance thresholds (i.e., over \$250,000).

Reconciliation of Accounts

A reconciliation of accounts is required periodically to verify account balances and fund usage. MFH programs routinely reconcile reserve accounts at the time of the Triennial Supervisory Visit occurring every 3 years. Additional reconciliation is performed when concerns arise over the accuracy of borrower financial records or when unusual servicing efforts are warranted, such as a need to confirm whether the accounts were used as intended for authorized purposes.

Supervised Bank Account Proof of Government Identity Exemption

Proof of Government Identity Exception document is provided to financial institutions pursuant to the Customer Identification Program (CIP) regulation, 31 CFR 1020.220. Financial institutions are exempt from obtaining CIP information from Federal agencies opening an account, because Federal agencies are not considered "customers" for the purpose of CIPs, in accordance with 31 CFR 1020.100(b)(2)(ii) and 31 CFR 1020.315(b)(2). Government officials with signature authority and acting in the course and scope of their official Government duties fall under this exemption. Any burden associated with Proof of Government Identity Exception, is that of Agency staff.

REPORTING REQUIREMENTS – FORMS APPROVED UNDER OTHER OMB DOCKET NUMBERS

None.

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.

The burden associated with the use of supervised accounts is relatively small and is partially automated and electronic; however, it may presently require some signatures to be manually executed and presented in person or by mail. Respondents have the option to electronically transmit funds and signatures in lieu of original signatures.

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 frequency of activity is expected to be low; therefore, there is little opportunity to curtail duplicative reporting burden because there will be little duplication in the information collected. Furthermore, Agency personnel will be the ones primarily preparing the forms, relegating the involvement of the public to primarily a reading of the instruments involved and executing a signature on the instruments.

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 collected will often be obtained from small businesses or small nonprofit entities. The forms are considered to contain that information essential to establish supervised accounts and may be transmitted electronically as an option. No automation requirements are being imposed, and the data solicited has been reviewed by the Agency to ensure that only essential information needs are requested.

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.

Collection less frequently, when used in conjunction as conditions for an approval action, would remove an effective deterrent against abuse. Requiring disbursement of loan or grant funds needed for construction after construction inspections is a prudent Government lending practice. The Government will often order funds for delivery in anticipation that construction schedules and problem resolution schedules will be met. When unexpected problems arise in meeting agreed upon time frames, temporary placement of funds in a supervised account is a prudent Government lending practice.

Collection less frequently, when used in conjunction as a financial counseling tool, may result in a slight increase in delinquencies. Financial counseling is a prudent lending practice of Federal agencies charged with providing supervised credit. However, it should be noted that this tool is sparingly used for those cases when financial counseling will be received in a cooperative atmosphere to overcome difficulties.

Collection less frequently, when used in conjunction with reserve account actions, would not serve as a sufficiently effective deterrent to prevent abuse. Past OIG audits indicated that reserve fund abuses are sufficiently common to warrant modification of existing Agency policies. Examples involving millions of dollars which were improperly withdrawn from reserve accounts are used for no-project purposes were cited by the OIG. As a result of the findings, the Agency adopted policies aimed at reducing reserve fund abuses.

Adopted policies and practices aimed at preventing funds abuse and recovering misused funds have been effective in reducing loss to the Federal government over time. The Agency has eliminated co-signatures on some reserve account withdrawals as it is historically demonstrated the ability to adhere to the responsibilities agreed upon as a condition for the loan or grant (i.e., a borrower reports financial information needed to determine if regulations governing the reserve account were followed, uses reserve funds for authorized purposes, obtains prior Agency consent for the withdrawal of reserve account funds, etc.).

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.

No special circumstances requiring reporting more than quarterly exist.

- b. Requiring written responses in less than 30 days.

No written response is due in less than 30 days.

- c. Requiring more than an original and two copies.

The public is not required to provide two or more copies of information.

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

The public is not required to retain records for more than 3 years.

- e. Not utilizing statistical sampling.

Sampling is not used because the information collected is unique to borrower circumstances and is not standard. The information required describes changes in

borrower operations and is of a legal nature. Sampling is not appropriate in such circumstances.

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

There is no required statistical sampling; therefore, there is no deviation from any approved or reviewed OMB sampling method.

g. Requiring a pledge of confidentiality.

There is no required pledge of confidentiality.

h. Requiring submission of proprietary trade secrets.

There is no required submission of proprietary trade secrets.

There are no special circumstances causing any information collection to be conducted in a manner warranting an exception to the standard reporting requirement guidelines.

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.

A Federal Register Notice was published on April 12, 2024 (89 FR 25862).

The Agency endeavors to maintain ongoing contact regarding the overall operation of the MFH program. For this collection of information MFH solicited feedback from current active/respective applicants to obtain their views and overall opinion on RD MFH's process for maintaining the Supervised Bank Account, the clarity of instructions, and the use of the RD Form 402-1 (Deposit Agreement) or 402-1A (Deposit Account Control Agreement).

Interviews were conducted with the following stakeholders:

President
Flynn Management Corporation
516 Lakeview Rd Suite 8,
Clearwater, FL 33756
info@flynnmanagement.com
727-449-1182

- “Our company thinks the forms are perfectly fine and we have not had any issues completing them. I think the directions are accurate and track the form properly. Overall, we do not have any negative comments on the forms.”

Director of Property Management
Fitch Irick Corporation/GEM Management
1515 Mockingbird Lane, Suite 1010
Charlotte, NC 28209
info@fitchirick.com
704-335-9112

- “Fitch Irick Corporation has over 6000 Rural Development apartments and has used these forms for a number of years. We find them fairly straightforward and easy to use.”

Executive Vice President – Development
TM Associates
1375 Piccard Drive
Rockville, MD 20850
rentals@tmamgroup.com
240-428-7799

- “None of the big banks will provide Replacement Reserve accounts due to the DACA and definitely wouldn’t do the dual signatures. We are using regional banks for these accounts – Eagle, United, Sandy Spring and CF Bank. This last round, Eagle’s legal department took a hard look at the DACA and it was questionable for a little while as to if we were going to be able to get RR accounts opened there. With the tightening in the banking industry, I believe that even the regional banks will provide push back in the near future.”

Interview Summary: Two of the interviewees have agreed that the process for maintaining Supervised Bank Accounts is straightforward, the instructions for using the forms are clear, and overall, are satisfied. The third interviewee commented on aspects outside of the scope of the subject matter, which the Agency continues to explore.

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

No payment 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.

The Agency is not providing any assurance of confidentiality in the regulation. All information solicited as a result of this regulation is subject to existing Agency policies governing the collection and disclosure of information. These procedures are established

in Agency regulations published at 7 CFR Part 2015, Subpart E, and 7 CFR Part 2018, Subpart F.

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.

This regulation does not solicit information on sensitive issues.

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

This submission is for 13,052 respondents (includes 52 SAM registrants who are Guaranteed Rural Rental Housing Program lenders), 4,625 annual responses and 4,781 total burden hours. Based on information from the Bureau of Labor Statistics Occupational Employment and Wage Statistics, the Agency estimated the average salary of \$29.17 per hour, plus 29.6% for benefits and overhead for a total of \$37.80 per hour. The estimated annual burden for all respondents to complete SAM and Form 402-1/402-1A is 4,781 hours. The estimated cost to the public for this regulation is \$39.07 per response, with a docket total cost of \$180,732.38. This calculation does not take into consideration the majority of respondents who are not required to perform all of the tasks in the spreadsheet annually. Exhibit B – “Interest-Bearing Deposit Agreement” has been replaced by RD Form 402-1/402-1A for MFH programs. Exhibit C burden is that of Agency staff (see, attached spreadsheet).

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

There are no start-up costs involved.

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

The estimated annual cost to the Federal Government associated with this regulation is \$10,675, which represents a decrease from previous reporting largely due to the elimination of the National Office Loan Specialist role in this rulemaking due to the organizational realignment occurring in 2020-2021. The estimate includes the time spent per year for 230 Agency Loan Servicing staff oversight nationwide. Approximately 190 hours of cumulative staff time was dedicated to the administration and review of Supervised Bank Accounts. The average salary for the Loan Servicing staff is that of a GS 10 step 5 rounded to the nearest whole dollar. Generally, GS 9 and 11 employees perform this task. (Amounts are based on the 2024 OPM Base Salary)

Staff Position	No. of Staff	Grade GS/Step	Annual Base Salary	Hourly Salary	Hourly Salary With Fringe Benefit (36.25%)	Burden Hours per Loan Servicing Official	Hourly Cost per Loan Servicing Official	Total Estim. Annual Cost to Government
Loan Servicing Official	230	10/5	\$85,372	\$41.00	\$55.92	.83	\$46.41	\$10,675

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

There has been a net decrease in the Estimated Cost to the Federal Government from the previous reporting largely due to the elimination of the National Office GS-13/5 Loan Specialist role and salary in this rulemaking as a result of the organizational realignment of the MFH program occurring in 2020-2021.

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

The Agency does not plan to publish information collected for statistical use.

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.

These forms are used in other Rural Development information collections; therefore, it is not practical to include an OMB expiration date because of the different expiration dates for each collection. RD is seeking approval to not display the OMB expiration date on these forms.

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?

The information solicited is unique and is needed by the Agency to answer a borrower-initiated request for a servicing action needed to change existing agreements with the Agency such that the borrower may improve operations. The Agency supports the

service center initiative efforts of the Federal government. Most Agency offices are co-located with other federal agencies providing similar services to promote the one stop shopping concept to ensure services are efficient, effective, and convenient to the public.