

SUPPORTING STATEMENT

OMB Control No. 0572 – 0041

Request for Release of Lien and/or Approval of Sale RUS Form 793

A. Justification

a. Circumstances that make this collection of information necessary.

The Rural Utilities Service (RUS) is a credit agency of the U.S. Department of Agriculture (USDA). It makes mortgage loans and loan guarantees to finance electric, telecommunications, and water and waste facilities in rural areas. RUS manages loan programs in accordance with the Rural Electrification Act of 1936, 7 U.S.C. 901 et seq., as amended (RE Act). Section 201 of the RE Act provides that loan shall not be made unless RUS finds and certifies that the security for the loan is reasonably adequate and that the loans will be repaid within the time agreed. In addition to providing loans and loan guarantees, one of RUS's main objectives is to safeguard loan security until the loan is repaid. This objective is in accordance with OMB Circular No. 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, and should follow sound financial practices in the administration of credit programs and also protect the value of the Government's assets.

All current and future capital assets of RUS borrowers are ordinarily mortgaged or pledged to the Federal Government as security for RUS loans. Assets include tangible and intangible utility plant, non-utility property, construction in progress, and materials, supplies, and equipment normally used in a telephone system. Section 7 of the RE Act of 1936, as amended, and the various security instruments, e.g. the RUS mortgage, limit the rights of an RUS borrower to dispose of its capital assets. RUS' policy on sales of capital assets requires that the sale meet several requirements including the following: 1) the selling price should be greater than or equal to fair market value; 2) the system will be operational after sale; and 3) the sale shall not jeopardize the repayment of RUS' loan. The RUS Form 793, "Request for Release of Lien and/or Approval of Sale," allows RUS to maintain an up-to-date list of assets available for loan security. The collected information can also be used to satisfy OMB recommendations for "well-managed collateral requirements" to reduce the risk of default and potential losses (OMB Circular A-129).

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.

A borrower's assets provide the security for a Government loan. The selling of assets reduces the security and increases the risk of loss to the Government. RUS Form 793 allows the telecommunications program borrower to seek agency permission to sell some of its assets. The form collects detailed information regarding the proposed sale of a portion of the borrower's system. RUS telecommunications borrowers fill out the RUS Form 793 to request RUS approval in order to sell capital assets. Specifics to the sale of capital assets, including the use of RUS Form 793 and submission of supporting documentation are covered in RUS Bulletin 415-1, "Sale of Property by Telephone Borrowers."

The first part of the form is basically descriptive and includes the name and address of the seller and purchaser, original cost of the asset, closing date of the sale, source of funds, description of the property, reason for sale, selling price, and the disposition or use of proceeds from the sale. RUS uses the information on the form to determine whether or not the agency should approve the sale. The agency also uses this information to keep track of what property still exists to secure the loan. The borrower's current assets are used in calculating the risk or default in repaying the loan to the Government. The RUS Form 793 information is also used by the borrower to request a release of RUS' lien on the particular asset.

At the bottom of the form is the space for an authorized signature of the borrower certifying that: (1) the sale price is not less than the fair-market price; (2) the sale will not jeopardize the loan repayment; and, (3) the system will continue to be a satisfactory operating unit.

A proposed sale of assets must first be approved by the borrower's directors or shareholders. The borrower then fills in the RUS Form 793 and submits the original and two copies with original signatures. Two certified copies of the board resolution must also be submitted with the RUS Form 793. Usually a lien is involved, so the borrower must then file a 2-3 page formal release of lien. Under certain circumstances, e.g., sale of assets to a board member, an appraisal is required. The agency reviews the forms and decides whether to approve the sale. The related forms are stored with the borrower's other loan documents for a particular loan. All accompanying loan documentation is kept by RUS for the life of the loan, which is generally no more than 35 years.

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 Form 493 is on the Agency website and is made available in Adobe PDF format and is printable for use by borrowers. The Agency is committed to meeting the requirements of 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.

The data contained on the Form 793 are specific, not only for each borrower, but also for each case, e.g. property description, sale price, date of sale. A form is completed only once for the proposed sale of a particular asset. Therefore, there is no similar information available nor are borrowers required to submit duplicate information under other collections.

5. If the collection of information impacts small businesses or other small entities (item 5 of OMB Form 83-1), describe any methods used to minimize burden.

The information provided on RUS Form 793 is unique to each borrower and for each request. The agency needs to keep aware of the specific assets, not similar assets, since specific assets are used as the loan security. The information is not available to from any other existing source.

The Form 793 has been kept to one page. The information to be collected is in a format designed to minimize the paperwork on small businesses and other small entities. The information requested is the minimum required to protect the Government's security on the loans made to borrowers. RUS is continually reviewing the information collected to determine what reductions are possible.

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 RUS Form 793 is completed once for the proposed sale of a particular asset. If this information were not collected at the time of the proposed sale of a borrower's capital assets, the assets securing the Government's loans could be liquidated and the security for the outstanding loans would disappear. The result is increased risk to the Government. In the event of default, the Government could lose its money.

7. Explain any special circumstances that would cause an information collection to be conducted other than those specified in 5 CFR 1320.5(d)(2).

- 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 on 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 a. Identify agency’s notice in the Federal Register and summarize public comments received.

As required by 5 CFR 1320.8(d), a 60-day Notice to request comments was published on September 2, 2009, vol 74, No. 169, page 45412. No comments were received.

b. Describe efforts to consult with persons outside the agency.

RUS maintains close contact with borrowers through RUS’ general field representatives (GFR), field accountants, and a headquarters’ staff. GFRs have direct personal contact with the borrower in connection with the fulfillment of RUS requirements, including filling out the RUS Form 793. GFRs pass on any substantive comments to the headquarters staff. Borrowers may consult with RUS’ GFRs, field accountants, and the headquarters’ staff at any time regarding comments or suggestions on procedures, forms, regulations, etc. Consultations take place on an individual basis, by telephone, e-mail, regular mail, fax, and at various meetings and conferences attended jointly by RUS staff and borrowers. RUS staff are readily available to the Agency’s customers.

RUS works closely with lending institutions such as the Rural Telephone Finance Cooperative, and CoBank, a part of the Farm Credit System, which provide supplemental loan funds to borrowers.

The Agency also works closely with national and/or statewide associations representing RUS’ telecommunications program borrowers such as: National Rural Telecom Association; National Telephone Cooperative Association, United States Telecom Association; Western Telecommunications Alliance; and Organization for the Promotion and Advancement of Small Telecommunications Companies; among others.

As well, the RUS works closely with various Federal agencies including the National Association of Regulatory Utility Commissions, Department of Justice, Treasury Department, and others as appropriate. In addition, RUS works with various State regulatory agencies.

Suggestions and comments are always considered by the Agency, and RUS remains committed to pursuing further reductions in both the burdens placed upon our borrowers/customers and the total volume of regulations imposed.

RUS also has a website containing general information about the agency, specific information about the three major programs (electric, telecommunications, and water and waste) administered by the Agency; a directory of various program staff and how to communicate with them; many Agency regulations, forms, and bulletins; and, links to other relevant sites.

The Agency spoke by telephone with a telecom loan respondent:

Mr. Paul Freude
General Manager
Paul Bunyan Rural Telephone Cooperative
1831 Anne Street NW
Bemidji, MN 56601
(218) 444-1234

Mr. Freude said that he did not personally spend very much time with this process but he was knowledgeable about in general. All of the information was readily available. The total time to prepare the release of lien request was probably between 1.75 and 3 hours. This process only occurs in the case of a sale of property therefore the frequency of collection is not an issue. He agreed that the clarity of instructions and recordkeeping are appropriate and the reporting format was suitable to the particular needs of the process. Generally disclosure of the information would not be a problem since it is considered to be public information. He offered no suggestions for improvement.

9. Payment of gifts to respondents

Payments or gifts are not provided to respondents.

10. Assurance of confidentiality

The information collection does not require confidentiality. Information submitted to RUS by borrowers is covered by provisions of the Freedom of Information Act (5 U.S.C. 552).

11. Questions of a sensitive nature.

The information collection includes no questions of a sensitive nature.

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

RUS receives approximately 40 responses annually. RUS program staff, based on experience, provided the estimates for the number of responses and the time for the borrower to complete and process the RUS Form 793. The RUS Form 793 is submitted along with the board resolution and release of lien.

Legal time is required for the borrower to fill out the release of lien. Professional time includes the time to review the RUS Form 793. Clerical time includes the time for typing, notarizing, copying, mailing, and filing. The rates of \$89/hour for legal time, \$43/hour for professional time, and \$15/hour for clerical time are assumed for the calculations. The preparation of the release of lien by the borrower is being included in the calculations for cost and time. It is not an agency form although it does impose a burden.

The public reporting burden for this collection of information is estimated to average a total of 2.75 hours. The information collection represents 110 burden hours per year.

<u>Number Of Respondents</u>	<u>Number of Responses/ Respondent</u>	<u>Total Annual Responses</u>	<u>Hours per Response</u>	<u>Total Hours</u>
40	1	40	2.75	110

Cost to respondents

Legal	40 responses	X 1.50 hrs	X	\$89/hr = \$5,340.00
Professional	40 responses	X 0.75 hrs	X	\$43/hr = \$1,290.00
Clerical	40 responses	X 0.50 hrs	X	\$15/hr = <u>\$ 300.00</u>
Total Cost to Respondents				= \$6,930.00

13. Provide an estimate of burden of collection of information.

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

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

There are no capital and start-costs or operation and maintenance costs associated with the collection.

14. Annualized cost to the Federal Government.

Based on conversations with program staff and prior experience, the cost to the government would be 1.75 hours of professional time per response at a rate of \$47/hour (GS-12/5), and 0.75 hours of clerical time at \$20/hour (GS-6/5).

Cost to the Federal Government

Professional	40 responses	X	1.75 hours	X	\$47.00/hr	= \$3,290.00
Clerical	40 responses	X	0.75 hours	X	\$20.00/hr	= \$ 600.00
Total Cost to the Government						= \$3,890.00

15. Change in burden

This is a revision of a currently approved information collection. There is an adjustment decrease of -55 burden hours attributed to 20 fewer respondents.

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

The results of this collection of information are not intended 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.

It is requested for approval of nondisplay of the expiration date on this information collection. Many borrowers reproduce this form to meet their reporting needs in lieu of requesting copies directly from RUS. Previous expiration date is carried over each time copies are reproduced or on those electronically prepared.

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

This information collection includes no exceptions to Item 19.

B. Collection of Information Employing Statistical Methods.

This information collection does not employ statistical methods.

