

SUPPORTING STATEMENT**OMB Control Number 0572-0079
Preloan Procedures and Requirements for Telecommunications Program****A. Justification**1. Circumstances that make this collection of information necessary.

USDA Rural Development administers rural utilities service through the Rural Utilities Service. USDA Rural Development makes mortgage loans and loan guarantees to finance telecommunications, electric, and water and waste facilities in rural areas with a loan portfolio that totals nearly \$42 billion. In addition to providing loans and loan guarantees, one of RUS' main objectives is to safeguard loan security until the loan is repaid. Accordingly, Rural Development manages loan programs in accordance with the Rural Electrification Act of 1936, 7 U. S. C. 901 *et seq.*, as amended, (RE Act) and as prescribed by Office of Management and Budget (OMB) Circular A-129, Policies for Federal Credit Programs and Non-Tax Receivables, which states that agencies must, based on a review of a loan application, determine that an applicant complies with statutory, regulatory, and administrative eligibility requirements for loan assistance.

Section 201 of the RE Act authorizes the Administrator of the Rural Utilities Service to make loans to qualified telephone companies for the purpose of providing telephone service to the widest practicable number of rural subscribers. Telephone borrowers have, through May 31, 2006, received over \$11 billion in loans from USDA Rural Development, the Rural Telephone Bank (RTB), and loan guarantee commitments.

The collection of information described in this supporting statement is necessary in order for USDA Rural Development to determine an applicant's eligibility to borrow through the Rural Utilities Service under the terms of Section 201 of the RE Act. This information is also used by USDA Rural Development to determine that the Government's security for loans made by USDA Rural Development are reasonably adequate and that the loans will be repaid within the time agreed.

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 supporting statement includes the information collection for (a) loan requirements and preloan and loan processing procedures, and (b) acquisitions and mergers.

(a) Loan Application

The completed loan application consists of four parts:

- (1) A completed RUS Form 490.
- (2) Supplementary Information
- (3) A market survey called the Area Coverage Survey (ACS).
- (4) The plan and associated costs for the proposed construction, called the Loan Design (LD).

RUS Form 490, “Application for Telecommunications Loan and Loan Guarantee”

RUS Form 490 is submitted by loan applicants when requesting a loan from USDA Rural Development. Form 490 is used by USDA Rural Development staff (1) as formal notification of an applicant’s desire to obtain financing from USDA Rural Development and (2) in determining the preliminary eligibility of an applicant (including qualification for interim financing). Form 490 includes the necessary certification and notification requirements of OMB Circular A-129 with regard to Federal debt delinquency.

Supplementary Information

USDA Rural Development requires additional information in support of the loan application. Most supplementary information required by USDA Rural Development is readily available in the borrower’s files. The following information is submitted by all initial loan applicants and borrowers seeking subsequent loans must submit any changes in these items:

- (1) Name of attorney and manager, and certified copies of board resolutions selecting them.
- (2) Certified copy of articles of incorporation showing evidence of filing with the Secretary of State and in county records.
- (3) Certified copies of bylaws and board minutes showing their adoption.
- (4) Certified sample stock certificates.
- (5) Amounts of common and preferred stock issued and outstanding.
- (6) Names, addresses, business affiliations, and stockholdings of the manager, officers, directors, and other principal stockholders (those owning at least 20 percent of borrower's voting stock).
- (7) Certified copies of real estate deeds showing all recording information.
- (8) Service agreements, such as for management or system maintenance.
- (9) Certified copies of existing leases, except those for vehicles, furniture and office equipment, and computer equipment.
- (10) Certified copies of existing franchises.
- (11) Information on any franchises required as a result of the proposed loan project.
- (12) Federal Communications Commission (FCC) authorizations.

- (13) Certified copy of a certificate of convenience and necessity (or its equivalent), or information demonstrating the nonduplication of reasonably adequate facilities, for all areas in the loan project.
- (14) For toll, operator office, traffic, and EAS agreements, the names of all parties to the agreement, the type of agreement, and the effective and termination dates of the agreement and annexes, and the exchanges involved.
- (15) Copies of rate schedules. (A copy of the tariff must be available for review by the USDA Rural Development field representative.)
- (16) Executed copy of RUS Form 291, "Certification of Nonsegregated Facilities".
- (17) A sketch or map showing the existing and proposed service areas.
- (18) Executed assurance that the borrower will comply with the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended (see 49 CFR 24.4).
- (19) A certification, signed by the president of the borrower, that the borrower is participating in the State's telecommunications modernization plan

The following must be submitted by all initial loan applicants and borrowers seeking subsequent loans:

- (1) Certified financial statements for the last 3 years.
- (2) Toll settlement statements and related data.
- (3) Present exchange rates and any pending changes.
- (4) Borrower's Environmental Report (BER) (cleared under 0572-0117)
- (5) A "Certification Regarding Lobbying" for loans, or a "Statement for Loan Guarantees and Loan Insurance" for loan guarantees, and when required, an executed Standard Form LLL, "Disclosure of Lobbying Activities," (see section 319, Public Law 101-121 (31 U.S.C. 1352)).
- (6) "Certification Regarding Debarment, Suspension, and Other Responsibility Matters--Primary Covered Transactions.
- (7) Borrower's determination of loan maturity.
- (8) Approved depreciation rates for items under regulatory authority jurisdiction.

The following must be submitted for all borrowers requesting funds for refinancing:

- (1) Copies of all bonds, notes, mortgages, and contracts covering outstanding indebtedness proposed to be refinanced.
- (2) For each note or bond, the name of the creditor, original amount of debt and amount as of last year-end, purpose of debt, dates incurred and due, interest rates, and repayment terms.
- (3) Justification for refinancing and evidence that the use of loan funds is necessary and incidental to furnishing or improving rural telephone service.

Area Coverage Survey

RUS Form 569, "Area Coverage Survey Report" provides subscriber projections and addresses the question of whether the telephone service will be provided on an area coverage basis. Information collected with the RUS Form 569 includes a field survey of the service area, forecast of telephone subscribers in the service areas and a narrative.

Loan Design

The Loan Design, which includes RUS Forms 494 and 495, is an engineering design and cost estimate submitted by the applicant which describes in detail the proposed use of loan funds. The Loan Design is used by USDA Rural Development engineers to analyze, in detail, all costs and construction plans associated with the financing being requested. The narrative portion of the Loan Design discusses the proposed construction and long-range plans for the borrower's system. The majority of the information requested would be required by a commercial lender before making a loan. RUS Form 494, "Loan Design Summary," is used by the USDA Rural Development engineering staff in determining the amount of funds needed for construction purposes. RUS Form 495, "Construction Cost Estimates," provides cost estimates by major components of telephone plant, i.e., central office equipment, outside plant, and land and buildings. Form 495 and this preloan material provides a standardized format for applicants to submit information pertaining to construction needs, by central office exchange, to be financed by the USDA Rural Development telecommunications loan program. Studies are made from the preloan materials to determine if the Government's proposed loan to an applicant would be secure. Other information collected includes a trunking diagram, detailed outside plant design maps, certification by principal of the engineering firm and borrower; and, a transmittal letter

For certain borrowers seeking subsequent loans for eligible purposes, abbreviated forms of the information listed above may be accepted. These are borrowers that meet certain financial tests and therefore represent a minimal security risk in terms of new financing. This expedited loan processing procedure is called the "USDA Rural Development Xpress" loan. It is intended to facilitate and expedite loan processing and approval times for financially healthy, low risk borrowers. These borrowers are still required to execute standard loan documents and follow other legal procedures.

(b) Acquisitions and mergers.

Borrowers are required by the terms of the mortgage or loan contract to request and obtain USDA Rural Development approval of a proposal to merge with or acquire another organization. When a borrower intends to request USDA Rural Development loan funds for an acquisition, it should present a proposal in writing to USDA Rural Development prior to making a binding commitment with the seller.

To ensure continued loan security after a merger or acquisition takes place, the loan documents require the borrower to submit several items to USDA Rural Development before an acquisition,

merger, or consolidation is approved. USDA Rural Development requires that a borrower submit certain financial and legal information; details of the facilities to be acquired including a completed RUS Form 507, "Report on Telephone Acquisition;" and, plans for incorporating the acquired facilities into the borrower's existing system.

After the borrower has closed the transaction, it shall furnish to USDA Rural Development all documents necessary to demonstrate to the satisfaction of USDA Development that the transaction has been closed.

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.

At this time the Agency requests continued approval to place the forms on the Agency website. The forms will be made available in Adobe PDF format and will be printable for use by borrowers. Rural Development 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.

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 loan application and merger, acquisition, or consolidation implies a new project not previously covered; therefore, no existing data would be duplicated. Items already on file (and up-to-date) with USDA Rural Development from previous actions which can be used in processing the new action need not be resubmitted.

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 data required for processing a loan application is the least amount required to ensure the completeness of the construction project and ensure the security for the Government's loan. The preloan material is of complete benefit to the telephone system applying for financing as well as to USDA Rural Development. The Loan Design provides a plan for future growth of the telephone system and is beneficial as a strategic business tool. Most of the information required to complete the forms is readily available from the consulting engineer, contractor, or existing company records. With regard to acquisitions and mergers, the information requested is already available to the borrower. Generally, the collection merely requires copies of the information to be made and submitted to USDA Rural Development.

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 submission of the preloan data (including the Loan Design) is only necessary when the telephone system applies for a loan from USDA Rural Development and therefore, it could not be submitted less frequently. Without the information collected with regards to loan processing procedures and mergers and acquisitions, USDA Rural Development could not effectively monitor each borrower's compliance with the loan terms and conditions to properly assure continued loan security.

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

- a. Requiring respondents to report information more than quarterly.
- b. Requiring written responses in less than 30 days.
- c. Requiring more than an original and two copies.
- d. Requiring respondents to retain records for more than 3 years.
- e. That is not designed to produce valid and reliable results that can be generalized to the universe of study.
- f. Requiring use of statistical sampling which has not been reviewed and approved by OMB.
- g. Requiring a pledge of confidentiality.
- h. Requiring submission of proprietary trade secrets.

There are no special circumstance with reference to all of the above statements (a–h) that would cause an information collection to be conducted other than those specified in 5 CFR 1320.5(d) (2).

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 1320.8(d), a Notice to request comments was published on July 7, 2006 at 71 FR 38605. A copy of the Notice is attached. No public comments were received.

USDA Rural Development maintains close contact with borrowers through USDA Rural Development general field representatives (GFRs), field accountants, and headquarters' staff. GFRs have direct personal contact with borrowers in connection with their responsibilities in fulfillment of RUS requirements, including filling out the various forms.

Borrowers may consult USDA Rural Development GFRs, field accountants, and headquarters' staff regarding comments or suggestions on procedures, forms, regulations, etc. The general public may comment during the *Federal Register* process.

USDA Rural Development works closely with lending institutions such as the National Rural Utilities Cooperative Finance Corporation and CoBank, a nationwide network of lending institutions and part of the Farm Credit System, which provide supplemental loan funds to borrowers.

The Agency also works closely with national and statewide associations representing electric, telecommunications, and water and waste borrowers such as: National Rural Electric Cooperative Association; National Rural Telecom Association; National Telephone Cooperative Association; United States Telephone Association; Western Telecommunications Alliance; Organization for the Preservation and Advancement of Small Telephone Companies; National Rural Water Association; National Association of Development Organizations; Rural Community Assistance Program; and, American Public Power Association, among others.

As well, the Agency works closely with various Federal agencies including the Federal Communications Commission, U. S. Environmental Protection Agency, Department of Justice, and others. In addition, USDA Rural Development works with various State utility regulatory agencies.

Suggestions and comments are always considered by the Agency, and USDA Rural Development 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.

Payment or gifts are not provided to respondents.

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

This information collection does not require confidentiality. Information submitted to USDA Rural Development by borrowers is covered by 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.

This information collection does not contain questions of a sensitive nature.

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

All of the preloan data collected by the applicant is generally submitted to USDA Rural Development at the same time. The annual burden for preparation and submission per respondent for the preloan data (including the narrative, supplemental information, Forms 490, 494, 495, 567 and 569) is estimated to be 54.5 hours, for a total annual burden for all respondents (approx. 50 per year) of 2,725 hours.

Approximately 4 borrowers per year undertake acquisitions, mergers, or consolidations. Since any lender would require this information in the event of such an action and the information needed is already available in the borrowers' files in some form, it is only a matter of duplicating the necessary information and submitting it to USDA Rural Development. The annual burden per respondent is estimated to be 16 hours, for a total annual burden for all respondents (approximately 4 per year) of 64 hours.

The information submitted for the processing of a loan application is submitted together in a single response by approximately 50 borrowers per year who have received loan approval by RUS. Since most of these systems have submitted similar information in the past and the information is already in the files in some form, generally it is only a matter of duplicating the information and submitting it to RUS. The annual burden per respondent is 16 hours, for a total annual burden for all respondents (approximately 50 per year) of 800 hours.

The following is a breakdown of costs to the public:

Table 1 – Loan Requirements and Preloan Data Collection

Narrative preparation	
50 responses @ \$75/hr x 30 hrs.....	\$112,500
Supplemental data collection	
50 responses @ \$28/hr. x 18 hrs.....	25,200
Review and transcription	
50 responses @ \$28/hr. x 6.5 hrs.....	<u>9,100</u>
<u>Total.....</u>	<u>\$146,800</u>

Table 2 – Mergers and Acquisitions

Collection, transcription, and reviews:	
4 responses @ \$16/hr. x 16 hrs.....	\$1024.00
Mailing	
4 responses @ \$1.80/response.....	<u>7.20</u>
<u>Total.....</u>	<u>\$1031.20</u>

Table 3 – Loan Processing and Advance of Funds

Collection, transcription, and reviews:

50 responses @ \$16/hr. x 16 hrs.....	\$12,800
Mailing	
50 responses x \$1.80/response.....	90
<u>Total.....</u>	<u>\$12,890</u>

TOTAL COST TO THE PUBLIC..... \$160,721.20

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 and start-up costs involved with this collection.

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

There are no operation and maintenance and purchase of services components involved with this collection.

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

The cost to the Federal Government to collect and evaluate this information is estimated to be \$25,084 based on the following calculations.

Table 1 – Loan Requirements and Preloan Data Collection

Printing.....	\$ 280.00
Mailing.....	350.00
Review: GS-13/5 @ \$42.00/hr. x 4.5 hrs. x 50 responses.....	9,450.00
GS-11/5 @ \$29.47/hr. x 3.0 hrs. x 50 responses.....	4,420.00
<u>Total</u>	<u>\$14,500.00</u>

Table 2 – Mergers and Acquisitions

Review: GS-13/5 @ \$42.00/hr. x 4.5 hrs. x 6 responses.....	\$ 1,134.00
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Table 3 – Loan Processing and Advance of Funds

Review: GS-13/5 @ \$42.00/hr. x 4.5 hrs. x 50 responses.....	\$ 9,450.00
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TOTAL COST TO THE GOVERNMENT..... \$25,084.00

15. Explain the reasons for any program changes or adjustments reported in items 13 or 14.

This submission is a revision of a currently approved information collection. There is a decrease in respondents for acquisitions and mergers and an increase attributed to adding form RUS 567 resulting in an overall adjustment increase of 18 hours.

16. Outline plans for tabulation and publication.

This collection of information is not intended for statistical use.

17. Request for approval not to display the expiration date.

It is not cost effective for the Agency to display the expiration date on the forms. RUS has many borrowers that reproduce these forms to meet their needs in lieu of requesting copies directly from RUS. Many times previous expiration dates are carried over each time copies are reproduced or on copies electronically prepared. RUS would incur additional costs for design and reprinting of stock with each new OMB extension. In addition, as electronic systems are deployed to collect the required information, system design costs would be incurred to update the expiration date every three years.

18. Explain each exception to item 19 on OMB Form 83-I.

This information collection includes no exceptions to Item 19.

B. Collection of Information Employing Statistical Methods.

1. Describe (including a numerical estimate) the potential respondent universe and any sampling or other respondent selection method to be used.

This information collection does not employ statistical methods.