

**2025 SUPPORTING STATEMENT  
PAPERWORK REDUCTION ACT SUBMISSION  
REQUEST FOR APPROVAL TO SELL CAPITAL ASSETS (RUS FORM 369)  
OMB NO. 0572-0020**

**A. JUSTIFICATION**

**1. Circumstances that make this collection of information necessary.**

The Rural Utilities Service (RUS) is a credit agency of the U.S. Department of Agriculture (USDA). It makes mortgage loans and loan guarantees to finance electric, telecommunications, and water and waste facilities in rural areas. In addition to providing loans and loan guarantees, one of the Agency's main objectives is to safeguard loan security until the loan is repaid. Accordingly, the Agency manages loan program 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 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. In addition, Section (d) of § 904 of the RE Act states that "Loans under this section shall not be made unless the Secretary finds and certifies that in his judgment the security therefore is reasonably adequate and such loan will be repaid within the time agreed."

The loan contract and mortgage between the Agency and electric borrowers imposes certain restrictions and controls on the borrowers and gives the Agency (and other co-mortgagees in the case of the mortgage) the right to approve or disapprove certain actions contemplated by the borrowers. Certain of these controls and approval rights are referred to informally as "operational controls" because they pertain to decisions or actions with respect to the operation of the borrower's electric systems. [7 CFR 1717.616](https://ecfr.gov/current/title-7/section-1717.616) (ecfr.gov/current/title-7/section-1717.616) stipulates certain conditions on the sale, lease, or transfer of capital assets by electric distribution borrowers.

When a borrower enters into the mortgage agreement with the Agency, all current and future capital assets of the borrower are ordinarily mortgaged or pledged to the Federal Government as security for Agency loans. The RE Act and provisions in security instruments relate to this. Second paragraph of § 907 of the RE Act of 1936, as amended, states "No borrower of funds ... shall, without the approval of the Secretary, sell or dispose of its property, rights, or franchises, acquired under the provisions of this Act, until any loan obtained from the Rural Electrification Administration, including all interest and charges, shall have been repaid." The loan contract (the agreement between an Agency borrower and the Government) states in Article VI, Section 6.6(b) "the Borrower shall not, without the written approval of RUS, voluntarily or involuntarily sell, convey, or dispose of any portion of its business or assets (including, without limitation, any portion of its franchise or service territory) to another entity or person if such sale, conveyance or disposition could reasonably be expected to reduce the

Borrower's existing or future requirements for energy or capacity being furnished to the Borrower under any wholesale power contract which has been pledged as security to the Agency."

The Agency's policy on sales of capital assets requires that the sale meet several requirements including the following:

- 1) the selling price shall be greater than or equal to the fair market value; and
- 2) the sale shall not jeopardize the repayment of the Agency's loan.

Article II, Section 3.11 of the Agency mortgage states that "The mortgagor may not... without the prior written approval of each Mortgagee, sell, lease, or transfer any Mortgaged Property to any other person or entity (including any subsidiary or affiliate of the Mortgagor), unless:

- (1) there exists no Event of Default or occurrence which with the passing of time and the giving of notice would be an Event of Default;
- (2) fair market value is obtained for such property;
- (3) the aggregate value of assets so sold, leased, or transferred in any 12-month period is less than 10% of Net Utility Plant; and
- (4) the proceeds of such sale, lease or transfer, less ordinary and reasonable expenses incident to such transaction are immediately:
  - (i) applied as a prepayment of all Notes equally and ratably;
  - (ii) in the case of dispositions of equipment, materials or scrap, applied to the purchase of the property useful in the Mortgagor's utility business, not necessarily of the same kind as the property disposed of, which shall forthwith become subject to the Lien of the Mortgage, or
  - (iii) applied to the acquisition or construction of utility plant.

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

#### **INFORMATION COLLECTION BURDEN HOURS**

**Exchanges or trades of plant in place between a RUS borrower and a non-RUS borrower (§ 1717.616(c)(4)).** The borrower must provide evidence, satisfactory to RUS, that the exchange or trade is equitable to the RUS borrower and that the plant acquired in the exchange or trade can be economically integrated into the borrower's system.

**Sales without prior approval of RUS (§ 1717.616(b)).** For these types of approvals, the borrower submits a transmittal letter or RUS Form 369 (explained below), but the Agency does not have to approve the RUS Form 369 for this item.

**Request to Sell Capital Assets:**

**a) Transmittal Letter.**

- 1) *W/o Agency Approval but Request for Partial Release of Lien – Transmittal Letter or RUS Form 369 (§ 1717.616(d)(2)(i)-(v), (f)(3)).* If the borrower chooses to submit a transmittal letter to request the release of lien then the

letter should contain the items listed in § 1717.616(d)(2)(iii)-(v), (f)(3) and RUS Bulletin 1717M-2, Sections 4.b, 6.a(3), 8 and last page of Exhibit E.

- 2) *Disposition of Proceeds – Less than \$50,000 and being deposited into Construction Fund Trustee Account (§ 1717.616(e)).* Reference RUS Bulletin 1717M-2 Section 5.
- 3) *Expenditures for Sales (§ 1717.616(g)).* Documentation in accordance with § 1717.616(g) and RUS Bulletin 1717M-2, Section 7.
- b) **Request for Approval to Sell Capital Assets (RUS Form 369).** A borrower's assets provide the security for a government loan. The selling of assets reduces the security and increases the risk to the Government. An Agency borrower will use RUS Form 369 to seek Agency permission to sell some of its assets. The form collects detailed information regarding the proposed sale of a portion of the borrower's systems. Specific requirements for completing RUS Form 369 and submission of supporting documentation can be found in RUS Bulletin 1717M-2. RUS will use the submitted information to determine whether or not to approve the sale and also to keep track of what property exists to secure the loan. The borrower's current assets are used in calculating the risk of default in repaying the loan to the Government. A certified copy of the resolution of the borrower's board of directors approving the sale must be submitted with the RUS Form 369 regardless of the use of the form.
  - 1) *W/o Agency approval but Request for Partial Release of Lien (§ 1717.616(d)(2)(i)-(v), (f)(3)).* In lieu of providing a transmittal letter the borrower may use the RUS Form 369 and should reference RUS Bulletin 1717M-2, Sections 4.b, 6.a(3), and 8. For this type the RUS Form 369 doesn't have to be approved by the Agency.
  - 2) *RUS approval required if the Federal Government is sole lien holder on the borrower's capital assets (§ 1717.616(d)(3)(i) and (f)(3)).* Reference RUS Bulletin 1717M-2, Section 4.c and 8. A release of lien document is required, and RUS Form 369 has to be used (transmittal letter not an option).
  - 3) *RUS approval required if the Federal Government holds a lien jointly with supplemental lenders (§ 1717.616(d)(3)(ii) and (f)(3)).* Reference RUS Bulletin 1717M-2, Section 4.c and 8. RUS Form 369 has to be used (transmittal letter not an option).
  - 4) *Disposition of Proceeds – Less than \$50,000 and being deposited into Construction Fund Trustee Account (§ 1717.616(e)).* RUS Bulletin 1717M-2 Section 5.
  - 5) *Disposition of Proceeds – Greater than \$50,000 (§ 1717.616(e)).* For this type must be on RUS Form 369 and reference RUS Bulletin 1717M-2 Section 5.
  - 6) *Expenditures for Sales (§ 1717.616(g)).* Documentation in accordance with § 1717.616(g) and RUS Bulletin 1717M-2, Section 7.

**Condemnation Petition or Complaint (§ 1717.616(f)(2)).** For all sales, if condemnation is involved borrower is to provide the petition or complaint, reference RUS Bulletin 1717M-2, Section 6.a(2).

**Sales of Real Estate and Plant in Place (§ 1717.616(f)(4)).** If the disposition involves real estate or plant in place, in addition to the information required for all dispositions, the seller will provide the items listed in § 1717.616(f)(4) and RUS Bulletin 1717M-2, Section 6.b.

**Installment Sales (§ 1717.616(f)(5)).** If the disposition involves installment sales the seller will provide the items listed in § 1717.616(f)(5) and RUS Bulletin 1717M-2, Section 6.c-d.

**Exchanges (§ 1717.616(f)(6)).** If the disposition involves exchanges or trades of real estate or plant in place between borrower and a non-RUS borrower then provide items listed in § 1717.616(f)(6) and RUS Bulletin 1717M-2, Section 6.e.

**Recordkeeping Requirements.** The form and supporting documentation are stored with the other related loan information for a particular loan. All accompanying loan documentation is kept by the Agency for the life of the loan, which is generally 35 years.

**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. RUS Form 369 requires a signature by authorized representatives of a business entity. USDA eAuthentication is the system used by USDA agencies to enable customer to obtain accounts that will allow them to access USDA Web Application and services via the Internet. This includes things such as submitting forms electronically, completing surveys online, and checking the status of USDA accounts. USDA will only accept eAuthentication Accounts from individuals. Currently, USDA eAuthentication does not have the mechanism to issue accounts to business, corporations or other entities. Therefore, at this time, RUS cannot accept electronic signature or submission of these documents. However, the agency does make these forms available in a .pdf format for customers and the agency requests approval to continue posting of the form on the agency website.

**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 data submitted on RUS Form 369 is specific to each borrower and to each asset of the borrower. No similar information exists; therefore there is no duplication of information.

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

All but 10% of the electric borrowers meet the Small Business Administration criteria for a small business. RUS has made every effort to ensure that the burden on these small entities is the minimum necessary to effectively administer the agency programs.

**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 form 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, the assets securing the Government's loans could be liquidated and the security for outstanding loans would disappear. The result would be increase risk to the Government. In the event of default, the Government could lose outstanding loan funds.

**7. Explain any special circumstances that would cause an information collection to conduct in a manner:**

**a. Requiring respondent to reporting information more than quarterly.**

If a borrower chooses to sell more than one asset within a quarter, that borrower would be required to file one form for each sale, which would result in the borrower filing the form more than quarterly. The collection is event-driven, not time-driven.

**b. Requiring written response in less than 30 days.**

There is no requirement to respond in less than 30 days.

**c. Requiring more than an original and two copies.**

There is not requirement of more than original and two copies to be submitted.

**d. Requiring respondent to retain records for more than 3 years.**

Record retention requirements shall be in accordance with [7 CFR part 1767](#) (ecfr.gov/current/title-7 subtitle-B chapter-XVII/part-1767).

**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 the use of a statistical data classification that has not be 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.

This is no requirement of a pledge of confidentiality.

h. Requiring respondents to submit 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 to submit propriety 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.

RUS published a notice requesting comment on the extension on the previously approved information collection for the request for approval to sell capital assets (see 90 FR 40053), 08/18/2025). The 60 day comment period closed 10/17/2025 and there were no comments.

In addition, the Agency contacted the following individuals at organizations that have participated in the program in the past to obtain their feedback on the amount of time needed to prepare a proposal and performance reports.

Jefferson Energy Cooperative (GA 74)

- Vice President of Corporate Services
- They stated, “The transmittal letter and the Partial Release of Lien was prepared with the help of George Bishara. He provided me with the necessary information. The partial release of lien took me a couple of hours because of the information requested is not scanned into our system. Looking up the individual mortgages and retrieving the dates on the mortgages was very time consuming. Actually completing the form, took about 30 minutes.”

- “The transmittal letter took about 30 minutes to put together. I did email it to George for his review. With the corrections that were made, I would allow an hour.”
- “I could not have done this without help.”

Crow Wing Cooperative Power and Light (MN 56)

- Certified Paralegal at Pemberton Law (on behalf of Crow Wing Cooperative)
- They stated, “It took me a little over 1½ hours to put this together (Partial Release and Form 369).”

Pointe Coupee Electric Membership Corporation (LA 15)

- Attorney
- They stated, “The instructions and the process were clear and we do appreciate your feedback and clarification on the documents. While it did take the team several hours of time overall, much of that was internal driven rather than the RUS process.”

**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.**

The information collection does not require confidentiality. The Agency published a Privacy Act of 1974; System of Records in the Federal Register on September 6, 2024 ([89 FR 72820](#); ([federalregister.gov/documents/2024/09/06/2024-20068/privacy-act-of-1974-system-of-records](https://federalregister.gov/documents/2024/09/06/2024-20068/privacy-act-of-1974-system-of-records))).

**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 a sensitive nature.

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

Table 12.1, Total Cost of Burden, shown below summarizes the estimated average annual burden associated with sale, lease, or transfer of capital assets for insured and guaranteed electric loans. The attached Burden Hours workbook provides an Information Collection Burden Hours worksheet that details the estimates.

**Table 12.1 - Total Cost of Burden**

Burden Item	Estimated Yearly Average Burden
Number of Respondents	35

Annual responses:	81
Total hours:	168
Cost per hour:	\$96.23
Total annual cost:	\$16,166

The attached Burden Hours provides an Estimated Professional Wage Rate worksheet that shows the detailed calculation for the weighted wage rate of \$96.23 cost per hour above. The U.S. Department of Labor, Bureau of Labor Statistics, Occupational Employment and Wage Statistics, May 2024 Occupation Profiles ([List of SOC Occupations \(bls.gov\)](#)) was used to obtain the Mean Hourly Wage for each position identified. Table 12.2 provides the three (3) positions identified for this calculation along with each Occupation Codes and Mean Hourly Wage. The benefits each for each position was calculated by using the total benefits percentage of 29.5% for private industry workers from the U.S. Department of Labor, Bureau of Labor Statistics, Economic News Release, Employer Costs for Employee Compensation – December 2024 ([Employer Costs for Employee Compensation - 2023 Q02 Results \(bls.gov\)](#)).

**Table 12.2 – Mean Hourly Rates per Position**

Position	Occupation Code	Mean Hourly Wage
Manager Professional	11-9199	\$72.06
Administrative Assistant	43-9199	\$23.42
Attorney	23-1011	\$87.86

**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 service components associated with this collection.

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

The estimated Annualized Cost to the Federal Government is \$20,164.00. which is summarized in Table 14.1 below. The attached Burden Hours workbook provides an Annualized Cost to the Federal Government worksheet that details the following:

- Staff Positions to complete the reviews.
- Calculated Wages Rates for each Staff Position.
- Number of hours required for each Staff Position.
- Total Cost for each Staff Position and to the Federal Government.

**Table 14.1: Total Cost to the Federal Government**

Staff Position	Cost of Each	Number of Responses	Total Cost
Engineering Branch Chief	\$47.40	35	\$1,659
Engineer	\$160.44	35	\$5,615
Financial Operations Branch Chief	\$47.40	35	\$1,659
Loan Specialist	\$320.88	35	\$11,231
<b>Total Cost to Federal Government</b>	<b>\$576.12</b>		<b>\$20,164</b>

Table 14.2 below provides the staff positions along with each Staff Positions General Schedule (GS) Grade, Step and Salary. The GS Salary was obtained by using Table 2025-SL from the U.S. Office of Personnel Management (OPM), Policy, Pay & Leave, Salaries & Wages.

**Table 14.2: Staff Positions and GS Salary**

Staff Position	GS Grade	GS Step	GS Salary
Engineering Branch Chief	14	5	\$144,715
Engineer	13	5	\$122,465
Financial Operations Branch Chief	14	5	\$144,715
Loan Specialist	13	5	\$122,465

The Agency calculated the Hourly Rate by dividing the GS Salary by 52 weeks a year and then dividing that result by 40 hours per week. The benefits for each position was calculated by using the civilian position full fringe benefit cost factor of 36.25% from the Office of Management and Budget (OMB) Memorandum for the Heads of Executive Departments and Agencies (M-08-13) dated March 11, 2008.

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

This is a revision of a currently approved collection. The total number of respondents increased from 33 to 35 and the total burden hours increased from 165 to 168. The total burden cost increased from \$9,246.60 to \$16,166. The increase in burden cost for this collection is due to updating the package to account for all items required from the regulation and the professional wage rate was updated to use most current data.

The estimated Annualized Cost to the Federal Government increased from \$4,529.24 to \$20,164 for this collection. The increase for the estimated Annualized Cost to the Federal Government is due to updating to use most current data.

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

The results of this collection of information are not intended 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.**

There are no exceptions to the certification statement.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This information collection does not employ statistical methods.