



22 June 2022

Aaron Bowman, PE
Davido Consulting Group, Inc.
1796 E Main St, Suite 105
Freeland, WA 98249

RE: Deception Park View Water System Improvements
PER Scope Approval
Project Requirements

Dear Aaron:

Rural Development has reviewed the Preliminary Engineering Report, signed April 29, 2022, in accordance with RUS Instruction 1780 Subpart C. RD finds that it complies with the intent of the Agency's PER policies as outlined under subsection 1780.55. Therefore, Rural Development hereby approves the scope of work as described in the PER. The scope included replacing the system's water distribution system, water meters, pressure tanks, generator, one well pump, and chlorination system. Improvements will also be made to a well cover structure and to the chlorination room. Two additional booster pumps will be added to improve efficiency.

Please take note that this review is limited only to the eligibility of the project's scope of work. Any changes thereof will require notification and approval by this office. Also, this approval does not imply a commitment of Rural Development funding nor the approval of the environmental assessment. It is recommended not to proceed with the following instructions until the Applicant has accepted the Letter of Conditions (LOC) (as authored by the RD Loan Specialist) and funds have been obligated to this project.

Engineering and Construction Contract Requirements

As a condition of Agency funding, specific language and procedures relating the design, procurement, construction and administration of public works projects are required to be made part of all Engineering and Construction Contracting Agreements exceeding \$150,000. This is accomplished by using documents prepared by the Engineering Joint Contract Document Council (EJCDC) as modified by RUS Bulletin 1780-26 (2020 edition). Engineering Services are to be provided through the EJCDC E-500 (2014 edition) and Construction Services provided through the EJCDC C-520 (or C-Series) (2018 edition), again, as modified by said Bulletin.

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Build America, Buy America (BABA)

No Federal funds shall be used for any project for the construction, alteration, maintenance, or repair of a public water or wastewater system unless all of the iron, steel, manufactured products and construction materials used in the project are produced in the United States.

Enforcement of this Act began on May 14, 2022. Guidance documents for ensuring compliance with this Act will be provided when they become available.

Obtaining EJCDC Documents

The complete set of EJCDC documents may be purchased from one of the sponsoring organizations noted in said Bulletin 1780-26. The two RUS Bulletins can be obtained from the Agency's website at no charge at <https://www.rd.usda.gov/programs-services/services/waterenvironmental-engineers>.

Additional instructions are provided by the Washington State Guides that factor in some regional conditions. The engineer may further refine these documents to meet project specific conditions subject to Rural Development approval.

The Washington State Guides may be obtained from the area Loan Specialist and can be transferred electronically. They are:

1. WA Guide 2, Introduction (2017 edition) for Developing Owner-Engineering Agreement
2. WA Guide 3 P&S (2017 edition), Additional Instructions for the Design and Construction Related Documents.

Owner - Engineer Agreement Review and Approval

Prior to entering into an engineering agreement, Rural Development must review the draft edition. Once the final draft has been approved, the agreement may be entered into and presented for final Agency signature. If an engineering agreement already exists, Agency review and approval is required prior to any reimbursements using Agency funds. It is strongly recommended to transfer remaining services to the EJCDC format noted above.

Owner - Contractor Agreement Review and Approval

Prior to advertising for bids, the Owner, Washington State Department of Health (if applicable) and Rural Development must approve the plans and specifications. Please submit one review set of the contract documents including plans, engineer's estimate, Exhibit J of the 1780-26, Exhibit B of the 1780-35, acknowledging the BABA List of Manufacturers as called out in future guidance documents, and any modifications to this office.

Construction Procurement Overview

The procurement process must comply with the Agency's requirement for "Maximum Open and Free Competition" of contracts, products, and materials. To emphasize this, the following is provided.

1780.70 Owner's procurement regulations

(b) Maximum open and free competition. 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; and unnecessary experience and bonding requirements. In specifying materials, the owner and its consultant will consider all materials normally suitable for the project commensurate with sound engineering practices and project requirements. The Agency shall consider fully any recommendation made by the owner concerning the technical design and choice of materials to be used for a facility. If the Agency determines that a design or material, other than those that were recommended should be considered by including them in the procurement process as an acceptable design or material in the water or waste disposal facility, the Agency shall provide such owner with a comprehensive justification for such a determination. The justification will be documented in writing.

In general, the bidding process must be open to all qualified manufacturers and equipment suppliers. This could be conducted by either a performance based and or a pre-selection bidding process. RD will not accept the Base Bid procurement method. If brand names are specified, a minimum of one brand names followed by an "or-equal," must be used to the extent reasonable. The inclusion of "or-equals" in the formal bid must be allowed to extent reasonable (i .e., eliminate any unreasonable restrictions on "or-equals" prior to bid opening). Major equipment items should be selected through an equipment pre-selection bidding or similar process. The selection criteria should be based on, but not limited to, the most reasonable capital, and O&M costs. Design would then be based on those items selected.

By electronic copy of this letter, I am notifying the Association and Rural Development Area office of this approval. Please contact me at 402-437-5560 or by email at ryan.brandt@usda.gov if you have any question.

Respectfully,

Ryan A. Brandt, PE
State Engineer, Nebraska

Cc: Deception Park View Board
Darla O'Connor, USDA-RD Program Specialist