

§§ 1737.33–1737.39 [Reserved]

Subpart E—Interim Financing of Construction of Telephone Facilities

§ 1737.40 General.

(a) Under special circumstances a borrower may request that RUS approve interim financing for interim construction. This subpart describes the circumstances in which RUS will consider approving interim financing of construction, the information to be submitted to RUS to support the borrower's request, RUS's requirements relating to interim construction, and related matters.

(b) For a borrower to preserve the option of obtaining loan funds for reimbursement of interim financing, it must obtain prior RUS approval of its interim financing plan and follow the procedures in 7 CFR 1737.41 and 7 CFR 1737.42.

(c) RUS will approve interim financing only for projects which must be performed immediately.

(d) RUS approval of interim financing is not a commitment that RUS will make loan funds available.

(e) Equal employment opportunity requirements apply to interim construction. See RUS Bulletin 320–15.

§ 1737.41 Procedure for obtaining approval.

(a) The borrower shall submit to the RUS Area Office a written request for approval of interim financing. This request shall include:

(1) A description of the construction proposed under interim financing.

(2) An explanation of the urgency of proceeding with the proposed construction.

(3) An estimate of the cost.

(4) The source of funds to be used for interim financing.

(b) RUS will not approve interim financing until it has reviewed and found acceptable:

(1) All of the information required under § 1737.21; or

(2) The following documents:

(i) The loan application (RUS Form 490) clearly marked "in support of interim financing request."

(ii) The Loan Design (LD), or the portion thereof that covers the proposed construction if the completed LD is not available. See 7 CFR 1737.32.

(iii) Evidence that the borrower has satisfied the requirements of 7 CFR part 1794 applying to the proposed interim construction.

(iv) A statement that the borrower is or is not delinquent on any Federal debt, such as income tax obligations or a 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 interim financing, see 7 CFR 1737.22(b)(9).

(v) 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, Pub. L. 101–121 (31 U.S.C. 1352)).

(vi) 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).

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

(c) RUS will not approve a borrower's request for approval of interim financing if, in RUS's judgment:

(1) The proposed interim financing does not comply with the requirements of this subpart.

(2) The proposed interim construction will not qualify for RUS financing.

(3) The proposed interim financing presents unacceptable loan security risks to RUS, or otherwise is not in the best interests of RUS.

(Approved by the Office of Management and Budget under control number 0572–0079)

[54 FR 13356, Apr. 3, 1989. Redesignated at 55 FR 39396, Sept. 27, 1990, as amended at 56 FR 26599, June 10, 1991; 59 FR 54381, Oct. 31, 1994]

§ 1737.42 Procedure for construction.

(a) If RUS approves the interim financing, interim construction shall be conducted in accordance with 7 CFR Part 1753, 7 CFR 1788, RUS Bulletin 320–15, and RUS Bulletins 381–1, 381–2, 381–4, 381–7, 381–8, 381–9, 381–10, 381–11, 381–

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13, 382–1, 382–2, 382–3, 383–1, 383–4, 384–1, 384–2, 384–3, 385–1, 385–2, 385–3, 385–4, 385–5, 385–6, 387–1, 387–2, 387–3, 387–4, and 387–5) except for the following:

(1) All sellers and contractors invited to bid must be informed that funds from sources other than RUS will be used to pay for construction.

(2) Contracts involving the interim construction must contain a provision, in form and substance satisfactory to RUS, stating that RUS is not committed to lend or advance funds to finance the project.

(3) Contracts will not be approved by RUS until the borrower demonstrates to RUS's satisfaction that funds from sources other than RUS will be available when needed to pay invoices submitted in accordance with contract payment terms.

(4) The borrower shall not begin interim construction until all necessary licenses, permits, and other governmental approvals have been obtained.

(b) After RUS loan funds are released, the borrower can obtain reimbursement for interim financing by submitting a Financial Requirement Statement. See 7 CFR part 1744, subpart C (or RUS Bulletin 327–1).

(1) The first advance of loan funds to a borrower that has received interim financing approval generally will be limited to funds to repay any interim financing indebtedness and such additional amounts as RUS deems necessary. RUS will make no further advances of loan funds until the borrower has submitted evidence, in form and substance satisfactory to the Administrator, that (i) any indebtedness created by the interim financing and any liens associated therewith have been fully discharged of record and (ii) the borrower has satisfied all other conditions on the advance of additional loan funds.

(2) If the source of funds for interim financing is the borrower's internally generated funds, the borrower may request reimbursement of those funds along with advances for other purposes on the first Financial Requirement Statement.

[54 FR 13356, Apr. 3, 1989; 54 FR 16194, Apr. 21, 1989. Redesignated at 55 FR 39396, Sept. 27, 1990]

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§§ 1737.43–1737.49 [Reserved]

Subpart F—Review of Application Procedures

§ 1737.50 Review of completed loan application.

(a) The completed loan application consists of:

(1) A completed RUS Form 490, “Application for Telephone Loan or Loan Guarantee;”

(2) A completed certification Form AD-1047, “Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions,” (see appendix A to 7 CFR part 3017);

(3) A market survey called the Area Coverage Survey (ACS);

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

(5) Evidence that the borrower is participating in a telecommunications modernization plan in the state where the proposed construction will occur, unless the borrower is seeking a guaranteed loan; and

(6) Various supplementary information.

See 7 CFR part 1737 for additional information.

(b) RUS shall review the completed loan application, particularly noting subscriber data, grades of service, extended area service (EAS), connecting company commitments, commercial facilities, system and exchange boundaries, and proposed acquisitions. RUS shall review the LD to determine that the system design is acceptable to RUS, that the design is technically correct, that the cost estimates are reasonable, and that the design provides for area coverage service. RUS shall also review the population and incorporation status of all communities served or to be served by the borrower to determine if any nonrural areas are served and if municipal franchises are required. Any RUS lending for nonrural areas must be in accordance with 7 CFR part 1735. RUS shall also check the “List of Parties Excluded from Federal Procurement of Nonprocurement Programs”, compiled, maintained and distributed by General Services Administration, to determine