

2014
SUPPORTING STATEMENT

**Electric System Construction
Policies and Procedures
7 CFR 1726
(OMB Control Number 0572-0107)**

This is an extension of a currently approved information collection package. An agency adjustment was necessary because of a decrease in the number of respondents and resulted in an estimated decrease of 6 burden hours from 104 to 98.

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 Sec. 4 (7 U.S.C. 904) authorizes and empowers the Administrator of the Rural Utilities Service (RUS) to make loans in the several States and Territories of the United States for rural electrification and the furnishing and improving of electric energy to persons in rural areas. This section also authorizes the RUS Administrator to provide financial assistance to borrowers for purposes provided in the RE Act by guaranteeing loans made by the National Rural Utilities Cooperative Finance Corporation, the Federal Financing Bank, and other lending agencies.

These loans are for a term of up to 35 years and are secured by a first mortgage on the borrower's electric system. The terms of the loans are based on the expected composite economic life based on the depreciation rates of the facilities financed. In the interest of protecting loan security and accomplishing the statutory objective of a sound program of rural electrification, Section 4 of the RE Act requires RUS to 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 order to facilitate the programmatic interests of the RE Act, and, in order to assure that loans made or guaranteed by RUS are adequately secured, RUS, as a secured lender, has established certain standards and specifications for materials, equipment, and the construction of electric systems. The use of standard forms and procurement procedures helps assure RUS 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.

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

The information is used to implement provisions of the RUS standard form of loan documents concerning the borrower's purchase of materials and equipment and the construction of electrical systems with the assistance of contractors. Electric cooperatives throughout the electric industry enter into contracts for goods and services and use a contract forms to do so. The agency has developed specific forms cleared with this package for electric cooperative borrowers to use when entering into contracts. Telecommunications borrowers utilize some of the forms and this hour burden is reported in this collection.

The time, effort and financial resources necessary to comply with some type of contract by a utility is incurred in the normal course of their business activities (e.g. in compiling and maintaining business records) and, therefore, is usual and customary whether or not the utility is borrowing from another lender or RUS. All agency engineering requirements and information collections are predicated on sound electric utility business practices. The use of a contract assures that a set of standards and conditions are in conformance with prudent utility and lending practices. The information in this collection is used to implement certain provisions of the RUS standard form of loan documents regarding borrower's purchase of materials and equipment and the construction of its electric system by contract or force account. Individually, each form is inadequate to provide the needed assurance of a sound lending practice; however, their use as a family of documents is in the normal course of doing business and meets prudent and standard business practices. Standardization of forms by RUS results in substantial savings to:

- A. Borrowers: If standard forms were not used, borrowers would be required to prepare their own documents at a significant expense, and
- B. Government: Utilizing standard RUS forms ensures that required information is not omitted. If standard forms were not used, each document submitted by a borrower would require extensive and costly review by both RUS and the USDA Office of the General Counsel.

As it is standard industry practice to obtain goods or services using a contract document, the specific burden hours claimed for each form are attributed to the time required to submit a copy of the form to RUS because the necessary resources to comply with the contract by the borrower is incurred as a normal course of conducting business activities. RUS requires the submission of the forms only when the contract is subject to RUS

approval. As is customary in industry business practices, RUS also requires that the borrower maintain the contract as parts 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: (A list may be found at 7 CFR 1726.304)

1. RUS Form 168b, Contractor's Bond [Also used in 0572-0059]

This form is used to provide a surety bond for contracts on RUS Forms 200, 257, 786, 790, & 830. The form shows that an insurance indemnifier has bonded the contractor for completion of the project.

2. RUS Form 168c, Contractor's Bond (less than \$1 million) [Also used in 0572-0059]

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

3. RUS Form 187, Certificate of Completion - Contract Construction

This form is used for the closeout of RUS Forms 200, 257, 786, and 830.

4. RUS Form 198, Equipment Contract

This form is used for equipment purchases.

5. RUS Form 200, Construction Contract - Generating

This form is used for generating plant construction or for the furnishing and installation of major items of equipment.

6. RUS Form 213, Certificate ("Buy American") [Also used in 0572-0059]

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

7. RUS Form 224, Waiver and Release of Lien [Also used in 0572-0059]

Borrowers use this form to certify that contractors, material suppliers, or anyone providing materials, equipment, labor, etc., have been paid and there will be no outstanding liens. The form is used by subcontractors to provide a release of lien in connection with the closeout of RUS Forms 198, 200, 257, 786, 790, and 830.

8. RUS Form 231, Certificate of Contractor [Also used in 0572-0059]

This form is used for the closeout of RUS Forms 198, 200, 257, 786, and 830.

9. RUS Form 238, Construction or Equipment Contract Amendment [Also used in 0572-0059]

This form is used to amend contracts except for distribution line construction contracts. The form allows borrowers to alter contract scope, terms and conditions, and provides legal validation for modifications, legal adjustments to the contractor's bond. The form provides the agency with evidence of any adjusted amounts so funds can be advanced properly. The 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 is used by respondents and other utility entities in the normal course of business.

10. RUS Form 254, Construction Inventory

This form is used to document the final construction in connection with the closeout of RUS Form 830.

11. RUS Form 257, Contract to Construct Buildings [Also used in 0572-0059]

This form is used in agreements to construct headquarter buildings, generating plant buildings and other structure construction.

12. RUS Form 307, Bid Bond [Also used in 0572-0059]

This form is used to provide a bid bond in RUS Forms 200, 257, 786, 790 and 830. When this form is used with construction contracts, it assures the borrower and the agency that the successful bidder in a competitive bidding procedure will enter into a contract with the borrower.

13. RUS Form 786, Electric System Communications and Control Equipment Contract

This form is used in agreements to provide delivery and installation of equipment for system communications.

14. RUS Form 790, Electric System Construction Contract Non-Site Specific Construction (Notice and Instructions to Bidders)

This form is used for limited distribution construction accounted for under work order procedure.

15. RUS Form 792b, Certificate of Contractor and Indemnity Agreement (Line Extensions)

This form is used in the closeout of RUS Form 790.

16. RUS Form 830, Electric System Construction Contract (labor & material)

This form is used for distribution and/or transmission project construction.

Note that several of the forms are utilized by the RUS Telecommunications Program in connection with system construction policies and procedures. The forms are RUS Form 168b, Contractor's Bond; RUS Form 168c, Contractor's Bond (less than \$1 million); RUS Form 213, Buy American Certificate; RUS Form 224, Waiver and Release of Lien; RUS Form 231, Certificate of Contractor; RUS Form 238, Construction or Equipment Contract Amendment; RUS Form 257, Contract to Construct Buildings; and RUS Form 307, Bid Bond. The burden hours are noted under OMB Control No. 0572-0059, are reported under this collection and explained in more detail in response to Question 12 and in the attached RUS Form 36, Summary of Information Collection (spreadsheet).

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.

In compliance with the E-Government Act, these forms are available on the USDA Service Center eForms website in a fillable pdf format at the following website: http://www.rurdev.usda.gov/UP_ETPW_forms.html. RUS borrowers may use the provided forms, however, the forms are provided for agreements between the borrowers and third parties to which RUS is not a party. RUS does not collect the electronic

signatures on the transaction forms from the two separate entities and, therefore, the forms may be submitted electronically only as PDFs after being executed by the parties. RUS encourages the borrowers to use the most advanced technology to prepare and submit the information.

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 normal course of its operations. RUS requirements of documentation are consistent with applicable national and industry standards. The borrowers are required to prepare petitions to State Regulatory Authorities and the documentation prepared in these submissions is then readily available to include on the forms in this collection.

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 Small Business Administration (SBA) has established a table of Small Business Size Standards, which matches the industries described in the North American Industry Classification System (NAICS). According to the small business size standards, 100 percent of all RUS Electric Distribution Borrowers and the Telecommunications borrowers who use the RUS forms referenced above (1,161 total respondents) are classified as small businesses. Information collected is in a format designed to minimize the paperwork burden on small businesses and other small entities and is data that is regularly prepared in the normal course of business. The information is the minimum RUS needs to approve loans and grants, monitor borrower performance, and carry out the authorized programs and, as stated in Item 2, above, small entities realize substantial savings with the use of standard forms.

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 specific construction projects. The information collection must be conducted in connection with each project and cannot be conducted 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.**
- 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 circumstances. The collection of information is consistent with the guidelines in 5 CFR 1320.6.

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 public comments was published in the Federal Register on November 10, 2014, at 79 FR 66690. No comments were received.

RUS maintains close contact with borrowers through general field representatives (GFRs), field accountants, state offices, 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. Additionally, 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. The agency also works closely with national and statewide associations representing electric borrowers such as: National Rural Electric Cooperative Association; National Association of Development Organizations; Rural Community Assistance Program; and, American Public Power Association, among others.

Three individuals from Electric cooperatives were consulted to obtain their comments concerning the use of these contract forms.

Steve Shurts, President/CEO
East Central Energy
412 Main Avenue, North
P.O. Box 39
Braham, MN 55006
Telephone Number: 800-254-7944

Mr. Shurts finds value in using the RUS contracts. He believes that RUS contracts help to protect his cooperative from overlooking or neglecting important legal issues because they contain language to protect security interests and handle unforeseen contingencies. He does not feel that they are a burden on his cooperative's operations.

Russ Malsam, Consulting Engineer
Fergus Electric Cooperative, Inc.
84423 U.S. Highway 87
Lewiston, MT 59457
Phone Number: 406-265-6741

Mr. Malsam believes the contract forms are relatively simple to follow and protect the cooperative legally. He stated that there was no major difficulty obtaining and using the forms provided by RUS.

Edward Hardwick, Material Manager
Horry Electric Cooperative, Inc.
2774 Cultura Road
P.O. Box 119
Conway, SC 29528
Phone Number: 843-369-6327

Mr. Hardwick finds RUS contracts easy to use and states that the information required is readily available. He suggested that a checklist with the contracts would be helpful.

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.

The renewal submission of this information collection package is for 1,161 total respondents, 4,063 responses and 98 burden hours. There is a decrease of 6 burden hours, from 104 to 98, during this reporting period due to a decrease in the numbers of electric program respondents from 697 to 648. Of the 1,161 respondents, 648 are electric program borrowers and 513 are RUS telecommunications borrowers, either in the broadband program or the telecommunication program. Out of the 98 burden hours reported in the collection, 20.84 of those hours are from telecommunications borrowers' use of RUS Forms 168b, 168c, 187, 213, 224, 231, 238, 257 and 307. The burden is noted in OMB Control No. 0572-0059 but reported in this collection. The attached spreadsheet shows detailed breakdown of hours per form. Respondent totals are based on an average of respondents for the electric and telecommunications program during the past three years.

The total cost to respondents is estimated to be \$3,023. RUS estimates that approximately 25 percent of the response time, or about 24.5 hours, is professional time, and the balance of 73.5 hours is clerical. Wages for the estimate are obtained from the current statistics from Bureau of Labor Statistics (BLS) website at http://www.bls.gov/oes/current/oes_nat.htm#17-0000. Wage data is the mean hourly wage from BLS National Wage Estimate. Professional time is \$44.89, which is the BLS mean hourly wage of an Electrical Engineer (BLS Occupation Code 17-2071). Clerical time is \$16.82, which is the mean hourly wage of a Financial Clerk (BLS Occupation Code 43-3000). Historical data provided by BLS, Employer Cost for Employee Compensation Supplemental Tables Historical Data December 2006 – September 2012 is utilized to calculate the total cost of benefits. Benefits as a percentage of total compensation for Private trade, transportation, and utilities industry workers were 29.4% of total hourly compensation. See, <http://www.bls.gov/ncs/ect/sp/ecsuhst.pdf>, Page 91. Hourly wage and benefits for the professional category is \$58.09 per hour. Hourly wage and benefits for clerical is \$21.77 per hour. The calculation of cost of total annual hours required to comply with this information collection is illustrated below in Table 1:

Table 1: Hourly Burden and Costs.

| | | | |
|-------------------|--------------------|---|---------|
| Professional time | 24.5 hours @ 58.09 | = | \$1,423 |
| Clerical time | 73.5 hours @ 21.77 | = | \$1,600 |
| | Total | = | \$3,023 |

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). There are no capital and start-up cost components involved with this collection.

b. Total operation and maintenance and purchase of services component. There are no costs associated with this category.

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

The cost estimate to the Federal Government is \$34,751. RUS estimates that the processing of this information requires about 500 hours per year of agency time and approximately 80 percent of this time, or about 400 hours, is professional time, and the balance of 100 hours is clerical time. The wage rates were obtained from the Office of Personnel Management (OPM) website at http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2014/DCB_h.pdf. The hourly rate of professional time (GS 13, Step 5) is \$48.83 and with total benefits¹ is \$66.53. The hourly rate for clerical time (GS 6, Step 5) is \$20.83 and with total benefits the hourly clerical wage is \$28.38. Overhead of 18 percent is added to the wage for total estimated cost as shown below in Table 2:

Table 2: Cost to the Federal Government

| | | |
|---------------------|-----------------------|-----------------|
| Professional time | 400 hours @ \$66.53 = | \$26,612. |
| Clerical time | 100 hours @ \$28.38 = | \$ 2,838 |
| Overhead 18 percent | | <u>\$ 5,301</u> |
| | Total | \$34,751 |

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

There is a 6 hour decrease in the estimate of burden hours, from 104 to 98. The decrease is due to an agency adjustment because of a decrease in the numbers of electric program borrowers from 697 to 648, that resulted in 5.24 fewer hours. Among the 513 telecommunications and broadband respondents, some slight adjustments were necessary due to the estimates of the numbers of borrowers utilizing certain forms which resulted in .76 hour decrease. The agency adjustments in the numbers of telecommunications borrowers using specific forms reported under this collection is the result of slight changes in telecommunication borrowers' needs and is consistent with the hours noted under ICP 0572-0059, Telecommunication Engineering and Construction Contracts, but reported under this ICP.

¹ Cost of total benefits as a percentage of total compensation for Federal Government employees has been calculated by multiplying 36.25% by the hourly OPM wage and adding that amount in accordance with OMB Memorandum M-08 13.

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

RUS 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 is not requesting an exemption to not display the OMB expiration date.

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

None requested.

B. Collection of Information Employing Statistical Methods.

This information collection does not employ statistical methods.