

CONSTRUCTION CONTRACT DOCUMENTS
(Plans and Specifications)

1. Assemble contract documents as outlined in Michigan Guide 3EJCDC (Blue Cover) and RUS Bulletin 1780-26, “Guidance for the Use of EJCDC Funding Agency Edition Documents on Water and Waste Projects with RUS Financial Assistance.” All of the EJCDC documents must be purchased from third party. Michigan Guide 3EJCDC (Blue cover) provides guidance on what documents are needed and where to get them. As the need arises, Rural Development officials will work with other agency representatives to resolve conflicts and duplication regarding the contract documents. Consultants are encouraged to contact the USDA Rural Development state engineer for certification forms (and the construction sign specification). Documents must not be modified beyond minor modifications (editing *italicized*, bracketed, text) and filling in the blanks. Proposed changes must be clearly marked or set apart (**bold type**) from the text and brought to the attention of the owner and Rural Development.
2. **USDA-RD Approval**-Proposed bidding and contract documents (including addenda) must be approved by Rural Development prior to advertising for bids. One draft set of plans and specifications shall be sent to the RD engineer for review with a copy of the transmittal letter to the area office. All contracts will contain a provision stating that it will not be in full force and effect until it has been approved by USDA-RD. Plans and specifications must be sealed, signed, and dated by the engineer in responsible charge.
3. **Forms and Bulletins**-USDA-RD expects that all forms or bulletins used in the specification books and contract documents will not be modified beyond filling in the blanks, except to make them project specific. Use the contract documents as originally supplied. Do not retype the documents. This applies to all hard copy forms and bulletins, and those downloaded from the Internet. Regulations can be obtained at <http://www.rd.usda.gov/programs-services/all-programs/water-environmental-programs> If the consultant proposes any changes as the contract documents are developed, they must be clearly marked or set apart from the text in bold type and brought to the attention of the owner and the agency during the review of the draft documents.
4. **Davis Bacon**-Projects funded by Rural Development funds only, are not subject to the Davis-Bacon Act. If funds are provided by an agency subject to the Act, the entire project must meet the provisions of the Act.
5. **Retainage**-Michigan Act 524, PA 1980, (MCLA 125.1561 et seq.) regarding contractor retainage escrow accounts does not apply to USDA-RD funds. There will be no escrow account for retainage or interest earned from our agency funds. (See RUS Bulletin 1780-14, Section 3.5). This shall be stated in the contract documents.
6. **Maximum, Open & Free Competition**-Procurement procedures shall provide for maximum, open and free competition and shall not restrict or eliminate competition. Typical issues are pipe materials, hydrants, valves, etc. In most cases, “or equals” must be included in the specifications. If manufacturer’s names are listed in the specifications, there must be an “or equal.” If there are items for which specifications are to be limited to one manufacturer or material, this must be requested and resolved prior to contract document preparation. Projects must be modest in size, design, and cost.
7. **Easements**-USDA-RD’s letter of conditions requires clear title or easements for *the entire system* not just in areas affected by the project. Early in the project, evaluate whether the community has clear title or easements in the areas not affected by the project, and if not, the community should work getting these as soon as possible.
8. **Revised Estimates**- When submitting the plans and specifications for USDA-RD review, the engineer must prepare an estimate of construction costs using the bid schedule(s) included in the contract documents, and submit it with the plans and specifications. The purpose of the estimate is to re-evaluate the construction budget, after the design is complete.
9. **Electrical Service**-Consider the costs of providing needed electrical service carefully, projects have experienced large cost overruns due to unanticipated charges from electrical utilities.

10. **Liquidated Damages**-Liquidated damages should be set at an amount adequate to recover anticipated damages, debt service, additional inspection, etc. but not so high as to threaten prospective bidders.
11. **Bidding**- The USDA-RD area office will authorize bidding (in writing) after approval of plans and specifications; when the bond counsel and local attorney are prepared to close; and after the Rural Development loan requirements have been completed. Invitation for bids should be publicly advertised for 30 days. If addenda are issued, there shall be ample time prior to bid opening for contractors to revise bids. Advertisements must clearly state a public place where and when bids can be delivered, especially in the case of communities with part-time office hours. Responsive bids shall be opened publicly at the time and place stated in the invitation for bids. A reasonable bid hold time must be stated in the specifications, usually 90 days.
12. **Bid Awards**-Bid documents should clearly state how the low bid is determined so all the potential bidders understand how the award will be made. Handling of bid alternates should be clearly explained.
13. **Contract Times**-The contractors must be given a reasonable amount of time to do the work. A definite and reasonable time of final completion must be included in the specifications. The time for contract completion and the inspection time in the engineer's agreement should correspond.
14. **Plans**-Engineers are highly encouraged to submit plans digitally, by email or ftp. Plans and specifications must be sealed, signed and dated by the engineer in responsible charge.
15. **Incidental Items**-Items that are "incidental to the contract" should be avoided. If necessary, they should be clearly denoted on the plans and specifications. Avoid large "incidentals" and list them as bid items on the bid schedule.
16. **Seismic Requirements and Security Measures**-Structural plans for buildings and tanks must have a note stipulating that the seismic design complies with either the 1997 Uniform Building Code or the 1995 ASCE 7 Standard. Reasonable security measures (fences, alarm systems) should be considered in design of water storage tanks, treatment facilities, and well houses.
17. **Groundwater Discharge WWTP** -Wastewater treatment systems that involve discharge to groundwater (sand filters, drainfields, mounds, infiltration galleries, etc.) must have sites evaluated by a USDA – NRCS Resource Soil Scientist.
18. **Service Leads/Laterals**-Construction specifications shall specify that work on service leads or laterals will only be conducted in the public right-of-way, easements, or municipality-owned land dedicated to the project. Services to empty lots will not be installed, except in the case of special assessments, or other arrangements--one lateral per customer. Corporation stops (water) or wyes (sewer) shall be listed as separate line items on the bid schedule and shall correspond to the number of users. Water meters shall be used on all projects. Owners should be made aware that service leads are staked to the best estimate of the property line/right of way. Staking of lateral end points will not be based on "property boundary" level of survey.
19. **Paving**-Every effort should be made in the design to minimize pavement, sidewalk and curb and gutter repairs. Our funds are for water or sewer projects, not excessive restoration. Paving repairs and driveway repairs shall be listed as separate items on the bid schedule, with units of square yards. We have had instances where paving repairs were listed as incidental to the lateral installation, and it has caused great confusion, and added significantly to project costs.
20. **Wellhead Protection**-For new water systems, a well abandonment program is warranted. A wellhead protection program is essential for any system that uses wells for a source. Pay attention to the water quality of new wells.
21. **Well Isolation Distances**- Be aware of local health department isolation distances for individual wells, especially with respect to sanitary forcemains, lift stations, and grinder pumps. This can sometimes be troublesome on small lots.

22. **Sewage Connections**-Sanitary Sewer laterals shall not have connections of sump pumps and footing drains. Inspections should be performed by the local plumbing inspector. Eliminate clear water leaks into the sewer.
23. **USDA-RD Signatures**-Prior to USDA-RD final contract approval and signature, all other signatures, dates, bonds, etc., must be completed and reviewed by the local attorney (Exhibit GC-A).
24. **USDA-RD Copies of Signed Documents**-USDA-RD will retain digital or a single sealed, signed, hard-copy, complete set of construction contract documents. Plans should be 11 x 17 format. If you prefer, submit one hard copy complete set for USDA-RD and the approval pages for the remainder of the contracts. We will execute the approval pages and return them to you for insertion into the remainder of the contract documents (Agency Concurrence page from the Supplementary Conditions).
25. **Bonds**-Surety companies executing bonds must appear on the Treasury Department's most current list, Circular 570, as amended. Bond forms must be EJCDC versions. Ineligible sureties have provided bonds in Michigan. This delays contract approval and elevates tensions and frustrations. Performance and payment bonds may not have dates prior to the date of the contract/agreement. Dates on the "Power of Attorney" attached to the performance bond and payment bond must be the same as the bond or later. Bonds provided in the contract documents must be exactly as provided in the specifications book. AIA bond forms are unacceptable.
26. **Reducing Retainage**-In order to reduce retainage, the project must be substantially complete and operational, and a pre-final inspection must be conducted by a USDA-RD engineer or delegated representative. A certificate of substantial completion setting the warranty date, and consent of the bonding company is also needed.
27. **Substantial Completion**-For water projects, the substantial completion documents should include some verification document from the contractor that all fire hydrant isolation valves are open and fire hydrants are in working order, ready for use.
28. **Additional Insured**-Section 5.04.B.5 of the general conditions (EJCDC C-700) requires that contractor's liability insurance contain a provision or endorsement that coverage will not be canceled, materially changed, or renewal refused without at least 30 days notice to the owner, contractor and additionally insured. Historically, we have accepted certificates of insurance naming the owner as additionally insured, however, the language of the certificate indicates that it doesn't amend the policy or extend coverage. In our opinion, a certificate of insurance, listing the additional insured, is insufficient evidence that such endorsements or provisions are in place. Engineers are cautioned to obtain a copy of a rider, an endorsement or other such provision naming the owner at a minimum, as additionally insured.
29. **Accessibility Issues** – For projects that involve restoration/replacement of curb and sidewalks, plans and specifications should include curb ramps at street corners. Owner's are required to comply with the Americans with Disabilities Act, as are all public entities, including our borrowers. If we are replacing curb and/or sidewalks anyway, curb ramps should be put in to bring the community into compliance.
30. **Unique Site Conditions** – Avoid differing site conditions issues by including as much information about unique site conditions as possible in the plans and specifications. The bid schedule should include line items with unit quantities (e.g. rock excavation per cubic yard, or dewatering per foot of pipe) to ensure that bidders account for unique site conditions in their bids.
31. **Water Meters & Meter Pits**- It may be useful to include a few meter pits on the bid schedule to cover instances where gaining access to a home for installation of an interior meter is difficult or impossible. Rural Development funds may be used to install a meter socket and meter in an existing service lateral, however construction of the service lateral from the right-of-way to the home, and all interior plumbing is the responsibility of the customer.
32. **Large Quantity Water Withdrawals**- Large quantity water withdrawals (including construction dewatering) need to be registered with EGLE for withdrawals greater than 70 gpm.