

May, 2007

## **SUPPORTING STATEMENT**

**OMB Docket No. 0572-0130**

**7 CFR Part 1738**

### **Rural Broadband Access Loans and Loan Guarantees**

**NOTE:** The revision of this information collection package (ICP) is covered by a proposed rule. This ICP should be reviewed and filed with comment and continue.

#### **A. Justification**

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

The Rural Utilities Service (RUS), an agency delivering the United States Department of Agriculture's Rural Development Utilities Programs, hereinafter referred to as Rural Development, is authorized by Title VI, Rural Broadband Access, of the Rural Electrification Act of 1936, as amended (RE Act), to provide loans and loan guarantees to fund the cost of construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in eligible rural communities in the States and Territories of the United States. 7 CFR part 1738 prescribes the types of loans available, facilities financed, and eligible applicants, as well as minimum credit support requirements to be considered for a loan. In addition, 7 CFR part 1738 outlines the process through which Rural Development will consider applicants under the priority consideration and the state allocations required in Title VI.

The term of the loans is based on the expected composite economic life based on the depreciation rates of the facilities financed. The term of the loan can be as high as 25 years or even longer. These loans are secured by a first mortgage on the borrower's broadband system. In the interest of protecting loan security and accomplishing the statutory objective of a sound program of rural broadband service access, Title VI of the RE Act further requires that Rural Development make or guarantee a loan only if there is reasonable assurance that the loan, together with all outstanding loans and obligations of the borrower, will be repaid in full 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 rulemaking proposes to implement changes on the following subject matter: funding in competitive markets and new eligibility requirements; new equity and market survey requirements; and new legal notice requirements to increase transparency.

The collection of information described in this supporting statement is necessary in order for Rural Development to determine an applicant's eligibility to borrow under the terms of the RE Act and that the applicant complies with statutory, regulatory, and administrative eligibility requirements for loan assistance. This information is also used by Rural Development to determine that the Government's security for loans are reasonably adequate and that the loans will be repaid within the time agreed.

Applications will be submitted by entities to Rural Development via hard copy. The applicant will submit an application containing those items set forth in the Application Guide (Bulletin 1738-1) and the regulation (7 CFR Part 1738).

The information in the application will be used to determine: applicant eligibility, availability of broadband service for priority consideration, technical and economic feasibility of the proposed project (that the funds requested are adequate to complete the project taking into consideration any additional funding provided by the applicant and that the loan can be repaid within the allowable time frame), applicant compliance with certain Federal regulations and requirements. Applicants are required to submit:

**Form 532, "Application for Broadband Loan or Loan Guarantee"**, is submitted by loan applicants when requesting a loan from Rural Development. Form 532 is used by staff (1) as formal notification of an applicant's desire to obtain financing from Rural Development and (2) in determining the preliminary eligibility of an applicant. The Form 532 also includes the necessary certification and notification requirements of OMB Circular A-129 with regard to Federal debt delinquency. Schedules A through U are included in Form 532 to support the loan application. The information provided in the schedules is as follows:

**CONGRESSIONAL DISTRICTS (Schedule A)**

Schedule A shall contain information on the congressional districts. This information shall include both the districts where the applicant's headquarters are located and the ones that cover the service territory proposed by this project.

**LEGAL OPINION & PROPERTY SCHEDULE (Schedules B-1 and B-2)**

A. Legal Opinion - A legal opinion shall be prepared in accordance with the sample format as shown on Schedule B-1.

B. Real Property Schedule - Schedule B-2 is the real property schedule that includes the legal descriptions of all the real property owned by the applicant. It should be categorized into real property, leased-property, easements, and rights-of-way.

**COMPLIANCE CERTIFICATES (Schedules C-1 through C-8)**

Schedules C1 - C7 are forms that need to be certified by the applicant to ensure compliance with Federal statutes and regulations. Schedule C-8 is the System Design Certification

A. Equal Opportunity and Nondiscrimination Certification (Schedule C-1)

- B. Certification Regarding Architectural Barriers (Schedule C-2)
- C. Certification Regarding Flood Hazard Area Precautions (Schedule C-3)
- D. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Certification (Schedule C-4)
- E. Certification Regarding Debarment, Suspension, and other Responsibility Matters – Primary Covered Transactions (Schedule C-5)
- F. Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements (Schedule C-6)
- G. Environmental Impact Certification (Schedule C-7)
- H. System Design Certification (Schedule C-8)

**COMMUNITIES (Schedules D-1 through D-3)**

A. Existing & Proposed Communities - Schedule D-1 is a table that needs to be completed for all the existing communities (if any) served by the applicant and the proposed communities. For each community, the name of the County and the respective State; the population data; the number of Households (HH) in the town area; and the number of Businesses (Bus) should be indicated. These statistics should be based on the most recent available data provided by the U. S. Census Bureau. In addition, if the project will serve areas outside the town/area of a particular community, then the number of households located in the outlying rural area should be stated.

B. Existing Service Providers - Schedule D-2 contains details of current or known proposed service providers serving in the communities listed on Schedule D-1. For each community, the name of each telecommunications service provider (including cable TV operators), the different types of service offerings and the respective rate plan for each service offering should be listed

C. Service Area Maps – Service area maps should be included as Schedule D-3 and should be no larger than 8 ½ inches by 11 inches. If the application proposes to serve communities located in multiple states, then a service area map should be included for each state. The map(s) should clearly indicate all the communities listed on Schedule D-1 and clearly distinguish the existing communities from the proposed communities.

**CERTIFICATION OF BROADBAND AVAILABILITY (Schedule E)**

In accordance with Title VI of the RE Act, Rural Development, in making or guaranteeing broadband loans, must give priority to eligible rural communities in which broadband service is not available to residential customers. All applicants applying for a loan or loan guarantee under the Rural Broadband Access Loan and Loan Guarantee Program must certify the

extent to which broadband service is available to residential customers in the proposed service area. Schedule E, *Certification Regarding the Availability of Broadband Service in Eligible Rural Communities*, should be completed and certified.

**NOTICE OF PROPOSED SERVICE (Schedules F-1 and F-2)**

A. Proof of Legal Notice - All applicants under the Rural Broadband Access Loan and Loan Guarantee Program must publish a legal notice in each community that the applicant intends to offer broadband services. The legal notice must set forth the applicant's proposed service area and request that any incumbent broadband service provider submit to Rural Development, within 30 days, the number of residential customers receiving broadband service in the applicant's proposed service area, the rates of data transmission and the cost of each level of service or proof of commitment to provide service in the proposed service area. In addition, the legal notice should also request that the incumbent broadband service providers supply Rural Development with a map of their service territory. The proof of all the published legal notices should be included in the application as Schedule F-1.

B. Sufficiency of Legal Notice - If not already required by state statutes, the legal notice must be published in state and local newspapers covering the applicant's proposed service area. Schedule F-2 is a legal opinion to be provided by the applicant's legal counsel stating that the notifications are all in compliance with local statutes and should include the list of publications and the respective dates where the legal notice was published.

**CORPORATE STRUCTURE (Schedules G-1 through G-5)**

A. Articles of Incorporation or Organization -Articles of Incorporation or Organization (LLC) of the applicant should be included as Schedule G-1.

B. Copy of the State LLC Statute - If the applicant is a Limited Liability Company (LLC), a copy of the most recent LLC state statute where the applicant was organized / registered shall be included as Schedule G-2.

C. Board of Directors or Managing Members - Schedule G-3 shall include a list of the board members and a brief biography to highlight their experience within the industry and community.

D. Organizational Chart and Statement of Experience - Schedule G-4 shall include an organizational chart showing the key personnel who manage or will manage the company and/or this project. This schedule shall also include a narrative that describes how the previous work experience of each key manager directly relates to each manager's ability to perform their duties and responsibilities as outlined in Schedule M of the application.

E. Parent and Subsidiaries – Schedule G-5 should include all the other entities (parent/subsidiaries) that are affiliated with the applicant and clearly indicate the relationships between these entities and the applicant.

#### **EXECUTIVE SUMMARY (Schedule H)**

The executive summary should be a high level explanation of the proposed project. It should include the reason why the system is needed and the qualifications of the applicant that demonstrate the ability to construct and operate a broadband system. It should also detail the number and names of the communities to be served, the proposed type of broadband system that will be deployed and the overall cost of the broadband system.

#### **CREDIT SUPPORT (Schedule I)**

This schedule should indicate all the appropriate categories that will be used to satisfy the credit support requirement. For each category that is used, the dollar amount for that category should be indicated. In addition, if the applicant is an existing telecommunications company, if the company has had a positive cash flow from operations for the previous two calendar years preceding the date of the application this should be indicated.

#### **BOARD RESOLUTION (Schedule J)**

A Board of Directors' resolution or other document authorizing the funding request should be included as Schedule J.

#### **RESEARCH DATA AND MARKET ANALYSIS (Schedules K-1 and K-2)**

Market research is critical in determining the interest and demands of the targeted communities for the services offered. This research provides the applicant with knowledge of market potential, an understanding of competition, and knowledge of the needs/demands of the potential customer base. But most important market research supports feasibility studies and strategic planning goals. Therefore, a market survey, satisfactory to Rural Development, shall be conducted by the applicant in *each* community proposed to be served over the 5-year forecast period. The market survey will collect data from potential subscribers (both residential and business) on the existing service offerings and the respective rates to determine the levels of interest in the services and rate plans to be offered by the applicant.

The applicant must capture a representative sample of both the residential and business sectors of each community proposed to be served over the 5-year loan forecast period regardless of whether the communities are being funded by loan funds or other sources.

The survey questionnaire used for conducting the market survey should, at a minimum, capture the following information:

1. Ownership of computers and Internet usage (including time online);

2. Existing service provider, rate plans (both price and transmission rate), satisfaction with current provider;
3. Proposed services offered by applicant, the respective rate plans (including any one-time fees), and the timeline for providing those services;
4. Incentive/introductory packages offered by the applicant;
5. Interest in switching service providers and reasons for switching (price, service level, customer service/local presence); and
6. Economic and social demographics including age, income level, and family/household members.

**A. Research Data (Schedule K-1)**

Schedule K-1 shall contain the methodology for conducting the market survey and the tabulated results for each community.

The results shall include:

1. Total number of surveys sent;
2. Total number of respondents;
3. Number and percent of responses to each question; and
4. Cross-tabulations for income levels, computer ownership, Internet usage.

The applicant shall include a copy of the questionnaire used in the market survey.

**B. Market Analysis (Schedule K-2)**

Schedule K-2 shall contain an analysis of the research data.

The applicant will draw conclusions regarding projected subscriber levels across the different service levels/rates for each community for each year of the financial forecast. The results will clearly differentiate business subscribers from residential subscribers. The results will be based on the tabulated data from the market survey, as well as other market data gathered with respect to existing and potential competition, and demographics of each community. The results shall be for each community taking into account each community's individual circumstances and shall be based on the number of households/businesses in each community and not the population of the community. The applicant must clearly explain the methodology behind the final subscriber projections. Subscriber projections based on population numbers and national/state statistics are not acceptable on their own. Projections must be supported from the research data provided in this section.

**BUSINESS PLAN (Schedule L)**

**The business plan should include:**

**A. General Overview**

1. How loan funds will be used – This section should describe the use of the funding request and support how the broadband investment will provide services that will meet the needs of the Rural Development program and the targeted rural communities.
2. Detail of sufficient working capital – The business plan must detail the working capital requirements of the business throughout the construction

and the five-year project period. It must be clearly substantiated that the business will meet its projections, supported by the market analysis, meet its operating expenses through the ramp-up periods and maintain profitability.

3. Investments in the company – This section should describe the investments made for the proposed project. In conjunction with the above two narratives, the capital investment in the project must support the total capital required including the investments in the project, working capital, and the complete financial needs of the proposed project.

4. Management – This section should include management's narrative of its past performance and the company's ability to meet the oversight and management of the additional business in the proposal.

#### B. A statement of the business purposes

1. Services/goods the company intends to offer – This section should include the details of the goods and services the proposal will provide to the rural communities.

2. Current state of development of goods and services – This section should detail the current state of offerings and any necessary plans, investments and developments required to bring the proposed project to the market.

3. Status of licenses/regulatory approvals required to conduct business must be described including all terms and conditions that support offerings. All supporting documentation and agreements must be provided in Schedules T-1 through T-7.

#### C. Evaluation of main competitors

Detail the companies competing in target markets, provide comparisons of service offerings and pricing, and describe the quality of services.

#### D. An analysis of the market for the applicant's business

1. A description of the primary market

2. Current status, prospects, and trends influencing the industry that target communities should consider should be included.

3. The customers being targeted should be detailed including the key factors that influence their service selection decisions. This should be substantiated from the market analysis.

4. Product pricing – This section should describe pricing strategy and pricing goals for the short- and long-term. This section should show ramp-up and market share.

5. Advertisement and Promotion (How the business will reach the most customers and deter competitors) – This section should describe the approach to advertisement and promotion of services. It should include a description of advertisement and promotions strategy, marketing plan and the cost to execute the marketing plan, and the messages that will be provided to target markets. It should compare the marketing approach to

the current marketing programs competitors being pursued or planning to be pursued..

E. Detailed Financial Information in Schedules N-1 through N-5 – This section should include management’s narrative presentation of the financial position of the company (include its parent and subsidiary financial considerations when applicable). This section should include financial ratio analysis and management’s review and understanding of its financial commitments.

1. Refinancing: For broadband loans that include funds to refinance an outstanding telecommunications loan made under the RE Act, the applicant must provide satisfactory evidence for Rural Development to determine that the benefits realized from the refinancing will further enhance broadband service in rural areas. The amount requested for refinancing cannot exceed 40% of the requested loan amount. The applicant should also include the details of the notes that are being proposed to be refinanced.

2. Acquisitions: For broadband loans that include funds to acquire facilities, the applicant must provide satisfactory evidence for Rural Development to determine that the acquisition is necessary and incidental to furnishing or improving broadband service in rural areas. Applicants must submit an appraisal, for the facilities to be acquired, from a qualified entity to determine the reasonableness of the acquisition price. This appraisal should be attached to Schedule Q-11, Breakdown of Acquisition Cost.

#### **MANAGEMENT AND COMPENSATION (Schedule M)**

This schedule should include information on the management or key personnel that will be in charge of the project. At a minimum, the following information should be provided:

- Duties and responsibilities
- Experience
- Salaries
- Stock Ownership
- Bonus Plans
- Individual Equity Investments

In addition, the following two questions should also be addressed in this Schedule:

- Has management worked together?
- How do management skills complement each other?

#### **FINANCIAL POSITION (Schedules N-1 through N-5)**

Rural Development will approve a loan only if, in Rural Development’s sole judgment, the loan will be repaid according to its terms and within the time agreed upon. It is the applicant’s responsibility to provide Rural Development with sufficient financial information to determine that the loan will be feasible and adequately secured. Long-term forecast analysis should



be based on knowledge of the external and internal factors that affect a company's operations. Historical and projected financial statements should be prepared by a consultant, accountant or individual familiar with preparing these types of financial statements. If your organization chooses someone outside of a consultant or accountant, that individual's qualifications, indicating their ability to prepare such financial statements, should be included with the application.

#### A. Historical Financial Statements (Schedule N-1)

Certified financial statements of the applicant for the last three (3) years, or for as long as the applicant has been in business if less than three (3) years, must be provided. The financial statements must include the balance sheet, income statement and statement of cash flow. If at all possible, audited financial statements should be included. The historical financial statements of the parent company and/or subsidiary company are also required. If another affiliated or unaffiliated company is providing operations and management services to the applicant, that company's historical financial statements should also be included. In this section, evidence of the credit support and/or cash requirement that was addressed in Schedule I should be provided.

#### B. Subscriber Projection Tables (Schedule N-2A to N-2C)

Subscriber projections shall be provided on a yearly basis for five (5) years. The subscriber projections must be broken down by community (both existing and proposed as shown on Schedule D-1) and by the type of services offered. THE PROJECTIONS MUST CORRESPOND WITH THE RESULTS OBTAINED FROM THE MARKET ANALYSIS. If broadband service is proposed to be offered in a "green field" area, the application must include information that justifies the subscriber penetration rates since no market information is available. A separate table shall be included in Schedule N-2 for each type of service proposed (data, voice, and video).

#### C. Pro Forma 5-Year Financial Forecast (Schedule N-3A to N-3D)

This forecast must cover at least 5 years and be inclusive of **ALL** operations of the applicant, existing and proposed. It should be detailed, taking into account best estimates for startup costs (if any), revenues, expenses, ability to make a profit and all financial data related to any subsidiaries. The financial forecast must include a balance sheet, income statement, statement of cash flow and detailed assumptions. The detailed assumptions must be in narrative format. They must clearly address each revenue and expense line item. When reviewing the assumptions, Rural Development must have a clear picture of exactly how the figures were derived.

#### D. Depreciation Schedule (Schedule N-4)

A depreciation schedule should be provided as Schedule N-4. This schedule should list all the different categories of equipment and facilities in the

“Total Project Cost” column on schedule Q-1, Summary of Project Costs, and the expected useful life. The useful life should be based on the manufacturers’ recommended useful life.

#### E. Total Outstanding Indebtedness (Schedule N-5)

A listing of all outstanding RDUP indebtedness, including loan maturity and interest rates, should be included. A listing of outstanding non-RDUP indebtedness, including loan maturity, interest rates and conditions, should be included. Also, as part of this schedule a copy of all loan documents related to non-RDUP indebtedness (notes, loan contracts, mortgages, etc.) should be included.

#### **SYSTEM DESIGN (Schedule O)**

The System Design of the application shall include all the technical information on the applicant’s existing and proposed systems. The following information shall be included in this schedule:

1. A description of the applicant’s existing service area (if any) and the proposed service area.
2. A description of the types of services to be provided (data, voice, video, etc.) and the number of subscribers projected for each type of service over the 5-year forecast period.
3. A detailed description of the type of technology to be used to deliver the broadband services. If more than one technology is proposed in the application, then this description should clearly state which technologies will be used in each community.  
This description should also address distance or coverage limitations with the proposed technology.
4. A detailed description of the applicant’s existing system (if any). This description should be inclusive of the applicant’s entire system and not just the broadband portion. The “Existing Network Diagram” provided in Schedule P should correlate with this description.
5. A detailed description of the proposed system to be built over the 5-year forecast period with loan funds and other sources of funding. This description should correlate with the “Proposed Network Diagram” provided in Schedule P.
6. A description of all the licenses/agreements required to operate the proposed system. These licenses/agreements shall be included as Schedules S and T.
7. A proposed build-out schedule on an annual basis.

Systems Design Certification - The System Design may be prepared by qualified personnel on the applicant’s staff or by consultants. If the applicant chooses a consultant that is not a registered engineer licensed in the state in which the facilities will be constructed, the applicant will need to have a registered engineer, licensed in the state, certify that the proposed System Design will be capable of delivering the proposed broadband services. Also,

consulting services shall be obtained only from persons or firms who are not affiliated with, and have not represented, a contractor, vendor or manufacturer who may provide labor, materials, or equipment to the applicant for projects included in the loan application. If the applicant has qualified personnel on staff to complete the preloan services, copies of the staff's qualifications must be included as part of the application and must clearly demonstrate the staff's ability to complete the System Design.

#### **NETWORK DIAGRAMS (Schedule P)**

Existing and proposed network diagrams shall be included in the application as Schedule P. The network diagrams shall be block diagrams that clearly show how the traffic flows through the network from the interconnection points with the backbone service providers to the end user. The diagram must clearly show all the network elements, the route miles between each network element, the types of facilities used in connecting all the network elements together (fiber, copper, microwave, etc.), and the points-of-connection with the backbone service providers. For wireless systems, the network diagram shall also show the approximate coverage area for each access point.

#### **PROJECT COSTS (Schedules Q1 through Q-11)**

1. Schedule Q-1 shall be a summary of the total cost of the project. It shall be based on the total amounts from Schedules Q-2 through Q-11.
2. Schedule Q-1A shall be a summary of the total project cost (excluding refinancing and acquisition) broken down on an annual basis.
3. Schedule Q-2 shall be a detailed breakdown of the Network & Access Equipment Cost. Examples of the items to be included on this schedule are next-generation switches, video headends, optical equipment, digital line concentrators, digital subscriber line access multiplexers, middleware, video-on-demand equipment, radio equipment, data routing equipment, etc.
4. Schedule Q-3 shall be a detailed breakdown of the Outside Plant Costs. Examples of the items to be included on this schedule are cable (aerial, buried, underground, and submarine), conduit systems, poles, network interface devices (NIDs), miscellaneous construction units, make-ready costs for aerial plant, etc.
5. Schedule Q-4 shall be a detailed breakdown of Building Costs. This schedule shall include the cost of constructing new buildings, renovating existing buildings, and any site preparation cost involved with installing pad-mounted equipment.
6. Schedule Q-5 shall be a detailed breakdown of the Land Costs. This schedule shall only include those sites that will be purchased by the applicant.
7. Schedule Q-6 shall be a detailed breakdown of the Tower Costs. This schedule shall include the cost for the construction of new towers and any costs involved with structural changes to existing towers. Site engineering

and project management costs should not be included in this schedule; they should be included on Schedule Q-9, Breakdown of Engineering Costs.

8. Schedule Q-7 shall be a detailed breakdown of Customer Premise Equipment. Examples of the items to be included in this section are wireless subscriber units, modems, set-top boxes, etc.

9. Schedule Q-8 shall be a detailed breakdown of the Operating Equipment cost. This shall be broken down into different categories (Office Equipment, Office Furniture, Work Equipment, and Vehicles).

10. Schedule Q-9 shall be a breakdown of all the different engineering costs (site engineering, Radio Frequency engineering, network engineering, project management, etc.) involved in designing and constructing the proposed project.

11. Schedule Q-10 shall be a breakdown of the notes that are requested to be refinanced in the loan.

12. Schedule Q-11 shall be a breakdown of the acquisition cost.

#### **ENVIRONMENTAL REPORT (Schedule R)**

RDUP is responsible for implementing the requirements of the National Environmental Policy Act of 1969 (NEPA), as amended; the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA and certain related Federal environmental laws, statutes, regulations, and Executive Orders (EO) that apply to Rural Development programs. The policies and procedures set forth in 7 CFR Part 1794 – Environmental Policies and Procedures, assist Rural Development with making decisions that are based on an understanding of environmental consequences, and taking action that protects, restores and enhances the environment. Applicants are responsible for ensuring that proposed actions are in compliance with all appropriate Rural Development requirements. Therefore, applicants must prepare an environmental report in accordance with 7 CFR Part 1794, for any facilities that will be constructed with broadband loan funds. A copy of 7 CFR Part 1794 can be retrieved from Rural Development's web site.

#### **TOWER, EQUIPMENT AND BUILDING LEASES (Schedule S)**

Executed copies of all tower, equipment, and building leases shall be included as Schedule S.

#### **LICENSES AND AGREEMENTS (Schedules T-1 through T-7)**

A. FCC LICENSES: (Attach as Schedule T-1)

B. CLEC LICENSES: (Attach as Schedule T-2)

C. FRANCHISE AGREEMENTS: (Attach as Schedule T-3)

D. INTERCONNECTION AGREEMENTS: (Attach as Schedule T-4)

E. MANAGEMENT / SERVICE AGREEMENTS: (Attach as Schedule T-5)

F. BYLAWS or OPERATING AGREEMENTS: (Attach as Schedule T-6)

G. OTHER MAJOR AGREEMENTS: (Attach as Schedule T-7)

As part of F above - Bylaws or Operating Agreements. If an applicant is an LLC, and any of the applicant's members are also LLCs, the applicant must submit either of the following:

- 1) LLC agreements for all members of the applicant's LLC, or
- 2) An opinion of counsel which certifies that the applicant's agreement does not conflict with any of the LLC agreements of the applicant's members.

#### **GUARANTEED LOANS (Schedules U-1 and U-2)**

For Guaranteed Loan Applications, complete the following as Schedule U-1:

1. Name of Financial Institution providing the Loan
2. Address
3. Financial Institution Contact Person's Name, Phone Number and Email Address

The loan contract should be included as Schedule U-2

Post loan construction and advance requirements and procedures previously approved under this information collection are now cleared in Docket 0572-0059, Telecommunications System Construction Policies and Procedures.

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 approval to place the Form 532, with required schedules, on the Agency website. The application form 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 application will be for a new project and new purpose, therefore information to determine economic and technical feasibility and broadband availability will be unique and will not be duplicated. Where an existing borrower requests a new loan, certain organizational information, maintained in Rural Development files, will not need to be resubmitted, as listed in the application guide.

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 Agency believes it has minimized the burden on both large and small entities and that the required information is the least amount needed to determine applicant eligibility and project feasibility.

**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 required information is submitted annually at the time of application and is necessary in order for Rural Development to make a prudent loan decision; therefore, this information cannot be submitted less frequently.

**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 such requirements.

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

There are no such requirements.

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

There are no such requirements.

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

Records will be maintained until the loan fund advance has been audited by Rural Development in accordance with 7 CFR Part 1767, which is generally less than a 3-year period.

**e. That is not designed to produce valid and reliable results that can be generalized to the universe of study.**

This information collection does not involve statistical information.

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

This information collection does not involve statistical sampling.

**g. Requiring a pledge of confidentiality.**

There is no such requirement.

**h. Requiring submission of proprietary trade secrets.**

There is no such requirement.

- 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 notice for this information collection is imbedded in a proposed rulemaking. As required by 5 CFR 1320.8(d), a Notice requesting comments was published in the *Federal Register* on \_\_\_\_\_, at xx FRxxxxxx (copy attached).

Since the program's inception on January 31, 2003, Rural Development has offered numerous workshops and informational sessions across the country. At these sessions, personnel present detailed instructions on how to apply for a loan and correctly fill out the necessary forms. The sessions include an overview of the analysis process and post-application procedures. During the workshops, applicants and borrowers are given the opportunity to ask questions and offer comments on the application process. Rural Development has taken into consideration the comments received from the workshops and is in the process of amending the regulation, 7 CFR 1738 to further clarify the requirements for a complete loan application. The proposed rulemaking that this information collection is tied to was deemed significant for purposes of Executive Order 12866 and has been reviewed by the Office of Management and Budget prior to publication.

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

No such decision has been made.

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

No assurances have been made. Information submitted to Rural Development by borrowers and applicants is covered by the 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.**

There are no questions of this nature.

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

Rural Development received 39 and 37 applications in FY 2004 and 2005, respectively, requesting \$729.5 million and \$520.6 million in loan funds. The average loan request was \$18

and \$14 million and the approved applicants proposed to serve an average of 18 communities with the loan funds.

All of the pre-loan data collected by the applicant is generally submitted to Rural Development at the same time. The annual burden for preparation and submission per respondent for the pre-loan data is estimated to be 325 hours per response and the preparation of loan documents is estimated at 24 hours per response. (See attached spreadsheet for breakout.)

The Agency estimates the cost to respondents will be estimated at \$698,000. Organizations use various types of person's to complete these applications. The following rates are an average rate attributed to the type of position in the applicant's organization.

	Hrs. Per.	Hours	Cost per Hour Professional Time	Total Cost
40 applicants	325 – application	13,000	\$ 50.00	\$650,000
20 loan recipients	24 – loan document	480	\$100.00	\$ 48,000
Total annual cost		burden		\$698,000

**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 or start-up costs involved with this collection.

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

There are no operation and maintenance, or purchase of services costs 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 \$336,000 based on the following calculations:

All applications will be reviewed for priority, eligibility, and completeness:

$$40 \text{ applications} \times 80 \text{ hour} @ \$42/\text{hr}^* = \$134,400.$$

20 loan recipients:

$$A \text{ GS-13}^* @ \$42/\text{hr} \times 240 \text{ hours} = \$10,080 \times 20 \text{ Responses} = \$201,600$$

*\*Average of General Field Representative, Engineer, Loan Specialist, and Supervisor*



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

This is a revision of a currently approved information collection and is tied to a proposed rule. The items covered by this collection include forms and related documentation to support a loan application, including Form 532 and supporting documentation. Revisions to the information collection include: (1) funding in competitive markets and new eligibility requirements (revisions will affect the details of an application, but not the difficulty of preparation or quantity of information provided; accordingly, the paperwork burden associated with these changes is not expected to be appreciably more or less than under the existing rule); (2) new equity requirements (revisions will affect the details of an application, but not the difficulty of preparation or quantity of information provided; accordingly, the paperwork burden associated with these changes is not expected to be appreciably more or less than under the existing rule); (3) new market survey requirements (the associated paperwork burden will be reduced by a small amount for some applicants as the requirement will be eliminated in certain instances); and (4) new legal notice requirements to increase transparency (the additional information required by the proposed modification of legal notice requirement will increase the paperwork burden of each application by a small amount). "These revisions are modifications/clarifications and relocation of language and will not affect the currently approved 13,480 burden hours.

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

There are no plans for publication.

**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.**

Rural Development is not seeking approval to not display the expiration date.

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

There are no exceptions.

**B. Collection of Information Employing Statistical Methods.**

This collection does not involve statistical methods.