



United States Department of Agriculture
Rural Development
Virginia State Office

November 14, 2008

TO: Area Offices, Rural Development, Virginia

FROM: /s/ ELLEN MATTHEWS DAVIS
State Director

SUBJECT: Stored Materials - Water and Waste and Community Facilities

PURPOSE/INTENDED OUTCOME

To provide guidance to Area Office personnel in processing progress payments containing requests from owners for payment of stored materials.

COMPARISON WITH PREVIOUS AN

There has not been a previous AN issued on this subject.

IMPLEMENTATION RESPONSIBILITIES

Paragraph 3.1 of RUS Staff Instruction 1780-2 sets forth the requirements for Agency project monitoring for the water and waste program. In addition, Article 14.02 of the EJCDC C-710 Standard General Conditions of the Construction Contract, Funding Agency Edition 2002, National Society of Professional Engineers for EJCDC, contains the provisions governing stored materials for water and waste projects.

RD Instruction 1942-A, section 1942.18(o), sets forth the requirements for Agency project monitoring for community facility projects. In addition, Article 9.3 of the AIA Document A201-2007, General Conditions of the Contract for Construction, contains the provisions governing stored materials for community facility projects.

EXPIRATION DATE: November 30, 2009

**FILING INSTRUCTIONS: File
preceding RUS Instruction 1780 and
RD Instruction 1942-A**

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The provisions found in the EJCDC and AIA General Conditions regarding stored materials/equipment are intended to protect the interests of the Owner and, by extension, the interests of Rural Development. The Contractor is bound by the executed contract to meet these provisions. It is very important that these provisions are followed precisely.

Rural Development must not pay for stored materials/equipment which are not in the possession or control of the Owner. Stored materials/equipment in the possession of the manufacturer or supplier are not under the control of the Owner, regardless of who holds the bill of sale. If the Contractor, manufacturer, or supplier should declare bankruptcy, the Owner is left with a piece of paper. The assets would then be distributed by a bankruptcy court.

In addition, it is customary for a manufacturer or supplier to require a Contractor to prepay for items not in stock or custom-built items before they are delivered to the job site. Consequently, it is not unusual for the Contractor to attempt to prepay for such an order on the basis of stored materials. This is not the intent of this provision and, therefore, not acceptable.

Finally, it is the responsibility of the Architect or Inspector to certify in writing that the stored materials/equipment have been accounted for and are suitably stored. Suitably stored is interpreted to mean stored per the manufacturer's recommendations. This certification must be presented with the partial payment application. In addition, the cost of stored materials/equipment must not include the cost of installation/overhead/profit but be based on the invoice price.

If you should have any questions, please contact the Community Programs Division.