

## § 1753.2

is approved and all prerequisites to advance of funds are satisfied, the borrower may proceed with the purchase and installation of materials and equipment and the construction of telephone facilities pursuant to this part 1753. Subpart A describes

(1) RUS's general requirements with respect to steps to be taken after the loan is approved and before construction begins (See §1753.3),

(2) RUS requirements with respect to methods of construction (See §§1753.5 and 1753.6),

(3) RUS requirements regarding sealed competitive bidding and negotiated bidding of construction contracts (See §§1753.6 and 1753.9),

(4) RUS standards for materials, equipment, and construction financed with loan funds (See §1753.7), and

(5) RUS requirements for subcontracts and contract amendments covering construction financed with loan funds (See §§1753.10 and 1753.12).

(c) Each borrower is responsible for the construction of its facilities and for the procurement of materials and equipment that are best suited to its needs.

(d) If contracts, P&S, or other methods of procurement are subject to RUS approval pursuant to the provisions of the loan contract, as implemented by this part, RUS will review the documents or proposals submitted and notify the borrower in writing of approval or disapproval. RUS may withhold approval if, in RUS's judgment:

(1) The P&S or contract will not accomplish loan purposes.

(2) Provisions of the P&S or contract will add unnecessary expense to the project.

(3) The proposal, method of procurement, or P&S do not conform to RUS engineering criteria or construction standards, or if they present unacceptable loan security risks to RUS.

(4) The P&S or contract have been modified.

(e) The requirements and procedures covering procurement of architectural and engineering services are described in subpart B of this part.

(f) Single copies of RUS forms cited in this part are available from Administrative Services Division, Rural Utilities Service, United States Depart-

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ment of Agriculture, Washington, DC 20250-1500. These RUS forms may be reproduced.

[54 FR 39267, Sept. 25, 1989. Redesignated at 55 FR 39396, Sept. 27, 1990, as amended at 64 FR 16604, Apr. 6, 1999]

### § 1753.2 Definitions.

For the purpose of this part 1753:

*Alternate*— A solicitation for a bid adjustment for a specified deviation from the Plans and Specifications.

*Architect*— A person registered as an architect in the state where construction is performed, or a person on the borrower's staff, approved by RUS, authorized to perform architectural services.

*Bid guarantee*— A bid bond or certified check required of contractors bidding on construction work to ensure that the bidder, if successful, will furnish a satisfactory performance bond ensuring completion of work.

*Central office building*— The facility housing the central office equipment.

*Central office equipment*— Switching and signaling equipment that performs call origination and completion functions for subscribers.

*Closeout documents*— The documents required to certify satisfactory completion of all obligations under a contract or force account proposal.

*Construction*— Purchase and installation of telecommunications facilities in a borrower's system using loan funds.

*Contract*— The agreement between the borrower and an independent contractor covering the purchase, construction, or both of telephone facilities to be included in the borrower's telephone system.

*Contract construction*— Construction and installations performed using an RUS contract form. See 7 CFR 1755.93.

*Engineer*— A person registered as an engineer in the state where construction is performed, or a person on the borrower's staff, approved by RUS, authorized to perform engineering services.

*FAP* (force account proposal)—The borrower's detailed plans submitted to RUS for force account construction.

*Force account construction*—Construction performed by the borrower's employees under an RUS approved FAP,

with the borrower furnishing all materials, equipment, tools, and transportation.

*FRS*—RUS Form 481 (OMB control number 0572-0023), Financial Requirement Statement.

*GFR*—RUS General Field Representative.

*Installation*—The act of setting up or placing in position equipment for service or use in the borrower's system.

*Interim construction*—The purchase of equipment or the conduct of construction under an RUS-approved plan of interim financing. See 7 CFR part 1737.

*Interim financing*—Funding for a project which RUS has acknowledged may be included in a loan, should said loan be approved, but for which RUS loan funds have not yet been made available.

*Labor and materials*—All the labor and materials required for construction.

*LD* (loan design)—Supporting data for a loan application. See 7 CFR part 1737.

*Loan*—Any loan made or guaranteed by RUS. See 7 CFR part 1735.

*Loan funds*—Funds provided by RUS through direct or guaranteed loans. See 7 CFR part 1744 subpart C.

*Loan purposes*—The high level objectives of the loan are to fund the construction. These purposes are first stated in the characteristics letter described in 7 CFR 1737.80, which is sent to the applicant to offer a loan after RUS has completed its preloan studies.

*Major construction*—A telecommunications plant project estimated to cost more than \$250,000, including all labor and materials.

*Minor construction*—A telecommunications plant project estimated to cost \$250,000 or less, including all labor and materials.

*Minor errors or irregularities*—A defect or variation in a seller's bid that is a matter of form and not of substance. Errors or irregularities are "minor" if they can be corrected or waived without being prejudicial to other bidders and when they do not affect the price, quantity, quality, or timeliness of construction. Unless otherwise noted, the borrower determines whether an error or irregularity is "minor."

*Modernization plan*—A State plan, which has been approved by RUS, for

improving the telecommunications network of those Telecommunications Providers covered by the plan. A Modernization Plan must conform to the provisions of 7 CFR part 1751, subpart B.

*Negotiation*—Any form of purchasing or contracting other than sealed competitive bidding. Any contract awarded without using the sealed competitive bidding procedure is a negotiated contract.

*Outside plant*—The facilities that conduct electrical or optical signals between the central office and the subscriber's network interface or between central offices.

*Performance bond*—A surety bond on a form satisfactory to RUS guaranteeing the contractor's faithful performance of a contract.

*P&S* (plans and specifications)—An RUS contract form, the appropriate specifications, and such additional information and documents needed to provide a clear, accurate, and complete understanding of the installations to be made or construction to be performed.

*Project*—The construction or installation described in the P&S.

*Responsive bid*—A bid that complies with the requirements of the plans and specifications.

*RTB*—the Rural Telephone Bank, established as a body corporate and an instrumentality of the United States, to obtain supplemental funds from non-Federal sources and utilize them in making loans, for the purposes of financing, or refinancing, the construction, improvement, expansion, acquisition, and operation of telephone lines, facilities, or systems, for RUS borrowers financed under sections 201 and 408 of the Act.

*RUS*—the Rural Utilities Service, an agency of the United States Department of Agriculture established pursuant to Section 232 of the Federal Crop Insurance and Reform and Department of Agriculture Reorganization Act of 1994 (Pub. L. 103-354, 108 Stat. 3178), successor to Rural Electrification Administration with respect to administering certain electric and telecommunications program. See 7 CFR 1700.1.

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*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. Redesignated at 55 FR 39396, Sept. 27, 1990, as 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, as 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.

(b) *Contract construction.* (1) RUS approval of the borrower's award of the