

## Rural Utilities Service, USDA

## § 1726.35

### § 1726.25 Subcontracts.

The contractor or supplier may use RUS Form 282, Subcontract, for subcontracts on construction, material or equipment contracts. Subcontracts are not subject to RUS approval and need not be submitted to RUS unless specifically requested by RUS on a case by case basis.

### § 1726.26 Interest on overdue accounts.

Certain RUS contract forms contain a provision concerning payment of interest on overdue accounts. Prior to issuing the invitation to bidders, the borrower must insert an interest rate equal to the lowest "Prime Rate" listed in the "Money Rates" section of the Wall Street Journal on the date such invitation to bid is issued. If no prime rate is published on that date, the last such rate published prior to that date must be used. The rate must not, however, exceed the maximum rate allowed by any applicable state law.

[63 FR 58286, Oct. 30, 1998]

### § 1726.27 Contractor's bonds.

(a) RUS Form 168b, Contractor's Bond, shall be used when a contractor's bond is required by RUS Forms 200, 201, 203, 257, 764, 786, 790, 792, 830, or 831 unless the contractor's surety has accepted a Small Business Administration guarantee and the contract is for \$1 million or less.

(b) RUS Form 168c, Contractor's Bond, shall be used when a contractor's bond is required by RUS Form 200, 201, 203, 257, 764, 786, 790, 792, 830, or 831 and the contractor's surety has accepted a Small Business Administration guarantee and the contract is for \$1 million or less.

(c) Surety companies providing contractor's bonds shall be listed as acceptable sureties in the U.S. Department of the Treasury Circular No. 570, Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies. Copies of the circular and interim changes may be obtained directly from the Government Printing Office (202) 512-1800. Interim changes are published in the FEDERAL REGISTER as they occur. The list is also available through the Internet at <http://www.fms.treas.gov/c570/index.html>

and on the Department of the Treasury's computerized public bulletin board at (202) 874-6887.

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### §§ 1726.28-1726.34 [Reserved]

### § 1726.35 Submission of documents to RUS.

(a) *Where to send documents.* Documents required to be submitted to RUS under this part are to be sent to the office of the borrower's respective RUS Regional Director, the Power Supply Division Director, or such other office of RUS as designated by RUS (see part 1700 of this chapter.)

(b) *Borrower certification.* When a borrower certification is required by this part, it must be made by the borrower's manager unless the board of directors specifically authorizes another person to make the required certification. In such case, a certified copy of the specific authorizing resolution must accompany the document or be on file with RUS.

(c) *Contracts requiring RUS approval.* The borrower shall submit to RUS three copies of each contract that is subject to RUS approval under subparts B through F of this part. At least one copy of each contract must be an original signed in ink (i.e., no facsimile signature). Each contract submittal must be accompanied by:

(1) A bid tabulation and evaluation and, if applicable, a written recommendation of the architect or engineer.

(2) For awards made under the informal competitive bidding procedure or the multiparty negotiation procedure, a written recommendation of the contracting committee (See §§ 1726.202 and 1726.203).

(3) Three copies of an executed contractor's bond on RUS approved bond forms as required in the contract form (at least one copy of which must be an original signed in ink) and one copy of the bid bond or facsimile of the certified check.

(4) A certification by the borrower or chairperson of the contracting committee, as applicable, that the appropriate bidding procedures were followed as required by this part.

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(5) A certified copy of the board resolution awarding the contract.

(6) Evidence of clear title to the site for substations and headquarters construction contracts, if not previously submitted.

(7) Documentation that all reasonable measures were taken to assure competition if fewer than three bids were received.

(d) *Contract amendments requiring RUS approval.* The borrower must submit to RUS three copies of each contract amendment (at least one copy of which must be an original signed in ink) which is subject to RUS approval under §1726.24(b). Each contract amendment submittal to RUS must be accompanied by:

(1) A certified copy of the board resolution approving the amendment; and

(2) A bond extension, where necessary.

(e) *Encumbrance of loan or loan guarantee funds.* (1) For contracts subject to RUS approval, the submittals required under paragraph (c) of this section will initiate RUS action to encumber loan or loan guarantee funds for such contracts.

(2) For contracts not subject to RUS approval (except for generation projects), loan or loan guarantee funds will normally be encumbered using RUS Form 219, Inventory of Work Orders, after closeout of the contracts. In cases where the borrower can show good cause for a need for immediate cash, the borrower may request encumbrance of loan or loan guarantee funds based on submittal of a copy of the executed contract, provided it meets all applicable RUS requirements.

(3) For generation project contracts not subject to RUS approval, the borrower must submit to RUS the following documentation:

(i) A brief description of the scope of the contract, including contract identification (name, number, etc.);

(ii) Contract date;

(iii) Contractor's name;

(iv) Contract amount;

(v) Bidding procedure used;

(vi) Borrower certification that:

(A) The board of directors approved the contract;

(B) The bidding procedures and contract award for each contract were in

conformance with the requirements of Part 1726, Electric System Construction Policies and Procedures;

(C) If a RUS approved form of contract is required by this part, the terms and conditions of the RUS approved form of contract have not been altered;

(D) If RUS has approved plans and specifications for the contract, the contract was awarded on the basis of those plans and specifications; and

(E) No restriction has been placed on the borrower's right to assign the contract to RUS or its successors.

(4) *Contract amendments.* (i) For amendments subject to RUS approval, the submittals required under paragraph (c) of this section will initiate RUS action to encumber loan or loan guarantee funds for contract amendments requiring RUS approval.

(ii) For amendments not subject to RUS approval (except generation projects), loan or loan guarantee funds will normally be encumbered using RUS Form 219, Inventory of Work Orders, after closeout of the contracts. In cases where the borrower can justify a need for immediate cash, the borrower may request encumbrance of loan or loan guarantee funds based on submittal of a copy of the executed amendment, providing it meets all applicable RUS requirements.

(iii) For each generation project contract amendment not subject to RUS approval, the borrower must submit to RUS the following information and documentation:

(A) The contract name and number;

(B) The amendment number;

(C) The amendment date;

(D) The dollar amount of the increase or the decrease of the amendment;

(E) Borrower certification that:

(1) The amendment was approved in accordance with the policy of the board of directors (the borrower must ensure that RUS has a certified copy of the board resolution establishing such policy);

(2) If a RUS approved form of contract is required by this part, the terms and conditions of the RUS approved form of contract has not been altered; and

(3) No restriction has been placed on the borrower's right to assign the contract to RUS or its successors.

**§ 1726.36 Documents subject to RUS approval.**

Unless otherwise indicated, the borrower shall make all contracts and amendments that are subject to RUS approval effective only upon RUS approval.

**§ 1726.37 OMB control number.**

The collection of information requirements in this part have been approved by the Office of Management and Budget and assigned OMB control number 0572-0107.

**§§ 1726.38-1726.49 [Reserved]**

**Subpart B—Distribution Facilities**

**§ 1726.50 Distribution line materials and equipment.**

(a) *Contract forms.* (1) The borrower shall use RUS Form 198, Equipment Contract, for purchases of equipment where the total cost of the contract is \$500,000 or more.

(2) The borrower may, in its discretion, use RUS Form 173, Materials Contract, RUS Form 198, Equipment Contract, or a written purchase order for purchases of equipment of less than \$500,000 and for all materials.

(b) *Standards and specifications.* Distribution line materials and equipment must meet the minimum requirements of RUS standards as determined in accordance with the provisions of part 1728 of this chapter, Electric Standards and Specifications for Materials and Construction. The borrower must obtain RUS approval prior to purchasing any unlisted distribution line material or equipment of the types listed in accordance with the provisions of part 1728 of this chapter.

(c) *Procurement procedures.* It is the responsibility of each borrower to determine the procurement method that best meets its needs for the purchase of material and equipment to be used in distribution line construction.

(d) *Contract approval.* Contracts for purchases of distribution line materials and equipment are not subject to RUS approval and need not be submitted to

RUS unless specifically requested by RUS on a case by case basis.

**§ 1726.51 Distribution line construction.**

(a) *Contract forms.* The borrower must use RUS Form 201, 790, 792, or 830, as outlined in this paragraph (a), for distribution line construction, except for minor modifications or improvements.

(1) The borrower may use RUS Form 790, Distribution Line Extension Construction Contract (Labor and Materials), or RUS Form 792, Distribution Line Extension Construction Contract (Labor only) under the following circumstances:

(i) For contracts for which the borrower supplies all materials and equipment; or

(ii) For non-site specific construction contracts accounted for under the work order procedure; or

(iii) If neither paragraph (a)(1)(i) or (a)(1)(ii) of this section are applicable, the borrower may use RUS Form 790 or 792 for contracts, up to a cumulative total of \$250,000 or one percent of NUP, whichever is greater, per calendar year of distribution line construction, exclusive of the cost of owner furnished materials and equipment

(2) The borrower must use RUS Form 830, Electric System Construction Contract (Labor and Materials), for all other distribution line construction. Where distribution lines are being constructed incidental to transmission line construction, the borrower must use RUS Form 831, Electric Transmission Construction Contract.

(3) The borrower must use RUS Form 201, Right-of-Way Clearing Contract, for new distribution line construction right-of-way clearing when done separately from work performed under RUS Form 830.

(b) *Procurement procedures.* (1) It is the responsibility of each borrower to determine the procurement method that best meets its needs to award contracts in amounts of up to a cumulative total of \$250,000 or one percent of NUP, whichever is greater, per calendar year of distribution line construction (including minor modifications or improvements), exclusive of the cost of owner furnished materials and equipment.