

SUPPORTING STATEMENT

7 CFR Part 1924-F – Complaints and Compensation for Construction Defects

A. Justification

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

Section 509 of Title V of the Housing Act of 1949, as amended, authorizes the Rural Housing Service (RHS) to pay the costs for correcting defects or compensate borrowers of Section 502 Direct loan funds for expenses arising out of defects with respect to newly constructed dwellings and new manufactured housing units with funds authorized under this title.

This is a reactionary-type procedure implemented to fulfill a need to inform field offices on how to deal with complaints generated by the public. The objective of this procedure is to be responsive to the public served by the Agency; and to minimize claims and civil actions against the Government by instituting a procedure for the resolution of complaints.

This regulation provides instruction to all Rural Housing Service personnel to enable them to implement a procedure to accept and process complaints from the borrowers/owners against builders and dealers/contractors, to resolve the complaint informally and when the complaint involves structural defects which cannot be resolved by the cooperation of the builder or dealer/contractor, authorizes expenditure to resolve the defect with grant funds. Resolution could involve expenditure for (1) repairing defects; (2) reimbursing for emergency repairs; (3) pay temporary living expenses or (4) convey dwelling to RHS with release of liability for the RHS loan.

The intent is to provide individual homeowners with housing that is free of defects which directly and significantly reduces the useful life, the habitability, or integrity of the dwelling or unit. However, claims must be filed within the first 18 months after the date financial assistance was granted to build a single family dwelling or a manufactured housing unit.

Without the provisions of this Instruction, RHS will be unable to provide the necessary guidance to new homeowners, builders, and dealer/contractors for the resolution of complaints.

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 information is collected from the Agency borrowers and the local Agency office serving the county in which the dwelling is located. This information is used by the Rural Housing Staff to evaluate the request and assist the borrower in identifying possible causes and corrective actions. The information is collected on a case-by-case basis when initiated by the borrower. RHS has reviewed the program's need for the collection of information versus the burden placed on the public and determined the program's need is necessary and beneficial. Failure by RHS to correct structural defects will be costly to the Government in that property serving as security for the

Government loan would have low property value and loss of the available housing stock for the public.

The specific burden of information to be cleared includes the following:

### **Reporting Requirement – No forms**

#### Notice to Contractor from Borrower of Construction Defects (Complaints)

Complaints in this subpart refer to expressions of dissatisfaction made by RHS borrowers, a person(s) who have received program assistance to purchase a newly constructed dwelling or new manufactured housing unit under Section 502 [42 USC 1472] of Title V of the Housing Act of 1949, as amended, to RHS concerning alleged defects in the construction of their dwelling or unit. In addition, it serves as a request for formal assistance from the Agency to aid the borrower in obtaining corrective relief from the builder/warrantor of the property. Complaints can be made to the RHS Community Development Manager in writing or orally.

It is estimated that 500 complaints are received annually.

#### Notice of Non-Compliance from Borrower to RHS

Non-compliance in this subpart refers to the builders or dealer/contractor's inability or unwillingness to correct construction defects. Non-compliance also refers to the builders or dealer/contractor's failure to respond to the request for repairs. This serves as notice to RHS that the borrower's attempt to resolve the discrepancies with the builder/dealer/contractor has been unsuccessful. The borrower and the local RHS county office that services the loan make this notification.

Of the estimated 500 complaints received annually, approximately 20 percent, or 100, need intervention by the Rural Housing Service.

### **Reporting Requirements – Forms**

Form RD 1924-4 "Documentation of Construction Complaint/Request for Compensation for Construction Defects"

This form is completed by the borrower with the assistance of the Rural Housing Staff and submitted as an application for assistance. This establishes formal communication between the applicant and RHS. It allows the Agency to determine the borrower's eligibility, provides a description of the defects for which compensation is requested, the type of assistance requested, the action to be taken against the contractor, and amount of claim.

Of the estimated 100 complaints that require RHS intervention, approximately 25 percent will not be satisfactorily resolved. Thus, it is estimated that approximately 25 borrowers will actually complete this form that is submitted to the National office.

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 use of automated, electronic, and mechanical or technological collection techniques is not applicable to this type of collection nor would these techniques assist us in reducing the burden to the public.

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.

A review of the procedure to identify possible areas of duplication was completed. Similar information is not collected at any time during the loan making or servicing process; therefore, duplication is not a problem.

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.

Similar information from other sources cannot be substituted for information needed as described in item 2. The information required by this regulation places no burden on small businesses or other small entities beyond that performed in the course of normal business.

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.

The collection of information is considered to be the minimum necessary to conform to the requirements of program regulations. Without the collection of such information, RHS would be unable to assure that eligible borrowers would receive compensation to repair defects to their newly constructed dwellings, as well as, maintain the market value of the property serving as security for the Section 502 loan.

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 not information requirements that require reporting on more than a quarterly basis.

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

There are not time frames established in the regulation for the information collection.

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

There are no specific information collection requirements for 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 that has not been reviewed and approved by OMB.

No such requirement exists.

- g. Requiring a pledge of confidentiality.

There are no such requirements.

- h. Requiring submission of proprietary trade secrets.

There are no such requirements.

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.

The 60-day Federal Register notice was published on June 5, 2006, 71 FR, No. 107, page 32304. No comments were received.

**Contacts:**

Brian Wiles, Oklahoma Single Family Housing Program Director,  
Phone number (405) 742-1070

Oklahoma has used this program once in the past year. I feel that the amount of documentation required is not a burden given the amount of additional funding the agency provides. Extra measures should be used by the field offices to verify that when defects exist, proper steps have been taken to insure program compliance. RD form 1924-4 is easy to use and self-explanatory. The borrower and Rural Development Manager review it at length prior to beginning the repairs of the defective work. Additional documentation varies depending on the amount of work involved.

The RD Construction Defect Program is a valuable tool to assist homeowners that have had an adverse construction experience. I do not feel the burden on the borrower or Rural Development is excessive.

Peter Kohlen, Wisconsin Single Family Housing Program Director,  
Phone number (715) 345-7620

It is my view that the information in the extension of our Program for Complaints and Compensation for Construction Defects is correct. We have been involved in three construction defect payouts in recent years and we feel the system appears to be working. The State engineer personally handles all of these defect issues with the support of the field offices and myself.

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

There will be 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.

There is no formal assurance of confidentiality provided to respondents; however, it is the Agency's policy to only release information with the respondent's written consent.

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 is no information collection of a sensitive nature.

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

See attached spreadsheet.

Explanation:

The number of respondents for burden determination was based on an estimated 500 borrowers complaining of defects. Approximately 20 percent, or 100, would require intervention by RHS.

It is estimated that 200 man-hours will be the burden on the public. The annual cost to the public for this collection of information is \$2,000. Cost and time estimates were based on the following breakdown per number of respondents per average hours.

500	Respondents to Exhibit A to RD Instruction 1924-F
.25	Average hours

<b>125</b>	Subtotal Burden Hours
100	Respondents to Exhibit C to RD Instruction 1924-F
.25	Average hours
<b>25</b>	Subtotal Burden Hours
25	Respondents to Form RD 1924-4
2	Average hours
<b>50</b>	Subtotal Burden Hours
200	<b>Total Estimated Burden hours</b>
<u>10</u>	Estimated cost per hour
<b>\$2,000</b>	<b>Total Estimated Annual Cost</b>

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

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

There are no start-up costs involved.

- b. Total operation and maintenance and purchase of services component.

There are no start-up costs involved.

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

RHS estimates the cost to the Federal Government to administer this program to be \$161,210 a year. This cost includes the salary expense for Government employees involved in the information collection process.

This figure was obtained by calculating the salaries for 1 GS-13 employee and 2 GS-11 employees as an average for those working on the project. The salary cost for the GS-13 employee is \$65,832 and for the 2 GS-11 employees is \$92,378. We are also including \$1,000 for training costs and \$2,000 for any publishing and supplies cost for the program.

GS-13 Employee	\$ 65,832
GS-11 Employees	\$ 92,378
Training	\$ 1,000
Publishing and Supplies	\$ 2,000
<b>Total Cost:</b>	<b>\$161,210</b>

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

No changes have been made.

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

The collection of information will not 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.

It is not cost effective for the Agency to display the expiration date on the 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?

This information is not related to the Service Center Initiative and is not related to this program.