

2010 - SUPPORTING STATEMENT
OMB Control Number 0572-0079
Preloan Procedures and Requirements for Telecommunications Programs

A. Justification

1. Circumstances that make this collection of information necessary.

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

Section 201 of the RE Act authorizes the Administrator of the Rural Utilities Service to make loans to qualified telephone companies for the purpose of providing telephone service to the widest practicable number of rural subscribers. Telephone borrowers have, through September 30, 2009, received nearly \$18 billion in loans from RUS, the Rural Telephone Bank (RTB), and loan guarantee commitments.

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

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

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

(a) Loan Application and Processing Procedures.

The completed loan application consists of four parts:

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

RUS Form 490, "Application for Telecommunications Loan and Loan Guarantee"

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

Supplementary Information

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

- (1) Name of attorney and manager, and certified copies of board resolutions selecting them.
- (2) Certified copy of articles of incorporation showing evidence of filing with the Secretary of State and in county records.
- (3) Certified copies of bylaws and board minutes showing their adoption.
- (4) Certified sample stock certificates.
- (5) Amounts of common and preferred stock issued and outstanding.
- (6) Names, addresses, business affiliations, and stockholdings of the manager, officers, directors, and other principal stockholders (those owning at least 20 percent of borrower's voting stock).
- (7) Certified copies of real estate deeds showing all recording information.
- (8) Service agreements, such as for management or system maintenance.
- (9) Certified copies of existing leases, except those for vehicles, furniture and office equipment, and computer equipment.
- (10) Certified copies of existing franchises.
- (11) Information on any franchises required as a result of the proposed loan project.
- (12) Federal Communications Commission (FCC) authorizations.
- (13) Certified copy of a certificate of convenience and necessity (or its equivalent), or information demonstrating the non-duplication of reasonably adequate facilities, for all areas in the loan project.
- (14) For toll, operator office, traffic, and EAS agreements, the names of all parties to the agreement, the type of agreement, and the effective and termination dates of the agreement and annexes, and the exchanges involved.
- (15) Copies of rate schedules (A copy of the tariff must be available for review by the RUS field representative.).
- (16) Executed copy of RUS Form 291, "Certification of Non-segregated Facilities."
- (17) A sketch or map showing the existing and proposed service areas.
- (18) Executed assurance that the borrower will comply with the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended (see 49 CFR 24.4).
- (19) A certification signed by the president or the borrower that the borrower is participating in the State's telecommunications modernization plan.

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

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

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

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

Area Coverage Survey

RUS Form 569, "Area Coverage Survey Report" provides subscriber projections and addresses the question of whether the telephone service will be provided on an area coverage basis.

Information collected with the RUS Form 569 includes a field survey and forecast of telephone subscribers in the service areas and a narrative.

Loan Design

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

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

(b) Acquisitions and mergers.

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

To ensure continued loan security after a merger or acquisition takes place, the loan documents require the borrower to submit several items to RUS before an acquisition, merger, or consolidation is approved. RUS requires that a borrower submit certain financial and legal information, details of the facilities to be acquired including a completed RUS Form 507, “Report on Telephone Acquisition,” and plans for incorporating the acquired facilities into the borrower’s existing system.

After the borrower has closed the transaction, it shall furnish to RUS all documents necessary to demonstrate satisfaction that the transaction has been closed.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection.

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

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

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

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

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

6. Describe the consequences to Federal program or policy activities if the collection is not conducted or conducted less frequently, as well as any technical or legal obstacles to reducing burden.

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

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

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

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

8. If applicable, identify the date and page number of publication in the *Federal Register* of the agency's notice soliciting comments on the information collection. Summarize public comments received and describe actions taken by the agency in response to these comments. Describe efforts to consult with persons outside the Agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, reporting format (if any), and on data elements to be recorded, disclosed, or reported.

As required by 5 CFR 1320.8(d), a Notice to request comments was published on December 28, 2009, at 74 FR 68566. No public comments were received.

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

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

RUS works closely with lending institutions such as the National Rural Utilities Cooperative Finance Corporation and CoBank, a nationwide network of lending institutions and part of the Farm Credit System, which provide supplemental loan funds to borrowers, as well as various State utility regulatory agencies and other Federal agencies including the Federal Communications Commission, U. S. Environmental Protection Agency, and Department of Justice.

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

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.

The Agency spoke by telephone with two telecom loan respondents:

Eric Ryler
The Tri-County Telephone Association, Inc.
101 South Main Street, P. O. Box 299
Council Grove, KS 66846

Richard Haddock, Engineering Manager
Farmers Telephone Cooperative, Inc.
1101 East Main Street, P. O. Box 588
Kingstree, SC 29556
Phone: (843) 382-1299

Both respondents provided verification that the times for filling out forms covered by this paperwork burden are within reason. Mr. Ryler commented that there are too many forms and, in some cases, the same figures are used on more than one form. Mr. Haddock commented that the entire Preloan process takes too long. The Agency is aware of both of these matters and strives to examine and, if possible, improve the situation each time we consider rule changes,

paperwork burdens, or form changes. With this paperwork burden the Agency does not believe that any positive change is possible.

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

Payment or gifts are not provided to respondents.

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

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

11. Provide additional justification for any question of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private.

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

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

All of the preloan data collected by the applicant is generally submitted to RUS at the same time. The annual burden for preparation and submission per respondent for the preloan data (including the narrative, supplemental information, Forms 490, 494, 495, and 569) is estimated to be 53.5 hours, for a total annual burden for all respondents (approx. 50 per year) of 2,675 hours.

Approximately 4 borrowers per year undertake acquisitions, mergers, or consolidations. Since any lender would require this information in the event of such an action and the information needed is already available in the borrowers' files in some form, it is only a matter of duplicating the necessary information and submitting it to RUS with the Form 507. The annual burden per respondent is estimated to be 16 hours, for a total annual burden for all respondents (approximately 4 per year) of 64 hours.

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

The following is a breakdown of costs to the public:

Table 1 – Loan Requirements and Preloan Data Collection

Narrative preparation

50 responses @ \$74/hr x 30 hrs.....	\$111,000
Supplemental data collection	

50 responses @ \$15/hr. x 18 hrs.....	13,500
Review and transcription	
50 responses @ \$31/hr. x 6.5 hrs.....	10,075
<u>Mailing</u>	
50 responses @ \$25/response.....	<u>1,250</u>
	<u>Total.....\$135,825</u>

Table 2 – Mergers and Acquisitions

Collection, transcription, and reviews:

4 responses @ \$15/hr. x 16 hrs.....	\$ 960
<u>Mailing</u>	
4 responses @ \$ 2/response.....	<u>8</u>
	<u>Total.....\$ 968</u>

Table 3 – Loan Prerequisites for Release and Advance of Funds

Collection, transcription, and reviews:

50 responses @ \$31/hr. x 16 hrs.....	\$24,800
<u>Mailing</u>	
50 responses @ \$2/response.....	<u>100</u>
	<u>Total.....\$24,900</u>

TOTAL COST TO THE PUBLIC..... \$161,693

The Department of Labor, Bureau of Labor Statistics, Standard occupational Classification wage rates were used as the basis for the cost estimates. The hourly earnings for Professional time in a non-metropolitan area are \$73.74, hourly earnings for Professional support time in a non-metropolitan area are \$31.03, and Clerical time in a non-metropolitan area is \$14.71.

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

There are no capital/start-up or operation/maintenance and purchase of services components involved with this collection.

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

The cost to the Federal Government to collect and evaluate this information is estimated to be \$24,796 based on the following calculations.

Table 1 – Loan Requirements and Preloan Data Collection

Printing.....	\$ 280
Mailing.....	350
Review: GS-13/5 @ \$42/hr. x 4.5 hrs. x 50 responses.....	9,450
GS-11/5 @ \$29.47/hr. x 3.0 hrs. x 50 responses.....	<u>4,420</u>

Total \$14,500

Table 2 – Mergers and Acquisitions

Review: GS-13/5 @ \$42/hr. x 4.5 hrs. x 4 responses.....\$ 756

Table 3 – Loan Processing and Advance of Funds

Review: GS-13/5 @ \$42/hr. x 4.5 hrs. x 50 responses.....\$ 9,450

TOTAL COST TO THE GOVERNMENT\$24,796

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

This submission is a revision of a currently approved information collection due to no longer using the Form 567, Checklist for review of Loan Design. The change resulted in an annual decrease of 50 responses and 50 hours but no reduction in cost.

16. Outline plans for tabulation and publication.

This collection of information is not intended for statistical use.

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

Since some forms within this collection package are used/approved under other RD collection numbers having different expiration dates, the Agency feels it would not be practical to list different expiration dates on the forms. Rural Utilities Service is therefore seeking approval to not display the OMB expiration date on these forms.

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

This information collection includes no exceptions to Item 19.

B. Collection of Information Employing Statistical Methods.

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

This information collection does not employ statistical methods.