

Rural Utilities Service, USDA

§ 1726.301

(c) If the alternative indemnification provision in paragraph (a) or (b) of this section is chosen by the borrower, the language of paragraph (a) or (b) of this

section would be inserted in lieu of subsection (i) of the section indicated in the RUS standard construction contract forms as follows:

RUS form No.	Title	Designated section
200	Construction Contract—Generating	Article IV, Section 1(c).
201	Right-of-Way Clearing Contract	Article IV, Section 1(e).
203	Transmission System Right-of-Way Clearing Contract	Article IV, Section 1(f).
257	Contract to Construct Buildings	Article IV, Section 1(b).
764	Substation and Switching Station Erection Contract	Article IV, Section 1(f).
786	Electric System Communications and Control Equipment Line	Article IV, Section 1(c).
790	Distribution Line Extension Construction Contract (labor & materials).	Article IV, Section 1(f).
792	Distribution Line Extension Construction Contract (labor only)	Article IV, Section 1(f).
830	Electric System Construction Contract (labor & material)	Article IV, Section 1(f).
831	Electric Transmission Construction Contract (labor & material) ...	Article IV, Section 1(f).

(d) In RUS Forms 201, 790, and 792, the word “Contractor” would replace the word “Bidder” in the alternative indemnification clause in paragraph (a) or (b) of this section.

(e) In RUS Form 786, the word “Seller” would replace the word “Bidder” and the word “Purchaser” would replace the word “Owner” in the alternative indemnification clause in paragraph (a) or (b) of this section.

borrowers may but are not required to use in the construction of their electric systems. Borrowers are not required to use these guidance contract forms in the absence of an agreement to do so.

[63 FR 58286, Oct. 30, 1998]

§§ 1726.256–1726.299 [Reserved]

Subpart I—RUS Standard Forms

§ 1726.300 Standard forms of contracts for borrowers.

(a) *General.* The standard loan agreement between RUS and its borrowers provides that, in accordance with applicable RUS regulations in this chapter, the borrower shall use standard forms of contract promulgated by RUS for construction, procurement, engineering services, and architectural services financed by a loan made or guaranteed by RUS. (See section 5.16 of appendix A to subpart C of part 1718 of this chapter.) This subpart prescribes RUS procedures in promulgating standard contract forms and identifies those forms that borrowers are required to use.

(b) *Contract forms.* RUS promulgates standard contract forms, identified in the List of Required Contract Forms, §1726.304(c), that borrowers are required to use in accordance with the provisions of this part. In addition, RUS promulgates standard contract forms contained in §1726.304(d) that the

§ 1726.301 Borrower contractual obligations.

(a) *Loan agreement.* As a condition of a loan or loan guarantee under the Rural Electrification Act, borrowers are normally required to enter into RUS loan agreements pursuant to which the borrower agrees to use RUS standard forms of contracts for construction, procurement, engineering services and architectural services financed in whole or in part by the RUS loan. Normally, this obligation is contained in section 5.16 of the loan contract. To comply with the provisions of the loan agreements as implemented by this part, borrowers must use those forms of contract (hereinafter sometimes called “listed contract forms”) identified in the List of Required Contract Forms, §1724.304(c).

(b) *Compliance.* If a borrower is required by this part or by the loan agreement to use a listed contract form, the borrower shall use the listed contracts in the format available from RUS or GPO. The forms shall not be retyped, changed, modified, or altered in any manner not specifically authorized in this part or approved by RUS in writing. Any modifications approved by RUS must be clearly shown so as to indicate the difference from the listed contract form. Electronic reproduction

§ 1726.302

is not acceptable except where indicated in §1726.304(c).

(c) *Amendment.* Where a borrower has entered into a contract in the form required by this part, no change may be made in the terms of the contract, by amendment, waiver or otherwise, without the prior written approval of RUS.

(d) *Waiver.* RUS may waive for good cause, on a case by case basis, the requirements imposed on a borrower pursuant to this part. Borrowers seeking a waiver by RUS must provide RUS with a written request explaining the need for the waiver. Waiver requests should be made prior to issuing the bid package to bidders.

(e) *Violations.* A failure on the part of the borrower to use listed contracts as prescribed in this part is a violation of the terms of its loan agreement with RUS and RUS may exercise any and all remedies available under the terms of the agreement or otherwise.

[63 FR 58286, Oct. 30, 1998]

§ 1726.302 Notice and publication of listed contract forms.

(a) *Notice.* Upon initially entering into a loan agreement with RUS, borrowers will be provided with all listed contract forms. Thereafter, new or revised listed contract forms promulgated by RUS, including RUS approved exceptions and alternatives, will be sent by regular or electronic mail to the address of the borrower as identified in its loan agreement with RUS.

(b) *Availability.* Listed contract forms are available from either RUS or the Government Printing Office (GPO), as indicated in §1726.304. Interested parties may obtain the forms from: Rural Utilities Service, Program Development and Regulatory Analysis, U.S. Department of Agriculture, Stop 1522, 1400 Independence Avenue, SW., Washington DC 20250-1522, telephone number (202) 720-8674, or the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, telephone number (202) 512-1800. The listed contract forms can be found in §1724.304(c), List of Required Contract Forms.

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7 CFR Ch. XVII (1-1-03 Edition)

§ 1726.303 Promulgation of new or revised contract forms.

RUS may, from time to time, undertake to promulgate new contract forms or revise or eliminate existing contract forms. In so doing, RUS shall publish notice of rulemaking in the FEDERAL REGISTER announcing, as appropriate, a revision in, or a proposal to amend §1726.304, List of Electric Program Standard Contract Forms. The amendment may change the existing identification of a listed contract form; for example, changing the issuance date of a listed contract form or by identifying a new required contract form. The notice of rulemaking will describe the new standard contract form or the substantive change in the listed contract form, as the case may be, and the issues involved. The standard contract form or relevant portions thereof may be appended to the supplementary information section of the notice of rulemaking. As appropriate, the document shall provide an opportunity for interested persons to provide comments. A copy of each such FEDERAL REGISTER document will be sent by regular or electronic mail to all borrowers.

[63 FR 58287, Oct. 30, 1998]

§ 1726.304 List of electric program standard contract forms.

(a) *General.* This section contains a list of RUS electric program standard contract forms. Paragraph (c) of this section contains the list of required contract forms, *i.e.*, those forms of contracts that borrowers are required to use by the terms of their RUS loan agreements as implemented by the provisions of this part. Paragraph (d) of this section sets forth the list of guidance contract forms, *i.e.*, those forms of contracts provided as guidance to borrowers in the construction of their systems. See §1726.302(b) for availability of these forms.

(b) *Issuance date.* Where required by this part to use a standard form of contract in connection with RUS financing, the borrower shall use that form identified by issuance date in the List