

§ 1735.71

will improve the likelihood of repayment of an outstanding RUS loan and all outstanding balances of the previous RUS loans are paid in full.

(e) In determining the amount it will lend for each acquisition, RUS shall place a valuation on all telephone facilities that are to be acquired with loan funds. RUS may consider fair market value, the original cost less depreciation of the facilities, income generating potential, any improvement in the financial strength of the borrower as a result of the acquisition, and any other factors deemed relevant by RUS to determine the reasonableness of the acquisition price and the amount of loan funds RUS will provide for an acquisition. RUS shall not consider the acquisition price reasonable or approve a loan if, in the Administrator's opinion, the acquisition price will endanger financial feasibility. If the acquisition price exceeds the amount RUS will lend, the borrower provides the remainder.

(f) When a borrower intends to request RUS loan funds for an acquisition, it shall present a proposal in writing to the Area Office as soon as possible. The borrower must either obtain RUS approval prior to making any binding commitments with the seller or make the commitments subject to RUS's approval. Failure to comply with these requirements will disqualify the borrower from obtaining an RUS loan for the acquisition unless the Administrator determines there were extenuating circumstances.

§ 1735.71 Nonrural areas.

Loan funds may be approved for the acquisition and improvement of facilities to serve nonrural subscribers only if the principal purpose of the loan is to furnish and improve rural service and only if the use of loan funds to serve nonrural subscribers is necessary and incidental to the principal purpose of the loan. For example, when the acquisition of an existing system located in and serving a nonrural area is necessary to serve as the nucleus of an expanded system to furnish area coverage service in rural areas, the loan may include funds to finance the acquisition. Approval for the use of loan funds in these circumstances shall be made only

7 CFR Ch. XVII (1-1-03 Edition)

on a case by case basis by the Administrator.

§ 1735.72 Acquisition agreements.

When borrowers are seeking RUS financing, acquisition agreements between the borrower and the seller must be in form and substance satisfactory to RUS and shall be expressly conditioned on approval of the agreement by RUS and on obtaining an RUS loan. Normally, the acquisition agreement will not be approved by RUS until the loan has been approved.

§ 1735.73 Loan design.

When loan funds are requested for an acquisition, details of the proposed acquisition shall be included in the Loan Design. See 7 CFR part 1737.

§ 1735.74 Submission of data.

(a) RUS will not approve any acquisition, other than of toll facilities (see subpart J of this part), financed in whole or in part with loan funds until the borrower submits the following data to the GFR:

(1) For any nonborrowers involved, their most recent balance sheets, operating statements, detail of plant accounts, reports to the state commission, and audits, if available.

(2) Completed RUS Form 507, "Report on Telephone Acquisition," which provides system data, including the type of purchase and purchase price, a system description, and data by exchange. See §1735.3 for information on obtaining copies of this form.

(3) A map (such as a road map) showing county lines, the boundaries of the proposed acquisition and the borrower's existing service territory, and the names of other telephone companies serving adjoining areas.

(4) A brief statement of the plans for incorporating the acquired facilities into the borrower's existing system.

(5) The number of subscribers currently receiving service in the area to be acquired and the number of new subscribers that will be served over the next 5 years as a result of the acquisition.

(6) The proposed purchase price.

(7) Two copies of any options, bills of sale, or deeds, and four copies of any acquisition agreements. All of these