

2015

SUPPORTING STATEMENT

0572-0098

**7 CFR Part 1744, Subpart E, Borrower Investments
Telecommunications Loan Program**

OMB Terms of Clearance: None

The Rural Utilities Service (RUS) maintains that a 1-hour placeholder is necessary for this information collection because the Agency must be able to process without delay requests by RUS Telecommunications borrowers to make rural development investments as set forth in the regulatory framework of 7 CFR Part 1744, Subpart E. If this collection package was not in place, the potential for delays such as waiting for 60-day notices and approval of a new package could impede assistance with rural projects in which a borrower would be investing. More importantly, a delay might impede the Agency oversight of a borrower making such an investment.

This is an extension of a currently approved information collection.

A. Justification

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

The Rural Utilities Service (RUS) is a credit agency of the USDA. The Rural Economic Development Act of 1990, Title XXIII of the Farm Bill, Public Law 101-624, S.2830, authorized qualified RUS borrowers to make investments in rural development projects without prior approval of the RUS Administrator, provided that such investments do not cause the borrower to exceed its allowable qualified investment level as determined in accordance with the procedures set forth in 7 CFR Part 1744, Subpart E.

The intent of the Rural Economic Development Act is to encourage RUS Telecommunications borrowers to make investments in their rural communities in order to enhance the quality of life in those areas. RUS Telecommunications borrowers are encouraged to utilize their own funds to participate in the economic development of rural areas provided that the investment activity does not impair the borrower's ability to provide services at a reasonable rate or to repay its RUS loan. The Rural Economic Development Act prescribes certain limits on the amount each borrower is allowed to invest for the purpose of promoting rural economic development. When a borrower exceeds these limits, the security for the Government's loans may be jeopardized, however, in the interest of encouraging rural development, RUS will consider approving investments exceeding a borrower's qualified investment level. In order to adequately determine that the proposed "excess" investment will not impair the borrower's ability to

repay its loans or cause the borrower severe financial hardship, RUS requests that the borrower submit the following:

- (1) A description of the rural development project and the type of investment;
- (2) A reasonable estimate of the amount the borrower is committed to provide to the project including future expenditures; and
- (3) A pro forma balance sheet and cash flow statement for the period covering the borrower's future commitments.

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.

As stated in response to Question, 7 CFR Part 1744, Subpart E promulgates provisions mandated by the Rural Economic Development Act allowing borrowers to make investments in rural development projects up to a certain level without prior approval of the Administrator of RUS. All borrowers, therefore, are aware of the reporting requirements and additional consultations are usually not made. If a borrower's investment exceeds the qualified investment level, the borrower will be required to submit:

- (1) A description of the rural development project and the type of investment;
- (2) A reasonable estimate of the amount the borrower is committed to provide to the project including future expenditures; and
- (3) A pro forma balance sheet and cash flow statement for the period covering the borrower's future commitments.

The information is utilized by RUS to consider whether to approve a borrower's request to make an investment in a rural development project when such an investment would exceed allowable investment levels as defined in the borrower's mortgage. In making its decision, RUS will perform financial reviews of the borrower's proposal and calculates the borrower's allowable investment level, as determined by the terms of the borrower's mortgage (taking into account the amount of investments allowed for rural development). During the review, the Agency considers the following factors: annual increases to a borrower's net worth and total assets; borrower's ability to repay outstanding indebtedness to RUS; and any potential threats to the Government's overall security for loans made to the borrower.

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.

RUS 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. Borrowers are not prohibited from submitting necessary documentation through electronic mail. Borrowers are also allowed to submit the information in a hard copy through the U.S. Postal Service or other delivery service. There are no preset forms in this collection and Borrowers may include any attachments that are in formats borrowers use in their everyday business such as a description of project and investment; Estimate of future investment; and Pro-forma balance sheet and income statement.

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.

Borrowers seeking to make an investment exceeding the borrower's maximum investment ratio, or one-third of the net worth of the borrower, must submit a written request for RUS approval. The borrower's request must include a description of the rural development project, including investments that may be required in the future. The borrower must also submit a year-end financial and statistical report to the Agency (RUS Form 479, OMB approval number 0572-0031). This information provides a brief description, including dollar amounts, of a borrower's investments. The documentation required from the borrower seeking to make an investment over the borrower's maximum investment ratio is associated with an individual proposed project. As the information required for RUS approval within the regulatory framework of 7 CFR 1744, Subpart E is unique to each borrower and to each potential investment project, the information cannot be obtained from other sources other than the collection assembled by the borrower.

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.

Telecommunication borrowers are members of the "wired telecommunications carriers" (NAICS 517110) industry. The SBA size standard for this industry is 1500 employees. All telecommunications borrowers have less than 1500 employees and accordingly are considered SBA small businesses. The data required by RUS in analyzing a borrower's proposed investments in rural development projects is the least amount required to evaluate the investment and ensure the security for the Government's loans. Similar information would be required by private lenders in the ordinary course of business when analyzing a client's financial condition. All the information requested by RUS to evaluate the borrower's proposed investment has already been prepared by the borrower in some form or another in the course of reviewing the proposed investment. It is therefore a matter of submitting existing information to RUS in order to request approval for that particular investment.

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.

Without this information collection, RUS would be unable to assess the economic impact of such an investment. A borrower *that has made* such an investment (as opposed to a borrower *proposing to make*) is in noncompliance with the terms of its mortgage which may result in corrective action being taken by RUS. The absence of a thorough economic assessment by RUS of a borrower's investments would impair Rural Developments' obligation under the RE Act to ensure that security for the Government's loans is reasonably adequate.

The submission of information is only necessary when a borrower is seeking approval for an investment which would cause it to exceed the allowable investment level defined in its mortgage; therefore, the information could not be submitted 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 than quarterly.

b. Requiring written responses in less than 30 days.

There is no requirement for a response in less than 30 days.

c. Requiring more than an original and two copies.

There is no requirement for more than an original and two copies.

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

Record retention requirements are in accordance with 7 CFR 1770.5, and required retention does not exceed 3 years.

e. In connection with a statistical survey, 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 data classification which has not been reviewed and approved by OMB.

This collection does not employ statistical sampling.

g. Requiring a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use.

There is no requirement for a pledge of confidentiality.

h. Requiring submission of proprietary trade secret or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

There is no requirement for submission of proprietary 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 and Request for Comments was published in the Federal Register on July 20, 2015 at 80 FR 42788 (138). One public comment was received by email on July 20, 2015, in response to the Notice. The comment was from Jeanpublic1@gmail.com and was a general statement that did not reference or relate to the paperwork burden. A copy of the public comment was uploaded into Federal Docket Management System (FDMS Docket No. RUS-15-AGENCY-0023) and is attached to this supporting statement in the information collection package.

RUS maintains close contact with borrowers through its General Field Representatives (GFRs), field accountants, and headquarters staff. GFRs have direct personal contact with the borrowers in connection with the fulfillment of RUS requirements. GFRs pass on any substantive comments to the national office staff. Rural Development also conducts seminars for borrowers. Suggestions and comments are always considered by the Agency. During the most recent information collection period, the agency had no borrowers whose telecommunication investments exceed the limits established in 7 CFR Part 1744 Subpart E. Therefore, there were no recent respondents or interested borrowers with which to consult to obtain views on availability of data, frequency of collection, and clarity of instructions. The burden estimate is a placeholder for this collection so that the agency can process requests from borrowers for rural development investments exceeding the amount of qualified investments set forth in the framework of 7 CFR Part 1744, Subpart E, and require RUS approval for the investments.

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

No assurance of confidentiality has been provided to the respondents. Information submitted to RUS by the borrowers is covered by the 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 collection does not contain questions of a sensitive nature.

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

RUS is using a 1 hour place holder because no borrowers have been identified since the last collection as exceeding the allowable qualified investment level as determined in accordance with the procedures set forth in 7 CFR Part 1744, Subpart E.

The estimate of burden hours is illustrated in the attached spreadsheet (RUS Form 36) and as follows:

Regulation	Number of Respondents	Total Annual Responses	Hours Per Response	Total Hours*
7 CFR 1744-E	1	1	9.5	10

* For calculation purposes, the “Hours Per Response” has been rounded up to 10.

The total annualized cost to respondents for this information collection is estimated to be \$435.39. The respondents preparing data for submission to RUS would be staff at a Rural Telecommunications Cooperative or Telecommunication company, specifically a financial analyst and clerical administrative support position and the wage rates for the two wage categories of respondents are selected from the Department of Labor, Bureau of Labor Statistics, May 2014 National Occupational Employment and Wage Estimates located at http://www.bls.gov/oes/current/oes_nat.htm#11-0000. The two BLS categories and codes are Financial Analyst (Occupation Code 13-2051; median hourly wage rate \$37.80) and Clerical/Administrative Support (Occupation Code 43-9199; median hourly wage rate \$15.61). Data provided by the Bureau of Labor Statistics indicates that employer cost for employee benefits for the private industry was 30.5% of wages. See; Bureau of Labor Statistics Employer Costs for Employee Compensation – June 2015, <http://www.bls.gov/news.release/ecec.nr0.htm>. Cost of hourly wages and benefits for Financial Analyst is \$49.33 and for Clerical/Administrative is \$20.37.

The calculation of cost of total annual staff hours required for respondents to comply with this information collection is illustrated below in Table 1:

Table 1: Hourly Burden and Costs

Job Position	Hourly wage/benefits	Hours per response	Response	Cost
Financial Analyst	\$49.33	8	1	\$394.65
Clerical/Admin	\$20.37	2	1	\$40.74
Total Cost				0

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 costs associated with this collection.

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

There are no operation and maintenance or purchase of services costs associated with this collection.

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

The annualized cost to the Federal Government is \$147.55. Calculation is based on the U.S. Office of Personnel Management 2015 General Schedule Tables located at: https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2015/RUS_h.pdf. There are three wage categories involved in RUS review and analysis, an operations chief (GS 14, step 5, \$53.56 per hour), a senior loan analyst (GS 13, step 5, \$45.33 per hour), and clerical administrative (GS 6, step 5, \$19.34 per hour). After calculating the cost of total wage and benefits, the hourly rate for operations chief is \$72.98; the cost of wage and benefits for a senior loan analyst is \$65.88; and the cost of wage and benefits for clerical administrative support employee is \$27.47.¹ The calculation of the cost to the Federal Government for collection and evaluation of this information collection is as follows:

Clerical/Admin Support (GS 6, step 5) @ \$27.47/hr X .5 hrs X 1 responses =	\$ 12.24
Loan Analyst (GS 13, step 5) @ \$65.88/hr X 1.5 hrs X 1 responses =	\$ 98.82
Operations Chief Review and Approval @\$72.98/hr X.5 hrs X 1 responses =	\$ 36.49
Total cost to the Government	\$147.55

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

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

Since the last submission 3 years ago, the Agency had no borrowers, nor does it see any borrowers in the foreseeable future, exceeding the allowable qualified investment level as determined in accordance with the procedures set forth in 7 CFR Part 1744, Subpart E. RUS maintains a place holder of 1 respondent and 1 response for the 1 hour placeholder. It is very important for RUS to retain the 1 hour placeholder despite the fact that no RUS borrowers have used the process covered by this paperwork burden in the last six years. The events that have occurred in recent years in the communications business and innovations continuing to affect both the communications and computing businesses create a business climate that adds both risk and opportunity to RUS borrowers. RUS must maintain the 7 CFR Part 1744, Subpart E framework to maintain the ability to be flexible in response to developments in the telecommunications industry.

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.

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. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS.

This information collection does not employ statistical methods.