

area boundaries, borrowers should consider the location of adjoining systems, natural boundaries such as rivers and mountains, and economic and cultural features such as trading and community centers.

(b) *Number of subscribers.* The borrower must estimate the number of subscribers that will request service from the proposed system.

(c) *Acquisitions.* A borrower considering an acquisition should refer to 7 CFR 1735.20 and RUS Bulletins 320–4, 321–2, 325–1, and 326–1.

(d) *Mergers and consolidations.* A borrower considering a merger or consolidation should refer to 7 CFR 1735.19.

(e) *Refinancing.* Restrictions on the use of loan funds for refinancing are contained in 7 CFR 1735.21.

(f) *Service for nonrural subscribers.* In some situations, RUS loan funds may be used to finance facilities to serve nonrural subscribers. See 7 CFR 1735.13.

(g) *Loan amount.* The initial loan request is based on the borrower's best estimate of financing needs. RUS requires detailed studies by the borrower to complete the application and the initial estimate is subject to revision.

(h) *Loans for a portion of a system.* If it is impractical to finance facilities to provide adequate service throughout the borrower's entire telephone service area, RUS will consider a loan application to finance improvements to a portion of a borrower's system.

(i) *Telecommunications modernization plan.* A borrower applying for hardship or concurrent RUS cost-of-money and RTB loans should refer to 7 CFR part 1751, subpart B.

[54 FR 14626, Apr. 12, 1989. Redesignated at 55 FR 39395, Sept. 27, 1990, as amended at 58 FR 66256, Dec. 20, 1993]

§§ 1737.12–1737.19 [Reserved]

Subpart C—The Loan Application

§ 1737.20 [Reserved]

§ 1737.21 **The completed loan application.**

(a) The completed loan application consists of four parts:

- (1) A completed RUS Form 490.
- (2) A market survey called the Area Coverage Survey (ACS).

(3) The plan and associated costs for the proposed construction, called the Loan Design (LD).

(4) Various supplementary information specified in 7 CFR 1737.22.

(b) The RUS field representative assists the borrower in assembling this information. Certain information is required from initial loan applicants but usually not from borrowers seeking subsequent loans. Borrowers are to submit all information in paragraph (a) of this section to their RUS field representatives, who will review and then forward the packages to RUS headquarters.

(c) RUS will make a determination of completeness of the application package and will notify the borrower of this determination within 10 working days of receipt of the information at RUS headquarters. If the application package is not complete, RUS will notify the borrower of what information is needed in order to complete the application package. If the information required to complete the application package is not received by RUS within 90 working days from the date the borrower was notified of the information needed, RUS may return the application package to the borrower. Returned applications are without prejudice and borrowers may resubmit the completed application.

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[54 FR 13356, Apr. 3, 1989. Redesignated at 55 FR 39396, Sept. 27, 1990, as amended at 56 FR 26598, June 10, 1991]

§ 1737.22 **Supplementary information.**

RUS requires additional information in support of the loan application form. The information listed in paragraphs (a), (b), and (c) of this section must be submitted as part of the loan application as specified in 7 CFR 1737.21.

(a) The following must be submitted by all initial loan applicants. Borrowers seeking subsequent loans must submit any changes in these items since they were last submitted.

- (1) Name of attorney and manager, and certified copies of board resolutions selecting them.
- (2) Certified copy of articles of incorporation showing evidence of filing

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with the Secretary of State and in county records.

(3) Certified copies of bylaws and board minutes showing their adoption.

(4) Certified sample stock certificates.

(5) Amounts of common and preferred stock issued and outstanding.

(6) Names, addresses, business affiliations, and stockholdings of the manager, officers, directors, and other principal stockholders (those owning at least 20 percent of borrower's voting stock).

(7) Certified copies of real estate deeds showing all recording information.

(8) Service agreements, such as for management or system maintenance.

(9) Certified copies of existing leases, except those for vehicles, furniture and office equipment, and computer equipment.

(10) Certified copies of existing franchises.

(11) Information on any franchises required as a result of the proposed loan project.

(12) Federal Communications Commission (FCC) authorizations.

(13) Certified copy of a certificate of convenience and necessity (or its equivalent), or information demonstrating the nonduplication of reasonably adequate facilities, for all areas in the loan project.

(14) For toll, operator office, traffic, and EAS agreements, the names of all parties to the agreement, the type of agreement, and the effective and termination dates of the agreement and annexes, and the exchanges involved.

(15) Copies of rate schedules. (A copy of the tariff must be available for review by the RUS field representative.)

(16) Executed copy of RUS Form 291, "Certification of Nonsegregated Facilities".

(17) A sketch or map showing the existing and proposed service areas.

(18) Executed assurance that the borrower will comply with the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended (see 49 CFR 24.4).

(19) A certification (which is included on RUS Form 490, "Application for Telephone Loan or Guarantee") that the borrower has been informed of the

collection options listed below that the Federal government may use to collect delinquent debt. RUS and other government agencies are authorized to take any or all of the following actions in the event that a borrower's loan payments become delinquent or the borrower defaults (OMB Circular A-129 defines "delinquency" for direct or guaranteed loans as debt more than 31 days past due on a scheduled payment):

(i) Report the borrower's delinquent account to a credit bureau.

(ii) Assess additional interest and penalty charges for the period of time that payment is not made.

(iii) Assess charges to cover additional administrative costs incurred by the Government to service the borrower's account.

(iv) Offset amounts owed to the borrower under other Federal programs.

(v) Refer the borrower's debt to the Internal Revenue Service for offset against any amount owed to the borrower as an income tax refund.

(vi) Refer the borrower's account to a private collection agency to collect the amount due.

(vii) Refer the borrower's account to the Department of Justice for litigation in the courts.

(20) A certification, signed by the president of the borrower, that the borrower is participating in the State's telecommunications modernization plan (for additional information concerning the plan, see 7 CFR part 1751, subpart B). This certification is not required if the borrower is seeking a guaranteed loan.

All of the actions in paragraph (a)(19) of this section can and will be used to recover any debts owed when it is determined to be in the interest of the Government to do so. The notification and the required form of certification in paragraph (a)(19) of this section are included on RUS Form 490, Application for Telephone Loan or Guarantee.

(b) The following must be submitted by all initial loan applicants and borrowers seeking subsequent loans:

(1) Certified financial statements for the last 3 years.

(2) Toll settlement statements and related data.

(3) Present exchange rates and any pending changes.

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(4) Borrower's Environmental Report (BER)—See 7 CFR part 1794.

(5) A "Certification Regarding Lobbying" for loans, or a "Statement for Loan Guarantees and Loan Insurance" for loan guarantees, and when required, an executed Standard Form LLL, "Disclosure of Lobbying Activities," (see section 319, Public Law 101–121 (31 U.S.C. 1352)).

(6) Executed copy of Form AD-1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions" (see appendix A to 7 CFR part 3017).

(7) Borrower's determination of loan maturity, including information noted in §1735.43(a) of this chapter as required.

(8) Approved depreciation rates for items under regulatory authority jurisdiction.

(9) A statement that the borrower is or is not delinquent on any Federal debt, such as income tax obligations or a loan or loan guarantee from another Federal agency. If delinquent, the reasons for the delinquency must be explained and RUS will take such explanation into consideration in deciding whether to approve the loan. RUS Form 490, "Application for Telephone Loan or Guarantee," contains a section for providing the required statement and any appropriate explanation.

(10) Any other supporting data required by the Administrator.

(c) The following must be submitted for all borrowers requesting funds for refinancing:

(1) Copies of all bonds, notes, mortgages, and contracts covering outstanding indebtedness proposed to be refinanced.

(2) For each note or bond, the name of the creditor, original amount of debt and amount as of last year-end, purpose of debt, dates incurred and due, interest rates, and repayment terms.

(3) Justification for refinancing and evidence that the use of loan funds is necessary and incidental to furnishing or improving rural telephone service. See 7 CFR 1735.21.

(d) Borrowers requesting loan funds for acquisitions should refer to RUS

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bulletins 320–4, 321–2, 325–1, and 326–1 for requirements.

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§§ 1737.23–1737.29 [Reserved]

Subpart D—Preloan Studies—Area Coverage Survey and Loan Design

§ 1737.30 General.

In support of a loan application, the borrower shall prepare and submit to RUS: (a) A market forecast to determine service requirements (the Area Coverage Survey) and (b) engineering studies to determine the system design that provides service most efficiently (the Loan Design). The RUS field representative confers with the borrower and its engineer to schedule the completion and submission of these studies.

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§ 1737.31 Area Coverage Survey (ACS).

(a) The Area Coverage Survey (ACS) is a market forecast of service requirements of subscribers in a proposed service area.

(b) The objective of the ACS is to determine the location, number and telephone service requirements of subscribers in a service area. RUS will use the ACS to appraise the proposed plan for area coverage and to determine the largest practical number of rural subscribers which can be served on an economically feasible basis. Preparation of the ACS requires:

(1) A field survey of the service area to locate and identify on maps all business and residential establishments, whether currently served or not. The location and identification of future establishments are also recorded on the maps.

(2) A forecast of the number of telephone subscribers, in the entire service area, by exchange, grade and class of service, projected for the end of the 5-year study period.