

## §§ 1753.59–1753.65 [Reserved]

**Subpart H—Purchase and Installation of Special Equipment**

SOURCE: 54 FR 39267, Sept. 25, 1989, unless otherwise noted. Redesignated at 55 FR 39397, Sept. 27, 1990.

**§ 1753.66 General.**

(a) This subpart implements and explains the provisions of the Loan Documents setting forth the requirements and the procedures to be followed by borrowers in purchasing and installing special equipment financed with loan funds.

(b) Terms used in this subpart are defined in §1753.2 and RUS Contract Forms 397 and 398.

(c) Special equipment purchased with loan funds must be included in the List of Materials Acceptable for Use on Telephone Systems of RUS Borrowers (See Bulletin 344-2) and meet RUS's standards and specifications (See 7 CFR part 1755) unless otherwise approved by RUS.

(d) Borrowers must obtain RUS review and approval of the LD for their telephone systems. Applications of special equipment not included in an approved LD must conform to the modernization plan as required by 7 CFR part 1751, subpart B, and must be submitted to RUS for review and approval.

(e) RUS Form 397 and applicable specifications shall be used for the purchase of special equipment for major construction on a furnish and install basis.

(f) RUS Form 398 and applicable specifications shall be used for the purchase of equipment for major construction on a furnish only basis. The procedures provided in subpart I, if applicable, or a FAP approved by RUS may be used for the installation of special equipment purchased with a Form 398 contract.

(g) For special equipment purchases for minor construction, the borrower may at its option use the Methods of Minor Construction procedures contained in subpart I or the purchase procedures contained in this subpart H.

(h) Some types of special equipment contain software. See subpart E for RUS software licensing requirements.

[54 FR 39267, Sept. 25, 1989. Redesignated at 55 FR 39397, Sept. 27, 1990, as amended at 58 FR 66259, Dec. 20, 1993; 59 FR 17464, Apr. 13, 1994]

**§ 1753.67 Contracts and specifications.**

(a) Special Equipment Contract, RUS Form 397 shall be used to purchase equipment on a furnish and install basis.

(b) Special Equipment Contract, RUS Form 398 shall be used to purchase equipment on a furnish only basis.

(c) The equipment specifications must accompany the selected contract form.

(1) Each specification consists of performance specifications, installation requirements (if applicable) and application engineering requirements.

(2) RUS specifications for the Special Equipment Contract are listed in 7 CFR part 1755.

**§ 1753.68 Purchasing special equipment.**

(a) *General.* (1) Equipment purchases are categorized as initial equipment purchase, equipment additions to existing systems and new system additions.

(i) An initial equipment purchase is a first time purchase by a borrower of a complete system of special equipment.

(ii) Equipment additions to existing systems are additions of components to complete operating systems to increase system capacity that require components made by the manufacturer of the existing system.

(iii) New system additions are purchases of complete systems of special equipment when the purpose can be accomplished either with equipment of the same type and manufacture as other complete operating systems in the borrower's system, or with complete systems of special equipment from other manufacturers.

(iv) Where equipment is obtained under a Form 398 Contract, the borrower shall require the supplier to provide a detailed proposed bonding and

grounding plan and detailed installation information. The installation information is to enable acceptance testing by the borrower upon completion of the installation.

(2) For initial equipment purchases that qualify as major construction, the borrower shall obtain proposals from at least three suppliers of equipment of different manufacturers.

(3) For equipment additions to increase the capacity of existing systems, the borrower may negotiate for equipment of a specific type and manufacture. RUS approval to negotiate in this instance is not required if these additions were specifically described in the LD approved by RUS.

(4) For new system additions, the borrower may request RUS approval to negotiate for additional equipment for the purpose of standardization on a system basis, provided RUS approved the procurement method used for the initial equipment purchase. RUS approval to negotiate must be obtained before release of the P&S to the seller.

(5) RUS will not approve negotiation with a seller of non-domestic equipment for the purpose of standardization, because such a purchase does not meet the "Buy American" provision.

(6) RUS recommends, but does not require, that borrowers include installation by the seller for initial installations of special equipment that qualify as major construction.

(7) Special equipment may be installed by the borrower if it has qualified personnel and test equipment available to install the equipment and make the required acceptance tests, and written approval is given by RUS.

(8) Installations, whether by the borrower or the seller, must meet the installation requirements of Form 397 specifications. A copy of the acceptance tests results must be attached to the closeout documents or work order summary.

(9) Detailed considerations and guidelines for the preparation of the specifications for the various applications of special equipment can be found in RUS Telecommunications Engineering and Construction Manuals.

(10) The borrower must obtain authorization from the Federal Communications Commission (FCC) to con-

struct and operate radio transmitting equipment. Evidence of FCC authorization is required for RUS contract approval. Where required, the borrower must obtain approval of state regulatory bodies regarding tariffs and related matters.

(b) *Procurement procedures*—(1) *General*. The following are the procurement procedure steps required for the purchase of special equipment by borrowers.

(2) *Initial equipment purchase*. (i) The borrower prepares P&S and, for projects estimated to exceed \$500,000 or 25% of the loan, whichever is less, sends two copies to GFR for approval.

(ii) For projects estimated to exceed \$500,000 or 25% of the loan, whichever is less, RUS will either approve P&S in writing or notify the borrower of the reasons for withholding approval.

(iii) For projects estimated to cost less than \$500,000 or 25% of the loan, whichever is less, the borrower may proceed with procurement upon completion of the P&S.

(iv) If the borrower has employed full competitive bidding in the selection, a contract may be executed with the successful bidder and the borrower may proceed to paragraph (b)(2)(vi) of this section.

(v) If the borrower did not follow a fully competitive bidding process as described in §1753.8, the selection, along with a summary of all proposals and an engineer's recommendation, shall be sent to RUS. RUS shall approve the proposal selection in writing or notify the borrower of any reason for withholding approval.

(vi) The borrower sends three executed contracts including specifications to RUS for approval.

(vii) After RUS approval of the contract, one copy will be returned to the borrower and one copy will be sent to the seller.

(3) *Equipment additions to existing systems*. Purchase procedures for equipment additions to existing systems are the same as for initial system purchase except that the borrower may negotiate for equipment of a specific type and manufacture instead of obtaining proposals from three or more sellers.

(4) *New system additions*. (i) The borrower prepares the P&S and, if the

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project is estimated to exceed \$500,000 or 25% of the loan, whichever is less, sends two copies to the GFR for approval. The borrower may request RUS approval to negotiate for the purpose of standardization on a system basis prior to preparing the P&S.

(ii) RUS notifies the borrower in writing as to whether the borrower may negotiate for specific equipment. If P&S were required to be submitted to RUS under paragraph (b)(4)(i) of this section, RUS notifies the borrower in writing of P&S approval (or notifies the borrower of the reasons for withholding approval).

(iii) The remainder of the purchase procedure for new system additions is the same as for initial equipment purchase.

(c) *Contract amendments.* (1) The general requirements for contract amendments are set forth in §1753.11.

(2) The borrower shall prepare any required amendments to the special equipment contract, arrange for the execution by all parties, and submit these amendments to RUS in accordance with §1753.11(d). RUS Form 238, Construction or Equipment Contract Amendment, shall be used for this purpose.

(d) *Closeout procedures*—(1) *Acceptance tests for Form 397.* (i) Immediately upon

completion of the installation and alignment of the equipment, the borrower shall arrange with the contractor's installer and the GFR for acceptance tests.

(ii) The borrower shall obtain from the contractor, in writing, the results of all inspections and tests made by the contractor as required in the specifications. The borrower will analyze the test results and determine whether the performance of the equipment meets the contract specifications.

(2) *Acceptance tests for Form 398.* (i) Upon completion of the installation and alignment of the equipment (under this contract the installation alignment will be by other than the seller) the borrower shall perform all the inspections and tests outlined in the specifications.

(3) *Closeout documents.* When the acceptance tests have been completed and all deficiencies have been corrected, the borrower:

(i) Assembles and distributes the documents listed in the following table that are required for the closeout of the special equipment contract. The documents listed for RUS shall be retained by the borrower for inspection by RUS for at least two years from the date of the engineer's contract closeout certification.

**DOCUMENTS REQUIRED TO CLOSE OUT SPECIAL EQUIPMENT CONTRACTS**  
[RUS Forms 397 and 398]

RUS Form No.	Description	No. of copies prepared by			Engineer	Distribution	
		Form 397	Form 398	Contractor		Borrower	Contractor
238	Construction or Equipment Contract Amendment (if not previously submitted, send to RUS for approval).	.....	(3)	.....	(3)	(to RUS)	(to RUS)
396	Certificate of Completion—Special Equipment Contract (Including Installation).	.....	2	.....	.....	1	1
396a	Certificate of Completion—Special Equipment Contract (Not Including Installation).	.....	.....	.....	2	1	1
744	Certificate of Contractor and Indemnity Agreement.	1	.....	.....	.....	1	.....
213	Certificate (Buy American).	1	.....	1	.....	1	.....

DOCUMENTS REQUIRED TO CLOSE OUT SPECIAL EQUIPMENT CONTRACTS—Continued  
[RUS Forms 397 and 398]

RUS Form No.	Description	No. of copies prepared by			Engineer	Distribution	
		Form 397	Form 398	Contractor		Borrower	Contractor
None	Report in writing, including all measurements and other information required under Part II of the applicable specifications.	1	.....	.....	1	1	.....
None	Set of maintenance recommendations for all equipment furnished under the contract.	1	.....	1	.....	1	.....

(ii) Obtains certifications from the engineer that the project and all required documentation are satisfactory and complete. Requirements for this contract closeout certification are contained in §1753.18.

(iii) Submits copies of the engineer’s certifications to RUS with the FRS requesting the remaining funds on the contract.

(iv) Makes final payment in accordance with the payment terms of the contract.

[54 FR 39267, Sept. 25, 1989. Redesignated at 55 FR 39397, Sept. 27, 1990, as amended at 59 FR 43718, Aug. 25, 1994; 64 FR 16611, Apr. 6, 1999]

§§ 1753.69–1753.75 [Reserved]

**Subpart I—Minor Construction**

SOURCE: 55 FR 3573, Feb. 2, 1990, unless otherwise noted. Redesignated at 55 FR 39397, Sept. 27, 1990.

**§ 1753.76 General.**

(a) This subpart implements and explains the provisions of the Loan Documents containing the requirements and procedures to be followed by borrowers for minor construction of telecommunications facilities using RUS loan funds. Terms used in this subpart are defined in §1753.2.

(b) [Reserved]

(Approved by the Office of Management and Budget under control number 0572–0062)

[55 FR 3573, Feb. 2, 1990. Redesignated at 55 FR 39397, Sept. 27, 1990, as amended at 64 FR 16611, Apr. 6, 1999]

**§ 1753.77 Methods of minor construction.**

Minor construction may be performed by contract using RUS Contract Form 773, “Miscellaneous Construction Work and Maintenance Services”, by RUS Contract Form 515, or by work order construction. The rules for using Form 515 for minor construction are contained in subpart F of this part.

[64 FR 16612, Apr. 6, 1999]

**§ 1753.78 Construction by contract.**

(a) RUS Form 773 shall be used for minor construction by contract. Compensation may be based upon unit prices, hourly rates, or another basis agreed to in advance by the borrower and the contractor. A single work project may require more than one contractor.

(b) The borrower shall prepare the contract form and attach any diagrams, sketches and tabulations necessary to specify clearly the work to be performed and who shall provide which materials. Neither the selection of the contractor nor the contract requires RUS approval.

(c) Borrowers are urged to obtain quotations from several contractors before entering into a contract to be assured of obtaining the lowest cost. The