

(i) After a satisfactory negotiated proposal has been obtained, the borrower shall submit it to RUS for approval, along with the engineer's recommendation, and evidence of acceptance by the borrower.

(ii) If RUS approves the negotiated proposal, the borrower shall submit three copies of the contract, executed by the contractor and borrower, to RUS for approval.

(iii) If RUS approves the contract, RUS shall return one copy of the contract to the borrower and one copy to the contractor.

(4) For RUS Form 773, the borrower is responsible for negotiating a satisfactory proposal, executing contracts, and closing the contract. See subparts F and I of this part for requirements for major and minor construction, respectively, on Form 773.

[54 FR 39267, Sept. 25, 1989. Redesignated at 55 FR 39396, Sept. 27, 1990, as amended at 59 FR 43716, Aug. 25, 1994; 64 FR 16605, Apr. 6, 1999]

§ 1753.9 Subcontracts.

(a) RUS construction contract Forms 257, 397, 515, and 525 contain provisions for subcontracting. Reference should be made to the individual contracts for the amounts and conditions under which a contractor may subcontract work under the contract.

(b) RUS Form 282, Subcontract, shall be used for subcontracts under construction and installation contracts.

(1) Minor modifications or additions may be made to the subcontract form, as long as they do not change the intent of the primary contract. Any alterations to the subcontract shall be initialed and dated by the persons executing the subcontract.

(2) Subcontracts shall be prepared in quadruplicate and all copies executed by the contractor and subcontractor and consented to by the borrower and surety, if any.

(3) Four executed copies of the subcontract shall be forwarded to RUS for approval. Upon approval, one copy each will be sent to the borrower, contractor, and subcontractor.

(c) As stated in contract Forms 257, 397, 515, and 525, the contractor shall bear full responsibility for the acts and omissions of the subcontractor and is

not relieved of any obligations to the borrower and to the Government under the contract.

(d) As stated in the contract, construction shall not be performed by the subcontractor before approval of the subcontract by RUS.

[54 FR 39267, Sept. 25, 1989. Redesignated at 55 FR 39396, Sept. 27, 1990, and amended at 59 FR 43716, Aug. 25, 1994]

§ 1753.10 Preconstruction conference.

The borrower shall conduct a conference, attended by the borrower, contractor, and resident engineer prior to the beginning of construction to provide an opportunity to discuss and agree on responsibilities, procedures, practices, and methods before the work begins. The borrower shall provide each participant with a copy of the conference results. The GFR shall be invited to attend this conference.

§ 1753.11 Contract amendments.

(a) The borrower must obtain RUS approval before execution of any amendment to a contract if

(1) The amendment alters the terms and conditions of the contract or changes the scope of the project covered by the contract regardless of the amount of the contract before amendment,

(2) The amendment increases the amount to be paid under the contract by 20% or more, or

(3) The amendment causes an unbonded contract to require a contractor's performance bond. This would occur when a contract that is executed in an amount below that requiring a performance bond by 7 CFR part 1788, subpart C, is amended to an amount above that amount.

(b) Advance RUS approval to execute other contract amendments is not required. These amendments may be submitted to RUS at any time prior to closeout. If a borrower wishes to receive an advance of funds based on an amended contract amount (i.e., amendments that increase a contract by less than 20%), the borrower may initiate an increase in the amount approved for advance by submitting three copies of the amendment to RUS for approval.

(c) For each amendment executed, the borrower shall make certain that:

(1) The contractor's bond covers the additional work to be performed. If the amendment by itself (or together with preceding amendments) increases the original contract price by 20% or more, a bond extension will be required to bring the penal sum of the bond to the total amended contract price.

(2) If an amendment covers construction in a county or state not included in the original contract, the borrower and contractor are licensed to do business in that location.

(d) Upon execution of any amendment that causes the amended contract amount to exceed the original contract amount by 20% or more, three copies of the amendment shall be submitted to RUS for approval.

[54 FR 39267, Sept. 25, 1989. Redesignated at 55 FR 39396, Sept. 27, 1990, as amended at 64 FR 16605, Apr. 6, 1999]

§§ 1753.12–1753.14 [Reserved]

Subpart B—Engineering Services

SOURCE: 54 FR 3984, Jan. 27, 1989, unless otherwise noted. Redesignated at 55 FR 39397, Sept. 27, 1990.

§ 1753.15 General.

(a)(1) The standard RUS loan documents contain provisions regarding engineering and architectural services performed by or for RUS telecommunications borrowers. This part implements certain of the provisions by setting forth the requirements and procedures to be followed by borrowers in selecting architects and engineers and obtaining architectural and engineering services by contract or by force account.

(2) Borrowers shall obtain architectural and engineering services only from persons or firms which are not affiliated with, and have not represented, a contractor, vendor or manufacturer who may provide labor, materials, or equipment to the borrower under any current loan.

(3) Preloan architectural and engineering services may be provided by qualified personnel on the borrower's staff or by consultants. Neither the selection of a preloan architect or engineer by a borrower, nor the contractual

arrangements with them, requires RUS approval.

(4) Postloan architectural and engineering services shall be obtained by borrowers from registered architects and engineers licensed in the State in which the facilities will be located, except where RUS has approved the borrower to provide these services by the force account method. When the extent of the proposed major or minor construction is such that the postloan engineering involved is within the capabilities of employees on the borrower's staff, the borrower may request RUS approval to provide such services. This method of providing engineering services is referred to as force account engineering. Refer to §1753.17(c).

(5)(i) For major construction, services provided by architects and engineers not on the borrower's staff must be provided under Form 220, Architectural Service Contract, or Form 217, Postloan Engineering Service Contract—Telecommunications. These contracts require RUS approval.

(ii) For minor construction, borrowers may use the contracts in paragraph (a)(5)(i) of this section for postloan architectural or engineering services or any other form of contract, such as Form 245, Engineering Service Contract, Special Services—Telephone. RUS approval of contracts for postloan architectural or engineering services associated with minor construction, except for buildings covered in paragraph (a)(6) of this section, is not required.

(6) For buildings to be constructed with RUS funds, postloan architectural or engineering services shall be obtained if (1) the construction cost exceeds \$50,000 (prefab buildings using manufacturer's specifications approved by RUS are exempt from this requirement) or (2) soil or seismic conditions require special design considerations.

(b) For the purpose of this subpart B:

(1) *Contract*—The services contract between the borrower and its architect or engineer.

(2) *Force Account Engineering*—Any preloan or postloan engineering services performed by the borrower's staff.

(3) *Postloan engineering services*—The design, procurement, and inspection of