

## § 1726.15

*Responsive bid* means a bid with no exceptions or non-minor errors or irregularities on any technical requirement or in the contract terms and conditions.

*RUS approval* means written approval by the Administrator or a representative with delegated authority. RUS approval must be in writing, except in emergency situations where RUS approval may be given over the telephone followed by a confirming letter.

*Unit prices* means individual prices for specific construction units defined in accordance with RUS approved units specified in RUS standard contract forms.

### § 1726.15 “Buy American”.

The borrower must ensure that all materials and equipment financed with loans made or guaranteed by RUS complies with the “Buy American” provisions of the Rural Electrification Act of 1938 (7 U.S.C. 903 note), as amended by the North American Free Trade Agreement Implementation Act (107 Stat 2129). When a “Buy American” certificate is required by this part, this must be on RUS Form 213.

### § 1726.16 Debarment and suspension.

Borrowers are required to comply with certain requirements on debarment and suspension in connection with procurement activities as set forth in part 3017 of this title, particularly with respect to lower tier transactions, e.g., procurement contracts for goods or services.

### § 1726.17 Restrictions on lobbying.

Borrowers are required to comply with certain restrictions and requirements in connection with procurement activities as set forth in part 3018 of this title.

### § 1726.18 Preloan contracting.

Borrowers must consult with RUS prior to entering into any contract for material, equipment, or construction if a construction work plan, general funds, loan or loan guarantee for the proposed work has not been approved. While the RUS staff will work with the borrower in such circumstances, nothing contained in this part is to be construed as authorizing borrowers to

## 7 CFR Ch. XVII (1–1–05 Edition)

enter into any contract before the availability of funds has been ascertained by the borrower and all the requirements of part 1794 of this chapter, Environmental Policies and Procedures for Electric and Telephone Borrowers, have been fulfilled.

### § 1726.19 Use of competitive procurement.

RUS borrowers’ procurement is not subject to the provisions of the Federal Acquisition Regulation (48 CFR chapter 1); however, since borrowers receive the benefit of Federal financial assistance borrowers must use competitive procurement to the greatest extent practical. The borrower must use competitive procurement for obtaining all goods or services when a RUS loan or loan guarantee is involved except:

- (a) As specifically provided for in subparts B through F of this part; or
- (b) A waiver is granted.

### § 1726.20 Standards and specifications.

All materials, equipment, and construction must meet the minimum requirements of all applicable RUS standards and specifications. (See part 1728 of this chapter, Electric Standards and Specifications for Materials and Construction, which is applicable regardless of the source of funding.)

[69 FR 7109, Feb. 13, 2004]

### § 1726.21 New materials.

The borrower shall purchase only new materials and equipment unless otherwise approved by RUS, on a case by case basis, prior to the purchase.

### § 1726.22 Methods of construction.

The borrower is generally responsible for determining whether construction will be by contract or force account. If construction is by contract, the borrower must determine whether materials will be supplied by the contractor or will be furnished by the borrower. RUS reserves the right to require contract construction in lieu of force account construction on a case by case basis.