

UNITED STATES DEPARTMENT OF AGRICULTURE
Rural Utilities Service

BULLETIN 1780-26

SUBJECT: **Guidance for the Use of EJCDC Funding Agency Edition Documents on Water and Waste Projects with RUS Financial Assistance**

TO: Rural Development State Directors, RUS Program Directors, and State Engineers

EFFECTIVE DATE: Date of approval.

OFFICE OF PRIMARY INTEREST: Environmental and Engineering Staff, Water and Environmental Programs

INSTRUCTIONS: This bulletin replaces RUS Bulletin 1780-26, dated December 16, 1997. For projects initiated prior to the effective date of this bulletin, agreements for engineering services and construction contract documents approved under the previous bulletin will be considered acceptable until the project is completed.

AVAILABILITY: This bulletin and all the exhibits, as well as any Rural Development instruction or Rural Utilities Service instructions, regulations, or forms referenced in this bulletin are available at any Rural Development State Office. The State Office staff is familiar with the use of the documents in their States and can answer specific question on Agency requirements.

This bulletin is available on the Rural Utilities Service website at www.usda.gov/rus/water.

PURPOSE: This bulletin assists Rural Development staff in providing information and guidance to applicants and professional consultants in the development of engineering agreements and construction contract documents that are legally sufficient, ensure appropriate services are provided for a reasonable fee, and expedite the achievement of the applicant's goals.

MODIFICATIONS: Rural Development State Offices may modify this guidance when appropriate to comply with State statutes. For reference, the State Office will submit an electronic file containing any modifications and a justification for changes to the Assistant Administrator for Water and Environmental Programs.



Water and Environmental Program

September 10, 2003

Date

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ABBREVIATIONS

CFR – Code of Federal Regulations
 EJCDC – Engineers Joint Contract Documents Committee
 EO – Executive Order
 PER – Preliminary Engineering Report
 PL – Public Law
 USC – United States Code

The EJCDC documents and this bulletin contain references to the USC, the CFR, EO, and PL. The current versions of the referenced documents are available over the Internet.

Type of Document	Web Site URL
USC	uscode.house.gov/usc.htm
CFR	www.access.gpo.gov/nara/cfr
EO	www.whitehouse.gov/news/orders (Only partial list, others being added periodically)
PL	thomas.loc.gov/bss/bdquery.html#laws

Guidance for the Use of EJCDC Funding Agency Edition Documents on Water and Waste Projects with RUS Financial Assistance

Rural Utilities Service
September 2003

1 GENERAL

The United States Department of Agriculture, Rural Utilities Service (RUS) and the Engineers Joint Contract Documents Committee (EJCDC) have developed a Funding Agency Edition of selected standard documents as follows:

- a. Standard Form of Agreement between Owner and Engineer for Professional Services, Funding Agency Edition (EJCDC No. E-510, including Exhibits A through J, 2002 Edition),
- b. Suggested Form of Agreement between Owner and Contractor on the Basis of Stipulated Price, Funding Agency Edition (EJCDC No. C-521, 2002 Edition), and
- c. Standard General Conditions of the Construction Contract, Funding Agency Edition (EJCDC No. C-710, 2002 Edition).

When these documents are properly coordinated with standard documents in the EJCDC set of Construction Related Documents, the documents are acceptable for use by RUS applicants and borrowers in the procurement of engineering professional services and utility construction services for projects with financial assistance under the Water and Waste programs.

2 AVAILABILITY

The EJCDC documents are available from any of the sponsoring organizations: the National Society of Professional Engineers (www.nspe.org or 1-800-417-0348), American Council of Engineering Companies (www.acec.org or 1-202-347--7474), or American Society of Civil Engineers (www.asce.org or 1-800-548-2723). RUS offices will not distribute EJCDC documents for any purpose other than training or to illustrate the appropriate use of the integrated set of documents on RUS financially assisted projects.

Any utility or consulting engineer that is anticipating funding all or part of a water or waste improvement project with financial assistance from RUS should contact the USDA, Rural Development State Office for guidance before executing a professional services agreement or preparing a set of construction contract documents. The RUS Water and Waste programs are delivered through the USDA, Rural Development offices.

Any Rural Development or RUS instructions, regulations, or forms referenced in this bulletin are available from any Rural Development State Office. Typical forms to be used are:

- a. Compliance Statement (RD 400-6).
- b. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions (AD-1048).
- c. RD Instruction 1940-Q, Exhibit A-1, Certification for Contracts, Grants, and Loans.

The RUS National Office maintains a web site for Water and Environmental Programs at www.usda.gov/rus/water. In addition to other valuable information, this site provides a listing of all the Rural Development State Offices (State Staff), the capability to download a copy of Bulletin 1780-26 and the Exhibits in a MS Word format (Regulations/Bulletins), and copies of most Rural Development and RUS forms (Forms).

3 PURPOSE

This bulletin on the use of the EJCDC documents is to be used by Rural Development staff in providing information and guidance to applicants and professional consultants in the development of agreements that are legally sufficient, ensure appropriate services are provided for a reasonable fee, and expedite the achievement of the applicant's goals. Many of the EJCDC standard forms must be used with the Funding Agency Editions of the agreements to develop a complete set of construction contract documents. This guidance package consists of exhibits that can assist with the integration of those standard documents with the Funding Agency Edition documents. However, the guidance or model documents in these exhibits are not to be used as a substitute for the careful evaluation of the requirements for a project. The owner, their engineer and legal counsel, with Rural Development consultation, must determine the best approach for a successful outcome.

4 OWNER RESPONSIBILITY

Before an applicant or consultant proceeds with the development of an agreement or a set of construction contract documents, they should contact the Rural Development State Office to verify they have the most current information specific to the type of project and State where the project is located. Consultants may use these electronic files as the starting point in preparing a set of construction contract documents for a project. This bulletin and the exhibits are formatted for copying as a doubled sided document to reduce paper usage after the first computer printing.

The Owner is responsible for the settlement of all contractual and administrative issues arising out of procurement entered into in support of a loan or grant. These include, but are not limited to: source evaluation, protests, disputes, and claims. Matters concerning violations of laws are to be referred to the applicable local, State, or Federal authority.

Owner-Engineer Agreement Document List

The Rural Utilities Service (RUS) and the Engineers Joint Contract Documents Committee (EJCDC) have developed a Funding Agency Edition of the Owner-Engineer Agreement that when properly assembled is acceptable for use on water and waste projects funded by RUS. These documents are 2002 edition and should be used in coordination with the EJCDC construction related documents, Funding Agency Editions. The Exhibits referenced here were specifically drafted to be used with the Owner-Engineer Agreement, Funding Agency Edition and should not be mixed with Exhibits from the Standard Edition.

Because the EJCDC documents are fully integrated, when making a modification in one document you should ensure that appropriate modifications are made in all effected documents. It is RUS policy that the applicants use the EJCDC documents with minimal modification. However, RUS recognizes each project is unique and that modifications may be required to satisfy project requirements or State statutes.

For a Project that will not be clearly defined until the Preliminary Engineering Report (PER) is approved and fees for basic services are to be either a lump sum or hourly rates with a not to exceed limit, the Owner and Engineer may wait until the Project is defined in the approved PER to negotiate services and compensation for the Design and Construction Phases.

Before applicants or consultants proceed with the development of an agreement, they should contact the Rural Development State Office to verify they have the most current information specific to the type of project and State where the project is located.

This table provides a list of the component parts of a complete Owner-Engineer Agreement and RUS Notes on their use.

EJCDC Title	Form	RUS Notes: Necessary actions, important points
Standard Form of Agreement Between Owner and Engineer for Professional Services Funding Agency Edition	E-510 (02)	<ul style="list-style-type: none"> • Before an "Effective Date" is entered the Owner should consult with a Rural Development representative regarding funding requirements, appropriate services, and reasonable fees. • Insert Rural Utilities Service and names of other Federal or State funding agencies that will be concurring in the Agreement. • 4.01, If the Owner has specific invoicing requirements, those requirements should be outlined in Exhibit I, Special Provisions, as an amendment to this paragraph. • 8.02, This Agreement constitutes the entire agreement between Owner and Engineer for the Project. No agreements for additional compensation for services provided under this Agreement are permitted. • 8.04, Any additional Federal funding agency requirements should be outlined in Exhibit I, Special Provisions, as a supplement to this paragraph. • 8.05, State funding agency requirements not in conflict with Federal requirements should be outlined in Exhibit I, Special Provisions, as a new paragraph 8.05. • RUS funding can be used for payment of engineering services only after RUS has concurred in the agreement. • In addition to copies customarily provided for Owner, Engineer, and others, two executed copies with all Exhibits will be provided for Rural Development use.

EJCDC Title	Form	RUS Notes: Necessary actions, important points
Engineer's Services	E-510 Exhibit A (Required)	<ul style="list-style-type: none"> • A1.01.A.4, Insert number of alternatives or list of alternatives to be evaluated, but leave option to add any required by funding agencies. • A1.01.A.6, Typical tasks and deliverables are listed, but list should be reviewed and adjusted as appropriate. • A1.02.A.4, A1.03.A.4, A1.04.A.6, A1.05.A.19, and A1.06.A.5, Any unique tasks or deliverables not covered in the standard language must be added in the appropriate phase. • A1.06.B, The Engineer should provide a number of hours commensurate with the size and complexity of the project.
Owner's Responsibilities	E-510 Exhibit B (Required)	<ul style="list-style-type: none"> • Any of the listed responsibilities that have been moved to Exhibit A or are included in Additional Engineer's Services should be deleted here. • B2.01.R, Any unique tasks or deliverables not covered in the standard language must be added.
Payments to Engineer for Services and Reimbursable Expenses	E-510 Exhibit C (Must Select One Option)	<ul style="list-style-type: none"> • Rural Development State Staff, in consultation with an ad hoc coordination group of professional engineers familiar with RUS funded water and waste projects, may modify Exhibit C and appendixes to be consistent with state requirements and local practices that do not conflict with Federal requirements. • Compensation Decision Guide, The Owner and Engineer have several methods of compensation available. The choice of the method of compensation determines which Exhibit C Sheets must be part of the Agreement. Although no specific format is provided, the Owner and Engineer may negotiate a Lump Sum method of compensation for well defined tasks under Additional Services. • All Sheets, Each sheet requires items to be entered to make the document complete. The estimates of total compensation associated with Standard Hourly Rates method of compensation are required for project budgeting. • Sheet C-8, Reimbursable expenses are included in the amount stated in C2.04.A.1. • Be specific about fees for providing PER and Environmental Report. • The Owner and Engineer may wait until the Project is defined in the approved PER to negotiate services and compensation for the Design and Construction Phases. • Be specific about fees regarding bidding and advertising multiple construction contracts and change order adjustments of contract amount and time.
Reimbursable Expenses Schedule	E-510 Exhibit C, Appendix 1 (Required when any reimbursable expenses are not part of basic fees)	<ul style="list-style-type: none"> • This suggested format will normally be replaced by the Engineer's standard schedule. • Note that agreement provides for rates to be adjusted annually. Budget for expenses at time of service. Revised rates should be submitted to State Engineer for approval prior to implementation.

EJCDC Title	Form	RUS Notes: Necessary actions, important points
Standard Hourly Rates Schedule	E-510 Exhibit C, Appendix 2 (Required when any Standard Hourly Rates method of compensation is selected)	<ul style="list-style-type: none"> • This suggested format will normally be replaced by the Engineer's standard schedule. • Note that agreement provides for rates to be adjusted annually. Budget for expenses at time of service. Revised rates should be submitted to State Engineer for approval prior to implementation.
Duties, Responsibilities, and Limitations of Authority of Resident Project Representative	E-510 Exhibit D (Required)	<ul style="list-style-type: none"> • Required if Engineer provides this service • A similar document outlining duties, responsibilities and limitations of authorities must be used if others provide service.
Notice of Acceptability of Work	E-510 Exhibit E (Required)	<ul style="list-style-type: none"> • Executed copy will be provided to Rural Development at Project final inspection.
Construction Cost Limit	E-510 Exhibit F (Optional)	<ul style="list-style-type: none"> • If Owner has strict budgetary limitations, this Exhibit assigns Engineer more responsibility for cost control.
Insurance	E-510 Exhibit G (Required)	<ul style="list-style-type: none"> • The purpose of this Exhibit is two fold: a) disclosure of insurance coverages by each party, and b) confirmation of each party's insurance requirements for this Agreement. Owner and Engineer are not required to carry each type of insurance listed. • Owner should review and update insurance coverage where necessary to maintain adequate protection during construction period. • Owner should consider requiring Engineer to carry comparable types of coverage and limits Owner is carrying. • The default condition is that the contractor is required to provide "all risk" builders risk insurance coverage. If the Work is modifying existing facilities, the Owner may consider providing the property damage builders risk insurance. This requires a modification of General Conditions
Dispute Resolution	E-510 Exhibit H (Optional)	<ul style="list-style-type: none"> • Use only if it is desirable to settle disputes using a process other than the court system. • Sample entries for blanks: <ul style="list-style-type: none"> A. Name a specific mediator or mediation service/agency i.e. American Arbitration Association. B. Name a specific arbitration service/organization i.e. American Arbitration Association. B.1. Same as entry in B. B.2. Insert appropriate dollar amounts e.g. \$50,000.
Special Provisions	E-510 Exhibit I (Optional)	<ul style="list-style-type: none"> • Use only if specific modifications are required by State statute or unique project requirements. • Follow document format.
Amendment to Owner-Engineer Agreement	E-510 Exhibit J (Required)	<ul style="list-style-type: none"> • Exhibit J is not a critical part of the initial Agreement, but is the agreed format for amending the Agreement.

**Owner's Instructions Regarding Bidding Procedures And
Construction Contract Documents**

The Rural Utilities Service (RUS) and the Engineers Joint Contract Documents Committee (EJCDC) have developed Funding Agency Editions of specific documents that are acceptable for use as the foundation of the Construction Contract Documents on water and waste projects funded by RUS. This exhibit is adapted from EJCDC No. C-050 (2002 edition) and is provided to indicate RUS requirements and recommendations in preparation of the Construction Contract Documents and to expedite the entire process of preparing for the project construction. RUS recognizes each project is unique and that modifications may be required to satisfy specific project requirements or State statutes.

This exhibit is a model letter that the Owner and Engineer can use to delineate the issues and conclusions reached by the Owner and Engineer before preparing documents. The Owner and their Engineer should collaborate in the development of this or a similar document in consultation with the Owner's legal counsel before the Engineer begins development of the Construction Contract Documents.

Text enclosed in {} indicates a choice is necessary or information should be inserted.

PROJECT: *{Insert name}*

OWNER: *{Insert name}*

TO: *{Insert Engineer's name}*

CC: USDA, Rural Development

You are hereby instructed to proceed with preparation of necessary Bidding Requirements and Contract Documents on the basis of the advice and information given below or provided in attachments. This letter is to confirm decisions made and does not change any relationships or assignment of responsibilities established in the Owner-Engineer Agreement.

1. Project name to be used: *{Insert name, if other than above}*

2. Legal name and address of the Owner for construction contract purposes: *{Insert Owner's legal name and address}*

3. Form of Owner's organization: ___Not-for-Profit Corporation ___Municipality ___Utility District ___County ___Township ___Tribe.

4. Detailed description of property, including designation of property owner if different from the Owner identified above: *{Insert detailed description of property}*

5. During the Construction Phase, Owner's Representative (point of contact) will be: *{Insert name}*

6. The Project will be constructed utilizing: *{Single/Multiple}* contract{s}, stipulated sum *{, Portions of construction by Owner's own forces, Other (specify)}*.

7. The method of selecting the Contractor(s) shall be open and competitive.

8. If multiple contracts are to be utilized on the same site, the activities of the Contractors will be coordinated by a designated prime contractor.

9. The Bidding Documents, Contract Forms, and General Conditions will be as follows:

- a. Advertisement (RUS B1780-26, Exhibit D).
- b. Instructions to Bidders (RUS B1780-26, Exhibit E). Will clearly define process for determining lowest responsive, responsible bidder.
- c. Bid Form (RUS B1780-26, Exhibit F). Base bid with alternative deducts format will not be used.
- d. Bid Bond shall be EJCDC No. C-430 (2002 Edition)
- e. Notice of Award shall be EJCDC No. C-510 (2002 Edition).
- f. Agreement between Owner and Contractor(s) shall be EJCDC No. C-521 (2002 Edition)
- g. General Conditions shall be EJCDC No. C-710 (2002 Edition).
- h. Supplementary Conditions (RUS B1780-26, Exhibit G).
- i. Performance Bond shall be EJCDC No. C-610 (2002 Edition).
- j. Payment Bond shall be EJCDC No. C-615 (2002 Edition).
- k. Application for Payment shall be EJCDC No. C-620 (2002 Edition).
- l. Change Order shall be EJCDC No. C-941 (2002 Edition).
- m. Notice to Proceed shall be EJCDC No. C-550 (2002 Edition).
- n. Certificate of Substantial Completion shall be EJCDC No. C-625 (2002 Edition).

10. Development of Supplementary Conditions of the Contract prior to bidding will be discussed and reviewed with Owner's Representative.

11. Entire package of Bidding Documents must be submitted to Rural Development for review and approval obtained prior to beginning advertisement for bids. No changes will be made after Rural Development approval without concurrence.

12. Contractor's applications for payment will be paid by the {20th} day of each month. The Application for Payment will be based on EJCDC No. C-620 (2002 Edition) with Funding Agency signature.

13. Interest on late contractor payments will be paid at the rate of {8}% per annum (see C-521, article 7.01).

14. For Item 12 above to apply, applications for payment must be received by Owner 10 days before payment is due. Funding Agency must approve all contractor applications for payment.

15. Retainage will be as stated in Owner-Contractor Agreement (EJCDC No. C-521). Retainage can not be paid to contractor prior to Substantial Completion, nor can the retainage be invested for contractor's benefit.

16. Liquidated Damages are required in each construction contract.

Owner's records for calculation of liquidated damages amount for each calendar day required to (calculate separately for each contract):

	Achieve Substantial Completion	Readiness for Final Payment (Optional)
Interest	_____	_____
Inspection	_____	_____
Administration	_____	_____
Engineering	_____	_____
Impact on other Contractors	_____	_____
Other	_____	_____
TOTAL	_____	_____

16. Special Instructions to Bidders regarding Site visits are as follows: *{Insert visit instructions or N/A}*

17. Bid Form shall be prepared by Engineer and based on RUS B1780-26, Exhibit F.
18. Bids shall be solicited by Public Advertisement, Arranged by *{Owner/Engineer}*. Actions will be taken to encourage small, minority, and woman-owned businesses to participate in Project. Publications may include: local and regional newspapers, builders exchange, etc. *{Add places where construction is normally advertised in specific States and where small, minority, and woman-owned businesses obtain bid information.}*
19. Instructions, if any, on the method of selection or qualification of Bidders: *{Insert special selection method or N/A}*
20. Bid Security is required, in the amount of 5% of the total Bid in the form of a Bid Bond using EJCDC No. C-430 (2002 Edition) or Certified Check.
21. Copies of the Bidding Documents may be made available in plan rooms: *{Selected by Engineer}*.
22. Date and time for receipt of Bids will be determined later by Owner and Engineer, with Rural Development concurrence.
23. Place of receipt of Bids will be *{determined by Owner and Engineer}*.
24. Detailed bid tabulation forms will be prepared by Engineer.
25. Bids shall be publicly opened and read aloud.
26. In addition to the usual original signed Bid, the Owner requires the following (See RUS Bulletin 1780-26, Exhibit F): *{Insert any additional requirements or N/A}*
27. Bids shall not be withdrawn by Bidders for 60 days after the receipt of Bids.
28. Before a Contract is awarded, all Funding Agencies must concur prior to announcement of award. Construction at the site by the Contractor may commence upon, but not before, receipt of a Notice to Proceed.
29. Work shall be substantially complete *{_____}* calendar days after Contract Times commence to run.
30. The Change Order will be based on EJCDC No. C-941 (2002 Edition) with Funding Agency signature. Funding Agency must approve all Change Orders.
31. Special instructions are attached for the following items:
 - {Archeological/Environmental mitigation conditions}*
 - Equal opportunity requirements*
 - Lien waivers*
 - Limited access during bidding*
 - Limited access during construction*
 - Maintaining operations of existing facilities*
 - Milestones (interim)*
 - Monthly affidavits*
 - Other contracts, not in this project*
 - Phased occupancy*
 - Phasing or Sequencing of specific elements of the Work*
 - Pre-bid conference*
 - Schedule of completion*
 - Separate contracts in this project*

Site security requirements

Special time periods during which Contractor cannot perform construction

Tax exemptions

Wage standards or determinations, to which Contractor must conform (check with Rural Development)

Work by Owner's own forces

Other (specify)}

Owner:

By: _____

Date: _____

Phone: _____

Fax: _____

E-mail: _____

Owner-Contractor Agreement Document List

The Rural Utilities Service (RUS) and the Engineers Joint Contract Documents Committee (EJCDC) have developed Funding Agency Editions of the Owner-Contractor Agreement and the General Conditions that when properly assembled with other Standard Edition construction related documents is acceptable for use as the foundation of the Construction Contract Documents on water and waste projects funded by RUS. These Funding Agency Edition documents are 2002 edition. The other forms referenced here are part of the EJCDC set of Construction Related Documents, Standard Edition. Therefore, these forms may require minor modifications before use with the Funding Agency Editions.

Because the EJCDC documents are fully integrated, when making a modification in one document you should ensure that appropriate modifications are made in all effected documents. It is the Rural Utilities Service (RUS) policy that the applicants use the EJCDC documents with minimal modification. However, RUS recognizes each project is unique and that modifications may be required to satisfy specific project requirements or State statutes that do not conflict with federal statutes or regulations.

Before applicants or consultants proceed with the development of a set of contract documents, they should contact the Rural Development State Office to verify they have the most current information specific to the type of project and State where the project is located.

It is customary that project signs identifying the Owner, Contractor, Engineer, and Funding Agencies be displayed during project construction. The sign requirements are not included in the Supplementary Conditions, but should be a part of the specifications prepared by the Engineer. These sign requirements vary by State. Therefore, the Engineer should contact the Rural Development State Engineer for the specific requirements in the State where the project will be constructed. Multiple contractors or funding agencies may be listed on one project sign.

To eliminate unnecessary delays after Bid Opening, the full set of Construction Contract Documents must be submitted to Rural Development for review and acceptance before start of the Bidding or Negotiation process.

This table lists guidance documents and forms needed for compilation of a complete set of contract documents and RUS Notes on their use.

Title or Source	Form	RUS Notes: Necessary actions, important points
Advertisement Suggested Instructions to Bidders for Construction Contracts	C-200 (02)	<ul style="list-style-type: none"> • Use Exhibit D, Advertisement for Bids • Use Exhibit E, Instructions to Bidders. • One critical area that requires additional information is Article 14 - Basis of Bid, Evaluation of Bids. This information will vary whether bid is Lump Sum or Unit Price. If the Evaluation of Bids involves anything other than checking the contractor's qualifications and calculation of unit prices, such as additive alternates, life-cycle costs, etc., the evaluation process must be clearly stated (given the bid documents, a third party would identify the same Successful Bidder as the Engineer) in the Instructions to Bidders.

Title or Source	Form	RUS Notes: Necessary actions, important points
Suggested Bid Form for Construction Contracts	C-410 (02)	<ul style="list-style-type: none"> • Use Exhibit F, Bid Form. • All procurement transactions, regardless of whether by sealed bids or by negotiation and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition. Procurement procedures shall not restrict or eliminate competition. Examples of what are considered to be restrictive of competition include, but are not limited to: placing unreasonable requirements on firms in order for them to qualify to do business; noncompetitive practices between firms; organizational conflicts of interest; specifying only a brand name product instead of either allowing an equal product to be offered, or describing the performance of the relevant requirements of the procurement; and unnecessary experience and bonding requirements
Bid Bond	C-430 (02)	<ul style="list-style-type: none"> • Must be at least 5% of Bid amount.
Notice of Award	C-510 (02)	<ul style="list-style-type: none"> • Owner will not announce award of contract without consultation with Agency.
Suggested Form of Agreement Between Owner and Contractor (Stipulated Price) Funding Agency Edition	C-521 (02)	<ul style="list-style-type: none"> • Read Introduction and Notes to User within document and make appropriate modifications. • 4.03, The amount entered for liquidated damages should cover all the Owner's additional costs for the project not being operational: interest, professional fees, administrative costs, etc. (see Exhibit B, item 16 of this bulletin). • 7.01, Interest rate comparable to short term lending rate or State law. • In addition to copies customarily provided for Owner, Contractor, Engineer, and others, two executed copies will be provided for Rural Development use.
Standard General Conditions of the Construction Contract Funding Agency Edition	C-710 (02)	<p>Includes:</p> <ul style="list-style-type: none"> • Federal Requirements – Article 18. • Certificate of Owner's Attorney - Exhibit GC-A, to be completed by Owner's attorney prior to submittal to Rural Development for concurrence in Agreement.
Guide to the Preparation of Supplementary Conditions	C-800 (02)	<ul style="list-style-type: none"> • Use Exhibit G, Supplementary Conditions. • Special attention should be focused on the types and amounts of insurance, and those to be listed as additional insureds under paragraph 5.04. These should be reviewed for each project in terms of the specific conditions associated with that project and the risks involved, and then the paragraphs in the Supplementary Conditions drafted accordingly. RUS does not support unfair allocation of risk or the burden of excessive insurance coverage.
Performance Bond	C-610 (02)	<ul style="list-style-type: none"> • Must be full amount of Contract. • Surety must be listed in TC-570, have adequate bonding capacity, and be licensed to do business in the State where project is located.
Payment Bond	C-615 (02)	<ul style="list-style-type: none"> • Must be full amount of Contract. • Surety must be listed in TC-570, have adequate bonding capacity, and be licensed to do business in the State where project is located.

Title or Source	Form	RUS Notes: Necessary actions, important points
Application for Payment	C-620 (02)	<ul style="list-style-type: none"> • Must retain signature blocks for Owner’s Approval and Agency Concurrence. C-620 is pre-approved for use under 7 CFR 1780.76 (e). • It is anticipated that an attachment to the Application for Payment for the detailed tracking of quantities, materials stored, etc. will be developed by the Engineer and Contractor. • Work added by Change Order will not be considered for payment until Change Order has Agency Concurrence. • Quantity Completed on Final Application for Payment must equal final adjusted contract quantities on unit price contracts. • In addition to copies customarily provided for Owner, Contractor, Engineer, others, an executed copy with all attachments will be provided for Rural Development use.
Change Order	C-941 (02)	<ul style="list-style-type: none"> • Must retain signature block for Agency Concurrence. C-941 is pre-approved for use under 7 CFR 1780.76 (h) (2). • In addition to copies customarily provided for Owner, Contractor, Engineer, others, two executed copies will be provided for Rural Development use.
Notice to Proceed	C-550 (02)	<ul style="list-style-type: none"> • Executed copy will be provided to Rural Development.
Certificate of Substantial Completion	C-625 (02)	<ul style="list-style-type: none"> • Executed copy will be provided to Rural Development.

The following attachments are models that can be used as the starting point for preparing the actual Advertisement, Instructions to Bidders, Bid Form, and Supplementary Conditions for RUS funded water and waste projects. Any additions should follow the same format as the model document.

Text enclosed in {} indicates a choice is necessary or information must be inserted. This information must be provided and the {} eliminated prior to submittal to Rural Development for review.

Advertisement for Bids

Owner

Address

Separate sealed Bids for the construction of (briefly describe nature, scope, and major elements of the Work)

--

--

--

--

will be received by

at the office of

until _____, (Local Time) _____, _____(year), and then at said office publicly opened and read aloud.

The Contract Documents may be examined at the following locations:

--

--

--

Copies of the Contract Documents may be obtained at the Issuing Office, _____,

located at _____ upon payment of \$ _____ for each set.

Date

Instructions to Bidders

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ARTICLE 1 - DEFINED TERMS

- 1.01 Terms used in these Instructions to Bidders will have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below:
- A. Issuing Office--The office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.

ARTICLE 2 - COPIES OF BIDDING DOCUMENTS

- 2.01 Complete sets of the Bidding Documents in the number and for the deposit sum, if any, stated in the Advertisement for Bids may be obtained from the Issuing Office. The deposit will be refunded to each document holder of record who returns a complete set of Bidding Documents in good condition within 30 days after opening of Bids.
- 2.02 Complete sets of Bidding Documents must be used in preparing Bids; neither Owner nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 2.03 Owner and Engineer in making copies of Bidding Documents available on the above terms do so only for the purpose of obtaining Bids for the Work and do not confer a license or grant for any other use.

ARTICLE 3 - QUALIFICATIONS OF BIDDERS

3.01 To demonstrate Bidder's qualifications to perform the Work, within five days of Owner's request, Bidder shall submit written evidence such as financial data, previous experience, present commitments, and such other data as may be called for below.

{A. _____}

{B. _____}

{If a bidder's qualification form is to be completed and submitted by bidders, it should be listed here and included in the Project Manual. AGC Document No. 220, "Construction Contractor's Qualification Statement for Engineered Construction," may be used.}

ARTICLE 4 - EXAMINATION OF BIDDING DOCUMENTS, OTHER RELATED DATA, AND SITE

4.01 Subsurface and Physical Conditions

A. The Supplementary Conditions identify:

1. Those reports of explorations and tests of subsurface conditions at or contiguous to the Site that Engineer has used in preparing the Bidding Documents.
2. Those drawings of physical conditions in or relating to existing surface and subsurface structures at or contiguous to the Site (except Underground Facilities) that Engineer has used in preparing the Bidding Documents.

B. Copies of reports and drawings referenced in paragraph 4.01.A will be made available by Owner to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the "technical data" contained therein upon which Bidder is entitled to rely as provided in paragraph 4.02 of the General Conditions has been identified and established in paragraph 4.02 of the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any "technical data" or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.

4.02 Underground Facilities

A. Information and data shown or indicated in the Bidding Documents with respect to existing Underground Facilities at or contiguous to the Site is based upon information and data furnished to Owner and Engineer by owners of such Underground Facilities, including Owner, or others.

4.03 Hazardous Environmental Condition

A. The Supplementary Conditions identify those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that ENGINEER has used in preparing the Bidding Documents.

B. Copies of reports and drawings referenced in paragraph 4.03.A will be made available by Owner to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the "technical data" contained therein upon which Bidder is entitled to rely as provided in paragraph 4.06 of the General Conditions has been identified and established in paragraph 4.06 of the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any "technical data" or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.

- 4.04 Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to subsurface conditions, other physical conditions and Underground Facilities, and possible changes in the Bidding Documents due to differing or unanticipated conditions appear in paragraphs 4.02, 4.03, and 4.04 of the General Conditions. Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to a Hazardous Environmental Condition at the Site, if any, and possible changes in the Contract Documents due to any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work appear in paragraph 4.06 of the General Conditions.
- 4.05 On request, Owner will provide Bidder access to the Site to conduct such examinations, investigations, explorations, tests, and studies as Bidder deems necessary for submission of a Bid. Bidder shall fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies. Bidder shall comply with all applicable Laws and Regulations relative to excavation and utility locates.
- 4.06 Reference is made to Article 7 of the Supplementary Conditions for the identification of the general nature of other work that is to be performed at the Site by Owner or others (such as utilities and other prime contractors) that relates to the Work contemplated by these Bidding Documents. On request, Owner will provide to each Bidder for examination access to or copies of Contract Documents (other than portions thereof related to price) for such other work.
- 4.07 It is responsibility of each Bidder before submitting a Bid to:
- A. Examine and carefully study the Bidding Documents, the other related data identified in the Bidding Documents, and any Addenda;
 - B. Visit the Site and become familiar with and satisfy Bidder as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work;
 - C. Become familiar with and satisfy Bidder as to all Federal, State, and local Laws and Regulations that may affect cost, progress, or performance of the Work;
 - D. Carefully study all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions, and (2) reports and drawings of Hazardous Environmental Conditions at the Site which have been identified in the Supplementary Conditions as provided in paragraph 4.06 of the General Conditions;
 - E. Obtain and carefully study (or accept consequences for not doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto;
 - F. Agree at the time of submitting its Bid that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its Bid for performance of the Work at the price(s) bid and within the times and in accordance with the other terms and conditions of the Bidding Documents;

- G. Become aware of the general nature of the work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents;
 - H. Correlate the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents;
 - I. Promptly give Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by Engineer is acceptable to Bidder; and
 - J. Determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work.
- 4.08 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Bidding Documents and applying any specific means, methods, techniques, sequences, and procedures of construction that may be shown or indicated or expressly required by the Bidding Documents, that Bidder has given Engineer written notice of all conflicts, errors, ambiguities, and discrepancies that Bidder has discovered in Bidding Documents and the written resolutions thereof by Engineer are acceptable to Bidder, and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

ARTICLE 5 - PRE-BID CONFERENCE

- 5.01 A pre-Bid conference will be held at { _____ } {a.m.}{p.m.} on { _____ } at { _____ }. Representatives of Owner and Engineer will be present to discuss the Project. Bidders are encouraged to attend and participate in the conference. Engineer will transmit to all prospective Bidders of record such Addenda as Engineer considers necessary in response to questions arising at the conference. Oral statements may not be relied upon and will not be binding or legally effective.

ARTICLE 6 - SITE AND OTHER AREAS

- 6.01 The Site is identified in the Bidding Documents. Easement for permanent structures or permanent changes in existing facilities are to be obtained and paid for by Owner unless otherwise provided in the Bidding Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment, or storage of materials and equipment to be incorporated in the Work are to be obtained and paid for by Contractor.

ARTICLE 7 - INTERPRETATIONS AND ADDENDA

- 7.01 All questions about the meaning or intent of the Bidding Documents are to be submitted to Engineer in writing. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by Engineer as having received the Bidding Documents. Questions received less than five days prior to the date for opening of Bids may not be answered. Only questions answered by Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- 7.02 Addenda may be issued to clarify, correct, or change the Bidding Documents as deemed advisable by Owner or Engineer.

ARTICLE 8 - BID SECURITY

- 8.01 A Bid must be accompanied by Bid security made payable to Owner in an amount of 5 % of Bidder's maximum Bid price and in the form of a certified check or a Bid bond (EJCDC No. C-430, 2002 Edition) issued by a surety meeting the requirements of paragraphs 5.01 and 5.02 of the General Conditions.
- 8.02 The Bid security of the Successful Bidder will be retained until such Bidder has executed the Contract Documents, furnished the required contract security and met the other conditions of the Notice of Award, whereupon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Contract Documents and furnish the required contract security within 15 days after the Notice of Award, Owner may annul the Notice of Award and the Bid security of that Bidder will be forfeited. The Bid security of other Bidders whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of seven days after the Effective Date of the Agreement or 61 days after the Bid opening, whereupon Bid security furnished by such Bidders will be returned.
- 8.03 Bid security of other Bidders whom OWNER believes do not have a reasonable chance of receiving the award will be returned within seven days after the Bid opening.

ARTICLE 9 - CONTRACT TIMES

- 9.01 The number of days within which, or the dates by which, the Work is to be substantially completed and ready for final payment are set forth in the Agreement.

ARTICLE 10 - LIQUIDATED DAMAGES

- 10.01 Provisions for liquidated damages are set forth in the Agreement.

ARTICLE 11 - SUBSTITUTE AND "OR-EQUAL" ITEMS

- 11.01 The Contract, if awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents, or "or-equal" materials and equipment as defined in paragraph 6.05 of the General Conditions, or those substitute materials and equipment approved by the Engineer and identified by Addendum. The materials and equipment described in the Bidding Documents establish a standard of required type, function and quality to be met by any proposed substitute or "or-equal" item. Request for Engineer's clarification of materials and equipment considered "or-equal" prior to the Effective Date of the Agreement must be received by the Engineer at least 5 days prior to the date for receipt of Bids. No item of material or equipment will be considered by Engineer as a substitute unless written request for approval has been submitted by Bidder and has been received by Engineer at least 15 days prior to the date for receipt of Bids. Each request shall conform to the requirements of paragraph 6.05 of the General Conditions. The burden of proof of the merit of the proposed item is upon the Bidder. Engineer's decision of approval or disapproval of a proposed item will be final. If Engineer approves any proposed substitute item, such approval will be set forth in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner.

ARTICLE 12 - SUBCONTRACTORS, SUPPLIERS, AND OTHERS

- 12.01 If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, individuals, or entities to be submitted to Owner in advance of a specified date prior to the Effective Date of the Agreement, the apparent Successful Bidder, and any other Bidder so requested, shall within five days after Bid opening, submit to Owner a list of all such Subcontractors, Suppliers, individuals, or entities proposed for those portions of the Work for which such identification is required. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, individual, or entity if requested by Owner. If Owner or Engineer, after due investigation, has reasonable objection to any proposed Subcontractor, Supplier,

individual, or entity, Owner may, before the Notice of Award is given, request apparent Successful Bidder to submit a substitute, without an increase in the Bid.

- 12.02 If apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest responsible Bidder that proposes to use acceptable Subcontractors, Suppliers, individuals, or entities. Declining to make requested substitutions will not constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor, Supplier, individual, or entity so listed and against which Owner and Engineer makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to revocation of such acceptance after the Effective Date of the Agreement as provided in paragraph 6.06 of the General Conditions.
- 12.03 Contractor shall not be required to employ any Subcontractor, Supplier, individual, or entity against whom Contractor has reasonable objection.
- 12.04 The Contractor shall not award work to Subcontractor(s) in excess of the limits stated in SC 6.06.

ARTICLE 13 - PREPARATION OF BID

- 13.01 The Bid form is included with the Bidding Documents. Additional copies may be obtained from Engineer.
- 13.02 All blanks on the Bid form shall be completed by printing in ink or by typewriter and the Bid signed in ink. Erasures or alterations shall be initialed in ink by the person signing the Bid Form. A Bid price shall be indicated for each *{section, Bid item, alternative, adjustment unit price item, and unit price item}* listed therein, or the words "No Bid," "No Change," or "Not Applicable" entered.
- 13.03 A Bid by a corporation shall be executed in the corporate name by the president or a vice-president or other corporate officer accompanied by evidence of authority to sign. If required by State where work is to be performed, the corporate seal shall be affixed and attested by the secretary or an assistant secretary. The corporation business address and state of incorporation shall be provided on the Bid Form.
- 13.04 A Bid by a partnership shall be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The business address of the partnership shall be provided on the Bid Form.
- 13.05 A Bid by a limited liability company shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. The state of formation of the firm and the business address of the firm must be provided on the Bid Form.
- 13.06 A Bid by an individual shall show the Bidder's name and business address.
- 13.07 A Bid by a joint venture shall be executed by each joint venturer in the manner indicated on the Bid form. The business address of the joint venture must be provided on the Bid Form.
- 13.08 All names shall be typed or printed in ink below the signatures.
- 13.09 The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers and dates of which shall be filled in on the Bid form.
- 13.10 The address and telephone number for communication regarding the Bid shall be shown.
- 13.11 The Bid shall contain evidence of Bidder's authority and qualification to do business in the state where the Project is located or covenant to obtain such qualification prior to award of the Contract. Bidder's state contractor license number for the state of the Project, if any, shall also be shown on the Bid Form.

ARTICLE 14 - BASIS OF BID; COMPARSION OF BIDS

{Owner and Engineer must choose the applicable items under this article and delete the remaining paragraphs}

14.01 Lump Sum

- A. Bidders shall submit a Bid on lump sum basis as set forth in the Bid Form.

{or}

- A. Bidders shall submit a Bid on a lump sum basis for the Bid and include a separate price for each alternate described in the Bidding Documents as provided for in the Bid Form. The price for each alternate will be the amount added to the Bid if OWNER selects the alternate. In the comparison of Bids, alternates will be applied in the same order as listed in the Bid Form.

{or}

14.01 Unit Price

- A. Bidders shall submit a Bid on a unit price basis for each item of Work listed in the Bid schedule.
- B. The total of all bid prices will be the sum of the products of the estimated quantity of each item and the corresponding unit price. The final quantities and Contract Price will be determined in accordance with paragraph 11.03 of the General Conditions.
- C. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of the words.

ARTICLE 15 - SUBMITTAL OF BID

- 15.01 With each copy of the Bidding Documents, a Bidder is furnished one separate unbound copy of the Bid Form, and the Bid bond form. The unbound copy of the Bid Form is to be completed and submitted with all the attachments outlined in Article 7 of the Bid Form.
- 15.02 A Bid shall be submitted no later than the date and time prescribed and at the place indicated in the Advertisement for Bids and shall be enclosed in an opaque sealed envelope plainly marked with the Project title (and, if applicable, the designated portion of the Project for which the Bid is submitted), the name and address of Bidder, and shall be accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in a separate envelope plainly marked on the outside with the notation "BID ENCLOSED." When using the mail or other delivery system, the Bidder is totally responsible for the mail or other delivery system delivering the Bid at the place and prior to the time indicated in the Advertisement for Bid. A mailed Bid shall be addressed to Owner at address in Article 1.01 of Bid Form.

ARTICLE 16 - MODIFICATION AND WITHDRAWAL OF BID

- 16.01 A Bid may be modified or withdrawn by an appropriate document duly executed in the manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids.

- 16.02 If within 24 hours after Bids are opened any Bidder files a duly signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid, and the Bid security will be returned. Thereafter, if the Work is rebid or negotiated, that Bidder will be disqualified from further bidding on the Work. This provision to withdraw a Bid without forfeiting the Bid security does not apply to Bidder's errors in judgment in preparing the Bid.

ARTICLE 17 - OPENING OF BIDS

- 17.01 Bids will be opened at the time and place indicated in the Advertisement for Bids and, unless obviously non-responsive, read aloud publicly. An abstract of the amounts of the Bids and major alternates, if any, will be made available to Bidders after the opening of Bids.

ARTICLE 18 - BIDS TO REMAIN SUBJECT TO ACCEPTANCE

- 18.01 All Bids will remain subject to acceptance for the period of time stated in the Bid Form.

ARTICLE 19 - EVALUATION OF BIDS AND AWARD OF CONTRACT

- 19.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner further reserves the right to reject the Bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to be non-responsive. Owner also reserves the right to waive all informalities not involving price, time, or changes in the Work and to negotiate contract terms with the Successful Bidder.
- 19.02 More than one Bid for the same Work from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than one Bid for the Work may be cause for disqualification of that Bidder and the rejection of all Bids in which that Bidder has an interest.
- 19.03 In evaluating Bids, Owner will consider whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.
- 19.04 In evaluating Bidders, Owner will consider the qualifications of Bidders and may consider the qualifications and experience of Subcontractors, Suppliers, and other individuals or entities proposed for those portions of the Work for which the identity of Subcontractors, Suppliers, and other individuals or entities must be submitted as provided in the Supplementary Conditions.
- 19.05 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders, proposed Subcontractors, Suppliers, individuals, or entities to perform the Work in accordance with the contract Documents.
- 19.06 If the Contract is to be awarded, Owner will award the Contract to the responsible Bidder whose Bid, conforming with all the material terms and conditions of the Instructions to Bidders, is lowest, price and other factors considered.

ARTICLE 20 - CONTRACT SECURITY AND INSURANCE

- 20.01 Article 5 of the General Conditions, as may be modified by the Supplementary Conditions, sets forth Owner's requirements as to performance and payment bonds and insurance. When the Successful Bidder delivers the executed Agreement to Owner, it must be accompanied by such bonds.

ARTICLE 21 - SIGNING OF AGREEMENT

21.01 When Owner gives a Notice of Award to the Successful Bidder, it shall be accompanied by the required number of unsigned counterparts of the Agreement with the other Contract Documents which are identified in the Agreement as attached thereto. Within 15 days thereafter, Successful Bidder shall sign and deliver the required number of counterparts of the Agreement and attached documents to Owner. Within ten days thereafter, Owner shall deliver one fully signed counterpart to Successful Bidder with a complete set of the Drawings with appropriate identification.

21.02 This Contract is expected to be funded in part with funds provided by the United States Department of Agriculture, Rural Utilities Service (RUS). Refer to Article 18 of the General Conditions for information on the Federal Requirements.

21.03 Concurrence by RUS in the award of the Contract is required before the Contract is effective.

{Additional Articles - It is often necessary to add additional articles to address such issues as Owner's special tax exemption and prepurchasing by Owner and subsequent assignment of procurement contracts to Contractor. If any funding source requires the contractor to comply with wage standards, the Information to Bidders and Supplementary Conditions language will be provided by that funding Agency. The following articles are examples that may be used to address these issues. Delete those articles that do not apply and renumber as necessary.}

ARTICLE 22 - SALES AND USE TAXES

22.01 OWNER is exempt from _____ State sales and use taxes on materials and equipment to be incorporated in the Work. Exemption No. _____. Said taxes shall not be included in the Bid. Refer to paragraph 6.10 of the Supplementary Conditions for additional information.

ARTICLE 23 - CONTRACTS TO BE ASSIGNED

23.01 Owner as "buyer" [has executed] [will execute] a contract with _____ as "seller" for the procurement of goods and special services for _____. The materials and equipment provided for in the procurement contract are to be furnished and delivered to the Site [or other location] for installation by Contractor. The said procurement contract will be assigned by Owner to Contractor as set forth in the Agreement. Contractor will accept the assignment and assume responsibility for the "seller", who will become a Subcontractor to Contractor.

23.02 Bidders may examine the contract documents for the procurement of goods and special services for _____ at _____.

Bid Form

Project Identification: *{Project or portion of Project to which Bid applies}*

Contract Identification and Number: *{Title, Number, etc. that appears elsewhere in Bidding Documents}*

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ARTICLE 1 - BID RECIPIENT

- 1.01 This Bid Is Submitted To: *{Name and Address of OWNER}*
- 1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in the Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2 - BIDDER'S ACKNOWLEDGMENTS

- 2.01 Bidder accepts all of the terms and conditions of the Advertisement and Instructions to Bidders, including without limitations those dealing with the dispositions of Bid security. The Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

ARTICLE 3 - BIDDER'S REPRESENTATIONS

- 3.01 In submitting this Bid, Bidder represents that:
- A. Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, and the following Addenda, receipt of which is hereby acknowledged.

Addendum No.	Addendum Date
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

- B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Bidder is familiar with and is satisfied as to all Federal, State, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in SC-4.02, and (2) reports and drawings of a Hazard Environmental Condition, if any, which has been identified in SC-4.06.
- E. Bidder has obtained and carefully studied (or accepts the consequences for not doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by the Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents to be employed by Bidder, and safety precautions and programs incident thereto.
- F. Bidder does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of the Work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents.
- I. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer is acceptable to Bidder.
- J. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.
- K. Bidder will submit written evidence of its authority to do business in the State where the Project is located not later than the date of its execution of the Agreement.

ARTICLE 4 - FURTHER REPRESENTATIONS

4.01 Bidder further represents that:

- A. This Bid is genuine and not made in the interest of or on the behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;

- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Owner.

ARTICLE 5 - BASIS OF BID

5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

[SUGGESTED FORMAT FOR LUMP SUM BID]

Lump Sum Bid Price _____ (\$ _____)
 (use words) (numerals)

{OR}

Lump Sum Bid Price for Section I Only _____ (\$ _____)
 (use words) (numerals)

Lump Sum Bid Price for Section II Only _____ (\$ _____)
 (use words) (numerals)

Lump Sum Bid Price for Sections I and II _____ (\$ _____)
 (use words) (numerals)

[SUGGESTED FORMAT FOR UNIT PRICE BID]

Attached Itemized Unit Price Sheets

{Using a format similar to the following layout:}

<u>Item No.</u>	<u>Description</u>	<u>Unit</u>	<u>Estimated Quantity</u>	<u>Unit Price</u>	<u>Total Estimated Price</u>
---	-----	-----	-----	\$ _____	\$ _____
---	-----	-----	-----	\$ _____	\$ _____
---	-----	-----	-----	\$ _____	\$ _____

Total of All Bid Prices (\$ _____)

- A. Unit Prices have been computed in accordance with paragraph 11.03.A of the General Conditions.
- B. Bidder acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items will be based on actual quantities, determined as provided in the contract Documents.

[END OF SUGGESTED BID FORMATS]

ARTICLE 6 - TIME OF COMPLETION

6.01 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with paragraph 14.07.B of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.

6.02 Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the work within the Contract Times.

ARTICLE 7 - ATTACHEMENTS TO THIS BID

7.01 The following documents are attached to and made a condition of the Bid:

- A. Required Bid security in the form of a Bid Bond (EJCDC No. C-430) or Certified Check (circle type of security provided);
- B. If Bid amount exceeds \$10,000, signed Compliance Statement (RD 400-6). Refer to specific equal opportunity requirements set forth in paragraph 18.10 of the General Conditions;
- C. If Bid amount exceeds \$25,000, signed Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions (AD-1048);
- D. If Bid amount exceeds \$100,000, signed RD Instruction 1940-Q, Exhibit A-1, Certification for Contracts, Grants, and Loans. Refer to paragraph 18.11 of the General Conditions;
- {E. A tabulation of Subcontractors, Suppliers [and others] individuals and entities required to be identified in this Bid;}*
- {F. Required bidder qualifications statement with supporting data; and}*
- {G. List other documents as pertinent.}*

ARTICLE 8 - DEFINED TERMS

8.01 The terms used in this Bid with the initial capitol letters have the meanings indicated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

ARTICLE 9 - BID SUBMITTAL

9.01 This Bid submitted by:

If Bidder is:

An Individual

Name (typed or printed): _____

By: _____

(Individual's signature)

SEAL
if required
by State

Doing business as: _____

A Partnership

Partnership Name: _____

By: _____

(Signature of general partner -- attach evidence of authority to sign)

SEAL
if required
by State

Name (typed or printed): _____

A Corporation

Corporation Name: _____

State of Incorporation: _____

Type (General Business, Profession, Service, Limited Liability): _____

By: _____

(Signature -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Attest _____

(Signature of Corporate Secretary)

CORPORATE SEAL if required by State
--

Date of Qualification to do business in _____ [State where Project is located] is ____/____/____

A Joint Venture

Name of Joint Venture: _____

First Joint Venture Name: _____

By: _____

(Signature of joint venture partner -- attach evidence of authority to sign)

SEAL if required by State

Name (typed or printed): _____

Title: _____

Second Joint Venture Name: _____

By: _____

(Signature of joint venture partner -- attach evidence of authority to sign)

SEAL if required by State

Name (typed or printed): _____

Title: _____

(Each joint venturer must sign. The manner of signing for each individual, partnership, and corporation that is party to the venture should be in the manner indicated above.)

Bidder's Business address:

Business Phone No. (_____) _____

Business FAX No. (_____) _____

Business E-Mail Address _____

State Contractor License No. _____ (If applicable)

Employer's Tax ID No. _____

Phone and FAX Numbers, and Address for receipt of official communications, if different from Business contact information:

9.02 Bid submitted on _____, 20__.

Supplementary Conditions

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract Funding Agency Edition (No. C-710, 2002 Edition) and other provisions of the Contract Documents as indicated below. All provisions that are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions will have the meanings indicated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings stated below, which are applicable to both the singular and plural thereof.

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SC-1.01.A.2. Add the following language to the end of Paragraph 1.01.A.2:

The Project is financed in whole or in part by USDA Rural Utilities Service pursuant to the Consolidated Farm and Rural Development Act (7 USC Section 1921 et seq.). The Rural Utilities Service programs are administered through the USDA Rural Development offices, therefore, the Agency for these documents is USDA Rural Development. *{add other funding sources and modify when necessary.}*

SC-1.01.A.4. Add the following language to the end of Paragraph 1.01.A.4:

The Application for Payment form to be used on this Project is EJCDC No. C-620. The Agency must approve all Applications for Payment before payment is made.

SC-1.01.A.10. Add the following language to the end of Paragraph 1.01.A.10:

The Change Order form to be used on this Project is EJCDC No. C-941. Agency approval is required before Change Orders are effective.

SC-1.01.A.21. Add the following language to the end of Paragraph 1.01.A.21:

The Engineer's Consultants on this project are: *{list all consultants}*.

SC-2.03.A. Delete Paragraph 2.03.A in its entirety and insert the following in its place:

- A. The Contract Times will commence to run on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Agreement.

{SC-4.02. Add the following new paragraphs immediately after Paragraph 4.02.B:

- C *In the preparation of Drawings and Specifications, Engineer relied upon the following reports of exploration and tests of subsurface conditions at the Site:*
1. *See EJCDC No.C-800 for examples.*
- D. *In the preparation of Drawings and Specifications, Engineer relied upon the following drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Facilities) which are at or contiguous to the Site:*
1. *See EJCDC No. C-800 for examples.*
- E. *Copies of reports and drawings itemized in SC-4.02.C and SC-4.02.D that are not included with Bidding Documents may be examined at _____ during regular business hours. These reports and drawings are not part of the Contract Documents, but the "technical data" contained therein upon which the Contractor may rely as identified and established above are incorporated therein by reference. Contractor is not entitled to rely upon other information and data utilized by Engineer in the preparation of the Drawings and Specifications.*

OR

SC-4.02. Delete Paragraphs 4.02.A and 4.02.B in their entirety and insert the following:

- A. *No reports or explorations or tests of subsurface conditions at or contiguous to the Site are known to the Owner or Engineer.*

{SC-4.06. Add the following new paragraphs immediately after Paragraph 4.06.A:

1. *In the preparation of Drawings and Specifications, Engineer relied upon the following reports of Hazardous Environmental Conditions at the Site:*
 - a. *See EJCDC No.C-800 for examples.*
2. *In the preparation of Drawings and Specifications, Engineer relied upon the following drawings of Hazardous Environmental Conditions which are at or contiguous to the Site:*
 - a. *See EJCDC No. C-800 for examples.*
3. *Copies of reports and drawings itemized in SC-4.06.A.1 and SC-4.06.A.2 that are not included with Bidding Documents may be examined at _____ during regular business hours. These reports and drawings are not part of the Contract Documents, but the "technical data" contained therein upon which the Contractor may rely as identified and*

established above are incorporated therein by reference. Contractor is not entitled to rely upon other information and data utilized by Engineer in the preparation of the Drawings and Specifications.

OR

SC-4.06. Delete Paragraphs 4.06.A and 4.06.B in their entirety and insert the following:

- A. *No reports or explorations or tests of subsurface conditions at or contiguous to the Site are known to the Owner or Engineer.*
- B. *Not used.*}

SC-5.03. Add the following new paragraph immediately after Paragraph 5.03.B:

- C. Failure of the Owner to demand such certificates or other evidence of full compliance with these insurance requirements or failure of the Owner to identify a deficiency from evidence provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

{The amounts of coverage for each type of insurance under paragraph 5.04 are recommended amounts that should be used to provide the Owner adequate protection. These amounts should be reviewed in the context of the specific project and adjusted accordingly.}

SC-5.04. Add the following new paragraph immediately after Paragraph 5.04.B:

- C. The limits of liability for insurance required by Paragraph 5.04 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:
 - 1. Workers' Compensation, and related coverages under Paragraphs 5.04.A.1 and A.2 of the General Conditions:
 - a. State: Statutory
 - b. Applicable Federal (e.g., Longshoremen's) Statutory
 - c. Employer's Liability *{ \$ 500,000 }*
 - 2. Contractor's General Liability under Paragraphs 5.04.A.3 through A.6 of the General Conditions which shall include completed operations and product liability coverages and eliminate the exclusion with respect to property under the care, custody, and control of the Contractor:
 - a. General Aggregate *{ \$ 2,000,000 }*
 - b. Products - Completed Operations Aggregate *{ \$ 1,000,000 }*
 - c. Personal and Advertising Injury *{ \$ 1,000,000 }*
 - d. Each Occurrence (Bodily Injury and Property Damage) *{ \$ 1,000,000 }*
 - e. Property Damage liability insurance will provide Explosion, Collapse, and Underground coverages where applicable.
 - f. Excess or Umbrella Liability
 - 1) General Aggregate *{ \$ 5,000,000 }*

- 2) Each Occurrence { \$ 5,000,000 }

- 3. Automobile Liability under Paragraph 5.04.A.6 of the General Conditions:
 - a. Bodily Injury:
 - Each Person { \$ 1,000,000 }
 - Each Accident { \$ 1,000,000 }
 - b. Property Damage:
 - Each Accident { \$ 1,000,000 }
 - c. Combined Single Limit of { \$ 1,000,000 }

- 4. The Contractual Liability coverage required by paragraph 5.04.B.4 of the General Conditions shall provide coverage for not less than the following amounts:
 - a. Bodily Injury:
 - Each Person { \$ 2,000,000 }
 - Each Accident { \$ 2,000,000 }
 - b. Property Damage:
 - Each Accident { \$ 2,000,000 }
 - Annual Aggregate { \$ 2,000,000 }

{5. List additional types and amounts of insurance that may be required by Owner.}

{6. List by name other persons or entities to be included on policy as additional insureds.}

{SC-5.06.A. In the case of multiple prime contractors on a single Site (multiple prime contractors for the Project may each need to provide property insurance), it is necessary to define the Contractor responsible for providing the Property Insurance. If there is only one contractor on the site, do not modify paragraph 5.06.A of the General Conditions.}

{SC-5.06.A.1. List by name other persons or entities to be included on policy as additional insureds.}

SC-6.05.C. Amend the paragraph by making two subparagraphs under the title C. Engineer's Evaluation. The paragraph text is retitled, 6.05.C.2 After Effective Date of Agreement. A new paragraph is added before this paragraph to read as follows:

1. During Bidding. The Contract, if awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents, or "or-equal" materials and equipment as defined in paragraph 6.05 of the General Conditions, or those substitute materials and equipment approved by the Engineer and identified by Addendum. The materials and equipment described in the Bidding Documents establish a standard of required type, function, and quality to be met by any proposed substitute or "or-equal" item. Request for Engineer's clarification of materials and equipment considered "or-equal" prior to the Effective Date of the Agreement must be received by the Engineer at least 5 days prior to the date for receipt of Bids. No item of material or equipment will be considered by Engineer as a substitute unless written request for approval has been submitted by Bidder and has been received by Engineer at least 15 days prior to the date for receipt of Bids. Each request shall conform to the requirements of Paragraph 6.05 of the General Conditions. The burden of proof of the merit of the proposed item is upon the Bidder. Engineer's decision of approval or disapproval of a proposed item will be final. If Engineer approves any proposed substitute item, such approval will be set forth in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner.

SC-6.06 Add a new paragraph immediately after Paragraph 6.06.G:

- H. The Contractor shall not award work valued at more than fifty (50%) percent of the Contract Price to Subcontractor(s), without prior written approval of the Owner.

{If OWNER qualifies for sales or use tax exemptions, language similar to the following should be inserted here and coordinated with the language of Article 22 of the Instructions to Bidders.}

SC-6.10. Add a new paragraph immediately after Paragraph 6.10.A:

- B. Owner is exempt from payment of sales and compensating use taxes of the [State] and of cities and counties thereof on all materials to be incorporated into the Work.
1. Owner will furnish the required certificates of tax exemption to Contractor for use in the purchase of supplies and materials to be incorporated into the Work.
 2. Owner's exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Contractor, or to supplies or materials not incorporated into the Work}

{SC-7.01.A. If the Owner is planning to have Work performed by more than one prime contractor, by Owner, or others, it should be specifically stated here.}

{When multiple prime contractors are working on a single Site, the following modification should be made.}

SC-7.02.A.1. Delete paragraphs 7.02.A.1-3 in their entirety and insert the following:

1. The _____ Contractor shall have the authority and be responsible for coordination of the activities among the other prime contractors and subcontractors on the Site to ensure a safe, efficient working environment. This authority covers scheduling delivery of materials, storage of materials, sequencing of construction involving different crafts, resolving interface issues between crafts, scheduling testing, and all other aspects of the Work that do not impact the design or function of the Work.}

SC-9.03.A. Add the following language at the end of paragraph 9.03.A:

The Engineer will provide Resident Project Representative services for this project. The Duties, Responsibilities, and Limitations of Authority of the Resident Project Representative will be as stated in Exhibit D of the Agreement Between Owner and Engineer, E-510, 2002 Edition, as amended and executed for this specific Project. *{If anyone other than the Engineer is providing the Resident Project Representative, this language must be modified.}*

SC-14.02.A.3 Add the following language at the end of paragraph 14.02.A.3:

No payments will be made that would deplete the retainage, place in escrow any funds that are required for retainage, or invest the retainage for the benefit of the Contractor.

SC-14.02.C.1. Delete Paragraph 14.02.C.1 in its entirety and insert the following in its place:

1. The Application for Payment with Engineer's recommendations will be presented to the Owner and Agency for consideration. If both the Owner and Agency find the Application for Payment acceptable, the recommended amount less any reduction under the provisions of Paragraph 14.02.D will become due ten days after the Application for Payment is presented to the Owner, and the Owner will make payment to the Contractor.

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Exhibit G

9/2003

{If the Project Owner is a Tribe, it is important to clarify that this agreement does not modify any relationships that the Tribe may have outside this Project. Recommend this language be added for Tribal construction contracts.

SC-17.05. Add a new paragraph immediately after Paragraph 17.05.A:

- B. *Tribal Sovereignty. No provision of this Agreement will be construed by any of the signatories as abridging or debilitating any sovereign powers of the _____(insert name of Tribe)_____ (Tribe); affecting the trust-beneficiary relationship between the Secretary of the Interior, Tribe, and Indian landowner(s); or interfering with the government-to-government relationship between the United States and the Tribe.*

SC-18.08 Delete paragraph 18.08.A in its entirety and insert the following in its place:

- A. If this Contract exceeds \$100,000, the Contractor shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC §1857(h)), Section 508 of the Clean Water Act (33 USC §1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).