

§ 1735.31 RUS cost-of-money and RTB loans.

(a) RUS makes cost-of-money loans, under section 305(d)(2) of the RE Act, concurrently with RTB loans made under section 408 of the RE Act. To qualify for concurrent RUS cost-of-money and RTB loans on or after November 1, 1993, a borrower must meet each of the following requirements:

(1) The average number of proposed subscribers per mile of line in the service area of the borrower is not more than 15, or the borrower has a projected TIER (including the proposed loans) of at least 1.0, but not greater than 5.0, as determined by the feasibility study prepared in connection with the loans, see 7 CFR part 1737, subpart H; and

(2) The Administrator has approved and the borrower is participating in a telecommunications modernization plan for the state, see 7 CFR part 1751, subpart B.

(b) The loan amounts from each program (RUS cost-of-money and RTB, including amounts for class B stock) will be proportionate to the total amount of funds appropriated for the fiscal year for RUS cost-of-money loans and RTB loans. To determine the RUS cost-of-money portion, the total loan amount will be multiplied by the ratio of RUS cost-of-money funds appropriated for the fiscal year to the sum of RUS cost-of-money and RTB funds appropriated for the fiscal year in which the loan is approved. The same method would be used to calculate the RTB portion (see 7 CFR 1610.6(b)). If during the fiscal year the amount of funds appropriated changes, the ratio will be adjusted accordingly and applied only to those loans approved afterwards.

(c) The RUS cost-of-money loan shall bear interest as described in paragraphs (c)(1) and (c)(2) of this section (the actual rate of interest on the RTB loan shall be determined as provided in 7 CFR 1610.10):

(1) Each advance of funds included in RUS cost-of-money loans shall bear interest at a rate (the "Cost of Money Interest Rate") equal to the current cost of money to the Federal Government for loans of a similar maturity. The Cost of Money Rate is determined when the funds are advanced to the borrower but cannot exceed 7 percent per year.

(2) RUS shall use the Federal Treasury Statistical Release (the "Statistical Release") issued by the United States Treasury to determine the interest rate for each advance of RUS cost-of-money loan funds. Generally, the Statistical Release is issued each Monday to cover the preceding week. RUS shall determine the Cost of Money Interest Rate as follows:

(i) Each advance shall bear the interest rate stated in the applicable Statistical Release for Treasury constant maturities with a maturity similar to that of the advance.

(ii) RUS shall determine the interest rate for an advance bearing a maturity other than those stated in the applicable Statistical Release by straight-line interpolation between the next higher and next lower stated maturities.

(iii) The first Statistical Release published after the date of an advance shall apply to that advance.

(iv) If the interest rate determined under paragraph (c)(2)(i) or (c)(2)(ii) of this section is higher than 7 percent, then the advance shall bear interest at the rate of 7 percent per year.

(v) Advances with maturities greater than 30 years shall bear interest at the rate stated in the applicable Statistical Release for 30-year maturities.

(vi) RUS may use an alternative method to determine the Cost of Money Interest Rate if the Treasury ceases to issue the Statistical Release or changes its format or frequency of issue so that it is no longer appropriate for use in the manner described in paragraph (c)(2) of this section. In this eventuality, RUS shall immediately notify all borrowers with unadvanced RUS cost-of-money loan funds. RUS may, with the borrower's consent, determine the Cost of Money Interest Rate on a case-by-case basis for subsequent advances of RUS cost-of-money loan funds but may also decide, in its discretion, that it is unable to continue advancing funds until an alternative method is in effect.

(vii) Refer to §1735.43(a) for additional information on maturities of RUS loans.

(viii) RUS shall provide borrowers with prompt written confirmation of the Cost of Money Interest Rate borne

by each advance of funds included in a RUS cost-of-money loan.

(d) Generally, no more than 10 percent of lending authority from appropriations in any fiscal year for RUS cost-of-money and RTB loans may be loaned to a single borrower. RUS will publish by notice in the FEDERAL REGISTER the dollar limit that may be loaned to a single borrower in that particular fiscal year based on approved RUS and RTB lending authority.

(e) On request of any borrower who is eligible for concurrent RUS cost-of-money and RTB loans for which funds are not available, the borrower shall be considered to have applied for a loan guarantee under section 306 of the RE Act.

(f) Concurrent RUS cost-of-money and RTB loans may be made simultaneously with hardship loans or guaranteed loans.

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§ 1735.32 Guaranteed loans.

(a) *General.* Loan guarantees under this section will be considered for only those borrowers specifically requesting a guarantee. Borrowers may also specify that the loan to be guaranteed shall be made by the Federal Financing Bank (FFB). RUS provides loan guarantees pursuant to section 306 of the RE Act. Guaranteed loans may be made simultaneously with hardship loans or concurrent RUS cost-of-money and RTB loans. No fees or charges are assessed for any guarantee of a loan provided by RUS. In view of the Government's guarantee, RUS generally obtains a first lien on all assets of the borrower (see § 1735.46).

(b) *Requirements.* To qualify for a guaranteed loan, a borrower must have a projected TIER (including the proposed loan or loans) of at least 1.2 as determined by the feasibility study prepared in connection with the loan. In addition, a borrower must meet all requirements set forth in the regulations applicable to a loan made by RUS with the exception that it is not required to participate in a state telecommunications modernization plan and is not subject to a subscriber per mile eligibility requirement, as provided in § 1735.31(a).

(c) *Net worth requirements.* RUS generally requires that borrowers seeking guaranteed loans have a net worth in excess of 20 percent of assets. RUS will, however, consider loan guarantees for borrowers with a net worth less than 20 percent.

(d) *Full amount guaranteed.* Loans are guaranteed in the full amount of principal and interest. Because of the Government's full faith and credit 100 percent guarantee of these loans, only RUS obtains a mortgage on the borrower's assets.

(e) *Federal Register notice.* After RUS has reviewed an application and determined that it shall consider guaranteeing a loan for the proposed project and if the borrower has not specified that the loan be made from the FFB, RUS shall publish a notice in the FEDERAL REGISTER. The Notice will include a description of the proposed project, the estimated total cost, the estimated amount of the guaranteed loan, a statement that the Federal Financing Bank (FFB) has a standing loan commitment agreement with RUS, and the name and address of the borrower to which financing proposals may be submitted.

(f) *Qualified lenders.* RUS considers loan guarantees on a case by case basis for loans made by the FFB and any other legally organized lending agency or by a combination of lenders that the Administrator determines to be qualified to make, hold and service the loan. "Legally organized lending agency" and "lender" include commercial banks, trust companies, mortgage banking firms, insurance companies, and any other institutional investor authorized by law to loan money. The borrower is responsible for evaluating all proposals received from lenders other than FFB. The borrower furnishes RUS with a report on the evaluations and its choice of proposals. However, at the request of the borrower, the guaranteed loan shall be made by the FFB.

(g) *Interest rate.* Guaranteed loans shall bear interest at the rate agreed upon by the borrower and lender. Guaranteed FFB loans shall be at a rate of interest that is not more than the rate of interest applicable to other similar