

§§ 1737.72–1737.79 [Reserved]

**Subpart I—Characteristics Letter**

**§ 1737.80 Description of characteristics letter.**

(a) After all of the studies and exhibits for the proposed loan have been prepared, but before the loan is recommended, RUS shall inform the borrower, in writing, of the characteristics of the proposed loan. The purpose of the characteristics letter is to inform the borrower and obtain its concurrence, before further consideration by RUS of the loan approval and the preparation of legal documents relating to the loan, in such matters as the amount of the proposed loan, its purposes, rate of interest, loan security requirements, and other prerequisites to the advance of loan funds. The letter, whether or not concurred in by the borrower, does not commit RUS to approve the loan on these or any other terms.

(b) The Forecast of Revenues and Expenses and a copy of RUS Form 493, “Telephone Loan Budget,” shall be enclosed with the characteristics letter. This copy of the budget shall be subject to change by RUS with the borrower’s agreement.

[54 FR 13356, Apr. 3, 1989. Redesignated at 55 FR 39396, Sept. 27, 1990, as amended at 56 FR 26600, June 10, 1991]

§§ 1737.81–1737.89 [Reserved]

**Subpart J—Final Loan Approval Procedures**

**§ 1737.90 Loan approval requirements.**

(a) In addition to requirements set forth in 7 CFR part 1735, 7 CFR part 1737 and other applicable parts of 7 CFR chapter XVII, the following are certain additional requirements that must be met before RUS will approve a loan:

(1) If the borrower had 100 or more employees as of the prior December 31, it must submit the current annual Employer Information Report EEO-1, Standard Form 100, as required by the Department of Labor; see 29 CFR 1602.7 through 1602.14.

(2) The borrower must be in compliance with regulations on non-discrimination. See 7 CFR part 1790 (or RUS Bulletin 320-19).

(3) For subsequent loans, RUS must determine whether the borrower’s accounting records are adequate. If the records are not adequate, as determined by RUS based on Generally Accepted Accounting Principles or other accounting conventions as deemed necessary by RUS, a provision will be included in the loan contract requiring the borrower to improve its records to an adequate level.

(4) The borrower must not have any receivables, loans, guarantees, investments, or other obligations that are contrary to the mortgage provisions or any RUS regulations including, but not limited to, 7 CFR part 1758 (or RUS Bulletins 320-4, 320-22, 321-2, 322-2, 323-1, or 326-1). If the borrower has any of these items, the loan contract shall contain a provision requiring that they be eliminated prior to the release of funds. See 7 CFR part 1744 for conditions under which RUS will provide a shared first lien and/or a lien accommodation for non-RUS lenders.

(5) RUS must make a determination on flood insurance requirements. In accordance with the National Flood Insurance Act of 1968, as amended by the Flood Disaster Protection Act of 1973, as amended (the “Flood Insurance Act”), RUS shall not approve financial assistance for the acquisition, construction, repair or improvement of any building or any machinery, equipment, fixtures or furnishings contained or to be contained in any such building located in an area which has been identified by the Director of the Federal Emergency Management Agency (the “Director of FEMA”) pursuant to the Flood Insurance Act as an area having special flood hazards unless:

(i) Flood insurance has been made available, pursuant to the Flood Insurance Act, in the area in which the acquisition, construction, repair or improvement is proposed to occur; and

(ii) The borrower has obtained flood insurance coverage with respect to such building, machinery, equipment, fixtures or furnishings as may be required pursuant to the Flood Insurance Act.

Accordingly, a finding shall be made on whether loan funds will be used to finance buildings, machinery, fixtures or furnishings located in an identified special flood hazard area. If loan funds are to be used in such a special flood hazard area, a provision will be included in the loan contract restricting the release of funds until all the requirements of the Flood Insurance Act have been satisfied.

(6) All environmental requirements must be met (see 7 CFR part 1794).

(b) [Reserved]

[54 FR 13356, Apr. 3, 1989. Redesignated at 55 FR 39396, Sept. 27, 1990, as amended at 56 FR 26600, June 10, 1991]

**§ 1737.91 Approval.**

(a) A loan is approved when the Administrator, or whoever is delegated authority, signs the administrative findings and the letter to the borrower announcing the loan.

(b) If the loan is not approved, RUS shall notify the borrower, in writing, of the reasons.

**§ 1737.92 Loan documents.**

Following approval of the loan, RUS shall forward the necessary loan documents to the borrower for execution, delivery, recording, and filing, as directed by RUS. See 7 CFR part 1758 for details (or RUS Bulletins 320-4, 320-22, 321-2, 322-2, 323-1, or 326-1).

§§ 1737.93-1737.99 [Reserved]

**Subpart K—Release of Funds Procedure**

**§ 1737.100 Prerequisites to the release and advance of funds.**

(a) Standard prerequisites to the advance of funds, generally applied to all loans, are set forth in Article II of the form of loan contract attached as appendix A to 7 CFR part 1758. Additional prerequisites may be added on a case by case basis to the loan contract.

(b) Before any loan funds can be advanced, RUS must approve a release of funds.

(c) RUS approves the release of funds only after it determines that all prerequisites to the advance of loan funds have been met or funds should be ad-

vanced even though certain loan contract prerequisites remain unsatisfied.

(d) Following release approval, loan funds and related nonloan funds may be advanced in accordance with 7 CFR part 1744.

(e) The borrower may be required to discharge indebtedness and/or to close acquisitions before advances are made for construction purposes. In such cases, the borrower shall submit evidence that these actions have been completed. If the evidence is satisfactory to RUS, RUS shall allow the remaining loan funds to be advanced in accordance with 7 CFR part 1744.

(Approved by the Office of Management and Budget under control number 0572-0085)

**§ 1737.101 Amounts spent for preloan activities.**

If the borrower desires to credit amounts spent for preloan activities against any equity or general funds required by the loan contract, it shall submit an itemized statement of such expenditures to the Area Office. These expenditures will be accounted for on RUS Form 503, "Release of Telephone Loan Funds," if RUS determines that the amounts spent are reasonable based on normal industry practice and that the procedures set forth in 7 CFR part 1737, subpart D, have been complied with. Statements of preloan expenditures will be verified as to accuracy by loan fund audits.

(Approved by the Office of Management and Budget under control number 0572-0085)

§§ 1737.102-1737.109 [Reserved]

**PART 1738—RURAL BROADBAND ACCESS LOANS AND LOAN GUARANTEES**

**Subpart A—General**

- Sec.
- 1738.1 General statement.
- 1738.2 Definitions.
- 1738.3-1738.9 [Reserved]

**Subpart B—Loan Purposes and Basic Policies**

- 1738.10 General.
- 1738.11 Availability of broadband service.
- 1738.12 Location of facilities.
- 1738.13 Allocation of funds.