

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1726

Revision of Electric Program Standard Contract Forms

AGENCY: Rural Utilities Service, USDA.

ACTION: Advanced Notice of Proposed Rulemaking.

SUMMARY: The Rural Utilities Service (RUS) requires borrowers to use standard forms of contracts promulgated by RUS when contracting for construction, procurement, engineering services, or architectural services financed through loans made or guaranteed by RUS, in accordance with applicable RUS regulations. RUS is planning to update, consolidate, and streamline the standard forms of contracts used for construction and procurement.

DATES: Written comments must be received by RUS, or bear a postmark or equivalent, no later than November 16, 1998.

ADDRESSES: Written comments should be addressed to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, Stop 1522, 1400 Independence Avenue, SW., Washington, DC 20250-1522. Telephone: (202) 720-9550. RUS requires a signed original and three copies of all comments (7 CFR 1700.4). Comments will be available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Fred J. Gatchell, Deputy Director, Electric Staff Division, Rural Utilities Service, U.S. Department of Agriculture, Stop 1569, 1400 Independence Ave., SW., Washington, DC 20250-1569. Telephone: (202) 720-1398. FAX: (202) 720-7491. E-mail: fgatchel@rus.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The standard loan agreement between RUS and its electric borrowers provides that, in accordance with applicable RUS regulations, the borrower shall use standard forms of contracts promulgated by RUS for construction, procurement, engineering services, and architectural services financed by a loan made or guaranteed by RUS. RUS also publishes forms of contracts which serve as guidance to borrowers and which borrowers may use at their discretion. RUS is planning to update, consolidate, and streamline the standard forms of contracts used for construction and procurement. The forms included in this effort are:

Primary Contract Forms

1. RUS Form 198, Rev. 2-95, Equipment Contract. This form is used for equipment purchases.
2. RUS Form 200, Rev. 2-95, Construction Contract—Generating. This form is used for generating plant construction or for the furnishing and installation of major items of equipment.
3. RUS Form 201, Rev. 2-95, Right-of-Way Clearing Contract. This form is used for distribution line right-of-way clearing work, which is to be performed separate from line construction.
4. RUS Form 203, Rev. 2-95, Transmission System Right-of-Way Clearing Contract. This form is used for transmission right-of-way clearing work, which is to be performed separate from line construction.
5. RUS Form 257, Rev. 2-95, Contract to Construct Buildings. This form is used to construct headquarters buildings and other structure construction.
6. RUS Form 764, Rev. 2-95, Substation and Switching Station Erection Contract. This form is used to construct substations and switching stations.
7. RUS Form 786, Rev. 2-95, Electric System Communications and Control Equipment Contract. This form is used for delivery and installation of equipment for system communications.
8. RUS Form 790, Rev. 2-95, Distribution Line Extension Construction Contract (Labor and Materials). This form is used for limited distribution construction accounted for under work order procedure.
9. RUS Form 792, Rev. 2-95, Distribution Line Extension Construction Contract (Labor Only). This form is used for limited distribution construction accounted for under work order procedure.
10. RUS Form 830, Rev. 2-95, Electric System Construction Contract (Labor and Materials). This form is used for distribution and transmission line project construction.
11. RUS Form 831, Rev. 2-95, Electric Transmission Construction Contract (Labor and Materials). This form is used for transmission line project construction.

Other Contract Forms

1. RUS Form 168b, Rev. 2-95, Contractor's Bond. This form is used to obtain a surety bond and is included in RUS Forms 200, 201, 203, 257, 764, 786, 790, 792, 830, and 831.
2. RUS Form 168c, Rev. 2-95, Contractor's Bond (less than \$1 million). This form is used in lieu of RUS Form 168b to obtain a surety bond when contractor's surety has accepted a Small Business Administration guarantee.
3. RUS Form 180, Rev. 2-95, Construction Contract Amendment. This form is used to amend distribution line construction contracts.
4. RUS Form 181, Rev. 2-95, Certificate of Completion, Contract Construction for Buildings. This form is used for the closeout of RUS Form 257.
5. RUS Form 187, Rev. 2-95, Certificate of Completion, Contract Construction. This form is used for the closeout of and is included in RUS Forms 200, 203, 764, 786, 830, and 831.
6. RUS Form 213, Rev. 2-95, Certificate ("Buy American"). This form is used to document compliance with the "Buy American" requirement.
7. RUS Form 224, Rev. 2-95, Waiver and Release of Lien. This form is used for the closeout of and is included in RUS Forms 200, 203, 764, 786, 830, and 831.
8. RUS Form 231, Rev. 2-95, Certificate of Contractor. This form is used for the closeout of and is included in RUS Forms 200, 203, 764, 786, 830, and 831.
9. RUS Form 238, Rev. 2-95, Construction or Equipment Contract Amendment. This form is used to amend contracts except distribution line construction contracts.
10. RUS Form 251, Rev. 2-95, Material Receipt. This form is used to document receipt of owner furnished

materials and is included in RUS Forms 764, 830, and 831.

11. RUS Form 254, Rev. 2-95, Construction Inventory. This form is used for the closeout of RUS Forms 203, 764, 830, and 831. This form is available from RUS.

12. RUS Form 307, Rev. 2-95, Bid Bond. This form is used to obtain a bid bond and is included in RUS Forms 200, 203, 257, 764, 830, and 831.

13. RUS Form 792b, Rev. 2-95, Certificate of Construction and Indemnity Agreement. This form is used for the closeout of and is included in RUS Forms 201, 790, 792.

14. RUS Form 792c, Rev. 2-95, Supplemental Contract for Additional Project. This form is used to amend and is included in RUS Forms 201, 790, 792.

Guidance Forms

1. RUS Form 172, Rev. 9-58, Certificate of Inspection, Contract Construction. This form is used to notify RUS that construction is ready for inspection.

2. RUS Form 173, Rev. 3-55, Materials Contract. This form is used for distribution, transmission, and general plant material purchases.

3. RUS Form 274, Rev. 6-81, Bidder's Qualifications. This form is used to document bidder's qualifications.

4. RUS Form 282, Rev. 11-53, Subcontract. This form is used for subcontracting.

5. RUS Form 458, Rev. 3-55, Materials Contract. This form is used to obtain generation plant material and equipment purchases not requiring acceptance tests at the project site.

Our plans for revising and updating these forms include:

1. Eliminate unneeded forms. This would include merging the Form 181 into the Form 187, merging the Form 180 into the Form 238, merging the Form 201, 203, and 764 into the Form 830, and eliminating Forms 181, 180, 201, 203, and 764. We are also considering eliminating infrequently used guidance forms (Forms 172, 173, 274, 282, and 458.)

2. Make forms suitable for "subject to" or "not subject to" RUS approval. This would include merging the Form 831 into the Form 830 and eliminating Form 831.

3. Make construction contract forms suitable for "labor only" or "labor and material." This would include merging the Form 792 into the Form 790 and eliminating Form 792.

4. Standardize tables and information pages and incorporate them as separate attachments. We are considering publishing the "Construction Units" pages as a separate bulletin. This would

allow the borrower to include in the bid package only those construction unit pages that are relevant to a particular project.

5. Maximize consistency among forms. This would include standardizing common provisions and terminology, and adding a "Notice and Instructions to Bidders" to forms not having one.

6. Include an estimated or base quantity provision in unit price contract forms.

7. Add a provision regarding assignment of the contract to RUS.

8. Update and clarify contract provisions as necessary. This would include:

a. Clarifying that the contractor (not the owner or engineer) is solely responsible for the means and methods of construction and for the supervision of the contractor's employees.

b. Deleting the reference to a "Supervisor" appointed by RUS.

c. Delete the reference to the loan contract and owner's access to funding.

d. Deleting the option for eliminating retainage after the contract is 50 percent complete.

e. Updating the "Buy American" requirement.

f. Eliminating gender specific terms (him, his, materialmen, etc.)

RUS invites comments from the public about our plans to update, consolidate, and streamline the standard forms of contracts listed above. We are specifically interested in comments on the following questions:

- Are the guidance forms used often or should they be eliminated?
- Are there provisions in the contract forms that should be updated (in addition to the provisions indicated above)?
- Does the proposed revision/consolidation plan meet the needs of most borrowers?

Dated: September 9, 1998.

Inga Smulkstys,

Acting Under Secretary, Rural Development.

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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1755

RIN 0572-AB41

Telecommunications System Construction Contract and Specifications

AGENCY: Rural Utilities Service, USDA.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: The Rural Utilities Service (RUS) is considering possible revisions that may be desirable in form and content of RUS Contract Form 515, Telephone System Construction Contract. This action will amend the Telephone System Specifications which include RUS Bulletin 345-150, Specifications and Drawings for Construction of Direct Buried Plant (Form 515a); RUS Bulletin 345-151, Specifications and Drawings for Conduit and Manhole Construction (Form 515c); RUS Bulletin 345-152, Specifications and Drawings for Underground Cable Installation (Form 515d); RUS Bulletin 345-153, Specifications and Drawings for Construction of Pole Lines, Aerial Cables and Wires (Form 515f); and RUS Bulletin 345-154, Specifications and Drawings for Service Entrance and Station Protector Installation (Form 515g). Changes to the Telephone System Construction Contract and Specifications will incorporate the latest technology, remove redundant or outdated requirements, and simplify the specification format.

DATES: Written comments must be received by RUS, or bear a postmark or equivalent, no later than December 15, 1998.

ADDRESSES: Comments should be mailed to Charlie I. Harper, Jr., Chief, Outside Plant Branch, Telecommunications Standards Division, Rural Utilities Service, STOP 1598, United States Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250-1598. RUS requests an original and three copies of all comments (7 CFR part 1700.4). All comments received will be available for public inspection at room 2835 South Building (above address) during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Charlie I. Harper, Jr., Chief, Outside Plant Branch, Telecommunications Standards Division, Rural Utilities Service, STOP 1598, United States Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250-1598. Telephone: (202) 720-0680. Fax: (202) 720-4099.

SUPPLEMENTARY INFORMATION: The Telephone System Construction Contract and Specifications are used by borrowers of RUS funds to secure the services of a contractor for the construction of telecommunications facilities. The present form of the contract and specifications has not been