

This document has been prepared by USDA Rural Development's Program Support Staff to assist Community Facility Loan & Grant Applicants and their architectural and engineering consultants with the technical and submission requirements of the Program. Applicants should be aware that other information including organizational and financial data will also be required as part of the application process but is not listed in this document. Applicants are urged to contact the Program Support Staff early in the process to discuss these technical requirements.

1. Preliminary Architectural Feasibility Reports

Preliminary Architectural Feasibility Reports (PAFR), typically prepared by the Applicant's architect or engineer, must conform to customary professional standards. Guidelines for preparing the PAFR are summarized in FmHA Instruction 1942-A, Guide 6. A PAFR must be submitted for review and approval by RD Architect prior to any funding commitments. The PAFR must include all anticipated scope of work as additional work may not be allowed at the conclusion of a project to expend excess funds. A total project cost estimate must be developed and submitted with the PAFR and shall include all related soft costs, architect fees, construction costs, and a contingency of 15%. RD Loan Officer to review PAFR prior to submitting to RD Architect. Projects must be completed within 3 years of the date of obligation of funds.

2. Environmental Requirements

In applying for financial assistance from RD, the project will be subject to an environmental review in accordance with §1970 and the National Environmental Policy Act (NEPA). The size, complexity, and the potential for impacts to environmental resources will dictate the level of environmental review required for each project. The levels of review include the following:

Categorical Exclusion with No Environmental Report – limited applications with little to no documentation to be provided by Applicant;

Categorical Exclusion with an Environmental Report – most applications; an ER in the form and content of RD Instruction 1970-B, Exhibit C, "Guide to Applicants for Preparing Environmental Reports for Categorical Exclusions under §1970.54" to be provided by Applicant;

Environmental Assessment (EA) – for more complex projects, for those disturbing 10-acres or more, or those where an impact to an environmental resource is anticipated; an EA prepared in accordance with RD Instruction 1970-C, Exhibit B, "Guidance to Applicants for Preparing Environmental Assessments" to be provided by Applicant. Public notices are required;

Environmental Impact Statements (EIS) – for very large and most complex proposals with several impacts anticipated. A qualified environmental consultant required to prepare documentation.

Applicants and consultants are encouraged to contact the State Environmental Coordinator (SEC) to discuss their project and determine the level of review required. The environmental review must be completed prior to the obligation of RD funds.

Program Support Staff

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**COMMUNITY FACILITY LOAN & GRANT PROGRAM
SUMMARY OF TECHNICAL & SUBMISSION REQUIREMENTS
PROGRAM SUPPORT STAFF – MAY 2021**

3. Agreement for Professional Services

Applicants are responsible for providing the architectural and environmental services necessary for the planning, designing, bidding, contracting, inspecting, and constructing the projects. Professional services are generally provided through a contract between the Applicant and the Architect. The fees associated with the architect are an eligible project expense, however the contract is subject to RD concurrence. Acceptable contract forms/formats include the AIA Document B101-2017, *Standard Form of Agreement Between Owner and Architect* with edits per RD Instruction 1942-A, Guide 27, Attachment 1. All agreements and associated amendments must be submitted and concurred with by the RD Architect. All edits must be easily identifiable by ~~striketrough~~ or red-lined. Architects must be licensed in the State where the project is to be constructed. RD may reimburse for fees that are considered fair and reasonable; “excessive” fees must be justified.

4. Accessibility in Design Requirements

The following Accessibility Laws & Guidelines may apply to the federally funded project:

- Uniform Federal Accessibility Standards (UFAS) (Still applicable to housing projects)
- Architectural Barriers Act – Accessibility Guidelines (ABA-AG, 2004 (a.k.a. ABAAS))
- American with Disabilities Act – Accessibility Guidelines (ADA-AG, 2010 Edition)
- Fair Housing Act – Accessibility Guidelines (FHA-AG)
- Section 504 of the Rehabilitation Act
- State and Local Accessibility Regulations

Key point: For CF Direct Loans, a building with two or more floors may require an elevator with only minor exceptions. Since each project will be unique, specific information and questions regarding the above laws and guidelines and their applicability should be directed to the RD Architect early in the process, preferably prior to design.

5. Design/Contract Methods

The preferred construction method is the “Design-Bid-Build” Method. Under this method, a professional architect is hired directly by the Applicant through a written contract to prepare plans and specifications (design services), assist in the bidding process (contract administration), and monitor the construction (resident inspection services). The construction will be performed by an independent general contractor through a second contract between the Applicant and the Contractor.

Alternate methods of construction are available with prior RD approval including the Design/Build (D/B) method, Construction Manager Advisor (CMa), Construction Manager Constructor (CMc). Although allowable, these methods are not widely used on RD projects. If one of these methods is being considered, additional, supplemental information is required to be submitted to RD. If the cost associated with the D/B, CMa or CMc proposal exceeds \$250K, National Office approval must be obtained. Exact details and a list of the required submissions are available upon request.

**COMMUNITY FACILITY LOAN & GRANT PROGRAM
SUMMARY OF TECHNICAL & SUBMISSION REQUIREMENTS
PROGRAM SUPPORT STAFF – MAY 2021**

6. Construction Contract Documents

The Applicant and their Architect shall develop plans and specifications for construction. These contract documents must be sufficiently descriptive and legally binding in order to accomplish the work as economically and expeditiously as possible. In addition to the technical sections, the specification must contain RD approved and provided “up-front” or “boilerplate” sections. These sections include specific RD required language with respect to bidding, basis of award (low bidder), bonding, contractor requirements, payments, change orders, construction signage, etc. There are two (2) different pre-approved “boilerplate” packages available in both hard copy and in electronic format that have been developed for CF Project – they are AIA 2017 Edition for contracts exceeding \$100K or RD Version for contracts less than \$100K. If the pre-approved “boilerplate” documents are not utilized or have been altered, review and approval by RD’s legal office is required. All edits must be easily identifiable by ~~strike through~~ or red-lined. Following an initial consultation, a specific “boilerplate” package will be selected and forwarded to the Applicant for use. Prior to the bidding process, the Applicant shall forward a copy of the plans and specifications to RD Architect for review and approval. Plans and specifications need not be developed to the 100% design level to be submitted; 70% design level plans and specifications are adequate in most cases.

7. Procurement Methods

All procurement transactions shall be conducted in a manner that provides maximum open and free competition. Procurement procedures shall not restrict or eliminate competition. The preferred method of procurement is by the competitive sealed bid process and award to the lowest, responsible bidder. Exceptions exist for alternate methods of procurement including competitive negotiation and non-competitive negotiation, but require written request and approval from RD prior to their use.

8. Bidding/Construction Sequencing and Requirements

- a. Plans and Specifications are submitted for review/approval by RD Architect. Once approved and all stipulations in the Letter of Conditions have been verified by RD Loan Officer, Applicant will be allowed to proceed with bidding. Any addenda issued during the solicitation period must be submitted to be reviewed and approved by RD Architect;
- b. Applicant shall inform RD of time/date of bid opening; RD attendance is not required;
- c. Applicant/Architect shall provide RD with a copy of the bid tabulation;
- d. Applicant’s Architect shall review bids, check references, check debarment list, verify bonds and then draft a letter recommending contract award to lowest, responsible bidder;
- e. Award Recommendation Letter to be reviewed and concurred with RD Architect; RD Architect to check SAM to verify low bidder has not been debarred;

**COMMUNITY FACILITY LOAN & GRANT PROGRAM
SUMMARY OF TECHNICAL & SUBMISSION REQUIREMENTS
PROGRAM SUPPORT STAFF – MAY 2021**

- f. If funding is adequate and all LOC conditions met, Applicant is informed to award construction contract; issues Notice of Award;
- g. Contractor acquires Performance and Payment Bonds for 100% of contract award amount (contracts over \$100K). Bonds cannot be dated before date of Notice of Award. Company issuing bonds must be listed in the Treasury Circular 570 (TC-570);
- h. A complete construction contract package is assembled including entire boilerplate (front-end) sections, technical specifications, completed/signed forms and a complete set of stamped drawings. Package must be reviewed and signed by Owner's Attorney;
- i. Complete construction contract package submitted to RD for review. RD to check all executed documents and TC-570. If all documents are in order, RD will sign in concurrence;
- j. Pre-construction Conference - Prior to beginning construction, the Applicant and their Architect will schedule and conduct a pre-construction conference to discuss any/all contract related issues and requirements. Recommended list of attendees includes Applicant, Architect, resident inspector, attorney, contractor, construction foreman, and other interested parties. RD staff must attend and reiterate RD requirements including AIS. Applicant typically issues Notice to Proceed to Contractor. Conference is documented using USDA Form RD 1924-16, "Record of Pre-Construction Conference" or similar. Meeting minutes generated by project architect to be provided to RD;
- k. Resident Inspection - "Full-time" resident inspection is required for all construction unless a written exception is made by the Applicant and approved by RD. "Full-time" does not necessarily mean inspection coverage 24-7, but rather for coverage which may be standard industry practice and proportionate to the type, size and complexity of the project. Typically, the resident inspection services will be provided by the project architect. The Applicant must submit a copy of resume of the resident inspector for review and approval by RD Architect prior to any construction activities.
- l. Construction may begin;
- m. Inspections by RD - RD representative will visit the construction site at least monthly to view the progress and to report any issues. If major issues arise, RD Architect may get involved to help resolve issues; Inspections are documented on Form RD 1924-12, "Inspection Report";
- n. Application for Payment.
 - (1) All Contractor's Application for Payments must be processed through the RD Loan Officer on USDA Form RD 1924-18, "Partial Payment Estimate", or the equivalent AIA G702-1992 with RD signature block;
 - (2) Payment will be made in accordance with approved contract documents;
 - (3) Only approved change orders can appear on the Application for Payment;

**COMMUNITY FACILITY LOAN & GRANT PROGRAM
SUMMARY OF TECHNICAL & SUBMISSION REQUIREMENTS
PROGRAM SUPPORT STAFF – MAY 2021**

- (4) Payment will be subject to retainage. The amount retained shall be 10% of the value of Work until 50% of the Work has been completed or a withholding of equal or greater value, such as, 5% for the full duration of the project. If 10% is held, at 50% completion, further partial payments shall be made in full to the Contractor and no additional amounts may be retained unless the Architect certifies that the Work is not proceeding satisfactorily, but amounts previously retained shall not be paid to the Contractor. At 50% completion or any time thereafter when the progress of the Work is not satisfactory, additional amounts may be retained, but in no event shall the total retainage be more than 10% of the value of Work completed.
 - (5) RD Loan Officer will review, approve and sign Payment Request, and return to Applicant;
- o. Change Orders.
- (1) All contract change orders must be processed through the RD Loan Officer on USDA Form RD 1924-7, "Change Order" or the equivalent AIA G701-2001 with RD signature block;
 - (2) Any changes to the construction contract, including time extensions, must be documented in a change order. The change order must include an adequate description and justification for the change;
 - (3) All change orders must be signed by the Owner, Architect, and Contractor before they are submitted to RD for review and approval;
 - (4) Ideally, any work associated with the change order should not commence until the change order has been approved by all parties, including RD;
 - (5) RD Loan Officer will review the change order and assess if the budget can support the added cost. The change order along with internal Change Order Request Form will be forwarded to RD Architect for technical review. If acceptable, RD Loan Officer will sign Change Order and return to Applicant/Consultant.
 - (6) All work associated with the change order must be within the original scope of work as documented in the approved PAFR. Any proposals for additional work above and beyond the original scope of work will not be considered.
- p. A Monthly Project Budget Report must be prepared and submitted to RD for review and approval; generally, project consultants assist Applicants with this task; RD to provide excel form for use at start of project;
- q. Substantial Completion to be conducted by RD Architect;
- r. Final Inspection to be conducted by RD.