

Sealed competitive bidding—A method of contracting that employs sealed competitive bids, public opening of bids, and award of the contract to the bidder submitting the lowest responsive bid. See § 1753.8.

Single source negotiation—Negotiating with a single source (contractor or seller).

Special equipment—Equipment used primarily for the transmission and enhancement of voice, data, carrier, radio and light signals, and other equipment and facilities, including incidental cable and other transmission equipment.

Subcontract—A secondary contract undertaking some of the obligations of a primary contract. Under all RUS forms of contract, the primary contractor bears full responsibility for the performance of the subcontractor.

Unbalanced bid—A bid which contains pricing for a task or material that is significantly higher or lower than pricing for similar tasks or materials.

Work order construction—Minor construction performed by the borrower's employees, pursuant to its work order procedure, with the borrower furnishing all materials, equipment, tools, and transportation.

[54 FR 39267, Sept. 25, 1989, unless otherwise noted. Redesignated at 55 FR 39396, Sept. 27, 1990, and amended at 58 FR 66259, Dec. 20, 1993; 59 FR 17464, Apr. 13, 1994; 64 FR 16604, Apr. 6, 1999]

§ 1753.3 Preconstruction review.

(a) Advance RUS approval must be obtained for any construction that does not conform to RUS standards and specifications or the approved LD, such as construction of extensions to serve subscribers in areas not included in the LD (See 7 CFR part 1737). For loans approved after RUS approval of the modernization plan in the borrower's state, the proposed construction must conform to the modernization plan, as required by 7 CFR part 1751, subpart B. To obtain approval, the borrower shall submit a written proposal containing:

(1) A description of the work, indicating any deviations from the approved LD or RUS standards and specifications.

(2) An engineering study covering the deviations if there are changes in the design.

(3) A cost estimate for labor, engineering, materials, and overheads.

(4) If applicable, a brief analysis from the borrower demonstrating that the proposed changes conform to the modernization plan.

(b) Before any construction, including interim construction, is initiated, the GFR shall meet with the borrower to review the LD to determine if any significant changes have occurred since its approval by RUS. It is important that the design and construction of the proposed facilities be based on the latest information on subscriber needs.

(c) If the borrower and GFR agree that there have been no significant changes, the borrower may proceed.

(d) If the GFR finds that the LD is no longer satisfactory, the borrower shall prepare an amendment to the LD incorporating the necessary revisions (See 7 CFR part 1737). The borrower must obtain RUS approval of the LD amendment before proceeding with engineering activities on any project to be financed with loan funds.

[54 FR 39267, Sept. 25, 1989. Redesignated at 55 FR 39396, Sept. 27, 1990, and amended at 58 FR 66259, Dec. 20, 1993; 59 FR 17464, Apr. 13, 1994; 64 FR 16604, Apr. 6, 1999]

§ 1753.4 Major and minor construction.

RUS's general requirements for construction are set forth in this subpart A. Additional requirements and procedures for different types of major construction are presented in subparts D, E, F, G, and H (OMB control number 0572-0062). The requirements and procedures for minor construction are presented in subpart I. Borrowers may, at their option, follow the procedures in subparts D, E, F, G, and H for any minor construction.

§ 1753.5 Methods of major construction.

(a) All major construction projects financed by loan funds shall be performed pursuant to a contract approved by RUS and awarded through sealed competitive bidding unless

(1) A specific exception is granted in subparts D, E, F, G, or H, or

(2) Written RUS approval is obtained.

§ 1753.6

(b) *Contract construction.* (1) RUS approval of the borrower's award of the contract is not required if the contractor is selected through sealed competitive bidding, the bid amount is \$500,000 or less and the contractor is not a company or organization affiliated with the borrower. This does not relieve the borrower of the requirements of bidding or bid evaluation set contained in this part.

(2) RUS approval of the borrower's award of the contract is required for all other competitively-bid and for negotiated major construction contracts.

(3) The requirements and procedures for sealed competitive bidding are presented in §1753.8(a). The requirements and procedures for negotiation are presented in §1753.8(b).

(c) *Force account construction.* To obtain RUS approval of the force account method for major construction the borrower must demonstrate its ability to perform major construction based on past force account construction which fully met RUS construction standards and was as cost-effective as contract construction in the area. If the borrower has no record of past performance to support its request, but has adequate equipment and experienced personnel to perform the proposed construction, RUS may approve a small trial project. The requirements and procedures for force account construction are presented in subparts D, E, G, and H.

[54 FR 39267, Sept. 25, 1989. Redesignated at 55 FR 39396, Sept. 27, 1990, and amended at 59 FR 43716, Aug. 25, 1994; 64 FR 16604, Apr. 6, 1999]

§ 1753.6 Standards, specifications, and general requirements.

(a) Materials, equipment, and construction financed with loan funds must meet the standards and specifications established by RUS. 7 CFR part 1755 lists the RUS Bulletins containing the standards and specifications for telephone facilities. Materials and equipment meeting these standards are included on the List of Material Acceptable for Use on Telecommunications Systems of RUS Borrowers, I.P. 300-4. This bulletin may be obtained by subscription from the Super-

7 CFR Ch. XVII (1-1-08 Edition)

intendent of Documents, Government Printing Office, Washington, DC 20402.

(b) The borrower may use RUS loan funds to finance nonstandard construction materials or equipment only if approved by RUS in writing prior to purchase or commencement of construction.

(c) Only new materials and equipment may be financed with loan funds, unless otherwise approved by RUS. The materials and equipment must be year 2000 compliant, as defined in 7 CFR 1735.22(e).

(d) All materials and equipment financed with loan funds are subject to the "Buy American" provision (7 U.S.C. 901 *et seq.* as amended in 1938).

(e) All software, software systems, and firmware financed with loan funds must be year 2000 compliant, as defined in 7 CFR 1732.22(e).

[54 FR 39267, Sept. 25, 1989. Redesignated at 55 FR 39396, Sept. 27, 1990, and amended at 59 FR 43716, Aug. 25, 1994; 63 FR 45679, Aug. 27, 1998; 64 FR 16605, Apr. 6, 1999]

§ 1753.7 Plans and specifications (P&S).

(a) The P&S consist of an RUS contract form, the appropriate RUS specifications, and such additional information and documents needed to provide a clear, accurate, and complete understanding of what is included in the construction.

(b) 7 CFR 1755.93 provides a list of the RUS forms of telecommunications contracts for use in purchasing telephone materials and equipment and for constructing telephone facilities with loan funds. Also listed is the source where copies may be obtained.

(c) The appropriate standards and specifications listed in 7 CFR part 1755 shall be included in the P&S. When RUS has not prepared standards and specifications, the borrower shall use general engineering requirements and specifications prepared by the borrower's engineer. The specifications prepared by the borrower's engineer and based on general engineering requirements shall be subject to review and approval by RUS for all major construction, including major projects which would be exempted from RUS approval under paragraph (e) of this section.