

2014
SUPPORTING STATEMENT
0572-0126

**7 CFR Part 1744, Subpart B,
Lien Accommodations and Subordination Policy**

A. Justification

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

Over the past several years, changes in the telecommunications industry, including deregulation and technological developments, have caused Rural Utilities Service (RUS) borrowers and other organizations providing telecommunications services to consider undertaking projects that provide new telecommunications services. To facilitate the financing of those projects and services, RUS is willing to consider accommodating the Federal Government's lien on telecommunications borrowers' systems in an expedited manner based on the financial strength of the borrowers operations as authorized by the Rural Electrification Act of 1936 (RE Act). This will help enable RUS telecommunications providers to compete in an expanding number of telecommunications services.

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 policy will continue to help to facilitate funding from non-Agency sources in order to meet the growing capital needs of rural Local Exchange Carriers (LECs). Depending on the purposes for which a lien accommodation is being sought, RUS will use the information to provide an expedited approval for borrowers that meet the financial tests described in this rule. RUS believes that borrowers that are financially sound should be afforded more flexibility with regard to financial arrangements with outside lenders for the purpose of promoting rural telecommunications. The tests are designed to ensure that the financial strength of the borrower is more than sufficient to protect the government's loan security interests; hence, the lien accommodations will not adversely affect the government's financial interests.

There are different types of certifications to be used in the varied circumstances:

No Form - Statement, Certification, and Agreement of Borrower's President of Board of Directors Regarding Refinancing and Refunding Notes Pursuant to 7 CFR 1744.30(c) (Appendix A): This certification is used when a borrower is proposing to refinance existing debt with a new loan.

No Form - Certification of Independent Certified Public Accountant Regarding Notes to be Issued Pursuant to 7 CFR 1744.30 (Appendix B) and Statement,

Certification, and Agreement of Borrower's President of Board of Directors Regarding Notes to be Issued Pursuant to 7 CFR 177.30(d) (Appendix C): These are to be used when a borrower is seeking a lien accommodation on assets that it will own directly and purchased with private lender funds.

No Form - Certification of Independent Certified Public Accountant Regarding Notes to be Issued Pursuant to 7 CFR 1744.30 (Appendix D) and Statement, Certification, and Agreement of Borrower's President of Board of Directors Regarding Notes to be Issued Pursuant to 7 CFR 1744.30(e) (Appendix E): These are to be used when a borrower's subsidiary will be the owner of the assets that are being financed by a private lender for which the lien accommodation is being requested.

Supplemental Mortgage (Appendix F): *This is not required by RUS.*

It is only necessary if the borrower's private lender requests that a supplemental mortgage be executed. The Agency has provided a format acceptable to it for the borrower's convenience.

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.

Borrowers are able to obtain the certification forms via electronic means from the RUS web site or by contacting the Agency. However, since certification and original signatures are required, borrowers must submit the forms in paper copy to the Agency. Please note that these forms can be mailed to the appropriate office.

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 submitted at the time a borrower requests a lien accommodation, therefore, no previous information for the transaction would exist.

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.

According to the Table of Small Business Size Standards established by the Small Business Administration (SBA) which is matched to the North American Industry Classification System (NAICS) for industries, all 405 respondents (or 100 percent of the respondents) for this collection are considered small businesses (under 1,500 employees). RUS 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 collection is at the request of a borrower seeking a lien accommodation from the government. There are no consequences to the government if borrowers do not seek a lien accommodation under this methodology.

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.

There are no such requirements.

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

This collection does not involve statistical information.

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

This collection does not involve statistical information.

- 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.

As required by 5 CFR 1320.8(d), a Notice requesting comments was published in the *Federal Register* on February 10, 2014 at 79 FR 7642. No comments were received.

RUS maintains close contact with borrowers through general field representatives and a headquarters staff on a weekly basis and suggestions are always considered by the Agency. RUS also conducts seminars for its borrowers and associated organizations.

Since RUS only received and processed one request for a lien accommodation during the past 3 years, the Agency spoke by telephone with the sole recipient of a telecommunications lien accommodation during this time frame as follows:

Mr. Ken Weisenberger, Chief Financial Officer
Consolidated Telecom
507 South Main
Dickinson, North Dakota 58601
Phone: (701) 483-4000

Mr. Weisenberger was contacted with regard to the Lien Accommodation that was approved on March 28, 2013 for his company. He noted that the process went smoothly without a significant burden on time or resources. Overall he said that the paperwork took approximately 1 to 1.5 hours to complete. He explained that the lien accommodation was necessitated by some delays in his Financial Requirement Statements (FRSs) being processed by RUS (a separate process than the one covered in this burden). By having the Lien Accommodation processed with another financial institution, he was able to pay some of his vendors and contractors while waiting for an advance of funds from RUS through the FRS process.

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 of confidentiality have been made.

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.

Over the past 3 years, most RUS telecommunications borrowers have not had the necessity to utilize the lien accommodation(s) process, as covered in this collection. In fact, only one lien accommodation as covered in this collection was processed during the past 3 years. However, this process is still available to any telecommunications borrower should the necessity arise and RUS estimates that approximately 3 borrowers will request lien accommodations over a three year period.

As indicated on the attached Form 36, some borrowers will request lien accommodations for refinancing, using Appendix A; some borrowers will request a lien accommodation on assets to be owned at the borrower level, using Appendices B and C; and some borrowers will request a lien accommodation for assets to be owned at the subsidiary level, using Appendices D and E. Respondents will fill out the appropriate certification(s) and statement(s) using information readily available on the books of the borrower. Upon receipt of the appropriate certification, approval will be granted. For borrowers that are financially sound, lien accommodations can be approved automatically, at a substantial time (and value) saving to the borrower.

The respondents' estimated annual cost of providing information is \$110.44. This total has been estimated by multiplying 2 burden hours by \$55.22, the national mean hourly wage of General and Operations Managers, according to the U.S. Department of Labor Statistics. (National Occupational Employment and Wage Estimates - United States, May 2012) and then adding 29.4% in benefits to this cost.

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 cost components with this collection.

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

There are no operational or maintenance or purchase of services components with this collection.

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

RUS verifies that the certifications are correct and completes the processing by filing the necessary paperwork in the official files of borrower. The cost (including 36.25% in benefits cost) is as follows:

Approval of One Lien Accommodation:

GS 14 Loan Specialist review: 2 hrs @ \$78.62/hr. = \$157.24

Total Cost per Action	= \$157.24
	<u> x3</u>
Total Cost for 3 respondents	\$471.72

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

There are no program changes or adjustments.

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.

No such approval is sought.

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

There are not exceptions to the certification statement.

B. Collection of Information Employing Statistical Methods.

This collection does not employ statistical methods.