

2022

SUPPORTING STATEMENT

OMB Control No. 0572 – 0041

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

A. Justification

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

This package is being submitted under a standard clearance as an extension of a currently approved collection. The Rural Utilities Service (RUS) is a financing agency of the U.S. Department of Agriculture (USDA). RUS 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 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 and the various security instruments (e.g., the RUS mortgage, limit the rights of RUS borrowers to dispose of its capital assets). RUS policy on sales of capital assets requires sales 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 repayment of the RUS loan. 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 (see, 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.

RUS telecommunications borrowers fill out RUS Form 793 to request RUS approval to sell capital assets. The RUS Form 793 collects detailed information regarding the proposed sale of a portion of the borrower's system. Submission of the information collected in RUS Form 793 allows the telecommunications program borrower to seek agency permission to sell some of its assets. A borrower's assets provide security for a loan. A proposed sale of assets must first be approved by the borrower's directors or shareholders. Selling borrower assets reduces the security and increases risk of loss to the government. 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.*"

RUS uses the information submitted on the form to determine whether 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 and/or default in repaying the loan to the government.

The agency reviews the forms and decides whether to approve the sale. Documents are stored with the borrower's other loan documents for a particular loan. All accompanying loan documentation is retained by RUS for the life of the loan, which is generally no more than 35 years.

INFORMATION COLLECTED UNDER THIS OMB PACKAGE:

REPORTING REQUIREMENTS - NO FORMS: None.

FORMS APPROVED UNDER THIS COLLECTION:

RUS Form 793

RUS Form 793 information is used by borrowers to request a release of RUS' lien on the particular asset. The RUS Form 793 collects detailed information regarding the proposed sale of a portion of the borrower's system.

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 complying with the E-Government Act, promoting the use of the internet, and the usage of other information technologies that provide increased opportunities for public access to government information and services. The Form 793 has been kept to one page and is available on the agency website in Adobe PDF format printable for borrowers use.

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.

RUS Form 793 will contain information that is associated with a particular request, specific asset, and relates to a particular borrower loan. The data contained on Form 793 is 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 Small Business Administration (SBA) has established a Table of Small Business Size Standards which corresponds to the industries described in the Department of Labor North American Industry Classification System (NAICS). Telecommunication borrowers are members of the “wired telecommunication carriers” (NAICS 517110) industry. The SBA size standard for this industry is 1,500 employees. According to the SBA size standards, 100 percent of the telecommunications borrowers are considered SBA small business as they have less than 1,500 employees.

RUS makes every effort to ensure the burden on small businesses or other small entities is the minimum necessary to effectively administer agency programs and reviews information collected to determine whether reductions in information collection are possible. The RUS Form 793 has been kept to one page and information to be collected is in a format designed to minimize information collection burden on small businesses and other small entities. The information requested is unique to each borrower and is the minimum required to protect the government’s security on the loans made to borrowers.

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.

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, assets securing the government’s loans could be liquidated and the security for the outstanding loans would disappear resulting in 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 in a manner:

a. Requiring respondents to report information more than quarterly.

There are no requirements for respondents to report more than quarterly.

b. Requiring written responses in less than 30 days.

There are no requirements to respond in less than 30 days.

c. Requiring more than an original and two copies.

There are no requirements for more than an original and two copies.

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

There are no requirements for the respondent to retain records for more than 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 sampling 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.

No pledge of confidentiality is required.

h. Requiring respondents to submit proprietary trade secrets, 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 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 60-day Notice to request comments was published in the **Federal Register** on July 21, 2022, at 87 FR 43494. No comments were received.

RUS maintains close contact with borrowers through RUS general field representatives (GFR), field accountants, and a headquarters staff. GFRs have direct personal contact with borrowers in connection with the fulfillment of RUS requirements, including filling out the RUS Form 793. GFRs pass on substantive comments to the headquarters staff. Borrowers may consult with GFRs, field accountants, and 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. Suggestions and comments are always considered, 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 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. RUS also works cooperatively 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. 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. RUS 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 with three telecom loan respondents by telephone from the following companies:

Office Manager
Arapahoe Telephone Company
Arapahoe, Nebraska

CFO
Volcano Telephone Company
Pine Grove, California

General Manager
Stanton Telecom, Inc.
Stanton, Nebraska

The Telecom Program contacted three borrowers for feedback regarding RUS Form 793. All three contacts were of the “same mind”. All respondents reported the forms were easy to follow.

9. Explain any decision to provide any payment or gifts 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.

Rural Development has a System of Record Notices (SORN) to cover collection of the information and the systems where the information is stored. Please refer to 84 FR 21315 issued on 5/14/2019.

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 include questions of a sensitive nature.

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

The annualized cost estimate for respondents is \$14,639.82 RUS estimates receiving 30 responses annually based upon an average of the annual lien requests over the past three-year period and on the information provided by the respondents interviewed for and listed in Question 8, above. The total estimated burden to the public is 231 hours with each response requiring an average of 7.7 hours. The RUS Form 793 is submitted along with the board resolution and release of lien and RUS estimates that of the 7.7 hours per response, 3.1 hours legal time is required for the borrower to fill out the release of lien; 2.5 hours of professional time is required to review the form; and Clerical/administrative time of 2.1 hours is required for typing, notarizing, copying, mailing, and filing the form. Wage rates utilized for cost calculation are selected from May 2021 National Occupational Employment and Wage Estimates at https://www.bls.gov/oes/current/oes_nat.htm/. Mean hourly wage rates of \$71.17 for Lawyers (23-1011); \$62.36 for professionals (Managers, All Other (11-9199)); and \$20.47 for clerical time (Office and Administrative Support Workers (43-9199)) are used. After calculating benefits as a percentage of total compensation, wage costs are \$92.24 per hour for legal time, \$80.82 per hour for professional time, and \$26.53 for clerical/time.

Calculation of the burden and costs is shown below:

<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>
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Table 1: Respondent Cost Calculation

Category	No. Responses	No. Hours	Wage and Benefits	Cost
Legal	30	3.1	\$92.24	\$8,578.32
Professional	30	2.5	\$80.82	\$6,061.50
Total Cost to Respondents	0	0	0	\$14,639.82

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information.

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

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

RUS estimates the annualized cost to the Federal government is \$4,123.19. The table below displays estimated cost to the government based upon an hourly salary of \$47.35 an hour for a GS-12 Step 5 federal employee (Professional) and an hourly salary of \$24.02 for a GS-6 Step 5 federal employee (Clerical). The total hourly wage was calculated multiplying the hourly rates by 36.25% to account for a fringe benefit cost factor for total hourly wages of \$64.51 for a GS-12 Step 5 federal employee and \$32.73 for a GS-6 Step 5 federal employee. Estimates are based upon current research and prior experience with this collection.

Table 2: Federal Government Cost Calculation:

	Hours	Wage/Cost ¹	Responses	Total
Professional GS-12/5	1.75	\$64.51	30	\$3,386.76
Clerical GS-6/5	.75	\$32.73	30	\$736.43
				\$4,123.19

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

This is a request for a revision of a currently approved information collection. The method used for reporting is the same as the previous information collection. The annual burden hours have decreased from 270 in the previous information collection to 231 in the current information collection. Wages have been adjusted to reflect the increase in pay in the industry.

¹ This cost represents OPM salary rate and 36.25% fringe benefit cost factor in accordance with OMB Memorandum M-08 13.

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 seeking such approval.

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

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.