

§§ 1726.305–1726.399 [Reserved]

Subpart J—Contract Closeout**§ 1726.400 Final contract amendment.**

As needed, a final contract amendment will be prepared and processed in accordance with §1726.24(b) prior to or in conjunction with the closeout of the contract.

§ 1726.401 Material contract closeout.

(a) *Delivery inspection.* The borrower (acting through its engineer, if applicable) will verify that all materials are delivered in proper quantities, in good condition, and in compliance with applicable specifications.

(b) *Closeout documents.* The borrower (acting through its engineer, if applicable) will obtain from the supplier a “Buy American” certificate, RUS Form 213, any manufacturer’s guarantee(s) and, if applicable, a copy of RUS Form 224, Waiver and Release of Lien. Closeout documents for materials contracts need not be submitted to RUS unless specifically requested by RUS on a case by case basis.

(c) *Final payment.* Upon completion of the actions required under paragraphs (a) and (b) of this section, the borrower shall make final payment to the supplier in accordance with the provisions of the material contract or written purchase order.

[60 FR 10155, Feb. 23, 1995, as amended at 69 FR 7110, Feb. 13, 2004]

§ 1726.402 Equipment contract closeout.

This section is applicable to contracts executed on RUS Form 198.

(a) *Final inspection and testing of equipment.* The borrower (acting through its engineer, if applicable) will perform the final inspection and testing of equipment as appropriate for the specific equipment. The borrower (acting through its engineer, if applicable) will schedule such inspection and testing at a time mutually agreeable to the borrower, engineer, and the supplier or manufacturer. Within thirty (30) days after completion of the inspection and testing, the borrower (acting through its engineer, if applicable) will prepare a report of the inspection and testing,

obtain a copy of the report from the engineer, and submit a copy to the supplier or manufacturer. This report must include a detailed description of the methods of conducting the test(s), observed data, comparison of guaranteed and actual performance, and recommendations concerning acceptance. The borrower will obtain from the engineer a written certification stating that the equipment has been installed, placed in satisfactory operation and tested, and meets the contract requirements. Where more than one-hundred and eighty (180) days have elapsed since the delivery of the equipment and the equipment has not been installed or tested, the contract may be closed out upon certification by the engineer that the equipment has been inspected and appears to be in accordance with the contract requirements.

(b) *Closeout documents.* (1) The borrower (acting through its engineer, if applicable) will obtain the following executed documents:

(i) Certification by the project engineer in accordance with paragraph (a) of this section.

(ii) All guarantees or warranties.

(iii) A “Buy American” certificate, RUS Form 213, from the supplier or manufacturer.

(2) Closeout documents for materials contracts need not be submitted to RUS unless specifically requested by RUS.

(c) *Final payment.* Upon completion of the actions required under paragraphs (a) and (b) of this section, the borrower will make final payment to the supplier or manufacturer in accordance with the provisions of the equipment contract.

§ 1726.403 Project construction contract closeout.

This section is applicable to contracts executed on RUS Forms 200, 257, 786, and 830.

(a) *Final test of equipment supplied under a construction contract.* If equipment is supplied under a construction contract, the borrower (acting through its architect or engineer, if applicable) will perform the final inspection and testing of equipment as appropriate for the specific equipment. The borrower

(acting through its architect or engineer, if applicable) will schedule such inspection and testing at a time mutually agreeable to the borrower, architect or engineer, and the contractor. Within thirty (30) days after completion of the inspection and testing, the borrower (acting through its architect or engineer, if applicable) will prepare a report of the inspection and testing, obtain a copy of the report from its architect or engineer, and submit a copy to the contractor. This report must include a detailed description of the methods of conducting the test(s), observed data, comparison of guaranteed and actual performance, and recommendations concerning acceptance. The borrower will obtain from its architect or engineer a written certification stating that the equipment has been installed, placed in satisfactory operation and tested, and meets the contract requirements. Where more than one-hundred and eighty (180) days have elapsed since the delivery of the equipment and the equipment has not been installed or tested, the contract may be closed out upon certification by its architect or engineer that the equipment has been inspected and appears to be in accordance with the contract requirements.

(b) *Final inspection of construction.* The borrower will require the contractor to notify the architect or engineer when construction is complete. The borrower (acting through the architect or engineer, if applicable) will schedule such final inspection at a time mutually agreeable to the borrower, architect or engineer, contractor, and the respective RUS General Field Representative (GFR), if the GFR has notified the borrower or its architect or engineer of a desire to observe the final inspection. The borrower (acting through its architect or engineer, if applicable) will perform a final inspection of the construction and notify the contractor of any required changes or corrections.

(c) *Closeout documents.* (1) Upon satisfactory completion of construction (including all changes and corrections by the contractor), the borrower (acting through its architect or engineer, if applicable) will obtain executed copies of the following documents:

(i) RUS Form 187, Certificate of Completion, Contract Construction.

(ii) RUS Form 213, "Buy American" certificate.

(iii) RUS Form 224, Waiver and Release of Lien, from each manufacturer, supplier, and contractor which has furnished material or services or both in connection with the construction.

(iv) RUS Form 231, Certificate of Contractor.

(v) RUS Form 254, Construction Inventory, including all supporting documents, such as RUS Forms 254a-c, construction change orders, and amendments for contracts executed on RUS Form 830.

(vi) Certification by the project architect or engineer in accordance with § 1726.403(a), if applicable.

(vii) Final design documents, as outlined in part 1724 of this chapter.

(2) *Distribution of closeout documents.*

(i) The borrower will retain one copy of each of the documents identified in paragraph (c)(1) of this section in accordance with applicable RUS requirements regarding retention of records.

(ii) For contracts subject to RUS approval, the borrower will submit the following closeout documents for RUS approval (through the GFR except for generation projects):

(A) RUS Form 187, Certificate of Completion, Contract Construction.

(B) RUS Form 231, Certificate of Contractor.

(C) RUS Form 254, Construction Inventory, including all supporting documents, such as RUS Forms 254a-c and construction change orders, for contracts executed on RUS Form 830.

(iii) For contracts not subject to RUS approval, the closeout is not subject to RUS approval. The borrower will send one copy of RUS Form 187 to RUS for information prior to or in conjunction with the applicable RUS Form 219, Inventory of Work Orders. The remaining closeout documents need not be sent to RUS unless specifically requested by RUS.

(d) *Final payment.* (1) The borrower will make final payment to the contractor upon completion of approval of all closeout documents by the parties to the contract, in accordance with the terms of the construction contract.

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(2)(i) Upon receipt of final payment by the contractor, the borrower will obtain from the contractor a certification of receipt of final payment in the following form:

“The undersigned acknowledges receipt of the final contract payment of \$___ as satisfaction in full of all claims of the undersigned under the construction contract between the undersigned and ___ (borrower), dated as amended, and as complete performance by the latter of all obligations to be performed by it pursuant thereto. The total amount received under this contract is shown above.”

(ii) The certification in paragraph (d)(2)(i) of this section is to be executed for the contractor by: the sole owner, a partner, or an officer of the corporation. Where this certification is executed for the corporation by a person other than the president, a certified copy of the authorization from the corporate board must be included with the certification. This certification is not a replacement for itemized invoices.

[60 FR 10155, Feb. 23, 1995, as amended at 69 FR 7110, Feb. 13, 2004]

§ 1726.404 Non-site specific construction contract closeout.

This section is applicable to contracts executed on RUS Form 790.

(a) *Final test of equipment supplied under a construction contract.* If equipment is supplied under a construction contract, the borrower (acting through its engineer, if applicable) will perform the final inspection and testing of equipment as appropriate for the specific equipment. The borrower (acting through its engineer, if applicable) will schedule such inspection and testing at a time mutually agreeable to the borrower, its engineer, and the contractor. Within thirty (30) days after completion of the inspection and testing, the borrower (acting through its engineer, if applicable) will prepare a report of the inspection and testing, obtain a copy of the report from its engineer, and submit a copy to the contractor. This report must include a detailed description of the methods of conducting the test(s), observed data, comparison of guaranteed and actual performance, and recommendations concerning acceptance. The borrower will obtain from the engineer a written certifi-

cation stating that the equipment has been installed, placed in satisfactory operation and tested, and meets the contract requirements. Where more than one-hundred and eighty (180) days have elapsed since the delivery of the equipment and the equipment has not been installed or tested, the contract may be closed out upon certification by the engineer that the equipment has been inspected and appears to be in accordance with the contract requirements.

(b) *Final inspection of construction.* The borrower will require the contractor to notify its engineer when construction of a section of the project is complete. The borrower (acting through its engineer, if applicable) will schedule such final inspection at a time mutually agreeable to the borrower, its engineer, contractor, and the respective GFR, if the GFR has notified the borrower or its engineer of a desire to observe the final inspection. The borrower (acting through its engineer, if applicable) will perform a final inspection of the construction of that section of the project and notify the contractor of any required changes or corrections.

(c) *Closeout documents.* (1) Upon satisfactory completion of construction of a section of the project (including all changes and corrections by the contractor), the borrower (acting through its engineer, if applicable) will obtain executed copies of the following documents:

(i) RUS Form 792b, Certificate of Contractor and Indemnity Agreement

(ii) RUS Form 213, “Buy American” certificate.

(iii) Certification by the project engineer in accordance with paragraph (a) of this section, if applicable.

(iv) Final design documents, as outlined in part 1724 of this chapter.

(2) *Distribution of closeout documents.*

(i) The borrower will retain one copy of each of the documents identified in paragraph (c)(1) of this section in accordance with applicable RUS requirements regarding retention of records.

(ii) For contracts not subject to RUS approval, the closeout is not subject to