

term employment opportunities rather than merely transferring jobs from one area of the country to another;

(2) Be supported by significant private sector investment;

(3) Leverage or be a catalyst for the effective use of private, local government, State or other Federal funding that is available;

(4) Likely be started and completed in a timely fashion; and

(5) If the project is located in an area with a stable economy and low distress, provide employment opportunities for residents of nearby areas of high distress.

Subpart B—Requirements for Approved Projects

§ 305.5 Pilot program.

(a) EDA's Regional Offices may, upon approval of the Deputy Assistant Secretary for Program Operations, institute pilot programs for post-approval construction monitoring, thereby continuing EDA's efforts to streamline and simplify procedures for monitoring approved EDA construction projects. The knowledge and efficiencies gained from the pilot programs will be evaluated and used to improve and revise EDA's post-approval project management requirements and procedures.

(b) As part of a pilot program, the procedures developed by a Regional Office may vary from those listed in this subpart B. No additional requirements are imposed by pilot program procedures. A Regional Office will provide guidelines, in its version of the "Requirements for Approved Projects," to all recipients of grants for construction projects monitored by the Office. The recipient may not be required to submit to EDA certain documentation at any set time, but will be required to maintain all documentation supporting any and all certifications submitted to the Regional Office, for the period of time provided in 15 CFR part 14 or 24, as appropriate.

[65 FR 71024, Nov. 28, 2000]

§ 305.6 Project management conference.

After the EDA financial assistance award has been accepted by the recipient,

EDA may schedule a planning conference with the recipient's representatives to explain the post-approval requirements for administration of the EDA assisted project.

[64 FR 69875, Dec. 14, 1999]

§ 305.7 Selection of the Architect/Engineer.

Guidelines for the selection of the Architect/Engineer (A/E), services to be performed by the A/E, contract provisions for those services and eligible fees for the A/E are as follows:

(a) Selection of the A/E may be by sealed bids using formal advertising or by competitive proposal procedures subject to negotiation of fair and reasonable compensation. The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

(b) The A/E agreement shall provide for all services required by the recipient for the engineering feasibility, design and contract administration of the proposed project. Appropriate standards or guides developed by such professional organizations as the American Consulting Engineers Council, American Society of Civil Engineers, National Society of Professional Engineers, and/or the American Institute of Architects may be used where the grantee does not have standard procurement/contract documents.

(c) Exhibit A-1, Checklist for Architect/Engineer Services, in the EDA publication, *Requirements for Approved Construction Projects*, displayed at EDA's Web Site, <http://www.doc.gov/eda> (a copy of this publication is available from EDA and a copy will be furnished to an award recipient with the Offer of Financial Assistance), lists the contract provisions which EDA recommends for the A/E contract. The A/E agreement must be furnished to EDA in order for the allowability of the costs of A/E services to be determined.

(d) Eligible project costs may include, but not be limited to, costs for A/E fees, resident inspection, test borings, and the testing of materials provided under an agreement or contract with the recipient. The A/E fees should

§ 305.8

be in conformity with similar costs and projects in the area.

[64 FR 69875, Dec. 14, 1999]

§ 305.8 Project phasing.

The recipient is strongly urged to award all contracts for construction at one time.

(a) Where compelling reasons justify phasing the project, the recipient must secure the approval of EDA for phasing prior to advertising any portion for bid.

(b) The recipient's request for approval of phasing must include valid reasons justifying the request and a statement from the recipient that it can, and will, fund any overrun that arises in the later phases.

(c) Normally, EDA will not disburse funds until all construction contracts have been awarded, (an exception is the development of an underground source of water when required to determine the availability of an adequate source of water supply in terms of both quality and quantity as described in the grant application).

(d) Disbursement of grant funds by phases must be approved by EDA. Such approvals will be given only if the recipient can demonstrate that a severe hardship will result if such approval is not given and there are compelling reasons why all phases cannot be contracted for at the same time.

(e) The recipient must be capable of paying incurred costs prior to the first disbursement of EDA grant funds.

[64 FR 69875, Dec. 14, 1999]

§ 305.9 Recipient furnished equipment and materials.

The recipient may wish to incorporate into the project equipment and/or materials which it will secure through its own efforts.

(a) It is the responsibility of the recipient to assure that such equipment and/or materials are adequate for the proposed use.

(b) The use of such equipment and materials must be approved by EDA to be eligible for EDA financial participation. The recipient shall be required to submit with its request for approval either a paid invoice or current quotes from not less than three suppliers who

13 CFR Ch. III (1-1-03 Edition)

normally distribute such equipment and/or materials. EDA may require that major equipment items be subject to a lien in favor of EDA and may also require a statement from the Recipient regarding expected useful life and salvage value.

(c) The recipient must be prepared to show that the cost claimed for such equipment and/or materials is competitive with local market costs.

(d) Acquisitions of recipient furnished equipment and/or materials under this section is subject to the requirements of 15 CFR part 24 or 15 CFR part 14.

[64 FR 69875, Dec. 14, 1999]

§ 305.10 Construction Management services.

Construction Management is defined as the services of a firm with competent and experienced staff to act as the recipient's agent to perform all or part of project administration. EDA will not normally approve the use of a Construction Management firm for projects costing less than \$5 million. EDA will participate in such cost only if EDA approves the contract for such services.

[64 FR 69876, Dec. 14, 1999]

§ 305.11 Design/Build method of construction.

EDA discourages the use of the same entity to both design and to build EDA assisted facilities. If the recipient desires to use such a method, its use must be justified and EDA must approve the contract. The procurement of, and the compensation to, the designer/builder will be subject to the same rules as for the procurement of construction services.

[64 FR 69876, Dec. 14, 1999]

§ 305.12 Advertising for bids.

In the absence of State or local law to the contrary, the advertisement for bids for construction projects should appear in publications of general circulation a minimum of four times within a 30-day period prior to the opening of bids. Additional circulation of the invitation for bids is encouraged if it is needed to obtain the coverage necessary to secure competitive bids.