

## **Public Body**

### **Contract Document List**

#### **Guidance for the Use of Engineers Joint Contract Documents Committee Documents on Water and Waste Disposal Projects with Rural Utility Service Financial Assistance**

##### 1. GENERAL

It is the Rural Utilities Service's (RUS) policy that the Engineers Joint Contract Documents Committee (EJCDC) documents be used as the foundation for the engineering and construction contract documents for all Water and Waste Disposal program actions. RUS has a Short Form Contract for small projects typically less than \$100,000. The short form contracts were developed by RUS. Call the RUS State Engineer prior to using the short form contract. The EJCDC has developed the following documents which will be considered previously approved by the Agency for use by applicants, owners, and borrowers in the Rural Utilities Service's Water and Waste Disposal program.

- a. Agreement between Owner and Engineer for Professional Services (EJCDC No. E-500, including Exhibits A through J, 2008 Edition),
- b. Suggested Form of Agreement between Owner and Contractor for Construction Contract (Stipulated Price) (EJCDC No. C-520, 2007 Edition), and
- c. Standard General Conditions of the Construction Contract (EJCDC No. C-700, 2007 Edition).

When these documents are properly coordinated with other documents in the EJCDC set of Construction Related Documents and Rural Development Guides, 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 USDA Rural Development Water and Waste Disposal programs. Exhibits refer to the EJCDC documents.

##### 2. AVAILABILITY

The EJCDC documents are available from any of the sponsoring organizations: the National Society of Professional Engineers ([www.nspe.org](http://www.nspe.org)), American Council of Engineering Companies ([www.acec.org](http://www.acec.org)), or American Society of Civil Engineers ([www.asce.org](http://www.asce.org)), and the Associated General Contractors of America ([www.agc.org](http://www.agc.org)). 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 Disposal programs are delivered through the USDA, Rural Development offices.

Any Rural Development or RUS instructions, regulations, or Iowa Guides referenced in this Guide are available from any Iowa Rural Development Office or from the internet at [http://www.rurdev.usda.gov/ia/cp\\_utilities.html](http://www.rurdev.usda.gov/ia/cp_utilities.html).

### 3. PURPOSE

This Guide on the use of the EJCDC documents is to provide 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. This guide references attachments that when combined with the standard EJCDC documents, create a complete set of construction contracts. However, the guidance or model documents in the attachments 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 any Iowa Rural Development Office to verify they have the most current information. Consultants may use the electronic files as the starting point in preparing a set of construction contract documents for a project.

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-Contractor Document List

The EJCDC has developed a 2007 edition of the Owner-Contractor Agreement that when assembled as described in this guide is acceptable for use on water and waste projects funded by Rural Utilities Service (RUS). The Owner-Contractor Agreement documents must be approved by the USDA, Rural Development State Engineer prior to advertisement for bids. The executed contract documents must be approved by the USDA, Rural Development State Engineer or other Agency official prior to issuance of Notice to Proceed.

It is RUS policy that 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 that do not conflict with federal statutes or regulations. Because the EJCDC documents are fully integrated, when making a modification in one document applicants must ensure that appropriate modifications are made in all affected documents.

Before applicants or consultants proceed with the development of a set of contract documents, they should contact the Iowa Rural Development State Office to verify they have the most current information specific to the type of project and State or other jurisdiction 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. Multiple contractors or funding agencies may be listed on one project sign.

Typically five complete sets of the executed Construction Contract Documents (two for Rural Development, one for Engineer, one for Contractor, and one for Owner) are completed.

Modifications to the EJCDC documents and Rural Development Guides may be necessary for some projects. All modifications to these documents shall only be made by either **BOLD fonts** for added items and strikethrough font (~~Strikethrough~~) for items to be deleted.

Exhibits refer to the EJCDC documents.

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

In the Iowa Guides the highlighted text indicates a choice is necessary or information must be inserted. This information must be provided and the highlights eliminated prior to submittal to Rural Development for review.

**PUBLIC BODY DOCUMENTS**

Title	Form	Notes
Index of documents for Specification Manual	Iowa Guide 6pb	<ul style="list-style-type: none"> <li>Iowa Guide 6pb or similar index must be placed in the Specification Manual.</li> </ul>
Notice of Public Hearing and Letting	Attorney provided	<ul style="list-style-type: none"> <li>Consult with applicant’s Attorney and Bond Council to determine what is required.</li> </ul>
Advertisement for Bids	Attorney provided	<ul style="list-style-type: none"> <li>Consult with applicant’s Attorney and Bond Council to determine what is required.</li> </ul>
Instructions to Bidders	Iowa Guide 45pb	<ul style="list-style-type: none"> <li>DO NOT use EJCDC document C-200 on RUS funded projects.</li> <li>Use Iowa Guide 45pb, “Instructions to Bidders”.</li> <li>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 in the Instructions to Bidders. Given the submitted bids, a hypothetical third party should be able to recommend the same successful bidder as the Engineer. Article 14 - Basis of Bid, Evaluation of Bids may need to be modified if unusual bid evaluation practices are followed.</li> </ul>
Bid Bond	C-430 (07)	<ul style="list-style-type: none"> <li>Use EJCDC form C-430 (07), “Bid Bond” or certified check. Follow State Code for Bond amount.</li> </ul>

Title	Form	Notes
Bid Form	RUS Bulletin 1780-26, Attachment G	<ul style="list-style-type: none"> <li>• Use Attachment G, “Bid Form”.</li> <li>• DO NOT use EJCDC form C-410 on RUS funded projects.</li> <li>• 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.</li> <li>• To meet requirements of maximum open and free competition at 7 CFR 1780.70(b), materials and brand names shall not be listed on bid schedule unless approved by RD State Engineer.</li> </ul>
Notice of Award	C-510 (07)	<ul style="list-style-type: none"> <li>• Use EJCDC form C-510 (07), “Notice of Award.”</li> <li>• Owner will not announce award of contract without consultation with funding Agency (ies).</li> </ul>

Title	Form	Notes
Agreement Between Owner and Contractor	C-520 (07)	<ul style="list-style-type: none"> <li>• Use EJCDC, form C-520 (07), “Suggested Form of Agreement Between Owner and Contractor (Stipulated Price).”</li> <li>• Read Introduction and Notes to User within document and make appropriate modifications.</li> <li>• 5% retainage must be used until substantial completion. “95” must be added to both blanks in Article 6.02.A.1</li> <li>• Blanks in 6.02.B. Place 100% in the first blank and 200% in the second blank.</li> <li>• 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 Attachment B, item 17 of this bulletin). Calculation of this amount should be documented.</li> <li>• 7.01, Interest rate comparable to short term lending rate or State law.</li> <li>• In addition to copies customarily provided for Owner, Contractor, Engineer, and others, two executed copies will be provided for Rural Development use.</li> </ul>
Standard General Conditions of the Construction Contract	C-700 (07)	<ul style="list-style-type: none"> <li>• Use EJCDC C-700 (07), “Standard General Conditions of the Construction Contract.”</li> </ul>
Supplementary Conditions	Iowa Guide 43pb	<ul style="list-style-type: none"> <li>• Use Iowa Guide 43pb, “Supplementary Conditions”.</li> <li>• 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.</li> <li>• RUS does not support unfair allocation of risk or the burden of excessive insurance coverage.</li> <li>• 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.</li> <li>• Any additional special conditions added by Engineer must be added in a separate section.</li> </ul>

Title	Form	Notes
Performance Bond	C-610 (10)	<ul style="list-style-type: none"> <li>• Use EJCDC form C-610 (10), “Performance Bond.”</li> <li>• Must be full amount of Contract.</li> <li>• Surety must be listed in TC-570, have adequate bonding capacity, and be licensed to do business in the State or other jurisdiction where project is located.</li> </ul>
Payment Bond	C-615 (10)	<ul style="list-style-type: none"> <li>• Use EJCDC form C-615 (10), “Payment Bond” or alternate payment bond prepared by EJCDC, including C-615-A.</li> <li>• Must be full amount of Contract.</li> <li>• Surety must be listed in TC-570, have adequate bonding capacity, and be licensed to do business in the State or other jurisdiction where project is located.</li> </ul>
Application for Payment	C-620 (10)	<ul style="list-style-type: none"> <li>• Use EJCDC form C-620 (10), “Application for Payment.”</li> <li>• Must retain signature blocks for Owner’s Approval and Agency Concurrence. C-620 is pre-approved for use under 7 CFR 1780.76 (e).</li> <li>• 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.</li> <li>• Work added by Change Order will not be considered for payment until Change Order has Agency concurrence.</li> <li>• Quantity Completed on Final Application for Payment must equal final adjusted contract quantities on unit price contracts.</li> <li>• In addition to copies customarily provided for Owner, Contractor, Engineer, and others, an executed copy with all attachments will be provided for Rural Development use.</li> </ul>
Change Order	C-941 (07)	<ul style="list-style-type: none"> <li>• Use EJCDC form C-941 (07), “Change Order.”</li> <li>• Must retain signature block for Agency Concurrence. C-941 is pre-approved for use under 7 CFR 1780.76 (h) (2).</li> <li>• In addition to copies customarily provided for Owner, Contractor, Engineer, and others, two executed copies will be provided for Rural Development use.</li> </ul>

Title	Form	Notes
Certificate of Insurance	Contractor supplied	<ul style="list-style-type: none"> <li>The Contractor shall provide a certificate of insurance in accordance with Article 5, EJCDC, C-700 (07)</li> </ul>
Notice to Proceed	C-550 (07)	<ul style="list-style-type: none"> <li>Use EJCDC form C-550 (07), "Notice to Proceed."</li> <li>Executed copy will be provided to Rural Development.</li> </ul>
Certificate of Substantial Completion	C-625 (07)	<ul style="list-style-type: none"> <li>Use EJCDC form C-625 (07), "Certificate of Substantial Completion."</li> <li>Executed copy will be provided to Rural Development.</li> </ul>
Project Sign	Iowa Guides 22 or 22cdbg	<ul style="list-style-type: none"> <li>A project sign is required on all projects.</li> </ul>
Certification for Contracts, Grants and loans	RD Instruction 1940-Q	<ul style="list-style-type: none"> <li>If Bid amount exceeds \$100,000, signed RD Instruction 1940-Q, Exhibit A-1 required, Certification for Contracts, Grants, and Loans. Refer to paragraph SC-18.11.A of the General Conditions. Form required with Bid.</li> </ul>
Certification regarding debarment, suspension, Ineligibility, and Voluntary Exclusion	Form AD-1048	<ul style="list-style-type: none"> <li>If Bid amount exceeds \$25,000, signed Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions (AD-1048). Form required with Bid.</li> </ul>
Compliance Statement	Form FmHA 400-6	<ul style="list-style-type: none"> <li>If Bid amount exceeds \$10,000, Compliance Statement required. Refer to specific equal opportunity requirements set forth in paragraph SC-18.10.A of the General Conditions. Form required with Bid.</li> </ul>

The following items listed below are not required to be a part of the Contract Documents but are required to be completed throughout construction of the project.

Title	Form	Notes
Engineers Certification	Iowa Guide 49	<ul style="list-style-type: none"> <li>The Engineer will submit this certification to Rural Development with the Drawings and Specifications.</li> </ul>
Preconstruction Conference	Iowa Guide 12a	<ul style="list-style-type: none"> <li>Preconstruction conference guide. The Engineer may use their own document provide these items are covered in the precon meeting, The engineer may add to the document as needed.</li> </ul>
Owner Monitoring Report	Iowa Guide 12i	<ul style="list-style-type: none"> <li>The Owner is required to submit this report with each contractor pay request.</li> </ul>
Engineer Construction Progress Report	Iowa Guide 12h	<ul style="list-style-type: none"> <li>The Engineer is required to provide an inspection report with each contractor pay request. This is separate from the inspectors daily diary.</li> <li>Iowa Guide 12h is a suggested format for the Engineer required progress report. Engineer may use their own form.</li> </ul>
Prefinal/Final Inspection	Iowa Guide 12e	<ul style="list-style-type: none"> <li>This guide is required for the prefinal and final inspections.</li> </ul>

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