



Construction Procedures

USDA RUS ReConnect Program



Rural Development



George Oyegoke

Branch Chief
Post-Loan Servicing
Engineering Branch



Shekinah Pepper

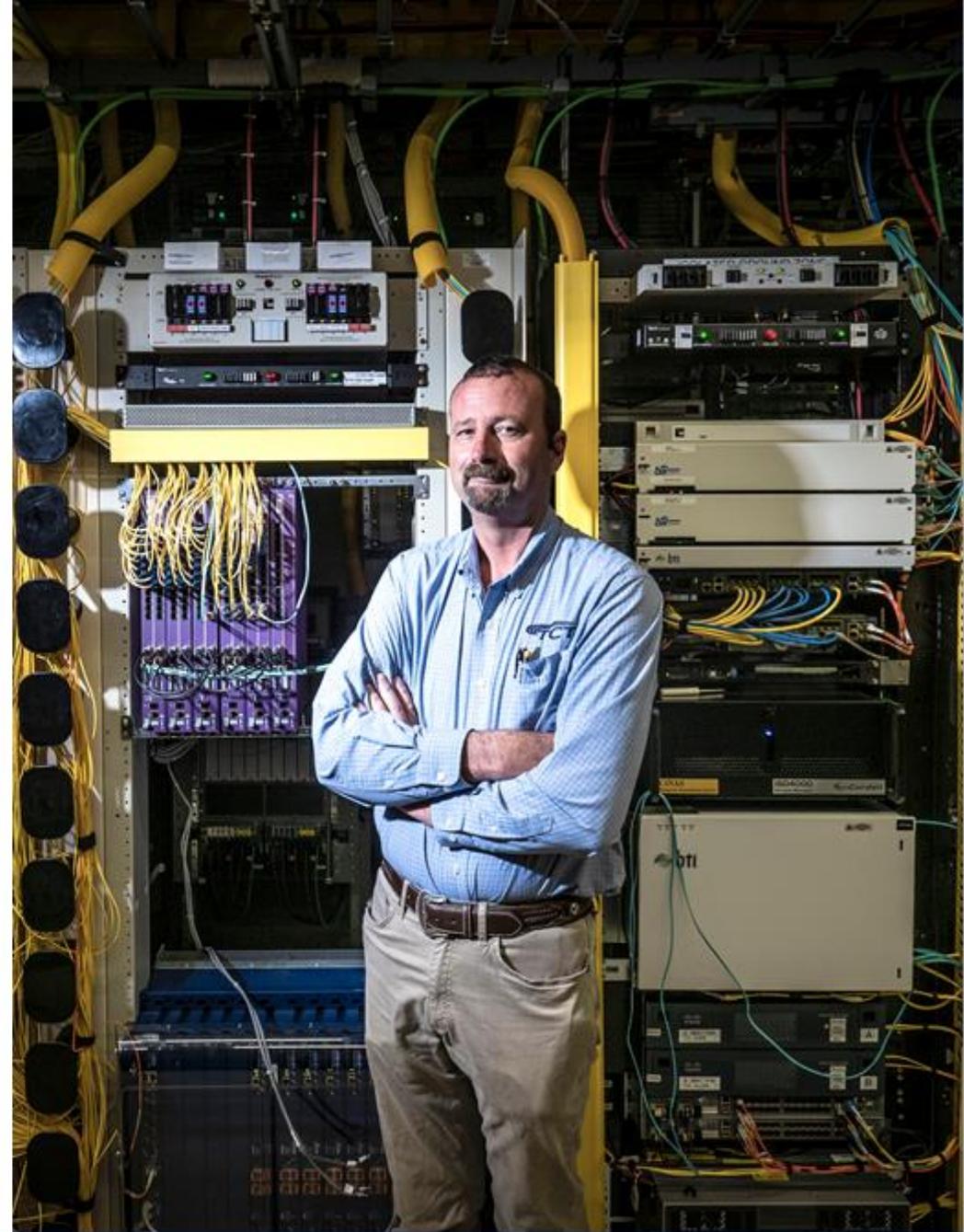
General Field
Representative

Agenda

- Introduction: ReConnect Construction Procedures Guide
- General Guidelines and Requirements
- Professional Services Contracts
- Introduction to Equipment Contracts
- Construction Contracts
 - Outside Plant Construction
 - Building Construction
 - Tower Construction
 - Subcontracts and Contract Amendments
 - Small Scale Construction Method
- Tips for Success
- Available Resources

Introduction

- High-level overview of the ReConnect Program Construction Procedures Guide
 - Construction Procedures
 - General Requirements
 - Standard RUS Contract Documents



Introduction: ReConnect Construction Procedures Guide

- Included in Award Documents provided to ReConnect awardees
- Covers construction and contracting procedures
- Recent changes to guide – Outside Plant Negotiations
- Available to download on the ReConnect website under “Forms and Resources”
 - https://www.rd.usda.gov/files/ReConnect_Program_Construction_Procedures_Final.pdf



Rural Development

General Guidelines and Requirements

Introduction to the Construction Schedule,
Buy American Requirements, and
General Requirements



General Guidelines and Requirements

- **RUS Approval**
 - All work must conform to the application as approved by RUS, unless changes are requested and approved in advance by RUS
- **Environmental Requirements (7 CFR 1794):**
 - Construction must not commence until all environmental conditions included in the award documents have been met
 - Awardee is responsible for contacting RUS if they have not yet received a full list of environmental requirements with award documents
- **Buy American Requirements**
 - All award funded materials and equipment must comply with “Buy American” provisions in 7 CFR 1787

General Guidelines and Requirements (Cont.)

- **Insurance Requirements**

- A performance bond is required for construction exceeding \$250,000, as indicated in 7 CFR Part 1788, Subpart C, or certain significant installation, as outlined in the Agency's memorandum found at:
 - http://www.usda.gov/rus/telecom/publications/pdf_files/Contractors-Bond-Requirement7-28-09.pdf
- Awardees are responsible for ensuring that their contractors and engineers comply with all the insurance and bond requirements of 7 CFR Part 1788, Subpart C
- Surety companies providing contractors' bonds must be listed as acceptable sureties in the U.S. Department of Treasury Circular No. 570
 - <https://fiscal.treasury.gov/surety-bonds/list-certified-companies.html>

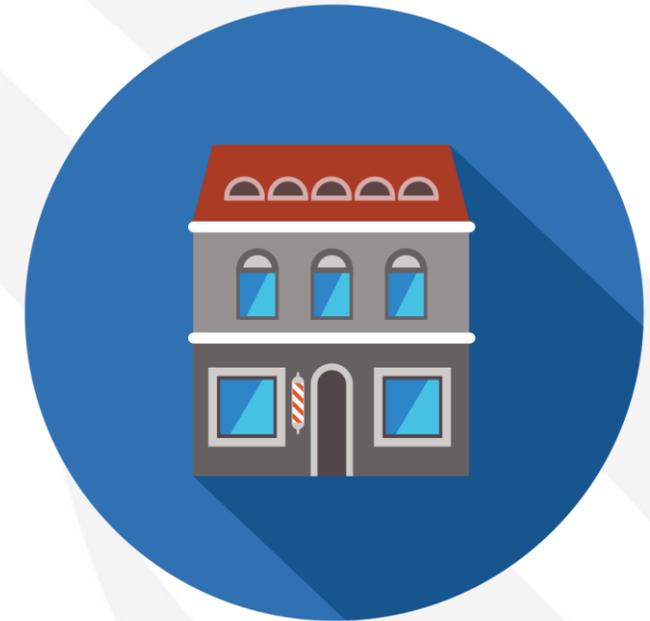
General Guidelines and Requirements (Cont.)

- **Title Clearance**

- Required for all building construction over \$250,000
- Evidence of title clearance must be approved by RUS before approval of contract

- **Software License**

- As part of the equipment purchase, the original equipment manufacturer may require the awardee enter into a software license agreement for the use of the equipment



General Guidelines and Requirements (Cont.)

- **Contract Forms**
 - RUS Contract Forms or non-RUS Contract Forms may be used
- **Tower Construction**
 - RUS Form 773 or non-RUS contract can be used
 - Funds can be encumbered and advanced
- **Small Scale Construction Limits**
 - \$1 million limit for Outside Plant (OSP) construction projects
 - \$100 thousand limit for building construction/equipment procurement projects

General Guidelines and Requirements (Cont.)

- **Contract Amendments**
 - Prior RUS approval is required to amend a contract if any one of the following conditions apply:
 - Changes in the terms and conditions of the contract
 - Changes to the scope of the contract
 - Amendment (by itself or including preceding amendments) increases the contract amount by 20% or more
 - Increase in contract price necessitates a performance bond

General Guidelines and Requirements (Cont.)

- **Non-RUS Contracts**

- RUS approval of contract form required prior to contract execution
- Must include a provision that the contract will not be binding on the parties until RUS approval has been granted
- RUS will not approve a non-RUS contract if:
 - The contract is for work not covered in the approved application, or is not for an Eligible Purpose;
 - The contract terms and conditions are vague, inadequate, or unreasonable; or
 - The contract presents unacceptable loan security risk to RUS

General Guidelines and Requirements (Cont.)

- **Affiliated Transactions**

- Defined as any transaction, contract, or dealing with an affiliate of the awardee or with awardee's or affiliate's directors, trustees, officers, managers, members (LLC), or other corporate officials
- RUS approval is required before awardees enter into affiliated transactions
- Award funds will be limited to lower of cost or market rate (subject to RUS verification)

- **Closeout Documents**

- RUS Contract Closeouts
- Non-RUS Contract Closeouts



General Guidelines and Requirements (Cont.)

- **Records**

- Records supporting all assets financed by RUS must be retained until audited and approved by RUS
 - Support documents required for all expenditures, advances, and disbursements
 - Include, but not limited to, contracts, 3rd party invoices, timesheets, payroll records, material records, overhead allocation records, summary schedules, etc.
- Records related to plant-in-service must be retained until:
 - The facilities are permanently removed from service
 - All removal and restoration activities are completed
 - All costs are retired from the accounting records

General Guidelines and Requirements (Cont.)

- **Construction Schedule**

- There is no interim construction process
- Awardees can start construction after they have been notified of the award **and** all necessary environmental approvals
 - Awardees are at risk until award is closed and funds are released
 - Aside from eligible pre-application expenses and work required to finalize environmental reviews, funds will not be approved for purposes or tasks initiated prior to environmental approval
 - Engineering Contracts can be approved prior to Release of Funds
- 5-year construction period starts when funds are released
 - This release date can be different for each awardee

General Guidelines and Requirements (Cont.)

- **Standard RUS Contract Documents**

- Professional Services Contract Forms 217 and 245
- Equipment Contract Form 395
- Construction Contract Forms 257, 515, and 773
- Subcontract Form 282
- Amendment Form 238
- Closeout Forms 284, 506, and 756



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Professional Services Contracts

Introduction to the Professional Services - Engineering, Architectural and Other Professional Services



Professional Services Contracts

- Awardee must obtain professional services from persons or firms not affiliated with, or that do not represent a contractor, vendor or manufacturer presently providing labor, materials, or equipment to the awardee
- Engineer / Architect must be registered in the state(s) where construction and/or installation of facilities is performed
- Prior RUS approval required for in-house engineering services performed by awardee's staff
- **Upon RUS approval of the underlying Affiliate Services Agreement(s), professional services provided by affiliated companies must be provided under contracts as described in the following slides and will be subject to the same requirements as outside consultants**

Professional Services Contracts (Cont.)

- **Professional Services**
 - Engineering Services
 - Outside consultant
 - In-house engineering
 - Architectural Services
 - Other Professional Services



Professional Services Contracts (Cont.)

- **Engineering Services: Outside Consultants**
 - RUS Form 217 (RUS Post-Loan Engineering Services Contract)
 - RUS Form 245 (Engineering Service Contract Special Services – Telephone)
 - Non-RUS contract



Professional Services Contracts (Cont.)

- **Engineering Services: In-house Engineering**

- Awardee must request RUS approval to provide in-house services – The information that needs to be submitted to support the request is in the guide
- Once approval is granted, the awardee must submit a detailed proposal with the types of services to be provided and a detailed cost breakdown of the services
- In-house engineering proposals can be based on the entire project or can be separated by service area or types of services

Professional Services Contracts (Cont.)

- **Architectural Services**
- Awardees may use:
 - RUS Form 220 (Architectural Services Contract)
 - RUS Form 217 (Post-Loan Engineering Services Contract)
- **OR**
- Non-RUS contract
- Architect must be licensed in the state(s) where the facilities will be located

Professional Services Contracts (Cont.)

- **Other Professional Services**
 - Awardees may use:
 - RUS Form 245 (Engineering Services Contract-Special Services)
- OR**
- Non-RUS contract



Professional Services Contracts (Cont.)

- **Contract Approval**

- Three executed copies of the appropriate RUS Form Contract or the Non-RUS contract must be submitted for RUS approval
 - For In-house Engineering Proposals, only 2 copies of the proposal must be submitted
- Upon RUS approval, a copy of the contract will be sent to the awardee and the Engineer/Architect

- **Contract Closeout**

- RUS form contract requires two copies of signed and certified:
 - RUS Form 284 (Final Statement of Architect's Fees)
 - RUS Form 506 (Final Statement of Engineering Fees)
- Similar certifications are required for Non-RUS professional services contracts and In-house Engineering proposals

Introduction to Equipment Contracts



Equipment Contracts

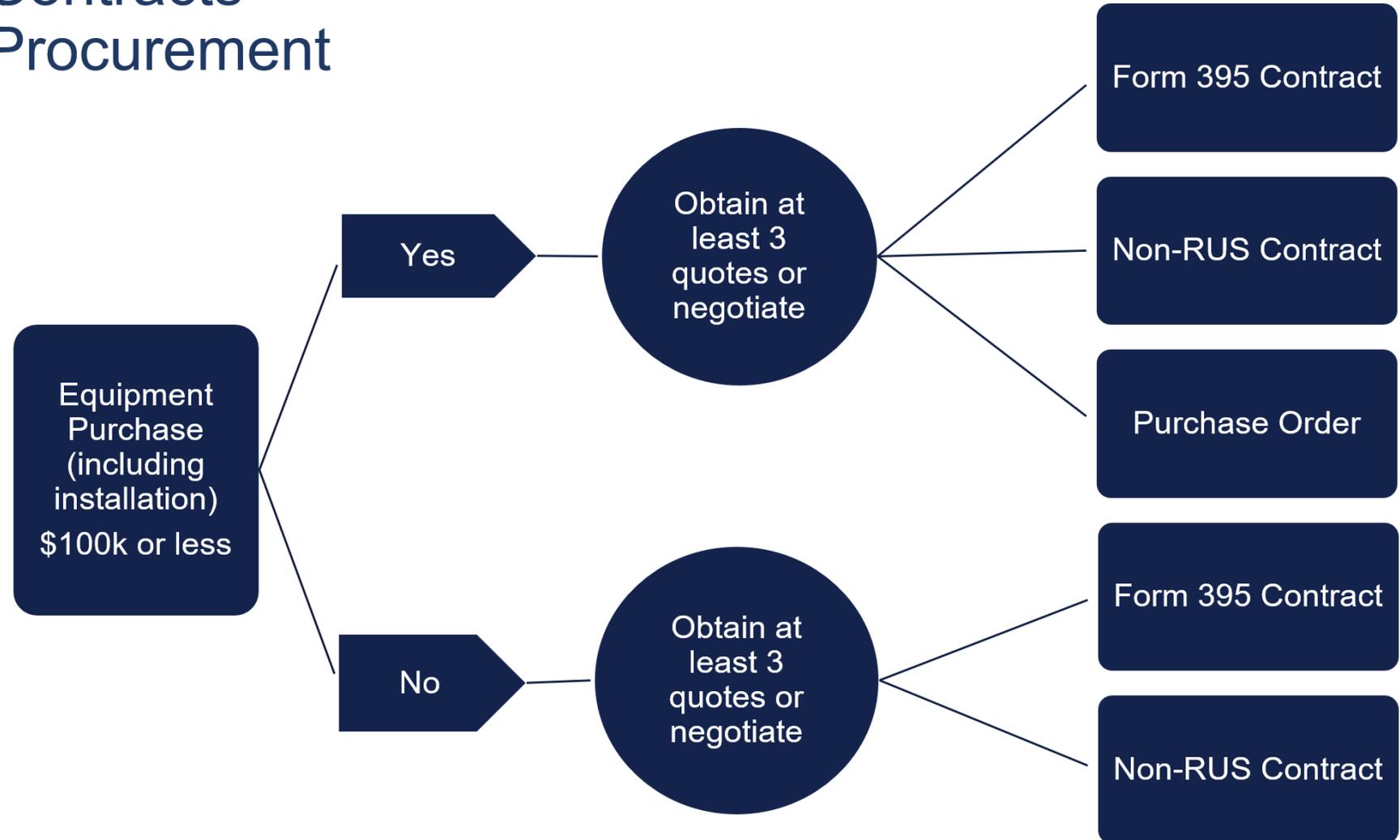
- Equipment purchases, including installation, under \$100,000
 - Can be purchased using a purchase order and reimbursed through the work order procedures
 - All supporting documentation for amounts shown on the Form 771a must be retained on file for RUS' review
- Equipment purchases, including installation, over \$100,000
 - RUS Form 395 Equipment Contract
 - Non-RUS contract
- Equipment purchased under a contract that does not include installation may be installed by the awardee's own staff using the Work Orders method described under "Small Scale Construction"

Equipment Contracts (Cont.)

- **Procurement Method**

- The Engineer prepares performance specifications and installation requirements, along with the respective contract, and releases them to prospective suppliers
- RUS recommends that quotes be obtained from at least three different suppliers, however, awardees can elect to negotiate with a single vendor or obtain quotes from multiple suppliers
- Grant awardees must comply with Federal procurement guidelines in 2 CFR 200
- Once a supplier has been selected, the Awardee and supplier enter into the contract

Equipment Contracts – Equipment Procurement



Equipment Contracts (Cont.)

- **Contract Approval**

- Three executed copies of each equipment contract (including performance and installation requirements) must be submitted to RUS for approval
- Upon RUS approval, one copy of the contract will be sent to the awardee and one copy to the selected contractor
- RUS will notify awardee, in writing, if approval is withheld

- **Contract Closeout**

- Contract closeout can occur after equipment has been installed, tested, and meets the performance and installation requirements
 - RUS form 756 – final contract closeout certification for RUS form contract
- **OR**
- Similar certification for Non-RUS contracts
- Documents required to closeout RUS Equipment Contract Form 395 are listed in the ReConnect Construction Procedures Guide



Rural Development

Construction Contracts

Introduction to Outside Plant, Building, and Tower Construction Contracts



Construction Contracts

- Construction of outside plant facilities, buildings, and towers may be performed by:
 - Outside contractor
 - In-house staff (Work Order)
 - *Described in upcoming slides*



Construction Contracts (Cont.)

- **Outside Contractor**
- Awardee may execute:
 - RUS Form 773 (Miscellaneous Construction Work and Maintenance Services Contract)
 - RUS Form 257 (Contract to Construct Buildings)
 - RUS Form 515 (Telecommunications System Construction Contract)
 - Non-RUS Contract

Construction Contracts (Cont.)

- **RUS Form 773 (Miscellaneous Construction Work and Maintenance Services Contract)**
 - \$1 million limit on the contract amount for OSP construction purposes
 - No limit on the amount of construction that can be done on an annual basis using the Form 773 Contract
 - Awardee must attach all drawings, sketches, lists of materials, list of units, descriptions of work, references to appropriate standards, specifications, etc., as well as required certifications so as to make them a part of this contract
 - Contractor's bond required if Form 773 Contract exceeds \$250,000
 - Awardee uses non-award funds to finance the construction in progress and seeks reimbursement after work under the contract has been completed
 - No subcontracts are allowed to Form 773 Contracts
- *Reimbursement procedures described in upcoming slides*

Construction Contracts (Cont.)

RUS Form 515, 257, and Non-RUS Contracts

- The engineer prepares the construction Plans & Specifications (P&S), including any diagrams, sketches, and tabulations necessary to specify the work to be performed, along with the appropriate contract form and released them to prospective contractors
- All procurement transactions must be conducted in a manner to provide open and free competition to the maximum extent practicable pursuant to 2 CFR 200.319 and 2 CFR 200.323
- Contractor selected must meet all federal, state, local licensing requirements and insurance requirements (7 CFR Part 1788, Subpart C)

Construction Contracts

Outside Plant Construction



Construction Contracts – Outside Plant Construction

- **Outside Plant (OSP) Construction – General**

- For OSP projects (including all labor and materials) estimated to exceed \$1 million:
 - Awardees must use RUS Form 515 (Telecom System Construction) or a Non-RUS contract
- For OSP projects (including all labor and materials) estimated at \$1 million or less:
 - Awardees may use RUS Form 515, a Non-RUS contract, or the Small-Scale Construction methods
- When the awardee furnishes materials under RUS Form 787, Supplement A to Construction Contract (RUS Form 515) or a Non-RUS form written to accommodate it, the awardee should follow the steps in the Construction Procedures Guide

Construction Contracts – Outside Plant Construction (Cont.)

- **Outside Plant (OSP) Construction – Plans & Specifications (P&S)**
- Requirements for the P&S are provided in the Construction Procedures Guide
 - For OSP projects (including all labor and materials) estimated to exceed \$1 million:
 - P&S must be submitted for RUS's written approval
 - RUS will notify awardee in writing if approval is withheld
 - Awardees can solicit bids or negotiate upon receipt of written approval per the instructions in the Construction Procedures Guide
 - For OSP projects (including all labor and materials) estimated at \$1 million or less:
 - RUS approval of the P&S is not required

Construction Contracts – Outside Plant Construction (Cont.)

- **Outside Plant (OSP) Construction – Procurement Methods**

- General

- Contact RUS if fewer than three bidders are qualified
- Contact RUS if fewer than three valid bids are received
- Awardee may award contract if all conditions in the Guide are met
- Prior RUS approval required to execute contract if conditions in the Guide are not satisfied

For OSP projects (including all labor and materials) estimated to exceed **\$1 million**:

- 100% Loan awardees may solicit bids or negotiate upon receipt of written P&S approval
 - RUS notification required for negotiated contracts

Construction Contracts – Outside Plant Construction (Cont.)

- **Outside Plant (OSP) Construction – Procurement Methods**
- Combination (50/50 Loan/Grant) Awardees using loan funds or funds substituted for loan funds may solicit bids or negotiate upon receipt of written P&S approval
 - RUS notification required for negotiated contracts (loan funds only)
 - Prior RUS approval required to negotiate grant-funded contracts
 - Grant funds will **not** fund or supplement negotiated contracts unless awardee received RUS's written approval to negotiate
- 100% Grant Awardees may solicit bids upon receipt of written P&S approval
 - Prior RUS approval required to negotiate grant-funded contracts
 - Awardees using matching funds may only solicit bids or negotiate contracts; however, grant funds will not fund or supplement such negotiated contracts unless the awardee received prior RUS approval

Construction Contracts – Outside Plant Construction (Cont.)

- **Outside Plant (OSP) Construction – Procurement Methods**

- For OSP projects (including all labor and materials) estimated at **\$1 million or less**, awardees may use:
 - Small-Scale Construction procedures (addressed in upcoming slides)

OR

- Follow bidding or negotiation procedures in the Guide (required if using RUS OSP Contract Form 515)

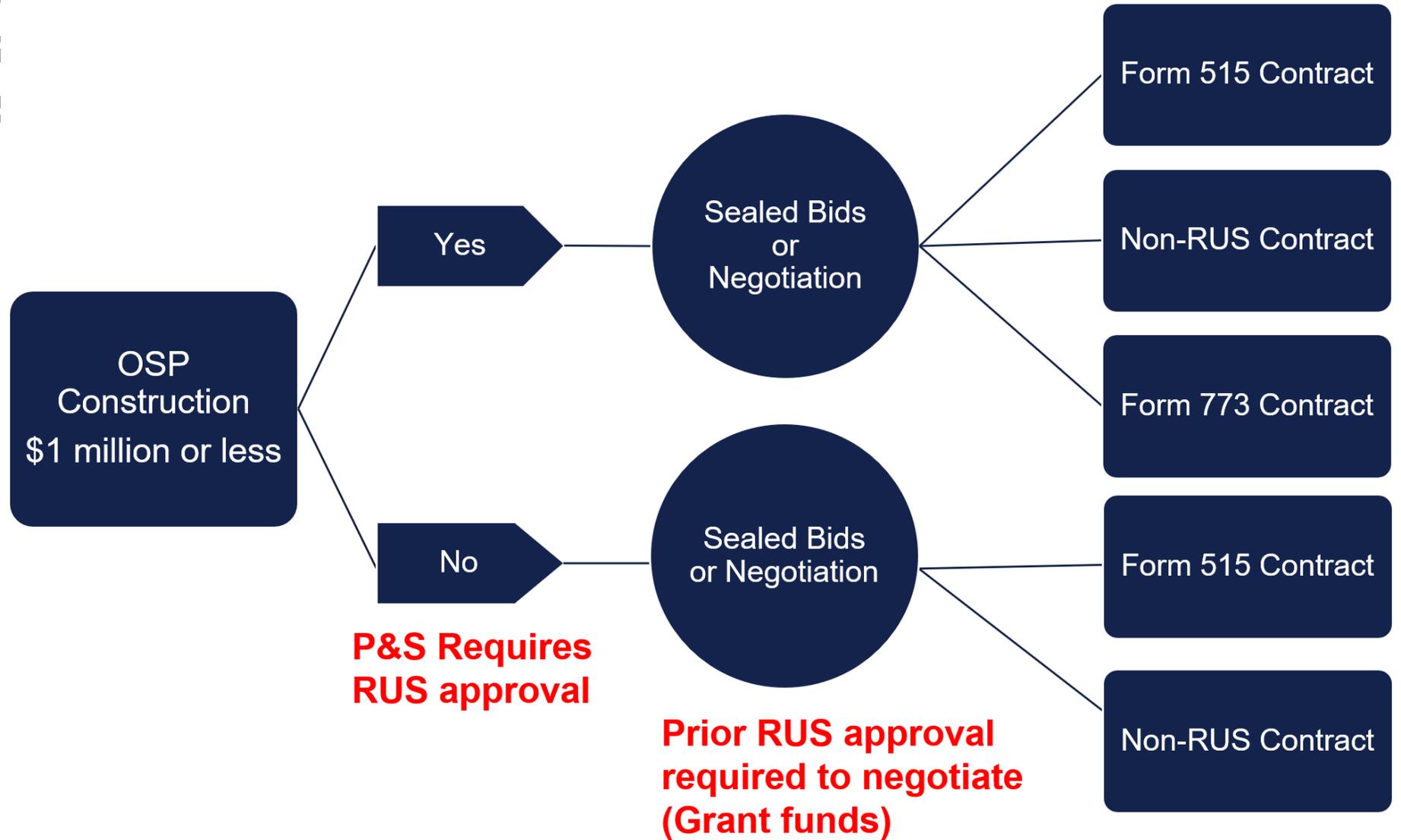


Construction Contracts – Outside Plant Construction (Cont.)

- **Outside Plant (OSP) Construction – Contracts**

- For OSP projects (including all labor and materials) estimated to exceed \$1 million:
 - Awardees must use RUS Form 515 (Telecom System Construction) or a Non-RUS contract
- For OSP projects (including all labor and materials) estimated at \$1 million or less:
 - Awardee may use RUS Form 515, a Non-RUS contract, or the Small-Scale Construction methods

Construction Contracts – Outside Plans Procedures



Construction Contracts – Outside Plant Construction (Cont.)

- **Outside Plant (OSP) Construction – Contract Closeout**
- Once all acceptance tests and inspections are completed and all deficiencies corrected:
 - The awardee must obtain from the architect or engineer RUS Form 756, Contract Closeout Certification, or a similar certification for a non-RUS contract, and submit it to RUS within 30 days of contract completion
 - Documents required to closeout RUS OSP contract Form 515 are listed in the ReConnect Construction Procedures Guide
 - RUS will notify awardees, in writing, upon approval of the final fees, permitting final payment to be made

Construction Contracts

Building Construction



Construction Contracts – Building Construction

- **General**

- All construction pertaining to the building structure must be performed under a single contract
- For buildings estimated to cost more than \$100,000, RUS Form 257 (Building Construction) or a non-RUS contract may be used
 - For unattended buildings estimated to cost over \$100,000, a non-RUS contract must be used
- For all building improvements and unattended buildings estimated to cost \$100,000 or less, the RUS Form 773 (Small-scale Construction) method must be used
- Must comply with all applicable regulations and laws per the Construction Procedures Guide

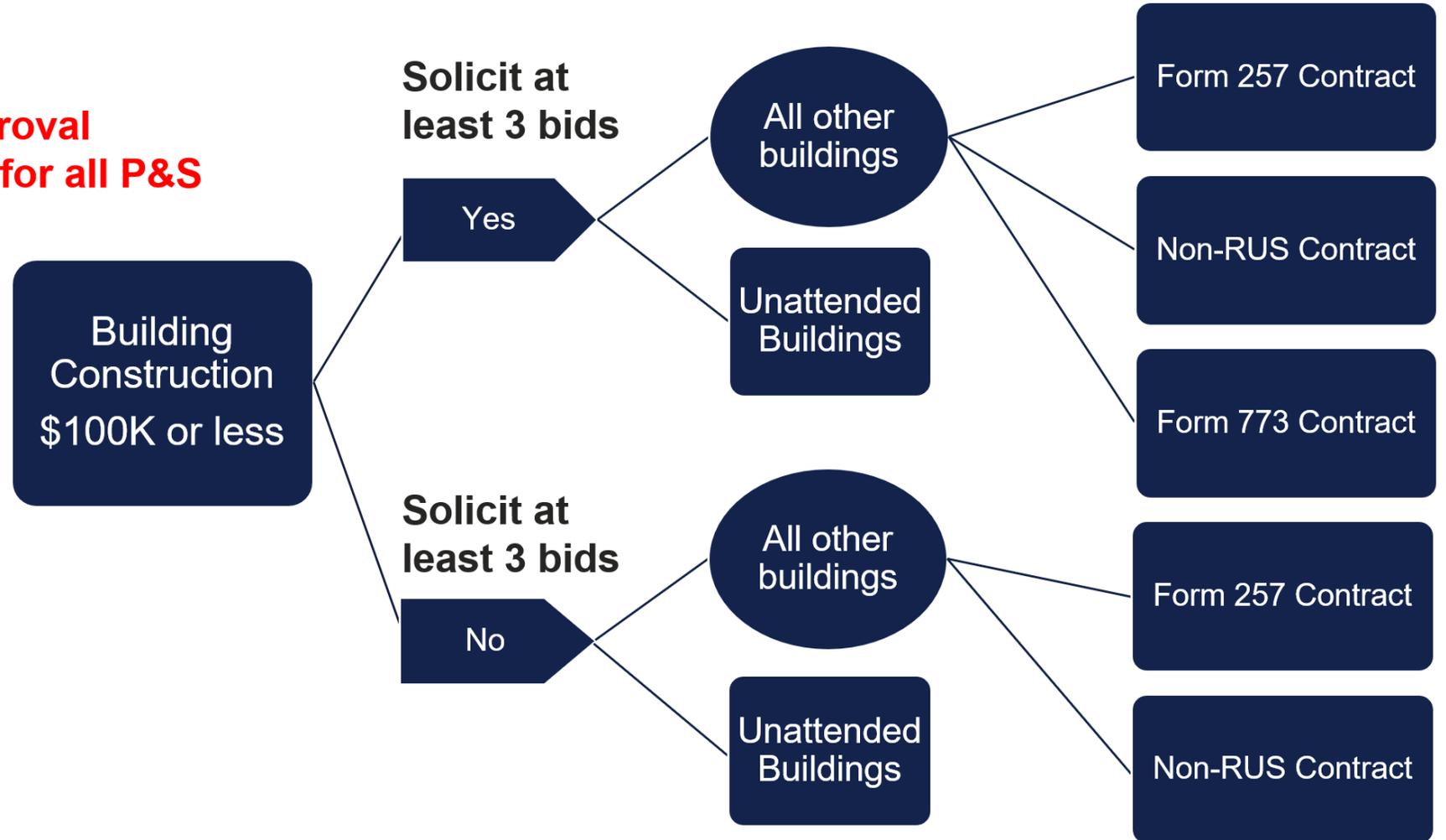
Construction Contracts – Building Construction (Cont.)

- **Plans and Specifications (P&S)**
 - Requirements for the P&S are provided in the Construction Procedures Guide
 - All building P&S must be submitted to RUS for approval
 - Awardee can solicit bids upon receipt of RUS's written P&S approval
- **Contract Approval**
 - Awardee must solicit bids for all building construction contracts
 - Contract award is subject to conditions detailed in the Construction Procedures Guide
 - Three executed copies of RUS Form 257 or non-RUS contract must be submitted for RUS approval

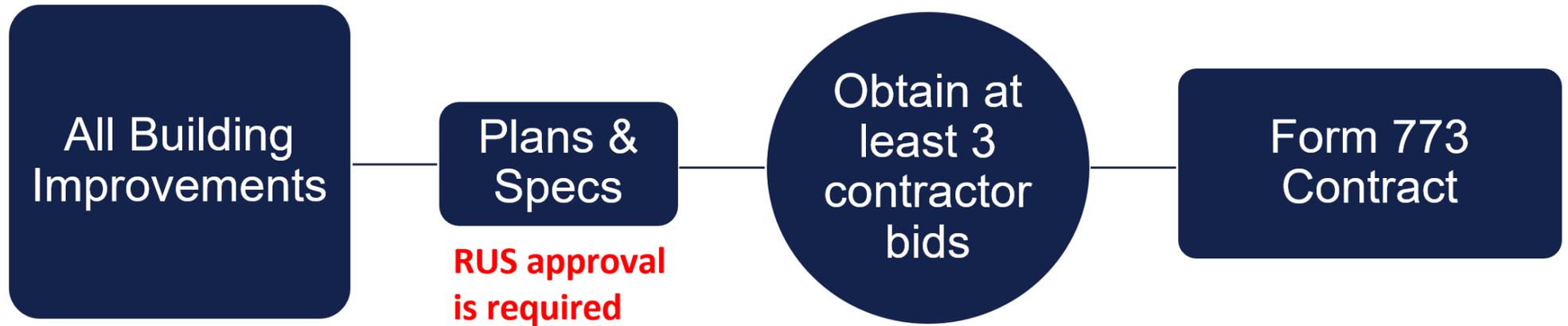
Construction Contracts

– Building Construction

**RUS approval
required for all P&S**



Construction Contracts – Building Improvements



Construction Contracts – Building Construction (Cont.)

- **Contract Closeout**
- Upon completion of construction per the P&S:
 - The awardee must obtain from the architect or engineer, RUS Form 756, Contract Closeout Certification, or a similar certification for a non-RUS Contract, and submit it to RUS within 30 days of contract completion
 - Documents required to closeout RUS Building Contract Form 257 are listed in the ReConnect Construction Procedures Guide
 - RUS will notify awardees, in writing, of approval of the final fees, permitting final payment to be made

Construction Contracts

Tower Construction



Construction Contracts – Tower Construction

- **General**
- RUS Form 773, *Miscellaneous Construction Work and Maintenance Services Contract*, or a non-RUS contract should be used to finance the construction of all new towers and any improvements on existing towers
- **Plans and Specifications (P&S)**
 - Requirements for the P&S are provided in the Construction Procedures Guide
 - RUS approval of P&S is not required
 - Awardee should obtain at least 3 contractor proposals
 - Neither the selection of the contractor nor proposal require RUS approval

Construction Contracts – Tower Construction (Cont.)

- **Contract Approval**

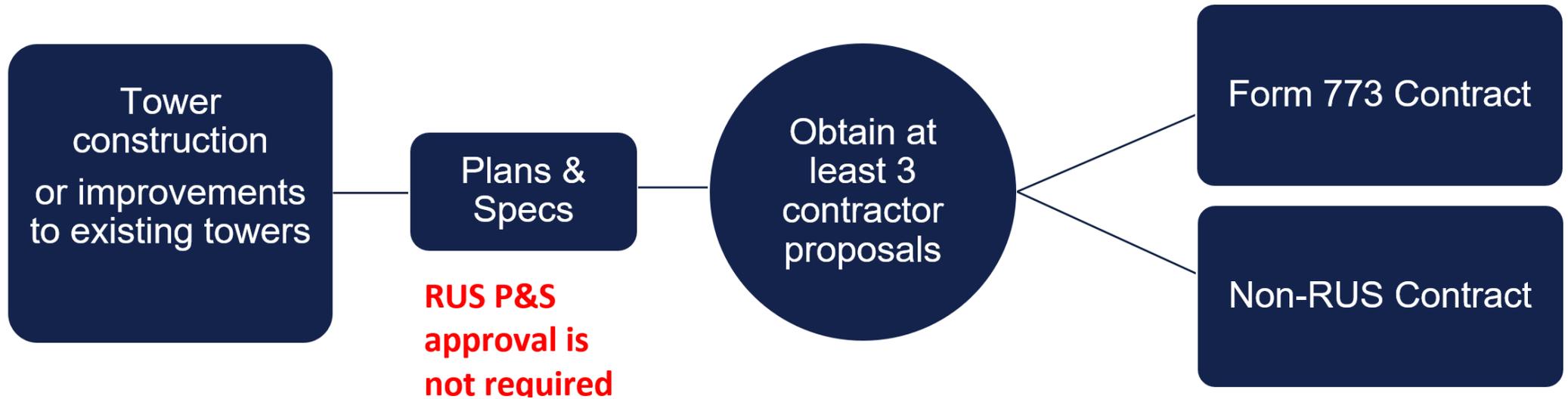
- 3 executed copies of Forms 773 or non-RUS contract forms used for Tower Construction must be sent to RUS for approval
- Contractor's bond required if contract amount exceeds \$250,000

- **Contract Closeout**

- Upon completion of construction:

- The awardee must obtain from the engineer, RUS Form 756, Contract Closeout Certification, or a similar certification for a non-RUS Contract, and submit it to RUS within 30 days of contract completion
- RUS will notify in writing of approval of the final fees permitting final payment to be made

Construction Contracts – Tower Construction





Rural Development

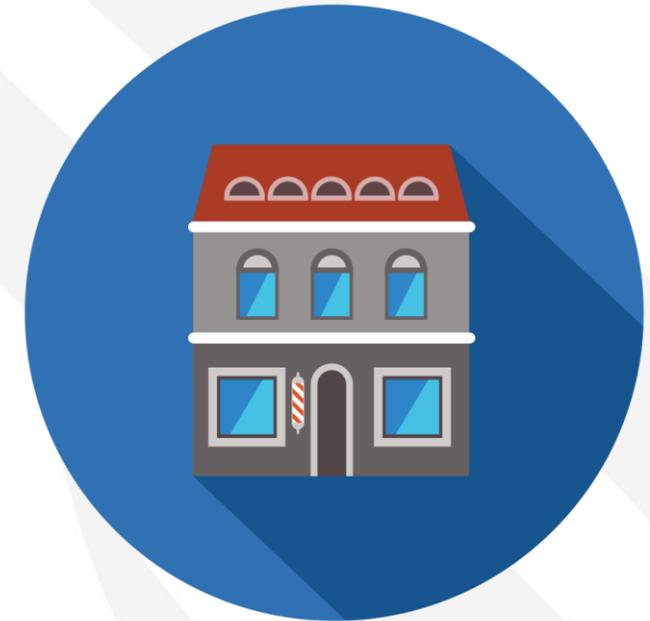
Construction Contracts

Subcontracts and Contract Amendments



Construction Contracts – Subcontracts

- Non-RUS subcontracts can be used with non-RUS contract forms
- RUS Subcontract Form 282 should be used with Contract Forms 257 (Buildings), 395 (Equipment), and 515 (OSP)
 - Minor modifications to Subcontract Form 282 is permissible providing that they do not change the terms and conditions of the primary contract and are made per the Construction Procedures
 - RUS approval is not required per the ReConnect Construction Procedures Guide



Construction Contracts – Contract Amendments

- RUS Amendment Form 238 for RUS Forms 395 (Equipment) and 257 (Buildings)
- RUS Amendment Form 526 for RUS Form 515 (OSP)
- Non-RUS Amendment Forms can be used for non-RUS Contract Forms
- Prior RUS Approval is only required if:
 - There are changes to the terms or conditions of the contract or the scope of the project
 - The amendment(s) increase the contract price by 20% or more
 - The amendment causes an unbonded contract to require a performance bond
- 3 copies of executed amendments should be submitted to RUS any time prior to contract closeout



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Construction Contracts

Small Scale Construction Methods –
General, RUS Form 773, and In-
House Work Orders



Construction Contracts – Small-Scale Construction Method

- Generally, the awardee finances small-scale construction with non-award funds and is reimbursed after the work has been completed. The Small-Scale Construction Method may also be used in combination with other RUS contract forms or non-RUS contracts
 - RUS Form 773 method: 3rd party
 - Selected contractor meets all federal and state licensing requirements
 - Work Order Method: In-house staff
 - Daily timesheets, cost detail sheets, and material reports must be kept
 - Cost accounting per 2 CFR 200 as applicable

Construction Contracts – RUS Form 773, *Miscellaneous Construction Work*

- Used without modification for small-scale construction
- Neither contract or selected contractor requires RUS approval
- Contractor's bond required if contract amount exceeds \$250,000
- Upon construction completion and final inspection, awardee obtains final invoice and executed RUS Form 743, Certificate of Contractor, and Indemnity Agreement
- Certified RUS Form 771a and detailed work order description(s) must be submitted to RUS for review

Construction Contracts – Work Order Method

- Work order means any work performed by the awardee's employees, pursuant to its work order procedure, with the awardee furnishing all the materials, equipment, tools, and transportation
- Work order construction must be performed to all local, state, and Federal requirements
- Awardee must keep daily timesheets and material reports, referenced by work project numbers, to record labor and materials used
 - Cost accounting system must be in place to meet the requirements of 2 CFR 200 as applicable, to show the source and summary records to support requested and expended funds
- General Field Representative (GFR) reviews
 - The GFR does a physical inspection of all or some of the work order's projects before initialing the work order form
 - The GFR will periodically audit the inspection of small-scale construction projects to ensure integrity of the closeout procedure

Construction Contracts – Small-scale Construction Reimbursement

- Certified Form 771a, Summary of Work Orders, is reviewed and initialed by the GFR
- Awardee submits a Form 481, FRS, along with the initialed 771a to RUS to request reimbursement







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