

December, 2007

SUPPORTING STATEMENT

OMB Control No. 0572-0059

Telecommunications System Construction Policies and Procedures

OMB Terms of Clearance:

OMB notes that no consultations have occurred recently on the burden for this submission. Furthermore, the per-form burden estimates appear low given the length and complexity of many of the forms. Prior to its next submission of this package, USDA should review and, where appropriate, modify the per-form burden and actively seek out consultation to accurately assess the total burden per respondent. In addition, OMB notes that many of the required forms have not been revised in decades. Given that these forms are now to be used for broadband construction projects, USDA should evaluate each form and revise as needed.

Agency Response to the OMB Terms of Clearance:

In response to OMB's Terms of Clearance, the Rural Development Utilities Programs (Agency) Telecommunications Program consulted with members of the Association of Communications Engineers (ACE), a national organization of engineers whose membership perform a majority of the engineering projects for Telecommunications Program borrowers. ACE members are familiar and knowledgeable about the forms associated with this burden collection because of their frequency in dealing with them and the processes associated with this burden collection. Of the 40 members, the Telecommunications Program contacted ten (10) members of which eight (8) provided substantive and useful feedback. The results of the consultations can be summarized as being consistent with OMB's thoughts that the per-form burden estimates appeared low given their length and complexity. The Agency has remedied the situation by changing the forms to reflect the new burden hours.

The Office of General Counsel (OGC) has been working with the Rural Development Utilities Programs (Agency) Telecommunications Program for many months on revising the contracts Telecommunications Program borrowers are required to use. Before any version is put out for public comment, OGC and the Agency will continue to work with industry groups to obtain their input as to what types of changes they want to see made to the contracts.

The Agency has worked especially close with the Association of Communications Engineers (ACE), given the high dependence on engineering work and technical specifications in the equipment and services contracts. With regard to the software license agreement, various leaders in the software industry are being consulted as to what types of provisions they consider present industry standard, as well as what provisions of the Agency software contracts were problematic for them. Work has just begun on the construction contract, and the Agency will shortly begin to consult with industry groups on these contract forms. Further details on Agency consultations are addressed in Question 8.

When the contract revision process is completed, it is expected that the paperwork burden will be reduced since all required information will be in one place, rather than in a host of contracts and attachments. The number of hours cannot be quantified since the process is still underway. Although there are 25 forms under review, more than half are actually attachments to the existing 12 contracts. All twelve contracts will be collapsed into only three or four contracts: equipment, construction, services. Upon further review, the construction contract may be divided into two contracts: one for outside plant and another for towers and buildings. Up to the present, certain contracts have maintained “artificial distinctions” between types of equipment, contract price, and installation, despite there being no distinction in law. These “artificial distinctions” were necessary to adapt to the changes in the program over the decades. Now, these distinctions as well as the attachments will be incorporated into three (or four) contracts, which allow for particular adaptation to a specific project. The equipment contract, for example, has been modified to tie in the concepts now practically common law through the adoption of the Uniform Commercial Code in the 1980s, which did not exist when the various equipment contracts were written in the 1960s.

It is anticipated that three years are needed to conclude the contract revision process which takes into account the revisions due to the comment period(s) and the resulting changes to the regulations. It is planned that these contracts will be released as they are finished. For example, the Equipment Contract should be published for comment in the *Federal Register* within a few months (est. April 2008). The construction and services contracts will require more time as they encompass more complex issues.

A. Justification

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

The Rural Electrification Act of 1936, 7 U.S.C. 901 *et seq.*, as amended (RE Act), in Title I, sec. 2, The Administrator is authorized and empowered to make loans in the several States and Territories of the United States for rural electrification and the furnishing of electric energy to persons in rural areas who are not receiving central station service, and for the purpose of furnishing and improving telephone service in rural areas, as hereinafter provided; to make or cause to be made, studies, investigations, and reports concerning the condition and progress of the electrification of and the furnishing of adequate telephone service in rural areas in the several States and Territories; and to publish and disseminate information with respect thereto.

The RE Act was amended in 2002 by Title IV, Rural Broadband Access, by Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171) (“2002 Farm Bill”), authorizes and empowers the Administrator of the Rural Utilities Service (Agency), an agency that administers rural utilities programs for USDA Rural Development, to provide loan and guarantees to fund the cost the cost of construction, improvement, or acquisition for facilities and equipment for the provision of broadband service in eligible rural communities in the States and Territories of the United States.

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 the Agency 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.

In the interest of protecting loan security and accomplishing the statutory objective of a sound program of telecommunication, Title II, sec. 201 further states that loans shall not be made unless the Administrator finds and certifies that in his judgment the security therefore is reasonably adequate and such loan will be repaid within the time agreed.

In order to facilitate the programmatic interests of the RE Act, and, in order to assure that loans made or guaranteed by the Agency are adequately secured, the Agency, as a secured lender, has established certain standards and specifications for materials, equipment, and the construction of telecommunications systems. The use of standards and specifications for materials, equipment and constructions units helps assure the Agency that:

- a. Appropriate standards and specifications are maintained;
- b. Agency loan security is not adversely affected; and
- c. Loan and loan guarantee funds are used effectively and for the intended purposes.

These procedures apply to procurement and construction for all projects which will or may be financed, in whole or in part, with loans made or guaranteed by the Agency. These requirements are set forth in the standard form of the Agency mortgage.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the Agency has made of the information received from the current collection.

This information is used to implement certain provisions of the Agency standard form of loan documents regarding the borrower's purchase of materials and equipment and the construction of its broadband system by contract. This collection of information will be used by Agency borrowers and their contractors. In the Telecommunications industry, when a cooperative or company enters into contracts for services, some type of contract form is used. The Agency has developed the specific forms cleared with this package to be used by its borrowers when entering into contracts for goods or services. Standardization of forms by the Agency results in substantial savings to:

- a. Borrowers: If standard forms were not used, borrowers would need to prepare their own documents at a significant expense; and

- b. Government: If standard forms were not used, each document submitted by a borrower would require more extensive and more costly review by both the Agency and the Office of the General Counsel.

Subpart A of 1753 includes some pre-construction review paperwork burdens for which there are no forms. These burdens include:

- a. 1753.3 requires a borrower to send a letter to the Agency requesting approval for any construction which is not in conformance with Agency standards and specifications or detailed on the Loan Design that the Agency has approved. This provides the Agency with the means to review proposed construction to be certain that the design will provide for effective and proficient facilities and preserve loan security.
- b. 1753.6 require borrowers to send a letter to obtain Agency approval to incorporate used materials and equipment or materials and equipment that do not comply with Agency standards and specifications. This provides the Agency with the means to review proposed construction materials to be certain that the quality and design will provide for effective and proficient facilities and preserve loan security.

The Agency requires the submission of a form contract only when the contract is subject to Agency approval. The Agency also requires that the borrower maintain the contract as part of its record retention and accounting system as required by 7 CFR Part 1767 (0572-0003).

The specific purposes and uses of each component of this information collection are addressed as follows:

FORMS APPROVED WITH THIS COLLECTION

RUS Form 157, Construction Work Plan and Cost Distribution – Telephone – Borrowers on the Construction Certification Program use this form to show how they plan to implement the construction in an approved loan. Since Certification borrowers proceed independently from this point forward, this form provides an important opportunity for the Agency to advise borrowers of proposed construction methods that may not ultimately meet the requirement of 7 CFR 1753.

RUS Form 158, Certification of Contractor or Force Account Proposal Approval – Certification borrowers use this form to provide the Agency with legal certification and the details regarding completed construction, whether by contract or by the borrower's own forces (force account), which is used as supporting information included with a request for advance of loan funds. This information provides the Agency with a validated instrument substantiating that advances are for legitimate and approved projects included in approved loans.

RUS Form 159, Summary of Completed Construction – This form is used by borrowers to provide the Agency with legal certification and the details regarding completed construction which is attached as supporting information with requests for advances of loan funds. This

information provides the Agency with a validated instrument substantiating that advances are for legitimate and approved projects included in approved loans.

RUS Form 179, Architects and Engineers Qualifications – This form is used by the Agency to establish and verify the qualifications of the architects and engineers a borrower would use on various facilities projects.

RUS Form 216, Construction Change Order – This form is used to identify authorized changes made in a contract using RUS Form 515 so that those changes can be accounted for properly. RUS loan security is enhanced by this information because it ensures that changes are tracked with the additional costs they involve.

RUS Form 217, Postloan Engineering Services Contract - Telecommunications Systems - This form is used to secure the services of a consulting engineer, and establishes terms and conditions for the duties and responsibilities of the engineer with regard to a borrower's project. The following listed attachments are attached to and made part of this contract in order to obtain this information for specified services:

RUS Form 217a-Project Design, Assistance and Coordination;
RUS Form 217b-Central Office Equipment Engineering Services;
RUS Form 217c-Transmission Facilities Engineering Services;
RUS Form 217d-Building Engineering Services;
RUS Form 217e-Outside Plant Staking Services;
RUS Form 217f-Outside Plant Contract Document Phase Engineering Services; and
RUS Form 217g-Outside Plant Construction Phase Engineering Services.

RUS Form 242, Assignment of Engineering Service Contract – The form is used to transfer the responsibilities of completing the performance of engineering services to another engineering firm. Except for the inclusion of terms and conditions related to Public Laws and Executive Orders, etc., this type of contract would be used by respondents under normal business practice.

RUS Form 245, Engineering Service Contract, Special Services – Telephone –This form is used to engage a consulting engineer to perform special services.

RUS Form 270, Equal Opportunity Addendum – Contractors are required to attached this form to construction contracts to provide certification that they will abide by United States Equal Opportunity laws. This form provides the Agency assurance that these important provisions are considered and observed.

RUS Form 274, Bidder's Qualifications – This is a suggested form for borrowers to provide to prospective bidders to determine whether a contractor has sufficient resources and experience to undertake a project of the type and size defined in the plans and specifications. This form helps ensure that all contractors are treated equitably in the qualification process.

RUS Form 276, Bidder's Qualifications for Buried Plant Construction – This is a suggested form for borrowers to provide to prospective bidders to determine whether a contractor has sufficient resources and experience to undertake a project of the type and size defined in the plans and specifications for buried plant construction. This form helps ensure that all contractors are treated equitably in the qualification process.

RUS Form 281, Tabulation of Materials Furnished by Borrower – This form is used by borrowers to report the owner furnished materials the borrower provides a contractor for use in a project on RUS Form 515 or RUS Form 773. The form ensures that the contractor is aware of the value of the materials and that the borrower will be billed properly under the contract. This form facilitates competitive bidding and enables borrowers to use specialized materials or excess materials in inventory. It facilitates efficiency, high quality plant, and flexibility in the construction process. This enhances the Agency security.

RUS Form 282, Subcontracts - (Under Construction or Equipment Contracts) – This form is used with RUS Forms 257, 397, and 515 for the contractor to subcontract work to subcontractors. Borrowers and contractors' sureties need to maintain control over, and knowledge of, the subcontractors that their prime contractor brings onto a job. This form is used by a contractor to receive the approval of the borrower, the Agency and the surety for subcontractors that the contractor might employ in the course of completing an Agency construction project. This form provides all parties and the Agency with assurance that the contractor will use subcontracting companies that will observe all Agency contracting provisions.

RUS Form 284, Certificate of Architect – This is used to closeout RUS Form 220. The form provides a statement of all architectural services costs related to an Agency financed building project.

RUS Form 375, Interim Financing Construction – This form is used with any contract to indicate to the contractor that the Agency has not made a loan for the construction covered by the contract (or that funds are not released) and that other sources of funds will be used for payment under the contract.

RUS Form 390, Software License Agreement – This form is used when the manufacturer of the equipment requires a software license in order that the borrower may use the equipment. It is used with RUS Forms 397 and 773.

RUS Form 396, Certificate of Completion, Special Equipment Contract (Including Installation) – This form is used to closeout RUS Form 397. Borrowers use this form to account for completion of a contract; borrowers obtain assurances from the engineer that: (1) the project was constructed in compliance with the established plans and specifications, (2) there are no outstanding liens on the project from material suppliers, subcontractors, etc., (3) a complete summary of all costs is provided, and (4) that all required testing has been completed and results are satisfactory. Consulting engineers use this form to detail final accounting of projects involving telecommunications special equipment that include installation. This form documents the legal closing of the contract, establishes dates for final payment, warranty start and ending dates, and unless otherwise provided, delivery of possession and control of the special equipment.

RUS Form 396a, Certificate of Completion, Special Equipment Contract (Not Including Installation) – The users, burden and purposes of this form are the same as Form 396, except that this form is used on special equipment projects that do not include installation.

RUS Form 397, Special Equipment Contract (Including Installation) – This form is used for the procurement of equipment. This form establishes the borrower's and contractor's responsibilities and states all Government requirements. This form provides a uniform agreement to facilitate competitive bidding. This contract includes the following forms, which the burden hours are accounted for under RUS Form 397:

RUS Form 397b – Design Specifications for Trunk Carrier Systems

RUS Form 397c – Design Specifications for Subscriber Carrier Systems

RUS Form 397d - Design Specifications for Point-to-Point Microwave Systems

RUS Form 397g - Specifications for Line Concentrators

RUS Form 397h – Design Specifications for Digital Lightwave Transmission Systems

The following burdens are related to Form 397 but do not involve a form:

- a. Borrowers not using competitive bidding to obtain Agency approval of a proposal to purchase special equipment must request the Agency approval for sole source negotiation and include justification. This requirement enables the Agency to ensure project feasibility by preventing cost overruns, thus protecting loan security.
- b. Borrowers are required to submit copies of the engineer's contract closeout certifications to the Agency. These certifications ensure the Agency that the project and all required documentation are satisfactory and complete. These certifications ensure the Agency that the project was done in accordance with the Agency-approved system design, was for purposes in the loan commitment, was in accordance with the Agency specifications using Agency-accepted materials, and complies with the "Buy American" provisions.

RUS Form 398, Special Equipment Contract (Not Including Installation) – This purpose for this form are the same as Form 397, except this form involves special equipment projects that do not involve installation by the contractor.

RUS Form 506, Statement of Engineering Fees – Telecommunications – This form is used by the engineer to provide estimate of the engineering fees that will be incurred on an Agency approved project.

RUS Form 515, Telephone System Construction Contract (Labor and Materials) – This form is used for the construction of outside plant facilities. Borrowers use this form to establish the legal terms and conditions and expected performance of a contractor for a construction project involving outside plant telecommunications construction. This form provides the Agency with assurances that construction and facilities will be completed in accordance with the plans and specifications and Government contracting requirements. The form facilitates the competitive

bidding process by providing uniform recognized requirements for all bidders. It creates a unit basis for specifying, pricing, and accounting for construction.

RUS Form 517, Results of Acceptance Tests – Engineers use this form to report to the borrower and the contractor the results of testing that is undertaken to be assured that a digital switch has been installed properly and that it works as required by the plan and specifications. The results of this form assure that the financing will result in a reliable, revenue-producing, secure, project.

RUS Form 521, BiWeekly Progress Report of Telephone Construction & Engineering Services – This form is used by the Agency to monitor the progress of a borrower's project until completion with regard to engineering and construction services for a borrower's project.

RUS Form 525, Central Office Equipment Contract (Including Installation) – This form is used for the purchase of central office equipment. Borrowers use this form to establish the legal terms and conditions and expected performance of a contractor for purchase and installation of central office equipment. This form provides the Agency with assurances that the installed equipment will be in accordance with the plans and specifications and Government contracting requirements. The form facilitates the competitive bidding process by providing uniform recognized requirements for all bidders.. Form 525 now includes provisions for liquidation damages in the event the contractor is negligent and fails to complete the project on time.

RUS Form 527, Statement of Construction Telephone System - Outside Plant – This form is used to close out RUS Form 515. This form is used by the engineer to detail, for the closeout documents, the additions and deletions that were made on an Outside Plant project. It provides all costs and an accounting of the units installed and the mileage of construction completed. The form is part of the legal record of the closing of a Form 515 contract. The form provides the Agency with assurances that project facilities are properly counted and summarized.

RUS Form 545, Central Office Equipment Contract (Not Including Installation) – the purpose of this form is the same as RUS Form 525, except this form contract is used for a central office equipment purchase that does not require installation.

RUS Form 724, Final Inventory, Telephone Construction Contract (Labor and Materials) – This form is used to closeout RUS Form 515. Borrowers use the information on this form to enter accounting records for the completed construction units into their permanent property accounts. This form is prepared by the engineer and certifies that: (1) the project is complete, (2) facilities meet Agency requirements and the requirements of the plans and specifications, (3) there are no outstanding liens on the project, and (4) that the stated accounting of all construction units truly represents the construction. This form is an integral part of the legal closing of the contract.

RUS Form 724a, Final Inventory, Telephone Construction Contract (Labor and Material) – This form is used to closeout RUS Form 515 and is an attachment to RUS Form 724. This form provides the detailed listing of the final construction units that were *installed* (added) in the project such as cable, lines etc.

RUS Form 724b, Final Inventory, Telephone Construction Contract (Labor and Materials) - This form is used to closeout RUS Form 515 and is an attachment to RUS Form 724. This form provides the detailed listing of the final construction units that were *removed* in order to complete the project. This form is not used with much frequency because a borrower is typically installing units and not removing them from a project.

RUS Form 743, Certificate of Contractor and Indemnity Agreement (Line Extensions) – This form is used to closeout RUS Form 773. Borrowers use it to be certain that the contractor retained for minor construction contracts has paid all material suppliers and subcontractors, and that there are no outstanding liens on the completed project. This certification provides the borrower with assurances that there will not be any, unexpected, additional costs for completed construction. This form is part of the legal closing of a minor construction contract.

RUS Form 744, Certificate of Contractor and Indemnity Agreement – This form is used to closeout RUS Forms 397. Borrowers use it to be certain that the contractor retained for major construction contracts has paid all material suppliers and subcontractors, and that there are no outstanding liens on the completed project. This certification provides the borrower with assurances that there will not be any, unexpected, additional costs for completed construction.

RUS Form 752a, Certificate of Completion Central Office Equipment Contract (Not Including Installation) – The purpose of this form is the same as 754, except that this form is for switching equipment contracts that do not involve installation.

Engineer and Architect Contract Closeout Certification (7 CFR 1753.18) – A certification of completion and inspection of construction as evidence of completion of a major construction project.

RUS Form 756, Contract Closeout Certification – This form is used to closeout RUS Forms 257, 397, and 515. Borrowers use this form to account for completion of a contract. The Agency receives assurances from the borrower and engineer that: (1) the project was constructed in compliance with the established plans and specifications and Agency requirements, (2) the contractor has met contract obligations, and (3) a summary of all costs is provided. Borrowers use this form to detail final accounting of projects involving buildings, special equipment, and outside plant facilities.

RUS Form 771, Summary of Work Orders (Inspection by RUS Field Engineer) – The burden for this form is the time and expense of the borrower in completing and sending it to the Agency. The form provides a summary of all minor construction costs, by construction units, and other miscellaneous expenses and provides the Agency with assurances that all reported expenses are for approved projects; the listing is the basis upon which the Agency approves the advance of loan funds for construction completed by work order.

RUS Form 771a, Summary of Work Orders (Inspection by Licensed Engineer or Borrower's Staff Engineer) - The burden for this form is the time and expense of the borrower in completing and sending it to the Agency. This form is similar to RUS Form 771, except the assurances of the construction costs and other project listings are verified by expert sources other than an RUS

Field Engineer. The form provides a summary of all minor construction costs, by construction units, and other miscellaneous expenses and provides the Agency with assurances that all reported expenses are for approved projects; the listing is the basis upon which the Agency approves the advance of loan funds for construction completed by work order.

RUS Form 773, Miscellaneous Construction Work and Maintenance Service Contract – This form is used to establish the scope of work, and terms and conditions of a small-scale construction (construction costing \$500,000 or less) and for repair of telecommunications facilities. This form standardizes contract provisions and management of risk for small projects, ensures that all Federal requirements are met, and provides a uniform vehicle for the accounting of loan funds.

RUS Form 787, Supplement A to Construction Contract RUS Form 515 – This form is used to provide a listing of owner-furnished material which will be provided to the contractor for use in the contract construction under RUS Form 515.

RUS Form 817, Final Inventory, Telephone Force Account Construction – This form is used to closeout RUS Form 515. Borrowers use the information on this form to enter accounting records for the completed construction units into their permanent property accounts. This form is prepared by the engineer and certifies that: (1) the project is complete, (2) facilities meet Agency requirements and the requirements of the plans and specifications, and (3) that the stated accounting of all construction units truly represents the construction.

RUS Form 817a Final Inventory, Telephone Force Account Construction – This form is used to closeout a force account proposal and is an attachment to RUS Form 817. This form provides the detailed listing of the final construction units that were *installed* (added) in the project such as cable, lines etc.

RUS Form 817b, Final Inventory, Telephone Force Account Construction – This form is used to closeout a force account proposal and is an attachment to RUS Form 817. This form provides the detailed listing of the final construction units that were *removed* in order to complete the project. This form is not used with much frequency because a borrower is typically installing units and not removing them from a project.

RUS Form 835, Preloan Engineering Service Contract, Telephone System Design – This form is suggested for use as a preloan engineering service contract. Although its use is not required, Form 835 is helpful in determining the tasks to be performed.

Non-Form - 1753.80 (g) – Minor Construction – Request to establish a work order fund for specific construction project.

1753.80 (g) - Minor Construction – Request to establish a work order fund for specific construction project – Broadband.

Non-Form - 1753.27 - Construction of building - Award of contract

Non-Form - 1753.48 (a) – Outside plant major construction – Award of construction in accordance with procedure.

Non-Form - 1753.48 (b) - Outside plant major construction – Agency approval of negotiated proposals

Non-Form - 1753.68 (b) - Special equipment – Approval of the proposal for initial purchase of equipment

Non-Form - 1753.68(b) - Core network and access equipment – Approval of the proposal or initial purchase of equipment – Broadband.

Non-Form - 1753.36 - Core network and access equipment – request for approval to negotiate for the purpose of standardization on a system basis.

Non-Form - 1753.36 - Core network and access equipment – request for approval to negotiate for the purpose of standardization on a system basis.

Non-Form - 1753.3 – During the preconstruction review, obtain approval - for any construction that does not conform to Agency standards and specifications or the approved Loan design.

Non-Form - 1753.6 - Approval to use other than new or nonstandard materials and equipment.

Non-Form - 1753.6 - Approval to use other than new or nonstandard materials and equipment – Broadband.

Non-Form - Certification Borrower Contract Addendum – 7 CFR 1753.96 requires certification borrowers to modify Agency contracts that they use by inserting a copy of the Certification Addendum which identifies them as a certification borrower, relieving them of the requirements to obtain Agency approval of the contract. The Agency maintains a certification program for highly qualified and willing borrowers who because of their self-sufficiency and technical and managerial proficiency are approved to self-certify plans and specification, bid approvals, and contracts that are in compliance with all Agency and other Government regulations.

FORMS APPROVED UNDER OTHER COLLECTIONS

RUS Form 168b, Contractor’s Bond

Approved Under 0572-0107

This form is used to provide a surety bond for RUS Form 515 when the contract price exceeds \$100,000; it shows that an insurance indemnifier has bonded the contractor for completion of the project.

RUS Form 168c, Contractor’s Bond (less than \$1 million)

Approved Under 0572-0107

This form is used to provide a surety bond in lieu of REA Form 168b, when contractor's surety has accepted a small business administration guarantee

RUS Form 181, Certificate of Completion – Contract Construction for Building

Approved Under 0572-0107

This form is used for the closeout of RUS construction contracts.

RUS Form 213, Certificate (“Buy American”)

Approved Under 0572-0107

This form is used to document compliance with the "Buy American" requirement.

RUS Form 220, Architectural Services Contract

Approved Under 0572-0118

The form provides for the architectural services to be provided related to the design and construction management of the facilities.

RUS Form 224, Waiver and Release of Lien

Approved Under 0572-0107

Borrowers use this form to be certain that contractors, material suppliers, or anyone providing materials, equipment, labor, etc., have been paid and otherwise there will be no outstanding liens on a project. Except for the inclusion of terms and conditions related to Public Laws and Executive Orders, etc., this type of contract form would be used by respondents under normal business practices.

RUS Form 231, Certificate of Contractor

Approved Under 0572-0107

This form is used for the closeout of RUS Forms 257, 515, and 525.

RUS Form 238, Construction for Equipment

Contract Amendment

Approved Under 0572-0107

This form allows borrowers to alter contract scope, terms and conditions; provides legal validation for alterations; legal adjustments to the contractor’s bond; and provides the Agency with evidence of the adjusted amount so funds can be advanced properly. This form provides the Agency loan security by tracking changes affecting project scope and costs. Except for the inclusion of terms and conditions related to Public Laws and Executive Orders, etc., this type of contract form would be used by respondents under normal business practice.

RUS Form 257, Contract to Construct Building

Approved Under 0572-0107

This form is used to construct headquarter buildings, equipment buildings and other structures.

RUS Form 307, Bid Bond

Approved Under 0572-0107

This form is used with construction contracts (RUS 257, 515, etc.) to assure the borrower and the Agency that the successful bidder in a competitive bidding procedure will enter into a contract with the borrower.

RUS Form 481, Financial Requirement Statement

Approved Under 0572-0023

The burden for this form is the time and expense of completing and sending it to the Agency. Borrowers use this form to request advances of RUS loan funds. The form provides the Agency with a certification that the costs and the projects involved are Agency approved projects which comply with RE Act purposes.

RUS Form 675, Certification of Authority

Approved Under 0572-0074

This form informs the Agency of signature authority for RUS Form 481 (Financial Requirements Statement).

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 Agency is in the process of reviewing its short and long range electronic plans and needs. We are currently identifying options for using electronics to collect data from our borrowers. After the new contract forms are completed, the Agency plans to place an electronic version on the Agency Web Page. The web version will be printable and identical to the hard copy version.

In the meantime, the Agency encourages borrowers to use the most advanced technology to prepare the required information. Since computer capabilities differ widely, there is at present no feasible alternative to requiring that the information be submitted to the Agency in hard copy with computer generated drawings, charts, and graphs as supporting documentation where appropriate.

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 required information is available only from individual borrowers and is project specific. Much of the information is collected and analyzed by any prudent business in the course of its operations, and some is prepared by an utility company as part of a petition to its State Regulatory Authority. Furthermore, the Agency requirements are consistent with applicable national and industry standards.

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 Agency believes that the burden on both large and small entities is the minimum necessary to attain the objectives set out in Item 2. Furthermore, as stated in Item 2, the use of standard forms offers substantial savings to small entities.

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.

This information is required only when the borrower undertakes certain projects. There is no way to conduct the collection 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 is no requirement to respond more frequently than quarterly.

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

There is no requirement to respond in less than 30 days.

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

There are no requirements requiring more than an original and two copies.

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

Record retention requirements shall be in accordance with 7 CFR 1767.

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

This collection is not a survey.

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

This collection does not employ statistical sampling.

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

There is no requirement of a pledge of confidentiality.

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

There is no requirement to submit propriety trade secrets.

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 requesting comments was published in the *Federal Register* on July 10, 2007, at 72 FR 37511. No public comments were received.

The following individuals were consulted concerning burdens covered by this paperwork burden package:

Bob Schlabach
VP - COE Engineering
CBW Communications Engineers
P.O. Box 220129
Charlotte, NC 28222
704-332-2615
rschlabach@cbwa.com

Bob Tupper
Chief Telecommunications Engineer
RVW, Inc.
P.O. Box 495
Columbus, NE 68602-0495
402-564-2876
rtupper@rvwinc.com

Ann Keller
Vice-president
Central Associated Engineers
1500 Bull Lea Road - Suite 194
Lexington, KY 40511
859-231-9831
akeller@caeeng.com

Charles Watts
President
Communications Engineers, Inc.
3015 Stanton Avenue
Springfield, IL 62703
217-529-9362
cwatts@commenginc.com

Joel O Williams
President
Mid-South Consulting Engineers Inc.
3901 Rose Lake Drive
Charlotte, NC 28217
704-357-0004
jowilliams@msceng.com

Bob Palmer
Design South Professionals, Inc.
1 Linwa Blvd.
Anderson, SC 29621
864-226-6111
bobp@dsouth.com

Terry D. Brown
President
Mid-State Consultants, Inc.
P.O. Box 311
Nephi, UT 84648-0311
435-623-8601
tbrown@mscon.com

Gregory D. Rise, P.E.
Senior Engineer
CC & I Engineering, Inc.
150 2nd St. SW
Perham, MN 56573
218-346-3600
greg.rise@ccieng.com

The following people outside the Agency have been and/or will be consulted with regard to the revision of the contracts:

Gregory D. Rise
Secretary/ Treasurer of ACE
CC&I Engineering, Inc.
150 2nd. Street, SW
Perham, MN 56573
218-346-3600

Joel O. Williams P.E.
President
Mid-South Consulting Engineers Inc.
3901 Rose Lake Dr.
Charlotte, NC 28217
(O) 704/357-0004 (F) 704/357-0025

(C) 704/533-4220 (H) 704-547-1395
jowilliams@msceng.com

The Agency collected samples of contracts used by the industry from:

Dale Dunning
Tekelec
1705 N Plano Road
Richardson, TX 75081
Office: 972.692.1860
Mobile: 214.529.0271
Fax: 972.480.8892
Email: dale.dunning@tekelec.com
www.tekelec.com

Joy Croom
Sr. Manager, Legal
Nortel Networks
Department 9787
Mailstop D16020E2
4006 E. Chapel Hill/Nelson Hwy
Research Triangle Park, NC 27709
joyc@nortelnetworks.com
919 997-4425
ESN 357-4425
FAX 919 997-4495

Siemens provided us a copy of the software license.

Esther Halfon
RUS Liaison
Siemens Communications, Inc.
Office: (407) 942-2903
Fax: (407) 942-5194
esther.halfon@siemens.com

The Agency continues to maintain close contact with borrowers through general field representatives and a headquarters staff. The Agency also conducts seminars for its borrowers and associated organizations. Suggestions are always considered by the Agency.

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

Payments or gifts are not provided to respondents.

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

This information does not require confidentiality.

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 includes no questions of a sensitive nature.

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

This information collection consists of 10,720 hours of burden to the public as shown in the attached spreadsheet. The Agency estimates that approximately 25 percent of this time, or about 2680 hours, is professional time, and the balance of 8,040 hours is clerical.

Professional time	2,680 hours @ \$43.12 =	\$ 115,561
Clerical time	8,040 hours @ \$17.92 =	<u>\$ 144,076</u>
	Total	\$ 259,637

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

There are no capital or start-up cost or operations and maintenance and purchase of service components involved with this collection.

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

The government cost consists of reviewing respondent's submittals and providing acknowledgements of receipt or notices of approval. The Agency estimates that the processing of this information uses about 600 hours per year of agency time. The agency further estimates that approximately 25 percent of this time, or about 150 hours, is professional time, and the balance of 450 hours is clerical time. Attributing an hourly rate of \$43.12 to professional time (grade 13, step 5), and \$18.39 to clerical time (grade 6, step 5), the costs to the government are as follows:

Professional time	150 hours @ \$43.12 =	\$ 6,468
Clerical time	450 hours @ \$18.39 =	<u>\$ 8,276</u>
	Total	\$14,744

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 package. There is an adjustment increase of 7,573 hours as a result of increasing per response times on a number of the forms. See separate spreadsheet for breakout.

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

The Agency does not plan to publish this information.

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.

The Agency requests approval to not display the expiration date on the Form. Due to printing costs, it is not advantageous for the Agency to display the expiration date. Every three years, the Agency would need to discard usable forms because of the OMB expiration date changing. Furthermore, the Agency realizes that the Burden Statement on the Forms is not the most current. Once the stock of these Forms is depleted, the Agency will reprint the Forms with the most current Burden Statement.

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

There are no exceptions to the certification statement.

B. Collection of Information Employing Statistical Methods.

This information collection does not employ statistical methods.