

Engineering Resources

Application-related Items:

- [Interest Rates and Maximum Grants](#)
- [Water and Waste Docket Checklist Items](#) (with comments for Engineering related items)
- [Typical Timeframes for Docket Items](#)
- [Initial Application Items Packet](#)

Right of Way (ROW):

- [Sample ROW Map](#)
- [Tips on How to Prepare the ROW Map](#)
- [ROW Certification](#)

Preliminary Engineering Report (PER):

Reference [RUS Bulletin 1780-2](#), dated 04/04/2013

Environmental Reports (ER):

- [WI Attachment to RUS Bulletin 1794A-602](#): Agency contact list and project information for Wisconsin.
- [RUS Bulletin 1794A-602](#): Guide for preparing Environmental Report for water and waste projects.
- Sample Environmental Review – Contact the [WI State Environmental Coordinator](#) to request a copy. This can save you time by pasting your project information into an electronic copy of a formatted environmental report.

Owner/Engineer Contract:

USDA Rural Development requires the use of the 2014 EJCDC Owner/Engineer Agreement (Form E-500) with [RUS Bulletin 1780-26 dated 04/14/2014](#) for the Water and Environmental Program.

EJCDC Documents can be purchased from:

www.nspe.org , www.acec.org , or www.asce.org

Construction Contracts:

USDA Rural Development requires the use of the 2013 EJCDC Construction Series (Owner-Contractor) with [RUS Bulletin 1780-26 dated 04/14/2014](#) for the Water and Environmental Programs.

EJCDC Documents can be purchased from:

www.nspe.org , www.acec.org , or www.asce.org

[Construction Checklist](#) – Complete this checklist before submitting the bidding documents or construction contracts to RD for review.

Links to Documents referenced on the Checklist:

- [Goals by County](#)
- [Sample Form for List of Subs](#)
- [Project Sign](#)

Federal Forms

- [Form RD 400-6, Compliance Statement](#)
- [Form AD 1048, Certification Regarding Debarment, Suspension, and Ineligibility and Voluntary Exclusion](#)
- [Form RD 1940-Q, Certification for Contracts, Grants and Loans](#)

State DWD Forms if applicable:

- Application for Prevailing Wage Rate Determination
- Prime Contractor Affidavit of Compliance
- Disclosure of Ownership
- Agent or Subcontractor Affidavit of Compliance

The State DWD Forms are found at

http://www.dwd.state.wi.us/er/prevailing_wage_rate/default.htm

Open and Free Competition:

- [Rural Development policy for Open and Free Competition](#)
- [Letter to Engineer – Procurement Requirements](#)

For Assistance, contact the WI State Engineer.

Joseph Dorava

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WISCONSIN RURAL DEVELOPMENT – USDA RURAL UTILITY SERVICES (RUS)
INTEREST RATES AND MAXIMUM GRANT PERCENTAGES
FOR WATER AND ENVIRONMENTAL PROGRAMS
Based on Adjusted State Non-Metropolitan Median Household Income (SNMHI)
2010 Census

WISCONSIN SNMHI = \$56,439 (effective 03/27/2013)
Contact Rural Development to verify Applicant's MHI

Table with 3 columns: MEDIAN HOUSEHOLD INCOME (MHI) OF SERVICE AREA, INTEREST RATE ON LOAN, and MAXIMUM GRANT PERCENTAGES. Rows include income brackets from 0-\$45,151 to OVER \$56,439, with interest rates of POVERTY, INTERMEDIATE, and MARKET, and grant percentages of 75%, 45%, and 0%.

Interest Rates: The intermediate and market interest rates may change quarterly:
Reference the Current Interest Rates at (click on Interest Rates tab):
http://www.rd.usda.gov/programs-services/water-waste-disposal-loan-grant-program/wi

Poverty Line = \$24,250 (2015 Figure)
The poverty line is the same for all states except Alaska and Hawaii. The poverty line is established by the Department of Health and Human Services.
Reference: RUS Bulletin 1780-29 which is updated annually.

80% of SNMHI
0.80 * 56,439 = \$45,151

Document Last Updated: 02/2015

Rural Development • Wisconsin State Office
5417 Clem's Way • Stevens Point, WI 54482
Voice (715) 345-7600

What is the Interest Rate?

Reference: RUS Instruction 1780.13

Three interest rates are used. They are set periodically based on an index of current market yields for municipal obligations.

(1) Poverty Rate – The poverty interest rate will not exceed 5 percent. The poverty rate applies when:

- (a) the primary purpose of the loan is to upgrade existing facilities or construct new facilities required to meet applicable health or sanitary standards; and
- (b) the median household income (MHI) of the service area is below the higher of the poverty line or below 80 percent of the Statewide Nonmetropolitan MHI (SNMHI).

(2) Intermediate Rate - The intermediate interest rate is the poverty rate plus one-half of the difference between the poverty rate and the market rate, but not to exceed 7 percent. It applies to loans that do not meet the criteria for either the poverty rate or the market rate.

(3) Market Rate - The market rate is set quarterly based on the average of the Bond Buyer (11-GO Bond) Index over a four week period prior to the beginning of the quarter. It applies to loans for projects where the MHI of the service area exceeds the SNMHI.

Borrowers may choose the interest rate in effect on the date of loan approval or on the date of loan closing. The interest rate will be the lower of the rate in effect at the time of loan approval or the rate in effect at the time of loan closing, unless the applicant chooses otherwise. The interest rate is locked in once the loan is closed.

Note: If the market interest rate falls below the poverty interest rate, the lower interest rate applies.

WATER & WASTE PROCESSING CHECKLIST – DOCKET #1

| INDEX NO. | DOCUMENT FORM NUMBER REFERENCE | PREPARED BY |
|-----------|--|-------------|
| 1-X | Application for Federal Assistance for Construction Item #10 on form SF 424 requests the Catalog of Federal Domestic Assistance Number. The Federal Domestic Assistance Number for the Water and Waste Application is 10.760. You can find the entire Catalog on the web at: http://www.cfda.gov | APPLICANT |
| 1-X | Preliminary Engineering Report with RD Approval Follow RUS Bulletin 1780-2 dated 04/04/2013. If using another Agency's format, go through the Index for Bulletin 1780-2 to make sure report is complete before submitting to RD. Submit two copies of the PER (one for specialist and one to State Office Engineer) with the initial application. Documentation Relative to any Health or Sanitary Violation 1780.10(c)(1) and 1780.13(b)(1) Sample Documentation to submit includes: Wastewater: Include any Notice of Violations and Schedules of Compliance issued by the WDNR. Water: If under enforcement actions, include the Notice of Violation or Notice of Non-compliance from the WDNR. Include the annual water supply inspection letter (issued yearly) or the sanitary survey letter (issued every five years) by the WDNR. THIS INFORMATION GOES IN SECTION 3a. OF THE PER. Also can include documentation of watermain breaks, boil water notices, frequency and dates of violations, backup into homes that are not caused by private home owner. | ENGINEER |
| 1-X | Certificate of Number of Users & PSC Report (when avail.) Use PSC Report to calculate number of EDUs for RD purposes for water project. Use PSC Report to calculate number of EDUs for RD purposes for sewer project if sewer is billed by water usage. Make note if there are any water users not on sewer or vice versa. | APPLICANT |
| 1-X | Agency Visit to Project (review of scope, community, environmental needs, etc.) 1780.31(a) Project engineer to give a tour of the proposed project to the specialist and RD Engineer. | RD |
| 1-X | Environmental Report (see docket 2) A sample Environmental Report can be obtained upon request from the State Office Engineer. Submit two copies of the Environmental Report (One copy to specialist and one copy to State Office Engineer) with the initial application. | ENGINEER |

Frequently Asked Question regarding Docket #1 Items:***What items should I bring to the first docket meeting with Rural Development?***

At a minimum, bring along a map of the proposed improvements which also shows the entire community and the existing system, cost estimates of the proposed project, and a timeline for the project. Bring along other docket items for submittal if they are already completed.

WATER & WASTE PROCESSING CHECKLIST - DOCKET #2 ENVIRONMENTAL:

Note: Rural Development completes most of the information for Docket #2. Applicant is responsible for submitting Environmental Report.

WATER & WASTE PROCESSING CHECKLIST – DOCKET #3

| INDEX NO. | DOCUMENT FORM NUMBER / REFERENCE | PREPARED BY |
|-----------|--|-----------------|
| 3-X | Standard Form of Agreement Between Owner and Engineer use 2014 EJCDC Owner-Engineer Agreement with RUS Bulletin 1780-26 Prepare three original sets (Owner, Engineer, and USDA). | ENGINEER |
| 3-X | Cost Estimate/Financing Plan Also include this with the PER. Copy the State Office Engineer whenever there is an update to the cost estimate/financing plan. | ENGINEER |
| 3-X | Right-of-Way Map (color-coded) - include certification by Engineer, Municipal Officer, and Attorney - with parcel ID numbers, cross-referenced to easements and Title Opinion 1780.44 The ROW map is to include the entire sanitary sewer system at project completion (for a sanitary sewer project) or water system (for water project) – not just the project area. Copy of map to specialist only. | ENGINEER |

WATER & WASTE CHECKLIST - PRE-CONSTRUCTION – DOCKET #4

| INDEX NO. | DOCUMENT FORM NUMBER REFERENCE | PREPARED BY |
|-----------|---|----------------|
| 4-X | Public Service Commission Construction Authorization (Water Systems Only) (if needed) 1780.15 & 1780.57(g) Copy PSC letter to Specialist and RD State Office Engineer. | ENGINEER |
| 4-X | Letter of Approval of Final Plans and Specifications by: DNR _____ & by RD _____ 1780.61(b) Copy correspondence from/to DNR to State Office Engineer. Copy the approval letter from the DNR to the Specialist and the RD State Office Engineer. Submit the plans, specifications, and bidding documents to RD State Office Engineer for approval before going out to bid. You should send a copy of the transmittal letter to the specialist so he/she knows the plans, specs, and bidding documents were sent to the RD State Office Engineer for approval. | ENGINEER RD |
| 4-X | Tear Sheets of Advertising for Construction Bids with Publishers Affidavit RUS Bulletin 1780-15 1780.72 Copy to Specialist only. | ENGINEER |
| 4-X | Bid Tabulation & Recommendation of Award _____ and RD Concurrence of Award 1780.61(b) Copy to Specialist and RD State Office Engineer. | ENGINEER RD |
| 4-X | Construction Contract Documents with RD concurrence, use 2013 EJCDC Agency Edition with Exhibits from RUS Bulletin 1780-26 dated 04/11/2014. Send the construction contract documents to the RD State Office Engineer for concurrence before issuing a Notice to Proceed. RD would prefer to have the contracts approved by the preconstruction conference if time permits. The project engineer should bind the contracts, don't submit loose documents. <ul style="list-style-type: none"> • Contractor's Insurance Coverage Include Insurance Coverage with the contract documents. • Legal Certification Regarding Adequacy of Contract Documents Note: The Certificate of Owner's Attorney is Exhibit I of RUS Bulletin 1780-26. The Attorney should review and date the Certificate before (or the same date) as the owner signs the Agreement. | ENGINEER RD |
| 4-X | Resume of Resident – Inspector / <u>Borrower</u> and Agency Acceptance 1780.76 (c) Submit a copy of the Resume of Resident Inspector to the Specialist and to the RD State Office Engineer for approval before construction begins. Include the proposed hourly billing rate for the RPR. | ENGINEER RD |
| 4-X | Record of Pre-Construction Conference FmHA 1924-16 1780.76(a) Note: RD will attend the pre-construction conference. Reference the information from FmHA 1924-16 to discuss at the pre-con. This form is available at: http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD1924-16.PDF You do not need to use form 1924-16 for the pre-con notes, as long as the pertinent information from the form is covered. If the project involves work along a State or County Highway, make sure the appropriate contacts for these agencies are included in the pre-construction conference! | ENGINEER RD |

FREQUENTLY ASKED QUESTION ON WAGE RATES:

Davis Bacon Wage Rates are **NOT** required for the Rural Development water and environmental program funding Prevailing State Wage Rates may still apply.

DATE-O-METER
“Typical” Docket Processing Timeframes

ENTER CONSTRUCTION START DATE

June 1, 2011

| Task | Target Date | Comments |
|---|--------------------------|--|
| Preconstruction Conference | May 21, 2011 | Need a minimum of 2 weeks from Notice of Award for contracts to be assembled and signed by all parties so that a preconstruction conference can be held. |
| Notice of Award | May 2, 2011 | |
| RD Concurrence of Award | April 20, 2011 | |
| Bid Opening, Bid Tabulation, and Recommendation for Award | April 10, 2011 | This allows around 30 days for the project to be advertised for bids. |
| Advertise for Bids published | March 16, 2011 | Allow a few days after RD authorizes to go to bid for ad to get into newspaper and trade publications. |
| RD Authorizes Applicant to Advertise for Bids | March 11, 2011 | This allows 9 days for loan specialist to review closing instructions with applicant so that RD can authorize the applicant to advertise for bids. |
| OGC Issues Closing Instructions | March 2, 2011 | This allows 30 days for OGC to issue closing instructions from the time the legal docket is submitted to the State Office. |
| State Office Legal work sent to OGC | February 16, 2011 | This allows 2 weeks for OGC to review files and return them. |
| Plans Specifications Contract documents to RD Engineer for Review | February 16, 2011 | Plans to be submitted to State Engineer 3 weeks before RD needs to authorize applicant to advertise for bids. |
| Legal docket to State Office | January 31, 2011 | |








VILLAGE OF

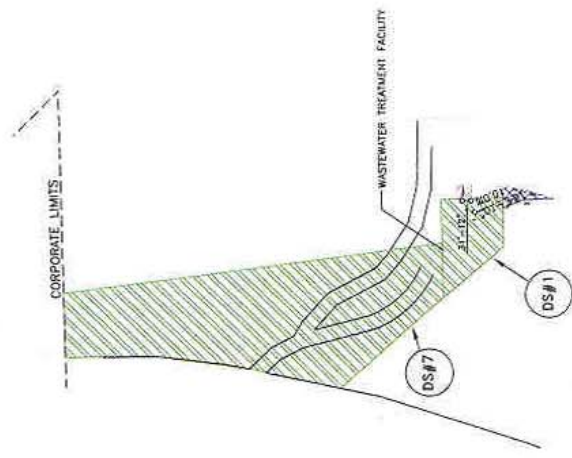
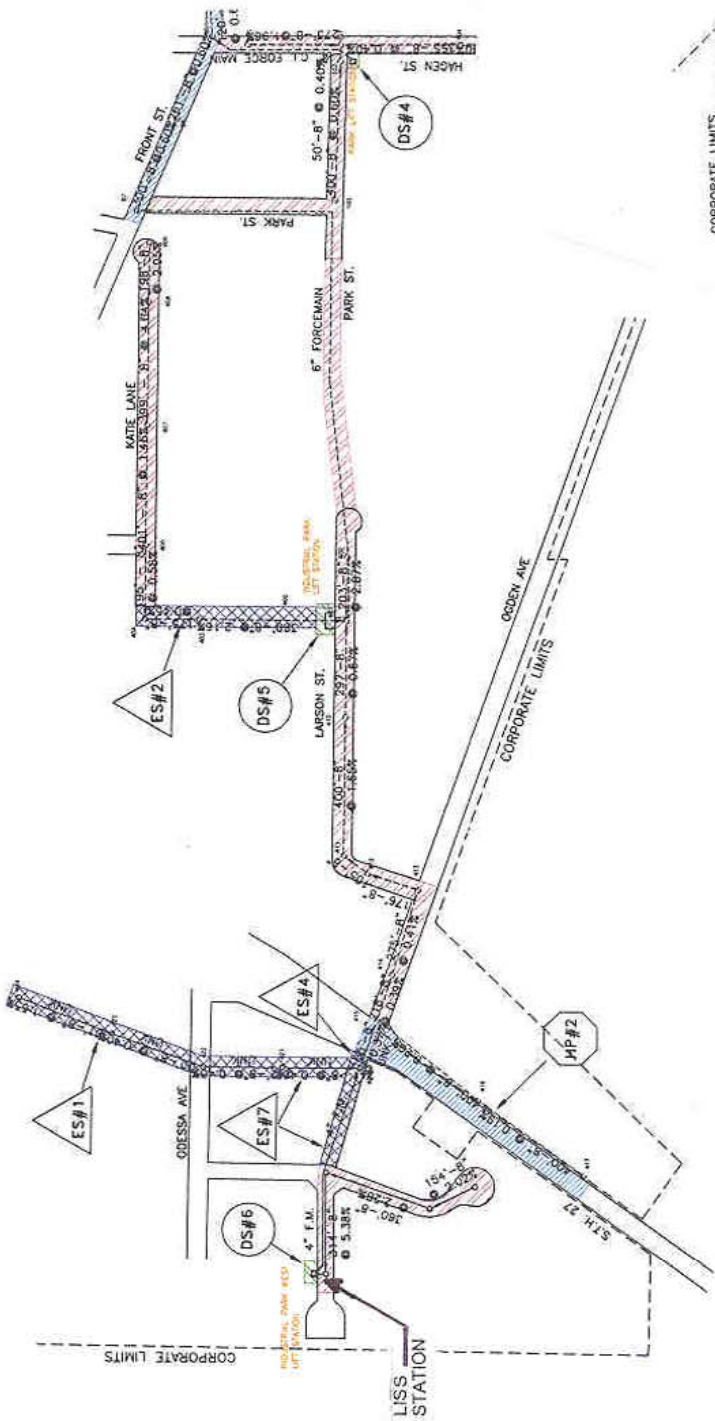
Sanitary Sewer System Improvement Project

*** INCLUDE ENTIRE SYSTEM**

**SAMPLE
COLOR CODED
R.O.W. MAP**

LEGEND

-  VILLAGE STREETS
-  STATE HIGHWAY PERMITS
-  VILLAGE OWNED LAND
-  PRIVATE EASEMENT
-  HP#1 HIGHWAY PERMIT
-  OS#1 DEED, SANITARY SEWER SYSTEM
-  ES#1 EASEMENT, SANITARY SEWER SYSTEM



INCLUDE THIS LANGUAGE ON MAP.

THE UNDERSIGNED HEREBY CERTIFIES THAT THE ATTACHED "RIGHT-OF-WAY MAP" SHOWS THE LOCATION AND DESCRIPTION OF ALL LANDS AND RIGHTS-OF-WAY ACQUIRED BY RIGHT OF USE OF DEEDS, OR OTHER INSTRUMENTS.

Project Engineer _____
 Mayor/President _____
 Attorney _____



R.O.W. MAP TO BE 24"X36" SIZE



Tips on Preparing the Color Coded Right-of-Way (ROW) Map

- Bring draft copies to review at docket meetings. Use the attached sample ROW map as a reference to get started.
- The ROW Map is to map the **ENTIRE** sanitary sewer system at project completion (for a sanitary sewer project) or the **ENTIRE** water system at project completion (for a water project). If funding for the project includes both the sanitary sewer and water system, prepare a ROW map for each system. Don't forget to include the water tower, wells, lift stations, and wastewater treatment plant. Place the water and sewer system on separate ROW Maps (preferred). You can place both systems on one map if the map doesn't become too cluttered.
- After placing the entire water distribution system or sanitary sewer system on the ROW Map, color code (with hatching/shading) the area where the water distribution system or sanitary sewer system is located (see sample map). Include the color codes in the legend on the ROW Map. Color codes will include items such as Village Streets, Town Permits, State Highway Permits, Village Owned Land, Railroad and River Crossing Permits, and Private Easements.
- The actual permits, deeds, and easements will be submitted for the **ENTIRE EXISTING AND PROPOSED SYSTEM** along with the color coded ROW Map. Reference Each Highway Permit, Railroad Permit, River Crossing Permit, Deed, and Easement with notations such as HP #1, HP#2, RR #1, RR #2, RC #1, RC #2, DS #1, DS #2, ES #1, ES#2, etc. Include the notations used in a legend on the ROW Map.
- Cross-Reference the permits, deeds, and easements (HP#1, DS #1, etc.) from the color coded ROW map to the actual permit, deed, and easement that will be submitted. **Compile and submit the actual permits, deeds, and easements with the reference number noted on the document the same as used on the color coded ROW map in numerical order.**
- If a lift station or other structure is located in a park (or other village/city owned property), the ROW Map should reference a legal description for the lift station only – do not use the legal description for the entire parcel of village/city owned property.
- You do not need to put the actual parcel ID numbers on the ROW Map. The Parcel ID Numbers will be on the deeds, easements, etc. which the notations (HP#1, DS #1, etc.) reference.
- Include the Right of Way Certification Language (see attached) on the ROW Map.
- Submit one copy of the ROW Map(s) to the Community Programs Specialist.

RIGHT-OF-WAY MAP CERTIFICATION

THE UNDERSIGNED HERBY CERTIFY THAT THE ATTACHED RIGHT-OF-WAY MAP SHOWS THE LOCATION AND DESCRIPTION OF ALL LAND AND RIGHTS-OF-WAY ACQUIRED BY RIGHT OF USE OF ADVERSE POSSESSION AND BY LEGAL CONVEYANCES SUCH AS RIGHT-OF-WAY OR EASEMENT, DEEDS OR OTHER INSTRUMENTS.

BORROWER

DATE

PROJECT ATTORNEY

DATE

PROJECT ENGINEER

DATE

UNITED STATES DEPARTMENT OF AGRICULTURE
Rural Utilities Service

BULLETIN 1780-2

SUBJECT: Preliminary Engineering Reports for the Water and Waste Disposal Program

TO: Rural Development State Directors, RUS Program Directors, and State Engineers

EFFECTIVE DATE: Date of approval.

OFFICE OF PRIMARY INTEREST: Engineering and Environmental Staff, Water and Environmental Programs

INSTRUCTIONS: This bulletin replaces existing RUS Bulletins 1780-2 (September 10, 2003), 1780-3 (October 2, 2003), 1780-4 (October 2, 2003), and 1780-5 (October 2, 2003).

AVAILABILITY: This bulletin and all the exhibits, as well as any Rural Development instruction or Rural Utilities Service instructions, regulations, or forms referenced in this bulletin are available at any Rural Development State Office. The State Office staff is familiar with the use of the documents in their States and can answer specific questions on Agency requirements.

This bulletin is available on the Rural Utilities Service website at http://www.rurdev.usda.gov/RDU_Bulletins_Water_and_Environmental.html.

PURPOSE: This bulletin assists applicants and their consultants with instructions on how to prepare a Preliminary Engineering Report as part of an application for funding as required by 7 CFR 1780.33(c) and 7 CFR 1780.55.

MODIFICATIONS: Rural Development State Offices may modify this guidance when appropriate to comply with State statutes and regulations in accordance with the procedures outlined at Rural Development Instruction 2006-B (2006.55).



4/4/13

JACQUELINE M. PONTI-LAZARUK
Assistant Administrator
Water and Environmental Programs

Date

TABLE OF CONTENTS

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Exhibit One Interagency Preliminary Engineering Report Template

INDEX:

Application Document
Preliminary Engineering Report
Project Planning
Water and Waste Disposal Facilities

ABBREVIATIONS

CDBG – Community Development Block Grant
CFR – Code of Federal Regulations
EDU – Equivalent Dwelling Unit
EPA – Environmental Protection Agency
GAO – Government Accountability Office
GPCD – Gallons per Capita per Day
HUD – Department of Housing and Urban Development
O & M – Operations and Maintenance
PER – Preliminary Engineering Report
RD – Rural Development
RUS – Rural Utilities Service
SRF – State Revolving Fund
USDA – United States Department of Agriculture
WEP – Water and Environmental Programs
WWD – Water and Waste Disposal

1 GENERAL

A PER is a planning document required by many state and federal agencies as part of the process of obtaining financial assistance for development of drinking water, wastewater, solid waste, and stormwater projects. An applicant for funding from the WWD program must submit a PER as required by 7 CFR 1780.33(c) and 1780.55. The PER describes the proposed project from an engineering perspective, analyzes alternatives to the proposal, defines project costs, and provides information critical to the underwriting process.

In 2012 the USDA, Rural Development (RD), Rural Utilities Service, Water and Environmental Programs formed a working group to develop an interagency template for PERs for use by both federal agencies and state administering agencies. The USDA-led working group included 36 individuals representing 4 federal agencies, 16 state agencies, the Border Environment Cooperation Commission, and the North Carolina Rural Center. Also, the effort was supported by the Small Community Water Infrastructure Exchange. On January 16, 2013, the principals of the federal participants executed an interagency memorandum supporting use of the interagency template, attached as Exhibit One.

2. PURPOSE

This bulletin provides information and guidance for applicants and professional consultants in developing a PER for submittal with an application for funding. RD State Offices should provide a copy of the Bulletin to applicants and consulting engineers upon request or refer them to the website listed on the Bulletin's cover sheet for an electronic copy.

3 HOW TO USE THE INTERAGENCY TEMPLATE

There has been increasing interest throughout the government at both state and federal levels to improve coordination between funding agencies in the processes involved in applications for infrastructure funding. A recent GAO report, "Rural Water Infrastructure: Additional Coordination Can Help Avoid Potentially Duplicative Application Requirements" (GAO-13-111), released October 16, 2012, called the effort of the working group led by USDA to develop the attached Interagency PER Template "encouraging" and stated that it would "help communities".

Content of a PER: The attached Interagency PER Template describes the content of a PER and should be used without modification, except for items noted below. Often an applicant will initially consider only a single funding source and later determine that an application to additional funding agencies is necessary. To avoid having to revise the PER to meet the additional agencies' needs, the consulting engineer should provide

responses to all sections of the PER outline, unless specific sections do not apply to a proposed project.

Short-Lived Assets: The short-lived asset table in Appendix A is a list of examples of short-lived assets. Depending on local practices and applicants, some of these items may not be considered short-lived assets if they are considered part of O&M or long-term capital financing. Consulting engineers and applicants should coordinate with each other and with the Agency to determine which items should be considered short-lived assets for specific projects.

Engaging State Partners: State Offices should engage funding partners to encourage state-wide adoption of the attached template as a standard for all state leveraging partners. Existing state-level agreements resulting from previous coordinated efforts for adopting a standard PER outline must be modified or replaced with this template. Efforts underway to adopt new state-level PER outlines must use this template. State-level agreements implementing this template between various leveraging partners should keep additional requirements to a minimum, but should not remove any required sections from the template.

Income Projections for Underwriting Purposes:

The State Office uses some of the information from the PER, especially Sections 6 (e) and (f), for underwriting purposes. Note that for income projection purposes, every effort should be made to identify actual data regarding water usage or wastewater generation. For metered systems, actual data should be used.

When financing construction of a new system or improvements to an existing system without any existing usage data, water use and wastewater generation approximations for income projection purposes should, if at all possible, be based on information from surrounding similar communities and systems. The source of data used should be documented in the PER.

The value of 100 GPCD shown in Section 6 is a general value and may not be appropriate for many rural systems financed with WWD funds, so in the absence of reliable data, a value of 5000 gallons per EDU per month (approximately 67 GPCD or 167 GPD per EDU) should be used.

Exhibit One: Interagency Preliminary Engineering Report Template



January 16, 2013

INTERAGENCY MEMORANDUM

Attached is a document explaining recommended best practice for the development of Preliminary Engineering Reports in support of funding applications for development of drinking water, wastewater, stormwater, and solid waste systems.

The best practice document was developed cooperatively by:

- [US Department of Agriculture, Rural Development, Rural Utilities Service, Water and Environmental Programs;](#)
- [US Environmental Protection Agency \(EPA\), Office of Water, Office of Ground Water and Drinking Water and Office of Wastewater Management;](#)
- [US Department of Housing and Urban Development \(HUD\), Office of Community Planning and Development;](#)
- [US Department of Health and Human Services, Indian Health Service \(IHS\);](#)
- [Small Communities Water Infrastructure Exchange;](#)

Extensive input from participating state administering agencies was also very important to the development of this document.

Federal agencies that cooperatively developed this document strongly encourage its use by funding agencies as part of the application process or project development. State administered programs are encouraged to adopt this document but are not required to do so, as it is up to a state administering agency's discretion to adopt it, based on the needs of the state administering agency.

A Preliminary Engineering Report (Report) is a planning document required by many state and federal funding agencies as part of the process of obtaining financial assistance for development of drinking water, wastewater, solid waste, and stormwater facilities. The attached Report outline details the requirements that funding agencies have adopted when a Report is required.

In general the Report should include a description of existing facilities and a description of the issues being addressed by the proposed project. It should identify alternatives, present a life cycle cost analysis of technically feasible alternatives and propose a specific course of action. The Report should also include a detailed current cost estimate of the recommended alternative. The attached outline describes these and other sections to be included in the Report.

Projects utilizing direct federal funding also require an environmental review in accordance with the National Environmental Policy Act (NEPA). The Report should indicate that environmental issues were considered as part of the engineering planning and include environmental information pertinent to engineering planning.

For state administered funding programs, a determination of whether the outline applies to a given program or project is made by the state administering agency. When a program or agency adopts this outline, it may adopt a portion or the entire outline as applicable to the program or project in question at the discretion of the agency. Some state and federal funding agencies will not require the Report for every project or may waive portions of the Report that do not apply to their application process, however a Report thoroughly addressing all of the contents of this outline will meet the requirements of most agencies that have adopted this outline.

The detailed outline provides information on what to include in a Report. The level of detail required may also vary according to the complexity of the specific project. Reports should conform substantially to this detailed outline and otherwise be prepared and presented in a professional manner. Many funding agencies require that the document be developed by a Professional Engineer registered in the state or other jurisdiction where the project is to be constructed unless exempt from this requirement. Please check with applicable funding agencies to determine if the agencies require supplementary information beyond the scope of this outline.


Any preliminary design information must be written in accordance with the regulatory requirements of the state or territory where the project will be built.

Information provided in the Report may be used to process requests for funding. Completeness and accuracy are therefore essential for timely processing of an application. Please contact the appropriate state or federal funding agencies with any questions about development of the Report and applications for funding as early in the process as practicable.


Questions about this document should be referred to the applicable state administering agency, regional office of the applicable federal agency, or to the following federal contacts:

| Agency | Contact | Email Address | Phone |
|-----------|---------------------|--|--------------|
| USDA/RUS | Benjamin Shuman, PE | ben.shuman@wdc.usda.gov | 202-720-1784 |
| EPA/DWSRF | Kirsten Anderer, PE | anderer.kirsten@epa.gov | 202-564-3134 |
| EPA/CWSRF | Matt King | king.matt@epa.gov | 202-564-2871 |
| HUD | Stephen Rhodeside | stephen.m.rhodeside@hud.gov | 202-708-1322 |
| IHS | Dana Baer, PE | dana.baer@ihs.gov | 301-443-1345 |

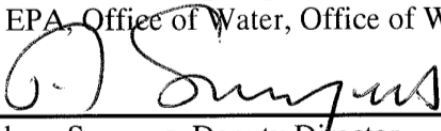
Sincerely,

 1/16/13

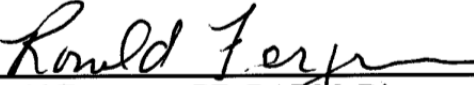
Jacqueline M. Ponti-Lazaruk, Assistant Administrator
USDA, Rural Development, Rural Utilities Service, Water and Environmental Programs

 01/16/13


Sheila Frace, Acting Deputy Director
US EPA, Office of Water, Office of Wastewater Management

 1/16/13

Andrew Sawyers, Deputy Director
US EPA, Director, Office of Water, Office of Ground Water and Drinking Water

 1/16/13

Ronald Ferguson, PE, RADM, Director
Division of Sanitation Facilities Construction, Indian Health Service

 1-16-13

Stanley Gimont, Director
Office of Block Grant Assistance, US Department of Housing and Urban Development

Attachment

WORKING GROUP CONTRIBUTORS

| | |
|---|---------------------------|
| Federal Agency Partners | |
| | |
| USDA, Rural Development, Rural Utilities Service (Chair) | Benjamin Shuman, PE |
| EPA, Office of Water, Office of Ground Water and Drinking Water | Kirsten Anderer, PE |
| EPA, Office of Water, Office of Ground Water and Drinking Water | CAPT David Harvey, PE |
| EPA, Office of Water, Office of Wastewater Management | Matt King |
| EPA, Office of Water, Office of Wastewater Management | Joyce Hudson |
| EPA, Region 1 | Carolyn Hayek |
| EPA, Region 9 | Abimbola Odusoga |
| HUD, Office of Community Planning and Development | Stephen M. Rhodeside |
| HUD, Office of Community Planning and Development | Eva Fontheim |
| Indian Health Service | CAPT Dana Baer, PE |
| Indian Health Service | LCDR Charissa Williar, PE |
| USDA, Rural Development, Florida State Office | Michael Langston |
| USDA, Rural Development, Florida State Office | Steve Morris, PE |

| | |
|--|------------------------|
| State Agency and Interagency Partners | |
| | |
| Arizona Water Infrastructure Finance Authority | Dean Moulis, PE |
| Border Environment Cooperation Commission | Joel Mora, PE |
| Colorado Department of Local Affairs | Barry Cress |
| Colorado Department of Public Health & Environment | Michael Beck |
| Colorado Department of Public Health & Environment | Bret Icenogle, PE |
| Georgia Office of Community Development | Steed Robinson |
| Idaho, Department of Environmental Quality | Tim Wendland |
| Indiana Finance Authority | Emma Kottlowski |
| Indiana Finance Authority | Shelley Love |
| Indiana Finance Authority | Amanda Rickard, PE |
| Kentucky Division of Water | Shafiq Amawi |
| Kentucky Department of Local Government | Jennifer Peters |
| Louisiana Department of Environmental Quality | Jonathan McFarland, PE |
| Maine Department of Health and Human Services | Norm Lamie, PE |
| Minnesota Pollution Control Agency | Amy Douville |
| Minnesota Pollution Control Agency | Corey Mathisen, PE |
| Missouri Department of Natural Resources | Cynthia Smith |
| Montana Department of Commerce | Kate Miller, PE |
| North Carolina Department of Commerce | Olivia Collier |
| North Carolina Rural Center | Keith Krzywicki, PE |
| North Carolina Department of Commerce | Vickie Miller, CPM |
| Rhode Island Department of Health | Gary Chobanian, PE |
| Rhode Island Department of Health | Geoffrey Marchant |

ABBREVIATIONS

NEPA – National Environmental Policy Act

NPV – Net Present Value

O&M – Operations and Maintenance

OMB – Office of Management and Budget

Report – Preliminary Engineering Report

SPPW – Single Payment Present Worth

USPW – Uniform Series Present Worth

GENERAL OUTLINE OF A PRELIMINARY ENGINEERING REPORT

- 1) PROJECT PLANNING
 - a) Location
 - b) Environmental Resources Present
 - c) Population Trends
 - d) Community Engagement

- 2) EXISTING FACILITIES
 - a) Location Map
 - b) History
 - c) Condition of Existing Facilities
 - d) Financial Status of any Existing Facilities
 - e) Water/Energy/Waste Audits

- 3) NEED FOR PROJECT
 - a) Health, Sanitation, and Security
 - b) Aging Infrastructure
 - c) Reasonable Growth

- 4) ALTERNATIVES CONSIDERED
 - a) Description
 - b) Design Criteria
 - c) Map
 - d) Environmental Impacts
 - e) Land Requirements
 - f) Potential Construction Problems
 - g) Sustainability Considerations
 - i) Water and Energy Efficiency
 - ii) Green Infrastructure
 - iii) Other
 - h) Cost Estimates

- 5) SELECTION OF AN ALTERNATIVE
 - a) Life Cycle Cost Analysis
 - b) Non-Monetary Factors

- 6) PROPOSED PROJECT (RECOMMENDED ALTERNATIVE)
 - a) Preliminary Project Design
 - b) Project Schedule
 - c) Permit Requirements
 - d) Sustainability Considerations
 - i) Water and Energy Efficiency
 - ii) Green Infrastructure

- iii) Other
- e) Total Project Cost Estimate (Engineer's Opinion of Probable Cost)
- f) Annual Operating Budget
 - i) Income
 - ii) Annual O&M Costs
 - iii) Debt Repayments
 - iv) Reserves

7) CONCLUSIONS AND RECOMMENDATIONS

DETAILED OUTLINE OF A PRELIMINARY ENGINEERING REPORT

1) PROJECT PLANNING

Describe the area under consideration. Service may be provided by a combination of central, cluster, and/or centrally managed individual facilities. The description should include information on the following:

- a) Location. Provide scale maps and photographs of the project planning area and any existing service areas. Include legal and natural boundaries and a topographical map of the service area.
- b) Environmental Resources Present. Provide maps, photographs, and/or a narrative description of environmental resources present in the project planning area that affect design of the project. Environmental review information that has already been developed to meet requirements of NEPA or a state equivalent review process can be used here.
- c) Population Trends. Provide U.S. Census or other population data (including references) for the service area for at least the past two decades if available. Population projections for the project planning area and concentrated growth areas should be provided for the project design period. Base projections on historical records with justification from recognized sources.
- d) Community Engagement. Describe the utility's approach used (or proposed for use) to engage the community in the project planning process. The project planning process should help the community develop an understanding of the need for the project, the utility operational service levels required, funding and revenue strategies to meet these requirements, along with other considerations.

2) EXISTING FACILITIES

Describe each part (e.g. processing unit) of the existing facility and include the following information:

- a) Location Map. Provide a map and a schematic process layout of all existing facilities. Identify facilities that are no longer in use or abandoned. Include photographs of existing facilities.
- b) History. Indicate when major system components were constructed, renovated, expanded, or removed from service. Discuss any component failures and the cause for the failure. Provide a history of any applicable violations of regulatory requirements.
- c) Condition of Existing Facilities. Describe present condition; suitability for continued use; adequacy of current facilities; and their conveyance, treatment, storage, and disposal capabilities. Describe the existing capacity of each component. Describe and reference compliance with applicable federal, state, and local laws. Include a brief analysis of overall current energy consumption. Reference an asset management plan if applicable.

- d) Financial Status of any Existing Facilities. (Note: Some agencies require the owner to submit the most recent audit or financial statement as part of the application package.) Provide information regarding current rate schedules, annual O&M cost (with a breakout of current energy costs), other capital improvement programs, and tabulation of users by monthly usage categories for the most recent typical fiscal year. Give status of existing debts and required reserve accounts.
- e) Water/Energy/Waste Audits. If applicable to the project, discuss any water, energy, and/or waste audits which have been conducted and the main outcomes.

3) NEED FOR PROJECT

Describe the needs in the following order of priority:

- a) Health, Sanitation, and Security. Describe concerns and include relevant regulations and correspondence from/to federal and state regulatory agencies. Include copies of such correspondence as an attachment to the Report.
- b) Aging Infrastructure. Describe the concerns and indicate those with the greatest impact. Describe water loss, inflow and infiltration, treatment or storage needs, management adequacy, inefficient designs, and other problems. Describe any safety concerns.
- c) Reasonable Growth. Describe the reasonable growth capacity that is necessary to meet needs during the planning period. Facilities proposed to be constructed to meet future growth needs should generally be supported by additional revenues. Consideration should be given to designing for phased capacity increases. Provide number of new customers committed to this project.

4) ALTERNATIVES CONSIDERED

This section should contain a description of the alternatives that were considered in planning a solution to meet the identified needs. Documentation of alternatives considered is often a Report weakness. Alternative approaches to ownership and management, system design (including resource efficient or green alternatives), and sharing of services, including various forms of partnerships, should be considered. In addition, the following alternatives should be considered, if practicable: building new centralized facilities, optimizing the current facilities (no construction), developing centrally managed decentralized systems, including small cluster or individual systems, and developing an optimum combination of centralized and decentralized systems. Alternatives should be consistent with those considered in the NEPA, or state equivalent, environmental review. Technically infeasible alternatives that were considered should be mentioned briefly along with an explanation of why they are infeasible, but do not require full analysis. For each technically feasible alternative, the description should include the following information:

- a) Description. Describe the facilities associated with every technically feasible alternative. Describe source, conveyance, treatment, storage and distribution

facilities for each alternative. A feasible system may include a combination of centralized and decentralized (on-site or cluster) facilities.

- b) Design Criteria. State the design parameters used for evaluation purposes. These parameters should comply with federal, state, and agency design policies and regulatory requirements.
- c) Map. Provide a schematic layout map to scale and a process diagram if applicable. If applicable, include future expansion of the facility.
- d) Environmental Impacts. Provide information about how the specific alternative may impact the environment. Describe only those unique direct and indirect impacts on floodplains, wetlands, other important land resources, endangered species, historical and archaeological properties, etc., as they relate to each specific alternative evaluated. Include generation and management of residuals and wastes.
- e) Land Requirements. Identify sites and easements required. Further specify whether these properties are currently owned, to be acquired, leased, or have access agreements.
- f) Potential Construction Problems. Discuss concerns such as subsurface rock, high water table, limited access, existing resource or site impairment, or other conditions which may affect cost of construction or operation of facility.
- g) Sustainability Considerations. Sustainable utility management practices include environmental, social, and economic benefits that aid in creating a resilient utility.
 - i) Water and Energy Efficiency. Discuss water reuse, water efficiency, water conservation, energy efficient design (i.e. reduction in electrical demand), and/or renewable generation of energy, and/or minimization of carbon footprint, if applicable to the alternative. Alternatively, discuss the water and energy usage for this option as compared to other alternatives.
 - ii) Green Infrastructure. Discuss aspects of project that preserve or mimic natural processes to manage stormwater, if applicable to the alternative. Address management of runoff volume and peak flows through infiltration, evapotranspiration, and/or harvest and use, if applicable.
 - iii) Other. Discuss any other aspects of sustainability (such as resiliency or operational simplicity) that are incorporated into the alternative, if applicable.
- h) Cost Estimates. Provide cost estimates for each alternative, including a breakdown of the following costs associated with the project: construction, non-construction, and annual O&M costs. A construction contingency should be included as a non-construction cost. Cost estimates should be included with the descriptions of each technically feasible alternative. O&M costs should include a rough breakdown by O&M category (see example below) and not just a value for each alternative. Information from other sources, such as the recipient's accountant or other known technical service providers, can be incorporated to assist in the development of this section. The cost derived will be used in the life cycle cost analysis described in Section 5 a.

| | |
|---|--|
| Example O&M Cost Estimate | |
| Personnel (i.e. Salary, Benefits, Payroll Tax, Insurance, Training) | |
| Administrative Costs (e.g. office supplies, printing, etc.) | |
| Water Purchase or Waste Treatment Costs | |
| Insurance | |
| Energy Cost (Fuel and/or Electrical) | |
| Process Chemical | |
| Monitoring & Testing | |
| Short Lived Asset Maintenance/Replacement* | |
| Professional Services | |
| Residuals Disposal | |
| Miscellaneous | |
| Total | |

* See Appendix A for example list

5) SELECTION OF AN ALTERNATIVE

Selection of an alternative is the process by which data from the previous section, “Alternatives Considered” is analyzed in a systematic manner to identify a recommended alternative. The analysis should include consideration of both life cycle costs and non-monetary factors (i.e. triple bottom line analysis: financial, social, and environmental). If water reuse or conservation, energy efficient design, and/or renewable generation of energy components are included in the proposal provide an explanation of their cost effectiveness in this section.

- a) Life Cycle Cost Analysis. A life cycle present worth cost analysis (an engineering economics technique to evaluate present and future costs for comparison of alternatives) should be completed to compare the technically feasible alternatives. Do not leave out alternatives because of anticipated costs; let the life cycle cost analysis show whether an alternative may have an acceptable cost. This analysis should meet the following requirements and should be repeated for each technically feasible alternative. Several analyses may be required if the project has different aspects, such as one analysis for different types of collection systems and another for different types of treatment.
1. The analysis should convert all costs to present day dollars;
 2. The planning period to be used is recommended to be 20 years, but may be any period determined reasonable by the engineer and concurred on by the state or federal agency;
 3. The discount rate to be used should be the “real” discount rate taken from Appendix C of OMB circular A-94 and found at (www.whitehouse.gov/omb/circulars/a094/a94_appx-c.html);
 4. The total capital cost (construction plus non-construction costs) should be included;

5. Annual O&M costs should be converted to present day dollars using a uniform series present worth (USPW) calculation;
6. The salvage value of the constructed project should be estimated using the anticipated life expectancy of the constructed items using straight line depreciation calculated at the end of the planning period and converted to present day dollars;
7. The present worth of the salvage value should be subtracted from the present worth costs;
8. The net present value (NPV) is then calculated for each technically feasible alternative as the sum of the capital cost (C) plus the present worth of the uniform series of annual O&M (USPW (O&M)) costs minus the single payment present worth of the salvage value (SPPW(S)):

$$NPV = C + USPW (O\&M) - SPPW (S)$$

9. A table showing the capital cost, annual O&M cost, salvage value, present worth of each of these values, and the NPV should be developed for state or federal agency review. All factors (major and minor components), discount rates, and planning periods used should be shown within the table;
10. Short lived asset costs (See Appendix A for examples) should also be included in the life cycle cost analysis if determined appropriate by the consulting engineer or agency. Life cycles of short lived assets should be tailored to the facilities being constructed and be based on generally accepted design life. Different features in the system may have varied life cycles.

- b) Non-Monetary Factors. Non-monetary factors, including social and environmental aspects (e.g. sustainability considerations, operator training requirements, permit issues, community objections, reduction of greenhouse gas emissions, wetland relocation) should also be considered in determining which alternative is recommended and may be factored into the calculations.

6) PROPOSED PROJECT (RECOMMENDED ALTERNATIVE)

The engineer should include a recommendation for which alternative(s) should be implemented. This section should contain a fully developed description of the proposed project based on the preliminary description under the evaluation of alternatives. Include a schematic for any treatment processes, a layout of the system, and a location map of the proposed facilities. At least the following information should be included as applicable to the specific project:

- a) Preliminary Project Design.

- i) Drinking Water:

Water Supply. Include requirements for quality and quantity. Describe recommended source, including site and allocation allowed.

Treatment. Describe process in detail (including whether adding, replacing, or rehabilitating a process) and identify location of plant and site of any process discharges. Identify capacity of treatment plant (i.e. Maximum Daily Demand).

Storage. Identify size, type and location.

Pumping Stations. Identify size, type, location and any special power requirements. For rehabilitation projects, include description of components upgraded.

Distribution Layout. Identify general location of new pipe, replacement, or rehabilitation: lengths, sizes and key components.

ii) Wastewater/Reuse:

Collection System/Reclaimed Water System Layout. Identify general location of new pipe, replacement or rehabilitation: lengths, sizes, and key components.

Pumping Stations. Identify size, type, site location, and any special power requirements. For rehabilitation projects, include description of components upgraded.

Storage. Identify size, type, location and frequency of operation.

Treatment. Describe process in detail (including whether adding, replacing, or rehabilitating a process) and identify location of any treatment units and site of any discharges (end use for reclaimed water). Identify capacity of treatment plant (i.e. Average Daily Flow).

iii) Solid Waste:

Collection. Describe process in detail and identify quantities of material (in both volume and weight), length of transport, location and type of transfer facilities, and any special handling requirements.

Storage. If any, describe capacity, type, and site location.

Processing. If any, describe capacity, type, and site location.

Disposal. Describe process in detail and identify permit requirements, quantities of material, recycling processes, location of plant, and site of any process discharges.

iv) Stormwater:

Collection System Layout. Identify general location of new pipe, replacement or rehabilitation: lengths, sizes, and key components.

Pumping Stations. Identify size, type, location, and any special power requirements.

Treatment. Describe treatment process in detail. Identify location of treatment facilities and process discharges. Capacity of treatment process should also be addressed.

Storage. Identify size, type, location and frequency of operation.

Disposal. Describe type of disposal facilities and location.

Green Infrastructure. Provide the following information for green infrastructure alternatives:

- Control Measures Selected. Identify types of control measures selected (e.g., vegetated areas, planter boxes, permeable pavement, rainwater cisterns).
- Layout: Identify placement of green infrastructure control measures, flow paths, and drainage area for each control measure.
- Sizing: Identify surface area and water storage volume for each green infrastructure control measure. Where applicable, soil infiltration rate, evapotranspiration rate, and use rate (for rainwater harvesting) should also be addressed.
- Overflow: Describe overflow structures and locations for conveyance of larger precipitation events.

- b) Project Schedule. Identify proposed dates for submittal and anticipated approval of all required documents, land and easement acquisition, permit applications, advertisement for bids, loan closing, contract award, initiation of construction, substantial completion, final completion, and initiation of operation.
- c) Permit Requirements. Identify any construction, discharge and capacity permits that will/may be required as a result of the project.
- d) Sustainability Considerations (if applicable).
- i) Water and Energy Efficiency. Describe aspects of the proposed project addressing water reuse, water efficiency, and water conservation, energy efficient design, and/or renewable generation of energy, if incorporated into the selected alternative.
- ii) Green Infrastructure. Describe aspects of project that preserve or mimic natural processes to manage stormwater, if applicable to the selected alternative. Address management of runoff volume and peak flows through infiltration, evapotranspiration, and/or harvest and use, if applicable.
- iii) Other. Describe other aspects of sustainability (such as resiliency or operational simplicity) that are incorporated into the selected alternative, if incorporated into the selected alternative.
- e) Total Project Cost Estimate (Engineer's Opinion of Probable Cost). Provide an itemized estimate of the project cost based on the stated period of construction. Include construction, land and right-of-ways, legal, engineering, construction program management, funds administration, interest, equipment, construction contingency, refinancing, and other costs associated with the proposed project. The construction subtotal should be separated out from the non-construction costs. The non-construction subtotal should be included and added to the

construction subtotal to establish the total project cost. An appropriate construction contingency should be added as part of the non-construction subtotal. For projects containing both water and waste disposal systems, provide a separate cost estimate for each system as well as a grand total. If applicable, the cost estimate should be itemized to reflect cost sharing including apportionment between funding sources. The engineer may rely on the owner for estimates of cost for items other than construction, equipment, and engineering.

- f) Annual Operating Budget. Provide itemized annual operating budget information. The owner has primary responsibility for the annual operating budget, however, there are other parties that may provide technical assistance. This information will be used to evaluate the financial capacity of the system. The engineer will incorporate information from the owner's accountant and other known technical service providers.
- i) Income. Provide information about all sources of income for the system including a proposed rate schedule. Project income realistically for existing and proposed new users separately, based on existing user billings, water treatment contracts, and other sources of income. In the absence of historic data or other reliable information, for budget purposes, base water use on 100 gallons per capita per day. Water use per residential connection may then be calculated based on the most recent U.S. Census, American Community Survey, or other data for the state or county of the average household size. When large agricultural or commercial users are projected, the Report should identify those users and include facts to substantiate such projections and evaluate the impact of such users on the economic viability of the project.
- ii) Annual O&M Costs. Provide an itemized list by expense category and project costs realistically. Provide projected costs for operating the system as improved. In the absence of other reliable data, base on actual costs of other existing facilities of similar size and complexity. Include facts in the Report to substantiate O&M cost estimates. Include personnel costs, administrative costs, water purchase or treatment costs, accounting and auditing fees, legal fees, interest, utilities, energy costs, insurance, annual repairs and maintenance, monitoring and testing, supplies, chemicals, residuals disposal, office supplies, printing, professional services, and miscellaneous as applicable. Any income from renewable energy generation which is sold back to the electric utility should also be included, if applicable. If applicable, note the operator grade needed.
- iii) Debt Repayments. Describe existing and proposed financing with the estimated amount of annual debt repayments from all sources. All estimates of funding should be based on loans, not grants.
- iv) Reserves. Describe the existing and proposed loan obligation reserve requirements for the following:
- Debt Service Reserve – For specific debt service reserve requirements consult with individual funding sources. If General Obligation bonds are proposed to be used as loan security, this section may be omitted, but this should be clearly stated if it is the case.

Short-Lived Asset Reserve – A table of short lived assets should be included for the system (See Appendix A for examples). The table should include the asset, the expected year of replacement, and the anticipated cost of each. Prepare a recommended annual reserve deposit to fund replacement of short-lived assets, such as pumps, paint, and small equipment. Short-lived assets include those items not covered under O&M, however, this does not include facilities such as a water tank or treatment facility replacement that are usually funded with long-term capital financing.

7. CONCLUSIONS AND RECOMMENDATIONS

Provide any additional findings and recommendations that should be considered in development of the project. This may include recommendations for special studies, highlighting of the need for special coordination, a recommended plan of action to expedite project development, and any other necessary considerations.

Appendix A: Example List of Short-Lived Asset Infrastructure

| Estimated Repair, Rehab, Replacement Expenses by Item within up to 20 Years from Installation) | |
|--|--|
| Drinking Water Utilities | Wastewater Utilities |
| <p>Source Related</p> <ul style="list-style-type: none"> Pumps Pump Controls Pump Motors Telemetry Intake/ Well screens Water Level Sensors Pressure Transducers | <p>Treatment Related</p> <ul style="list-style-type: none"> Pump Pump Controls Pump Motors Chemical feed pumps Membrane Filters Fibers Field & Process Instrumentation Equipment UV lamps Centrifuges Aeration blowers Aeration diffusers and nozzles Trickling filters, RBCs, etc. Belt presses & driers Sludge Collecting and Dewatering Equipment Level Sensors Pressure Transducers Pump Controls Back-up power generator Chemical Leak Detection Equipment Flow meters SCADA Systems |
| <p>Treatment Related</p> <ul style="list-style-type: none"> Chemical feed pumps Altitude Valves Valve Actuators Field & Process Instrumentation Equipment Granular filter media Air compressors & control units Pumps Pump Motors Pump Controls Water Level Sensors Pressure Transducers Sludge Collection & Dewatering UV Lamps Membranes Back-up power generators Chemical Leak Detection Equipment Flow meters SCADA Systems | <p>Collection System Related</p> <ul style="list-style-type: none"> Pump Pump Controls Pump Motors Trash racks/bar screens Sewer line rodding equipment Air compressors Vaults, lids, and access hatches Security devices and fencing Alarms & Telemetry Chemical Leak Detection Equipment |
| <p>Distribution System Related</p> <ul style="list-style-type: none"> Residential and Small Commercial Meters Meter boxes Hydrants & Blow offs Pressure reducing valves Cross connection control devices Altitude valves Alarms & Telemetry Vaults, lids, and access hatches Security devices and fencing Storage reservoir painting/patching | |



United States Department of Agriculture
Rural Development

Committed to the future of rural communities

***Rural Utilities Service
Wisconsin State Supplement
to RUS Bulletin 1794A-602***

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I. Introduction

In applying for financial assistance from the Rural Development, Rural Utilities Service's (RD/RUS) loan and grant programs, the applicant will, in conjunction with preparing a Preliminary Engineering Report (PER), submit an Environmental Report (ER) to support the RD/RUS's environmental review process as required by the National Environmental Policy Act (NEPA). In accordance with [NEPA](#), R D must consider the environmental effects of each of its proposals on the human environment. In 1978, the Council on Environmental Quality ([CEQ](#)) promulgated regulations to implement the procedural provisions of NEPA. In order to implement NEPA at the agency level, the C E Q directed agencies to adopt procedures to supplement their regulations. The RD Environmental Policies and Procedures are outlined in [7 CFR Part 1794](#).

The NEPA ***applies to every USDA-RD project*** and is intended to 1) improve decision-making by ensuring that all relevant information is considered, and 2) make that information available to the public.

This Wisconsin State Supplement is to be used with [RUS Bulletin 1794A-602](#). This supplement will identify the contacts and resource information specific to Wisconsin, and is not intended to be a detailed explanation on preparing the Environmental Report. The applicant should reference to Bulletin 1794A-602 for a detailed explanation on preparing the Environmental Report.

The type of review the applicant creates and submits, and the amount of time required to complete the report, depends on the nature of your project, as described below.

II. The Environmental Review Process

A. Classification of Projects:

The applicant should contact the [State Environmental Coordinator \(SEC\)](#) for assistance in classifying the activities properly, as this determines the procedure and the time required to complete the environmental process. The SEC is also referred to as the "Env. Coordinator" on the Rural Development website.

Activities can be classified in four ways:

1. Categorical Exclusions without an Environmental Report (CATX without ER).
 - a) Reference Section [1794.21](#), which include projects such as:
 - (1) The issuance of bulletins and information publications that do not concern environmental matters or substantial facility design, construction, or maintenance practices.
 - (2) Procurement activities related to the operation of RUS.
 - (3) Personnel and administrative actions.
 - (4) Repairs made because of an emergency situation to return to service damaged facilities of an applicant's system.

b) Applicant Responsibilities: Consult with RD on project classification. RD will complete paperwork once determination is made that project is a CATX without ER.

2. Categorical Exclusions with an Environmental Report (CATX with ER):

- a) Reference Section [1794.22](#), which include projects such as:
- (1) Remove and replace (re-lay) of existing water and sewer pipe.
 - (2) Extension of collection and distribution lines within a one-mile limit from existing service area.
 - (3) Improvements to existing wastewater treatment plants that incorporate a modest change in size and do not create a new or relocate the existing discharge point.
- b) Applicant Responsibilities: Consult with RD on project classification and submit the Environmental Report with the project application. RD will complete paperwork once determination is made that project is a CATX with ER. No public notices are required unless project involves conversion of important farmland, facility construction in floodplains (does not include utility lines), facility construction in wetlands (does not include utility lines), or adverse effect of cultural resource.

3. Environmental Assessment with Environmental Report (EA with ER)

- a) Reference Section [1794.23](#), which includes projects such as:
- (1) New wells.
 - (2) New wastewater treatment plant.
 - (3) Improvements to wastewater treatment plant that relocates an existing discharge.
 - (4) Improvements to wastewater treatment plants which would provide capacity to serve more than 500 EDUs, or a 30 percent increase in the existing population (whichever is larger).
 - (5) New sewer and water systems to previously unserved communities.
- b) Applicant Responsibilities: Consult with RD on project classification and submit the Environmental Report with the project application. RD will complete paperwork once determination is made that project is an EA with ER. Public Notices are required and are outlined at [1794.40](#). RD will prepare Public Notice and instruct the applicant on publication requirements. The applicant is responsible for publishing.

4. Environmental Impact Statement (EIS):

Reference Section [1794.60](#). No groups or sets of proposed actions for the water and environmental program normally require the preparation of an EIS. If an EIS is required, RUS shall proceed directly to its preparation. Prior completion of an EA is not mandatory.

B. Intergovernmental Review

The State of Wisconsin does not participate in the Executive Order 12372, Intergovernmental Review Process. Applicants do not need to submit their applications to the applicable Planning Commissions for review.

III. Inventory of Protected Resources and Environmental Concerns

A. Land Use

1. General Land Use:

- a) Describe any existing zoning ordinances and land use plans, total land area required for purchase and the amount of land that will be disturbed by construction and operation, affected land areas classified by type of current land use such as residential, commercial, agricultural, forest land, etc., an estimate of the number of homes and population and businesses that are in close proximity to and likely to be directly affected by the project.
- b) Contact local zoning offices and planning commissions as information sources.

2. Important Farm Land, Prime Forest Land, and Prime Rangeland.

The Farmland Protection Policy Act (FPPA), the USDA regulation implementing the FPPA (7 CFR Part 658), and USDA Departmental Regulation No. 9500-3, "Land Use Policy", provide protection for important farmland and prime rangeland and forest land.

a) Important Farm Land:

USDA Agency actions must not convert directly or indirectly important farmland unless there is a demonstrated significant need, and no practicable alternative exists. If conversion is unavoidable, mitigation measures to minimize impact would be necessary. An early public notice of the possible conversion is required.

(1) The first step is to determine whether the land is already in urban use or has been designated as such by the local unit of government. Land is defined as "in urban use" if ANY one of the following three statements is true:

(a) Building density exceeds 30 structures per 40 acres;

(b) The land is zoned for residential, commercial, or industrial use; or

(c) A comprehensive land use plan has identified this property for future residential, commercial, or industrial use, and was adopted within 10 years prior to your project.

(2) *If the land is in urban use* (as defined), the FPPA does not apply.

(3) *If the land is **not** in urban use*, determine if any part is prime or unique farmland of statewide or local importance.

This is found by checking the soil type on the Soil Survey Maps. Soil Survey maps are available on-line at: <http://websoilsurvey.sc.egov.usda.gov/app/>. Lists of soils that are considered prime or unique farmland are found on-line at: <http://efotg.sc.egov.usda.gov/treemenuFS.aspx>. (Click on the Folder titled "eFOTG" then open folder "Section II," then open the folder "Soils Information"). If prime or unique farmland is at the project site, contact the [State Environmental Coordinator](#) for further instructions on completing [Form AD-1006](#). For USDA Rural Development Water and Waste Programs, corridor analyses for important farmland impact are not applicable for distribution or collection networks. Analyses are only applicable for transmission or trunk lines where placements of the lines are flexible (as indicated in the directions for completing Form AD-1006).
(4) *If the land is in current farm use*, also see [Wisconsin Statute 32.035](#) (dealing with eminent domain) regarding the preparation of an agricultural impact statement, and contact the WI Department of Agriculture, Trade, and Consumer Protection (DATCP). The [Agricultural Impact Notice Form](#) may need to be completed and submitted to the DATCP. The contact information for DATCP is found on the [Agricultural Impact Notice Form](#).

- b) Prime Forest Land:
Not Applicable in Wisconsin.
- c) Prime Rangeland:
Not Applicable in Wisconsin.

B. Formally Classified Lands:

There are certain properties that are either administered by Federal, State, or local agencies or have been accorded special protection through formal legislative designations. For the purpose of this report, these properties have been designated as "formally classified lands". Visual impacts to formally classified land from proposed projects need to be considered. Formally classified lands that may be encountered include:

1. Wild and Scenic Rivers:

If a proposed project site is located along the St. Croix, Brule or Wolf Rivers, or along components of the Wild and Scenic River system, a grantee must contact the National Park Service (NPS). NPS will review the project for potential impacts on the Wild and Scenic River System, the National Rivers Inventory, the National Park System, and similar resources or properties.

- (1) [National Rivers Inventory List and Contact Information](#).
- (2) Additional Contact for Wolf River – [Menominee Indian Tribe of Wisconsin](#)

2. National Forestlands:

The Chequamegon-Nicolet National Forest covers more than 1.5 million acres of Wisconsin's Northwoods. The Chequamegon side of the forest

covers about 858,400 acres in Ashland, Bayfield, Sawyer, Price, Taylor and Vilas counties while the Nicolet side covers nearly 661,400 acres in Florence, Forest, Langlade, Oconto, Oneida and Vilas counties.

3. [State Forestlands](#)
4. [National Wilderness Areas](#)
5. [National Natural Landmarks](#)
6. [State Natural & Scientific Areas](#)
7. **National Trails:**
 - a) [Ice Age National Scenic Trail and Contact Information.](#)
 - b) [North Country National Scenic Trail and Contact Information.](#)
8. [State Trails](#)
9. [National Parks](#)
10. [State Parks](#)
11. [National Lakeshore Areas](#)
12. [National Wildlife Refuges](#)
13. [State Wildlife Refuges](#)

C. Floodplains:

Executive Order 11988, "Floodplain Management" requires Federal agencies to avoid actions, to the extent practicable, which will result in the location of facilities in floodplains and/or affect floodplain values. Facilities located in a floodplain may be damaged or destroyed by a flood or may change the flood-handling capability of the floodplain or the pattern or magnitude of the flood flow.

1. The relevant floodplain for most proposed projects is an area that has a 1-percent chance of a flood occurrence in a given year. The flood of this interval is referred to as the 100-year flood or the base flood. The floodplain management guidelines further require Federal agencies to apply the 0.2 percent or 500-year flood occurrence standard to the location of "critical facilities." Applicants should consider "critical facilities" as facilities whose loss would disrupt utility service to large areas for a considerable period of time or would disrupt utility service to critical facilities such as hospitals.
2. Consult the FEMA Flood Insurance Rate Map (F.I.R.M.), or contact the local unit of government's local zoning administrator to determine if the project is located in a 100-year floodplain and 500-year floodplain (if critical facility). If not, document your finding and place floodplain map in the Environmental Report. If the project site is located in a 100-year floodplain, refer to [Section 3.2.1 of RUS Bulletin 1794A-602](#).
3. [Electronic Floodplain Maps](#) are available on line.

D. Wetlands:

Executive Order 11990, "Protection of Wetlands" states that it is Federal policy to avoid to the extent possible the long and short-term adverse impacts associated with the destruction or modifications of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative. Section 363 of the Consolidated Farm and Rural Development Act (CONACT) prohibits wetland conversion (this does not apply to utility lines). The CONACT is more restrictive than Executive Order 11990, and is to be followed for water and environmental program funding. In general, projects are in compliance if they are not located in designated wetlands, or do not require filling or otherwise disturbing a wetland. Wetlands are regulated by the U.S. Army Corps of Engineers, the [Wisconsin Department of Natural Resources](#) and by local counties, cities and villages.

1. Applicants must determine whether projects proposing new construction or ground-disturbance affect wetlands.
 - a) See the [Wisconsin Department of Natural Resources](#) website for WDNR Regulations.
 - b) See the [Army Corps St. Paul District](#) website for more information on Corps regulations.
 2. Wisconsin Wetland Inventory maps and soils maps can be viewed at most county zoning offices. For incorporated areas -- cities and villages -- contact the City Building Inspector, City Engineer or Village Clerk for that incorporated area. Copies of the Wisconsin Wetland Inventory maps can also be viewed online at the [WDNR Surface Water Data Viewer](#).
- a) Include the Wetland Inventory map with the project area located on it with the environmental report.

E. Cultural Resources:

[The National Historic Preservation Act](#) (NHPA) of 1966, as amended, and the Advisory Council on Historic Preservation's (ACHP) implementing regulations, [36 CFR Part 800](#) (Section 106 regulations), requires Federal agencies to take into account the effect their actions may have on historic properties that are within the proposed project's area of potential effect.

1. To avoid harm to both known historic properties and archeological sites, and to undiscovered sites present in a project area, each applicant must:
 - a) Identify historic properties and archeological sites within or near the proposed project area.
 - b) Assess the effects of the proposed action on these historic properties and sites.
2. For projects located outside Reservation Boundaries of a Native American Nation and projects located inside Reservation Boundaries where the Tribe does not have a designated [Tribal Historic Preservation Officer](#) (THPO):
 - a) The [Wisconsin Historic Society \(WHS\)](#) serves as the federal government's State Historic Preservation Officer, or SHPO. The

WHS will be consulted for projects that take place outside of Reservation Boundaries. The applicant should review the [Wisconsin Section 106 Submittal Requirements](#).

b) The WHS has delegated the responsibility for determining whether a Rural Development funded project contains sites that are eligible for inclusion in the National Register of Historic Places to Rural Development (both historic buildings *and* archeological sites). The applicant's responsibility is to assist Rural Development in collecting information that forms the basis for this determination. An applicant unfamiliar with historic or archeological requirements is encouraged to contact the [State Environmental Coordinator](#) for assistance before collecting information.

c) If an applicant proposes to rehabilitate or impact an existing building 50 years of age or older, it must determine whether the building is listed on the WHS's Architecture and History Inventory (ASI). If the building is listed, then the applicant must consult with Rural Development to mitigate adverse effects on the building's historic features.

d) For projects involving new ground disturbance, the WHS requires that applicants:

(1) Determine whether known archeological sites are present in the project area, by consulting with the WHS's ASI database

(2) Conduct an archeological survey to determine whether undiscovered archeological sites are present.

(3) Submit a written report prepared by a qualified professional archeologist. The report should be submitted to the [State Environmental Coordinator](#) at Rural Development for submission to WHS. The applicant will assist RD in completing [WHS Form HP-05-07 "Request for SHPO Comment and Consultation on a Federal Undertaking"](#) for submission to the SHPO by Rural Development.

e) If the property is found to contain prehistoric or historic sites, then the applicant must enter into consultations with Rural Development and WHS to mitigate the project's effects on such sites. If no resolution is found at the State level, further consultation with the Advisory Council on Historic Preservation, Washington D.C., may be required.

f) The applicant should not contact the WHS or submit materials to WHS for a Rural Development project. This will be completed by the [State Environmental Coordinator](#).

g) Tribes identified through the [Native American Consultation Database](#) indicating an interest in the county where the proposed Rural Development project is located will be included in the consultation process (even if project is located outside of Reservation Boundaries). This will be completed by the State Environmental Coordinator at Rural Development. The applicant is responsible for providing the State Environmental Coordinator with the required information from items (d) above for submittal to

the Tribes for review. Examples of projects where the Tribes will be contacted include:

- (1) Sewer collection and/or treatment, water treatment and/or distribution, road construction, or building projects located outside of Reservation Boundaries that involve construction in areas not previously disturbed.
- (2) Water towers or other structures greater than 25 feet in height located outside the developed portion of a city or town which may result in a visual impact to a culturally significant landscape.
- (3) Other construction projects located outside of Reservation Boundaries in which the SHPO has indicated that an archaeological site exists.

3. For projects located inside Reservation Boundaries, with a designated [THPO](#):

- a) Consultation with the THPO is required.
- b) The consultation will be completed by the State Environmental Coordinator at Rural Development.

4. Those actions that have historical or archaeological significance must be resolved prior to obligation of funds. Mitigation measures to protect the historic or archaeological features will be developed in cooperation with the SHPO and/or THPO prior to obligating funds for the proposed action.

F. Biological Resources:

The [Endangered Species Act of 1973](#), as amended (16 USC 1531 through 1536), provides for the cooperation of agencies (including Rural Development applicants) to ensure the conservation of endangered species and their habitats.

1. Informal consultation shall be initiated on those projects located in remote areas, heavily forested areas and/or previously undisturbed areas. Formal consultation is required where it is determined there may be an effect on a listed species or critical habitat.

2. Federal: Each grantee should reference the [Consultation Process for Region 3 of the US Fish and Wildlife Service \(USFWS\)](#) as part of its environmental review for funded projects. This information is provided to allow project proponents to fulfill their initial Section 7(a)(2) obligations without having, if they choose, to contact the USFWS Field Offices.

- a) [Current list of listed species by Wisconsin County](#)
- b) Contact Info for Wisconsin [USFWS](#)

3. State: Wisconsin DNR staff are responsible for conducting [National Heritage Inventory \(NHI\) reviews](#) for projects that they conduct, fund or approve. For development projects that require DNR review or approval from other programs, the NHI review should be part of the overall DNR approval process. Contact your local DNR permit staff for additional information (for example, if a proposed project requires a water quality

certification permit, the project should be reviewed by the responsible, regional permit staff). In addition to the regional NHI reviews, Endangered Resources program staff in Madison conduct reviews for complex, landscape-scale projects and for projects that have no other state involvement and provide general assistance to regional DNR staff. It is often advantageous for a project applicant to gather endangered resources information as soon as possible to identify issues that need to be addressed early in the process, even if the project will be reviewed later in the process by other DNR staff. To obtain a NHI Review by endangered resources staff, the applicant should submit an [Endangered Resources Review Request Form](#) and all required attachments. The Environmental Review Team will provide a letter to the applicant explaining the endangered resources concerns and issues per the proposed project details. Response time varies depending upon workload. In addition, fees are required by [Administrative Rule NR 29.04 \(1a\)](#).

a) The [NHI county data](#) are intended as a general reference for the public, and are presented as a list of rare species (endangered, threatened and special concern) and other sensitive resources - high-quality natural communities and significant natural features - that are known to occur within each township in a county. **As such, they are appropriate for general planning and assessment purposes only and should not be used for screening or reviewing a proposed land development or land management project for potential impacts to endangered resources.**

4. Include State/Federal Correspondence letters in the Environmental Report, or documentation letters (if the agencies did not need to be contacted).

G. Water Quality Issues:

This section is concerned with water quality issues as they relate to discharges from wastewater treatment facilities; surface or ground water appropriation for potable water treatment facilities; ground water protection programs; and water quality degradation from temporary construction activities. Water quality changes can impact other environmental resources such as wetlands, wildlife populations, and others. These impacts can also reach a considerable distance beyond the project location. The possible effects that the proposed project and alternatives considered could have on water quality should be addressed in the ER. Wisconsin does not have any designated sole source aquifers that need to be addressed for water quality issues.

H. Coastal Resources:

The Coastal Zone Management Act (CZMA) of 1972, as amended, applies to all lands on the boundary of any ocean or arm thereof, and the Great Lakes. The Coastal Barrier Resources Act (CBRA) and the Coastal Barrier

Improvement Act only apply to selected geographic areas designated as “Coastal Barrier Resources System (CBRS) Units.” Such units have been established and delineated along the Great Lakes. There are seven CBRS units in Wisconsin.

1. All Rural Development applicants located in counties adjacent to either Lake Superior or Lake Michigan must document compliance with the [Wisconsin Coastal Management Program \(WCMP\)](#) for proposed projects that are located on the shorelines of either lake, or are located along rivers or streams that drain into these lakes. All proposed projects that are within coastal zone management areas must obtain a “consistency determination.” [Federal consistency reviews](#) are the responsibility of the lead State CMP agency.

a) [Contact Information](#) for the WCMP for consistency determination.

2. The [Coastal Barrier Resources Act \(CBRA\)](#) of 1982 established the [John H. Chafee Coastal Barrier Resources System \(CBRS\)](#), comprised of undeveloped coastal barriers along the Atlantic, Gulf, and Great Lakes coasts. The law encourages the conservation of hurricane prone, biologically rich coastal barriers by restricting Federal expenditures that encourage development.

3. Prior to approving proposed projects in the CBRS units, applicants and RD must consult with and gain the approval of USFWS. Federal Agencies are prohibited from providing financial assistance in CBRS units except for the following activities; the maintenance, replacement, reconstruction, or repair of structures or facilities that are an essential link in a larger network or system.

- a) [Location Maps of Wisconsin's seven CBRS Units:](#)
- (1) WI-01 Two Creeks Unit (Manitowoc County)
 - (2) WI-02 Point Au Sable Unit (Brown County)
 - (3) WI-03 Peshtigo Point Unit (Marinette County)
 - (4) WI-04 Dyers Slough Unit (Oconto County)
 - (5) WI-05 Bark Bay Unit (Bayfield County)
 - (6) WI-06 Herbster Unit (Bayfield County)
 - (7) WI-07 Flag River Unit (Bayfield County)

b) Contact information for [USFWS](#).

I. Socio-Economic Issues/Environmental Justice:

Proposed projects funded by or in part by RD have a potential to affect the socio-economic conditions of the areas being served. Applicants should be aware of potential effects to the socio-economic makeup of the area proposed to be served and be prepared to discuss these effects. Effects could be beneficial or adverse. In addition, applicants need to determine if their proposed project has or may have a disproportionately high and adverse human health or environmental effects on minority and low-income populations. <http://quickfacts.census.gov/qfd/>

J. Miscellaneous Issues:

1. Air Quality:
 - a) Provide information on the anticipated effects (including duration) on air quality from construction activities.
 - b) Provide information on the anticipated effects on air quality from operation of the facility; and, sources of odors and mitigation measures necessary to minimize off-site migration of odors.
2. Transportation: Information concerning this issue may be required if the proposed project involves highway or railroad crossings, or elevated water storage facilities that are located adjacent to airports (including airport clearance or accident zones). Permits may be required from the applicable agencies prior to construction.
3. Noise:
 - a) Address how the noise levels from construction will be controlled.
 - b) Address the operation of facilities that will have an impact on noise sensitive developments such as residential areas. The most current noise assessment methodology is contained in the "[Noise Guidebook](#)", published by the U.S. Department of Housing and Urban Development, Office of Community and Development.
4. Contaminated Lands:
 - a) Check the [WDNR Remediation and Redevelopment \(RR\) website](#) for information on contaminated lands in the project area. The RR Sites Map provides information about contaminated properties and other activities related to the investigation and cleanup of contaminated soil or groundwater in Wisconsin.

Attachment 1: Sample Correspondence Letter

March 9, 2014

Kate Angel, Policy and Planning Analyst
WCMP
P.O. Box 8944
Madison, WI 53708-8944

Re: Village of Springfield Wastewater Treatment Plant
USDA Rural Development Water and Environmental Program Funding Application

Dear Ms. Angel:

The Village of Springfield is in the process of performing an environmental review pursuant to the National Environmental Policy Act for USDA Rural Development in order that it may assess the environmental impacts of the proposed wastewater treatment plant (WWTP) project. The following information is provided to help determine compliance with applicable Federal laws:

Name of Applicant: Village of Springfield

Name of Project: Wastewater Treatment Plant Upgrades

Description of Project: Construction of a recirculating sand filter.

Nature and Amount of Ground Disturbance: The proposed WWTP is located on the same site as the existing plant, on previously disturbed ground. There will be less than one acre of new ground disturbance for the construction of a new utility building. The vegetation in the area of the utility building consists of jack pines and wild lupine.

Map of Project Area: The project is located in the NW ¼ of Section 23 of T.38.N-R.7.W, Sawyer County. See the attached USGS Map for the project location.

Please advise us if the proposal is within areas of the State's Coastal Management Program and, if so, perform a federal consistency review. We request your review of this project so that you may assist us in ensuring that our construction activities will be consistent with program goals. Any other information you may wish to provide regarding environmental impacts or suggestions for mitigating impacts will be appreciated and taken into consideration. ***{this paragraph should note specifically what type of review/information you are requesting from the Agency}.***

We would appreciate a response within thirty days. If you need any further information or wish to discuss our project, please contact me at Joseph.Dorava@wi.usda.gov or at 715-345-7615 Ext 136.

Sincerely,

Joseph Dorava
State Environmental Coordinator

Enclosures: 1. USGS Map
2. Project Site Map
3. Project Site Photos

RUS Bulletin 1794A-602

March 2008

Version 1.2

**GUIDE FOR PREPARING
THE ENVIRONMENTAL REPORT
FOR WATER AND ENVIRONMENTAL
PROGRAM PROPOSALS**

**ENGINEERING AND ENVIRONMENTAL STAFF
RURAL UTILITIES SERVICE
U.S. DEPARTMENT OF AGRICULTURE**

The most current version of this document can be downloaded from the environmental section of <http://www.usda.gov/rus/water/ees/index.htm>.

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Abbreviations and Acronyms

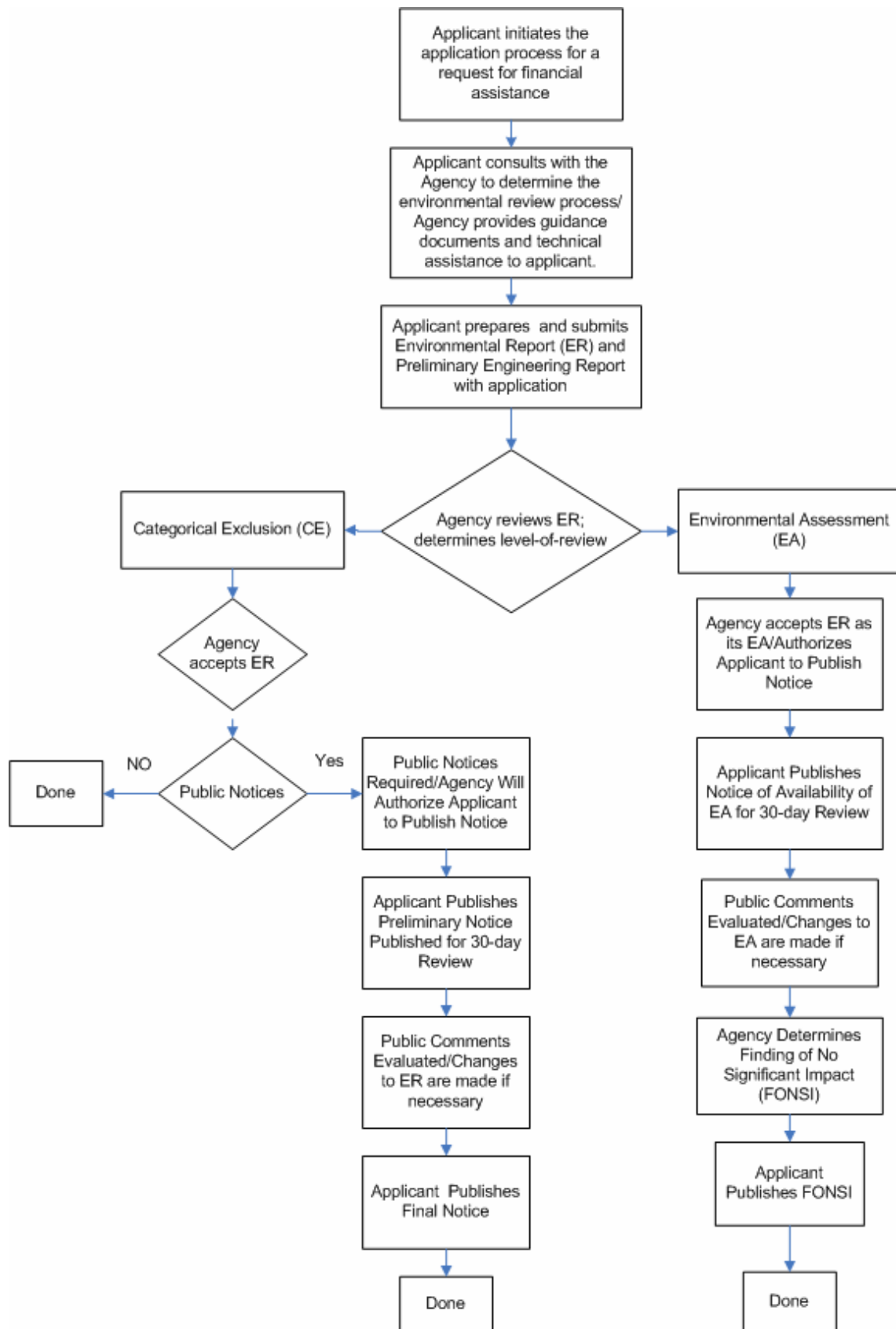
| Selected Abbreviations and Acronyms | | | |
|-------------------------------------|---|---------------|--|
| ACHP | Advisory Council on Historic Preservation | HUD | U.S. Department of Housing and Urban Development |
| BACT | Best Available Control Technology | NEPA | National Environmental Policy Act |
| BIA | Bureau of Indian Affairs | NHPA | National Historic Preservation Act |
| BLM | Bureau of Land Management | NMFS | National Marine Fisheries Service |
| CBRS | Coastal Barrier Resources System | NOAA | National Oceanic and Atmospheric Administration |
| CD | Compact Disk | NPDES | National Pollutant Discharge Elimination System |
| CE | Categorical Exclusion | NPS | National Park Service |
| CEQ | Council on Environmental Quality | NRCS | Natural Resources Conservation Service |
| CFR | Code of Federal Regulations | OSHA | Occupational Safety and Health Administration |
| CMP | Coastal Management Program | PER | Preliminary Engineering Report |
| CZMA | Coastal Zone Management Act | ROW | Right-of-Way |
| DR | Departmental Regulation | Agency | Rural Development, Rural Utilities Service |
| EA | Environmental Assessment | SIP | State Implementation Plan |
| EIS | Environmental Impact Statement | § | Section |
| ER | Environmental Report | SHPO | State Historic Preservation Officer |
| E.O. | Executive Order | THPO | Tribal Historic Preservation Officer |
| ESA | Endangered Species Act of 1973 | U.S.C. | United States Code |
| et seq. | <i>et sequentia</i> (and those that follow) | USACE | U.S. Army Corps of Engineers |
| FAA | Federal Aviation Administration | USDA | U.S. Department of Agriculture |
| FEMA | Federal Emergency Management Agency | USDOT | U. S. Department of Transportation |
| FHA | Federal Highway Administration | USEPA | U.S. Environmental Protection Agency |
| FIRM | Floodplain Insurance Rate Map | USFS | U.S. Forest Service |
| FONSI | Finding of No Significant Impact | USFWS | U.S. Fish and Wildlife Service |
| FPPA | Farmland Protection Policy Act | USGS | U.S. Geological Survey |
| FR | Federal Register | WWW | World Wide Web |

1.0 INTRODUCTION

In applying for financial assistance from the Rural Development, Rural Utilities Service's (Agency) Water and Environmental Program's loan and grant programs, applicants shall, in conjunction with preparing a Preliminary Engineering Report (PER) (see 7 CFR 1780.33 (c)), prepare and submit an Environmental Report (ER) (see 7 CFR 1794.10) to support the Agency's environmental review process as required by the National Environmental Policy Act (NEPA) and the Agency's environmental policies and procedures (7 CFR 1794). This Bulletin provides guidance on preparing the ER, specifically:

- The format for the ER.
- The environmental issues that need to be considered during a proposal's planning and design activities.
- The sources for locating the required information.
- Analytical and documentation requirements.
- Methods and information regarding public notices and involvement.

An explanation of the procedure that is normally followed by the applicant and Agency for a proposal is shown in below.



1.1 National Environmental Policy Act

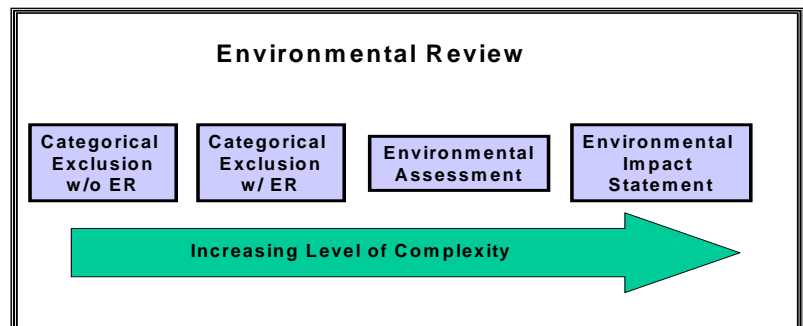
As its name implies, NEPA established the federal government's environmental policies. Its primary goal is to help public officials make decisions that are based on an understanding of the environmental consequences of their actions, and to take actions that protect, restore, and enhance the environment. To accomplish this, NEPA requires federal agencies to either prepare or have prepared written environmental impact assessments or statements that describe the:

- Affected environment and environmental consequences of proposals;
- Reasonable or practicable alternatives to the proposal; and
- Any mitigation measures necessary to avoid or minimize adverse environmental effects.

In accordance with NEPA, the Council on Environmental Quality (CEQ) issued regulations (40 Code of Federal Regulations (CFR) 1500 – 1508) establishing a standard environmental impact assessment and review process for the federal government. Three levels of environmental reviews were established:

- Categorical Exclusions (CE),
- Environmental Assessments (EA), and
- Environmental Impact Statements (EIS).

As required by the CEQ regulations, the Water and Environmental Program has classified its actions, that is to provide financial assistance, within these levels of review with one modification. Certain Agency actions classified as CE are split into those that do not require an ER and those that do require an ER. This documentation is necessary to evaluate whether there are any extraordinary circumstances that would necessitate a higher level of review.



1.2 Environmental Report

The ER prepared by applicants will enable the Agency to evaluate the environmental effects of those proposals that are classified as either CEs or EAs. In addition it will

also enable the Agency to fulfill its obligations under NEPA and other environmental mandates.

An ER must be sufficiently detailed to enable Agency to:

- Clearly establish the purpose and to assess the need for a proposal;
- Determine if all reasonable alternatives to the proposal have been appropriately considered;
- Evaluate the environmental effects of the proposal and any reasonable alternatives considered;
- Assess the significance of those effects;
- Specify mitigation measures where necessary.

As per the CEQ regulations, all planning and other environmental review procedures shall be integrated so that they run concurrently rather than consecutively (see 40 CFR 1500.2 (c)). Therefore, the ER will be prepared with and at the same time as the PER. However, because the ER is a public document it needs to be a stand-alone document including pertinent sections from the PER, such as the Project Planning Area, Need for Project, Alternatives Considered, and Selection of Alternative (see RUS Bulletins 1780-2 through 5). The ER and PER will be reviewed and approved concurrently by the Rural Development State Environmental Coordinator and State Engineer. ERs found to be unacceptable will be returned to applicants for the resolution of outstanding concerns.

Even though applicants are required to integrate and consider environmental values during a proposal's planning and design activities, it is the Agency's responsibility to independently evaluate and verify the accuracy of the information provided in the ER (see 40 CFR 1506.5 (a)). The Agency is ultimately responsible for the scope and content of the resulting environmental document.

In order to expedite the application process and the Agency's review and approval of a proposal, applicants are strongly encouraged to consult early and frequently with Rural Development staff to ensure that all environmental issues are described, evaluated, and impacts appropriately considered.

The information presented and the analyses performed in the ER will allow the Agency to determine the level of significance of a proposal's environmental impacts. The significance of impacts identified will determine whether the impacts can be mitigated or whether a higher level of environmental review is necessary (i.e. from a CE to an EA or from an EA to an EIS). The information provided must be sufficient for Agency to determine that its action (providing financial assistance) will not conflict with other environmental statutes, implementing regulations, policies, procedures, and Executive Orders that are applicable to the proposal.

Key features of an ER:

- Descriptions and discussions of environmental issues must be clear and complete enough so that a person with little previous knowledge of the proposal can make an independent evaluation and easily verify the accuracy of the information and determinations made from the provided information. Maximum

- Where determinations of impacts are made, sufficient documentation must be presented to substantiate them including concurrence of the determinations from appropriate regulatory and natural resource agencies.
- Any environmental concerns that are raised by federal, state, or local agencies or the public must be addressed as completely as possible and resolved before the ER will be considered complete.
- All environmental documentation submitted to or received from federal, state, or local agencies shall be referenced, as appropriate, and included in the ER.
- Agency, can not substitute another federal, state, or local agency's decision for its environmental decision. Agency must still make its own independent decision and when applicable so inform the public. The Agency will inform the applicant when public notices are required; applicants will be expected to publish the public notices in newspapers of local circulation in the project area.

1.3 Relationship of Environmental Report to the Preliminary Engineering Report

The Agency requires that applicants to the Water and Environmental Program's loan and grant programs submit with its application a PER and an ER. The environmental review process is to be performed concurrently with an applicant's preliminary engineering planning and design activities. It is also Agency's policy to minimize duplication of effort and paperwork. Since engineering planning and design activities and the environmental review process are so intricately linked, Agency guidance documents or Bulletins request similar types of information. To minimize duplication of effort, it is sufficient to reference environmental information from the ER in the PER (for example: PER, Section 2, Project Planning Area, (b) Environmental Resources Present can reference the information presented in the ER rather than duplicating the same information). This is necessary because the environmental documentation must be a stand-alone document for public involvement requirements.

1.4 Public Involvement

A key element of the NEPA environmental review process is public involvement. Public involvement activities for certain CEs and EAs normally include publishing public notices for a prescribed length of time in local newspapers. Several of the environmental statutes and Executive Orders considered under Agency's environmental review process also require public notices. See Section 5.0 for specific public notice requirements and sample public notices. In most cases applicants will be authorized by the Agency's Processing Office what and when to publish public notices.

1.5 The Agency's Decision

The Agency's environmental review process must be completed before the Agency can make a decision regarding the approval of an applicant's application. The Agency's

decision to provide financial assistance will conclude by the obligation of loan and grant funds. The Agency's environmental decision will be one of the following:

1. The proposal meets the classification of a CE in the Agency's regulations; the Agency will complete a CE form to document that the proposal does not individually or cumulatively have a significant effect on the human environment and, for which, neither an EA nor an EIS is required.
2. The proposal meets the classification of an EA; the Agency, after appropriate public review periods, will prepare a Finding of No Significant Impact (FONSI) to document that the proposal does not individually or cumulatively have a significant effect on the human environment and that an EIS is not required. The FONSI will be published to notify the public of Agency's decision.
3. The proposal will require an EIS to fully evaluate the potential for significant environmental effects to the human environment or to address substantive public concerns. In accordance with 40 CFR 1506.5, "Agency Responsibility" and to avoid potential conflicts of interest, applicants will not be allowed to prepare environmental documentation for an EIS. If a determination is made that an EIS is necessary, the Agency will be responsible for overseeing the preparation of the document, typically under contract and at the applicant's expense.

1.6 Project Changes Subsequent to Approval

In some cases during the bidding and contracting process of Agency approved projects, facility design and construction activities change from the approved PER and environmental review documentation. If any facility design or construction activities deviate from those contained in the approved engineering and environmental documents, applicants may be required to undertake additional environmental review activities which may include follow-up environmental regulatory or natural resource agency review and concurrence and public notices. If this is the case, applicants shall contact the Rural Development State Environmental Coordinator or Processing Office to determine what additional environmental review requirements would be applicable.

1.7 Sources of Information

Throughout this Bulletin various internet addresses, or websites, are given for sources of information. These websites often provide some useful and current information such as regulatory requirements, guidance suggestions, resource listings, contact addresses, and telephone numbers for information and

CHECK OUR WEBSITE FOR THE MOST
CURRENT VERSION OF THIS DOCUMENT -
<http://www.usda.gov/rus/water/ees/index.htm>

assistance. Often these websites will provide links to other websites that can also be helpful in preparing an ER. You are encouraged to take advantage of these resources.

If, during the preparation of an ER, a question arises concerning what is needed, Rural Development staff should be contacted for advice. Similarly, the applicant should consult with Agency immediately when it appears that a proposal may have significant environmental effects, is controversial for environmental reasons, or if any regulatory

agency raises a concern or does not concur with any determinations as to impacts made during the environmental review process.

Environmental compliance issues can be complex and varied, particularly as they relate to NEPA compliance. In addition to this Bulletin and the guidance it contains, Rural Development has developed a series of interactive multimedia instruction on Compact Disks (CD) that cover most of the environmental statutes, regulations, and Executive Orders considered in its NEPA compliance process. These CDs are available to applicants and their engineering consultants at no charge; for copies contact the Rural Development State Environmental Coordinator or the Director, Engineering and Environmental Staff (for address and telephone numbers see <http://www.usda.gov/rus/water/ees/index.htm>). In addition Agency maintains an Environmental Compliance Library at its web site (<http://www.usda.gov/rus/water/ees/environ.htm>) that contains either text copies of or information to links for most of the environmental statutes, regulations, and Executive Orders pertinent to the Agency's NEPA compliance process.

2.0 FORMAT OF THE ENVIRONMENT REPORT

The general format of an ER is as follows:

- 1.0 Purpose and Need of the Proposal
- 2.0 Alternatives to the Proposed Action
- 3.0 Affected Environment/Environmental Consequences
- 4.0 Summary of Mitigation
- 5.0 Correspondence
- 6.0 Exhibits
- 7.0 List of Preparers

Characteristics of the ER are to:

- Minimize repetition and the inclusion of extraneous background information. Reference supporting material, where appropriate.
- Emphasize real environmental issues. Only include information relevant to the proposal and which is useful to Agency decisionmakers and the public in understanding the environmental implications or consequences of the proposal.
- Present the information in a clear, concise manner, minimizing the use of long narratives. Bulleted lists, summary or comparative tables, maps and diagrams are preferable and will expedite Agency's review.

2.1 Level of Detail

The amount of information and level of analysis provided in the ER should be commensurate with the magnitude of construction activities and their potential level of impact. For example, simple statements regarding a particular issue can be made for proposals classified as CEs where minimal environment effects are expected. The statement should assert the determination made from the analysis referencing the information used to support the determination. If a proposal will not construct in or

convert a floodplain, simply state so and provide the number designation and a copy of the Federal Emergency Management Agency (FEMA), Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map(s) (with the facility location located on the map) that was reviewed. If a FEMA map is unavailable, identify whether any alluvial soil units are mapped on the USDA, Natural Resources Conservation Service's (NRCS) soil survey map and provide a copy of the appropriate soil survey sheet again with the facility location plotted on the map. Likewise, a more detailed level of information and analysis will be necessary to support any determinations reached for proposals classified as an EA and where proposed construction activities are more involved and complex.

2.2 Maps

The use of maps, photographs and diagrams will improve the ER's clarity and greatly expedite the Agency's review process. For projects covering large areas and for reference purposes, USGS topographic maps (1:24,000) should be used to show the location of utility lines and appurtenances. For all proposals, NRCS Soil Survey maps (1:15,840 or 1:20,000) should be used to locate all site-specific construction activities, such as facilities or utility lines. The environmental resources that are readily apparent on soil survey maps include: wetlands (hydric soils), floodplains, stream crossings, important farmland, land use trends, geodetic information (Range, Township, section numbers), and vegetative cover. Vegetative cover is potentially useful in critical habitat determinations for threatened and endangered species. Where proposals include construction in or close to floodplains, facility locations should be drawn on FEMA FIRMs; if FEMA maps are unavailable facility locations should be drawn on soil survey maps. All of the above activities can be drawn by hand on the described maps or if available Geographic Information Systems.

2.3 Format of Environmental Report

For a more detailed description of the ER's Table of Contents see Exhibit E. The following section numbers correspond to the appropriate numbers in the ER.

1.0 Purpose and Need for the Proposal

This section will succinctly describe the proposal and establish the underlying purpose and need to which Agency is responding. This section has two subsections and needs to be consistent with information provided in the PER.

1.1 Project Description (Proposed Action)

Provide a description of the proposal summarizing all proposed facilities or improvements and construction activities. Commonly referred to in NEPA and the CEQ regulations as the proposed action.

1.2 Purpose and Need of the Proposal

This subsection shall establish the basis and underlying purpose of the proposal and the need to which Agency is responding. Therefore it is necessary to clearly and definitively demonstrate the purpose and establish a need for the proposal. The information will also be used to determine what reasonable or practicable alternatives need to be evaluated in the ER. In addition this section should state what would be the consequences of not implementing the proposal; this is referred to in NEPA as the No Action alternative.

2.0 Alternatives to the Proposed Action

In planning and developing a proposal, applicants shall explore all reasonable alternatives that could satisfy and are consistent with the purpose and need of the proposal. Alternatives may include:

- Engineering design alternatives,
- Alternative siting locations of facilities,
- System capacities, reasonable growth concerns, etc.

During the analysis and evaluation of engineering planning and design options and the concurrent environmental review activities, various alternatives may be evaluated and ultimately determined to be unreasonable for various technical or financial reasons. This section needs to outline and document this analytical process by presenting the evaluation factors considered in judging each alternative's ability to meet the proposal's purpose and need. Again the engineering design information can be obtained from the PER.

All relevant factors that contribute to the decisionmaking process of selecting proposal alternatives shall be included, for example, technical and economic feasibility issues, environmental considerations, or any necessary mitigation measures including cost implications. The evaluation and weighting criteria assigned in analyzing the proposal's purpose and need and the alternatives considered should be summarized and presented in a comparative table.

3.0 Affected Environment/Environmental Consequences

This section of the ER will:

- Describe the area under consideration. The proposal's planning area may be larger than a service area determined to be economically feasible.
- Describe and document the environmental resources of the area to be affected by the proposal and each reasonable alternative considered.

- Discuss the environmental consequences of each proposal element and its affect on a specific environmental resource.
- Establish and discuss any mitigation measure(s) necessary to avoid or minimize any adverse impacts or effects to a specific environmental resource; these may require negotiations with applicable regulatory or natural resource agency.

Only alternatives determined to be reasonable need to be analyzed in this section.

The typical process to document and consider effects to environmental resources is:

1. Describe the area(s) to be affected by the proposal and each reasonable alternative considered. Affected areas may correspond to the service area of the proposal or may be larger depending on the proposed effect, e.g. visual impacts of a water tower on historic properties. Alternatives may have different affected areas. Include maps outlining the affected area(s) showing the location of all proposed construction activities.
2. Identify the environmental resources in the described affected area(s). Applicants, as necessary, will be required to consult with appropriate environmental regulatory or natural resource agencies to identify the environmental resources in the affected areas as well as review and concur in any determinations made from evaluating the proposal's impacts on these resources. Agency contacts or websites where preliminary information can be found is discussed in Section 4.0.
3. Discuss the environmental effects or consequences of the proposal and each reasonable alternative considered. All direct, indirect and, if applicable, cumulative effects need to be identified and discussed. Some of the impacts may be viewed as adverse, while others may be viewed as beneficial. For some actions, data may be unavailable or insufficient to make a determination of an effect; if so, clearly state the situation. Otherwise clearly describe all effects or consequences to all environmental resources whatever they may be. For specific guidance of the extent to which effects (direct, indirect and cumulative) need to be discussed, applicants should seek advice from the Rural Development State Environmental Coordinator.
4. Identify potential mitigation measures that may be necessary to avoid or minimize any adverse effects caused by the proposal. Any and all mitigation measures need to be negotiated and concurred with the appropriate environmental regulatory or

natural resource agency and documented, in some cases in a formal agreement, so as to be enforceable.

Section 3.0 in this Bulletin provides more detail on the following environmental resources to be evaluated.

- Land Use/ Important Farmland/ Formally Classified Land
- Floodplains
- Wetlands
- Historic Properties
- Biological Resources
- Water Quality Issues
- Coastal Resources
- Socio-Economic/ Environmental Justice Issues
- Miscellaneous Issues

Each of the above environmental resources shall have its own subchapter in the ER listing the affected environment, environmental consequences and mitigation measures for each resource. For example:

3.1 Land Use/Important Farmland/Formally Classified Lands

3.1.1 Affected Environment

3.1.2 Environmental Consequences

3.1.3 Mitigation

See Exhibit E for a more detailed description of the Table of Contents for the ER.

4.0 Summary of Mitigation

This section of the ER shall summarize all proposed mitigation measures described in Section 3.0 of the ER. Describe implementing criteria of mitigation measures and how each measure will be enforced. A table format is useful in presenting the evaluation.

5.0 Correspondence and Coordination

As specified in this Bulletin, many of the environmental issues evaluated require coordination with state or federal environmental regulatory agencies. All correspondence that is related to this coordination should be included in this section of the ER.

6.0 Exhibits

Attach supporting documents, studies, field investigation, maps, photographs, etc.

7.0 List of Preparers

List the names of all preparers of the ER, including titles, affiliations, and areas of input.

3.0 ENVIRONMENTAL INFORMATION AND REQUIREMENTS

This section provides the following information:

- The environmental resources that must be considered and the basis for the consideration;
- The type of information that must be provided in the ER;
- Potential information sources for each environmental resource.

This information including environmental resource data; evaluation and analyses of the proposal's effect on environmental resources; all determinations of effects; and any negotiated mitigation measures must be documented in the ER:

All included environmental resources in this Bulletin are regulated under federal environmental statutes, regulations, and Executive Orders and the Agency is obligated to consider the effects of its action on these resources prior to taking actions. A list of such statutes, regulations, and Executive Orders has been included in Exhibit D. This listing includes the title and citation for each item. These documents are available or links to websites where these documents can be found are located on the environmental section of the Engineering and Environmental Staff's website (<http://www.usda.gov/rus/water/ees/environ.htm>).

In preparing an ER, there are two distinct actions that are normally necessary. The first action is to collect information and data to determine if any environmental resources occur in the area to be affected by the proposal and any reasonable alternatives considered. If these resources are present, applicants must evaluate whether or not the proposal has the potential to affect these resources. If it is determined that the proposal will directly or indirectly affect any environmental resource, the applicant's second action is to submit a summary of the analyses and a determination regarding the potential effects to the agencies that have regulatory jurisdiction over these resources. If adverse impacts are expected, applicants may need to negotiate and coordinate potential mitigation measures that will avoid or minimize these impacts with these agencies. If at any time the impacts are determined to be significant an EIS may be necessary. Consult with the Rural Development State Environmental Coordinator for a determination of what constitutes "significant".

In order to accomplish the two actions described above, the applicant may need to consult directly with agencies on two different occasions. Depending on the resource in question, the first consultation will be the collection of basic information or data on the presence of environmental resources in the areas affected by a proposal. This effort may be completed directly with agencies or by using information obtained from internet resources. Then, and again depending on the environmental resource, certain agencies must be consulted to concur with any determinations made on whether environmental resources will be directly or indirectly affected by the proposal. If there are no practicable alternative to a conversion or if there is a potential for an adverse effect to a resource, appropriate mitigation measures must be evaluated and negotiated, included as part of the proposal's design and documented in the ER.

If it is determined that during a proposal's preliminary planning and design activities that there are no other practicable alternatives than to convert or adversely impact an environmental resource, the applicant must demonstrate and justify this assertion to Agency's satisfaction. For example, it is the Agency's policy to not directly or indirectly support development in floodplains where there is a practicable alternative. Therefore, Agency will not finance proposals that propose to construct facilities in a floodplain unless it can be determined that there is no other practicable alternative. Applicants asserting the claim of no practicable alternative have the burden of demonstrating and justifying the validity of this claim to Agency's satisfaction.

The ER will not be considered complete until all proper coordination has been completed with the appropriate federal and state environmental regulatory or natural resource agencies. To facilitate the ER, applicants should contact agencies early and follow-up to verify their determinations of effect. Failure to contact applicable agencies will result in the ER's return and will delay the Agency's processing of the applicant's application for financial assistance.

Normally, the best sources for data collection and information are federal, state, and local agencies that have jurisdiction over a specific environmental resource. Documents transmitting or receiving information from these agencies, a record of conversations or meetings with agencies, or printouts from appropriate websites should be included in the ER. More detailed information on agency contacts is presented in Section 4.0.

The above discussion is not meant to imply that the applicant must always contact all listed agencies before Agency will consider the ER's acceptability. In certain instances, a specific environmental law clearly does not apply because of the proposal's geographic location (e.g., the Coastal Zone Management Act (CZMA) does not apply in Idaho). If previous environmental contacts with an agency established that the type of construction in question has no environmental effect, an extensive review may not be necessary; however a statement regarding this fact needs to be documented in the ER. Thus, an applicant need not request data and comment from all of the agencies listed under each issue for every proposal. The Rural Development State Environmental Coordinator or Processing Office can provide detailed guidance on specific proposals.

The ER should indicate the source for data presented, analyses performed using such data, determinations reached, and evidence of proper coordination for each environmental resource identified and evaluated. In performing the analysis, three types of environmental effects or impacts should be evaluated:

- Direct effects;
- Indirect effects; and
- Cumulative effects.

Applicants need to be aware of these three types of impacts when discussing the effects or impacts their proposal has on the environmental issues listed below.

| Environmental Information Summary | | | | |
|--|--|---|---|---|
| Section | Environmental Resource | Primary Contact | Secondary Contact | Type of Information |
| 3.1 | Land Use | | | |
| 3.1.1 | General Land Use | Local/Regional/State Planning Agencies | | Zoning, land use classifications |
| 3.1.2 | Important Farmland | NRCS | State Agencies | Soil surveys |
| 3.1.3 | Formally Classified Lands | NPS, BLM, USFS, BIA, State Agencies | USACE | Monuments, landmarks, wild and scenic rivers, wilderness areas, state or national parks, reservations, recreational areas |
| 3.2 | Floodplains | FEMA, State Floodplain Managers | Local Agencies, NRCS, USACE, | Flood insurance rate maps, soil surveys |
| 3.3 | Wetlands | NRCS, USACE | USFWS | Soil surveys, National Wetland Inventory maps, and Section 404 issues. |
| 3.4 | Historic Properties | SHPO, THPO | NPS, BLM, USFS, Local Or State Historical Groups. | Historic and archaeological sites. Visually sensitive areas. Traditional Cultural Properties |
| 3.5 | Biological Resources | USFWS, NMFS | State Agencies | Threatened and endangered species, anadromous species, critical habitats, species of special concern |
| 3.6 | Water Quality | State Water Quality Agencies, USEPA | USEPA | Discharge permits Water appropriation permits Sole source aquifers |
| 3.7 | Coastal Resources | State Coastal Management Program Offices or Agencies, USFWS | NOAA | Coastal barrier resource maps/ coastal zone management planning documents |
| 3.8 | Socio- Economic/ Environmental Justice | Census Bureau, Demographics, State/ Local Agencies | Local Civic Organizations | Economic Data, Location of minority and low-income populations |
| 3.9 | Miscellaneous Issues | | | |
| 3.9.1 | Air Quality | State Agencies | USEPA | State Implementation Plan |
| 3.9.2 | Transportation | FAA, State Highway Department | USDOT, Local/Regional/State Planning Agencies | Airports, highway safety, navigation hazards |
| 3.9.3 | Noise | Local/Regional/State Planning Agencies | USEPA, OSHA, FAA | Noise levels/restrictions |

Direct effects are caused by the action and occur at the same time and place (e.g. construction activities). Indirect effects are those caused by the action and are later in time or further removed in distance, but are still reasonably foreseeable (e.g. impacts caused by growth induced by a proposal). Cumulative effects result from the incremental impact of a proposal when added to other past, present, and future actions regardless of who undertakes such other actions (e.g. effects of the interaction of a proposal with other past, present, and future activities in the area. (A good example would be the effect of a proposal's well field for ground water appropriations where it is only one of many well fields that utilize an aquifer of limited size or recharge.)

3.1 Land Use

Decisions concerning land use arise from needs to accommodate needed growth and development; prevent unwarranted and costly sprawl; avoid unwarranted conversion of farmland and wetlands from existing uses; encroachment on floodplains; provide or improve community services and facilities; assure appropriate environmental quality; assure adequate supplies of suitable-quality water; and provide for proper waste disposal in rural areas. It is USDA's policy to promote land use objectives responsive to current and long-term economic, social, and environmental needs and discourage the unwarranted conversion of important land resources to other uses. In general, USDA supports and promotes compact community development by discouraging the unwarranted expansion of the peripheral boundaries of existing settlements.

As part of the ER, the compatibility of the proposal and any reasonable alternatives considered with existing land use and land use plans should be discussed, as well as, possible land use changes that may result from implementing the proposal. Land use issues are divided into three categories:

- General land use;
- Important farmland, and
- Formally classified lands.

3.1.1 General Land Use

3.1.1.1 Land Use Information

The types of information that should be provided include (by narrative description and maps):

1. Any existing zoning ordinances and land use plans;
2. Total land area required or proposed for purchase and the amount of land that will be disturbed by construction and operation;
3. Affected land areas classified by type of current land use such as residential, commercial, agricultural, etc;
4. An estimate of the number of homes and population and businesses that are in close proximity to and likely to be directly affected by any proposed wastewater, water treatment, or solid waste facilities. Similar information for any reasonable alternatives considered should be provided.

3.1.1.2 Potential Information Source

1. Local, regional, and state planning agencies/commissions.
2. State Universities

3.1.2 Important Farmland

The Farmland Protection Policy Act (FPPA), the USDA regulation implementing the FPPA (7 CFR Part 658), and USDA Departmental Regulation No. 9500-3, "Land Use Policy", require a consideration of the potential effects a USDA action may have on important farmland.

3.1.2.1 Important Farmland Information

The types of information that should be provided include:

1. Areas of important farmland affected by the proposal and the amount of area to be disturbed;
2. Where a direct and potential indirect conversion of important farmland will occur as a result of the proposal, include a discussion concerning these effects and whether alternatives are available that will avoid or minimize the conversions;
3. For facility and transmission line locations (where line placement can be flexible) in important farmland areas, Form AD-1006 or NRCS-CPA-106, respectively, containing the required input from the NRCS. This requirement is not applicable for distribution or collection utility line networks where the purpose is to provide service to existing populations.

3.1.2.2 Potential Information Sources

1. NRCS – FPPA information (<http://www.nrcs.usda.gov/programs/fppa/>); Farmland Conversion Evaluations (<http://fppa.nrcs.usda.gov/lesa/>); soil survey maps (<http://websoilsurvey.nrcs.usda.gov/app/>), NRCS state and local offices will provide consultation for Important Farmland issues (<http://offices.sc.egov.usda.gov/locator/app>)
2. American Farmland Trust (<http://www.farmland.org>); Farmland Information Center (<http://www.farmlandinfo.org>).

For more information see Exhibit F-1.

3.1.3 Formally Classified Lands

There are certain properties that are either administered by federal, state, or local agencies or have been accorded special protection through formal legislative designations. For the purpose of this Bulletin, these properties have been designated as "formally classified lands." Such formally classified lands that may be encountered include, but are not necessarily limited to:

- National parks and monuments;

- National natural landmarks;
- National battlefield park sites;
- National historic sites and parks;
- Wilderness areas;
- Wild and scenic and recreational rivers;
- Wildlife refuges;
- National seashores, lake shores, and trails;
- State parks;
- Bureau of Land Management (BLM) administered lands;
- National forests and grasslands;
- Native American owned lands and leases administered by the Bureau of Indian Affairs (BIA).

Visual impacts to formally classified land from proposals need to be considered as appropriate, see Section 3.4.3.

3.1.3.1 Formally Classified Land Information

The types of information that should be provided include:

1. The amount of each type of such lands that will be affected by the proposal and reasonable alternatives considered;
2. The effects (direct, indirect, and cumulative) to any formally classified land;
3. The views of the agencies and/or Indian tribes administering the potentially affected properties identified in (1) and (2) above; and
4. Correspondence received from all agencies contacted.

3.1.3.2 Potential Information Sources

1. USGS and USFS maps;
<http://www.geocommunicator.gov/GeoComm/index.shtm>
2. National Park Service (NPS) and USFS (where applicable) – national natural landmarks, national parks, national battlefields and monuments, national seashores and lake shores, national historic sites, national recreational areas, national trails, wilderness areas (<http://www.nps.gov/parks.html>); Wild and Scenic (and recreational) Rivers and Nationwide Rivers Inventory (<http://www.rivers.gov/>) or (<http://www.nps.gov/ncrc/portals/rivers/index.htm>); national forest lands, (<http://www.fs.fed.us/maps/forest-maps.shtml>); BLM - administered lands and wilderness areas ; (<http://www.blm.gov/>);
3. U.S. Fish and Wildlife Service (USFWS) - wildlife refuges (<http://www.fws.gov/r9realty/index.html>);
4. State and local land management and planning agencies - state and local parks, and other state owned lands;
5. BIA -Tribal lands (contact with individual tribes is also necessary).

3.2 Floodplains

Continued encroachments on floodplains decreases the natural flood-control capacity of these land areas, creates the need for expensive manmade flood-control measures and disaster-relief activities, and endangers both lives and property. In compliance with Executive Order 11988, "Floodplain Management", and USDA Departmental Regulation 9500-3, "Land Use Policy", it is USDA's policy to avoid to the extent possible:

1. The long and short-term adverse impacts associated with the occupancy and modification of floodplains and
2. Direct or indirect support of floodplain development wherever there is a practicable alternative.

Executive Order 11988, "Floodplain Management" requires federal agencies to avoid actions, to the extent practicable, which will result in the location of facilities in floodplains and/or affect floodplain values. Facilities located in a floodplain may be damaged or destroyed by a flood or may change the flood-handling capability of the floodplain or the pattern or magnitude of the flood flow.

The relevant floodplain for most proposals is an area that has a 1-percent chance of a flood occurrence in a given year. The flood of this interval is referred to as the 100-year flood or the base flood. The floodplain management guidelines further require federal agencies to apply the 0.2 percent or 500-year flood occurrence standard to the location of "critical facilities." Applicants should consider "critical facilities" as facilities whose loss would disrupt utility services to large areas for a considerable period of time or would disrupt utility services to critical facilities such as hospitals. Critical facilities include water treatment plants, wastewater treatment facilities, large pump stations, and centralized operations or communication facilities.

In addition, in accordance with the National Flood Insurance Program (NFIP) a community must be participating in the NFIP if they wish to request financial assistance from the federal government to construct a facility or provide utility services in a special flood hazard area or 100-yr floodplain (there are other related factors if the proposal is to construct a facility in the 500-yr floodplain. i.e., critical actions). If the community is not participating in the NFIP then the Agency is prohibited from providing financial assistance.

3.2.1 Floodplain Information

The types of information that should be provided include:

1. Determine if the proposal or any portion thereof will be located in a 100- or 500-year floodplain, particular attention should be paid to whether the proposal is proposed to be located in the designated floodway (floodways are defined as an area identified on a FIRM or a Flood Boundary Floodway Map that represents the portion of the floodplain that carries the majority of the flood flow and often is associated with high velocity flows and debris impact);
2. Status of local floodplain development requirements and permits;

3. Identify and evaluate practicable alternatives to locating facilities in a 100-year floodplain (include alternative sites or routes located outside the floodplain);
4. Identify and define the area of floodplain to be affected by the proposal and evaluate the impacts to the floodplain;
5. If impacts cannot be avoided or if there is no practicable alternative to locating a facility or portion thereof in the floodplain fully document for submittal to the Agency a justification of this assertion; identify and develop measures to minimize the impacts as well as restore and preserve floodplain values; and
6. Show location of all utility lines, appurtenances, and facilities on appropriate FEMA or other maps as specified in Section 2.0 of the Bulletin.

3.2.2 Potential Information Sources

1. FEMA - FIRMs. Under Executive Order 11988, **these maps must be used** if they are available ([FEMA Map Service Center](#)). Telephone requests for maps can be made by calling 1-800-358-9616 or by e-mail at FEMA-MSCservice@dhs.gov. A 6-digit community identification number is needed to get the appropriate map. Community identification numbers can be obtained from (<http://www.fema.gov/fema/csb.shtm>) or from local community or county officials. In addition, applicants should check for map revisions not shown on FIRM maps, such as letters of amendment, change or revisions, and conditional letters of the same – see (http://www.fema.gov/plan/prevent/fhm/st_main.shtm).
2. NRCS Soil Survey maps. - These maps contain soil units that are classified as “alluvial” soils. These soil units are associated with soils that develop in floodplains and represent the best available information if FEMA maps are not available. In addition, soil surveys provide general data indicating the soil unit’s frequency for flooding - <http://websoilsurvey.nrcs.usda.gov/app/>.
3. U.S. Army Corps of Engineers (USACE) – may have floodplain information in the absence of FEMA maps; assessment of floodplain impacts, and identification of permits required – contact the local USACE District Office to inquire – see <http://www.usace.army.mil/howdoi/civilmap.htm>

3.3 Wetlands

Executive Order 11990, “Protection of Wetlands” states that it is federal policy to avoid to the extent possible the long and short-term adverse impacts associated with the destruction or modifications of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative. Each agency, therefore, to the extent permitted by law, shall avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds that:

1. There is no practicable alternative to such construction, and
2. The proposal includes all practicable measures to minimize harm to wetlands which may result from such use. In making this finding the head of the agency may take into account economic, environmental, and other pertinent factors.

In addition, USDA through DR 9500-3, "Land Use Policy", discourages the unwarranted alteration of wetlands. To meet this objective, consider alternatives to construction in wetlands and limit the potential damage when activity affecting a wetland cannot be avoided. Where wetlands cannot be avoided, permits from the USACE and mitigation measures to minimize adverse impacts to wetlands will be required.

Regulatory oversight of wetland issues fall under Section 404 of the Clean Water Act and is administered by the USACE. Section 404 established a federal permitting program that requires anyone who is proposing to place dredged or fill material into "waters of the United States" which includes wetlands must obtain a permit from the USACE (<http://www.usace.army.mil/howdoi/civilmap.htm>). See Exhibit G.

To be consistent with the Executive Order and DR 9500-3, applicants that propose to construct a facility in a wetland must submit documentation and justification to Agency's satisfaction that demonstrates that there is no other practicable alternative to the proposed conversion.

For planning purposes, applicants will not be required to obtain jurisdictional delineations for wetlands (under the jurisdiction of the Section 404 program) unless a component of a proposal proposes to construct a facility in a wetland. Applicants should consult with the local USACE office to determine specific permitting requirements.

Placement of utility lines should be shown on soil survey maps to determine locations of affected wetlands (hydric soils) and to quantify the number of acres potentially affected. Normally placement of utility lines can utilize the Nationwide Permit no. 12, Utility Line Activities. As long as the general conditions of the nationwide permit are followed then applicants are not required to obtain individual Section 404 permits.

3.3.1 Wetlands Information

The types of information that should be provided include:

1. Location of wetlands in relation to all proposal elements of a proposal;
2. Determine the amount (acreage or linear feet) of wetlands to be physically affected by construction and the status of or requirement for any wetland permits;
3. If applicable, the basis for the applicant's belief that no practicable alternative exists for any conversions of wetland areas;
4. Potential indirect and cumulative impacts to wetlands; and
5. If necessary any proposed mitigation measures to avoid or minimize impacts to wetlands.

3.3.2 Potential Information Sources

1. NRCS Soil Survey Maps (<http://websoilsurvey.nrcs.usda.gov/app/>); NRCS hydric soil lists (<http://soils.usda.gov/use/hydric/>);
2. Nationwide Wetlands Inventory Maps (available for many areas and compatible with the scale of USGS maps). To determine if an area has been mapped or to obtain copies, contact: National Cartographic Information Center; USGS; 507

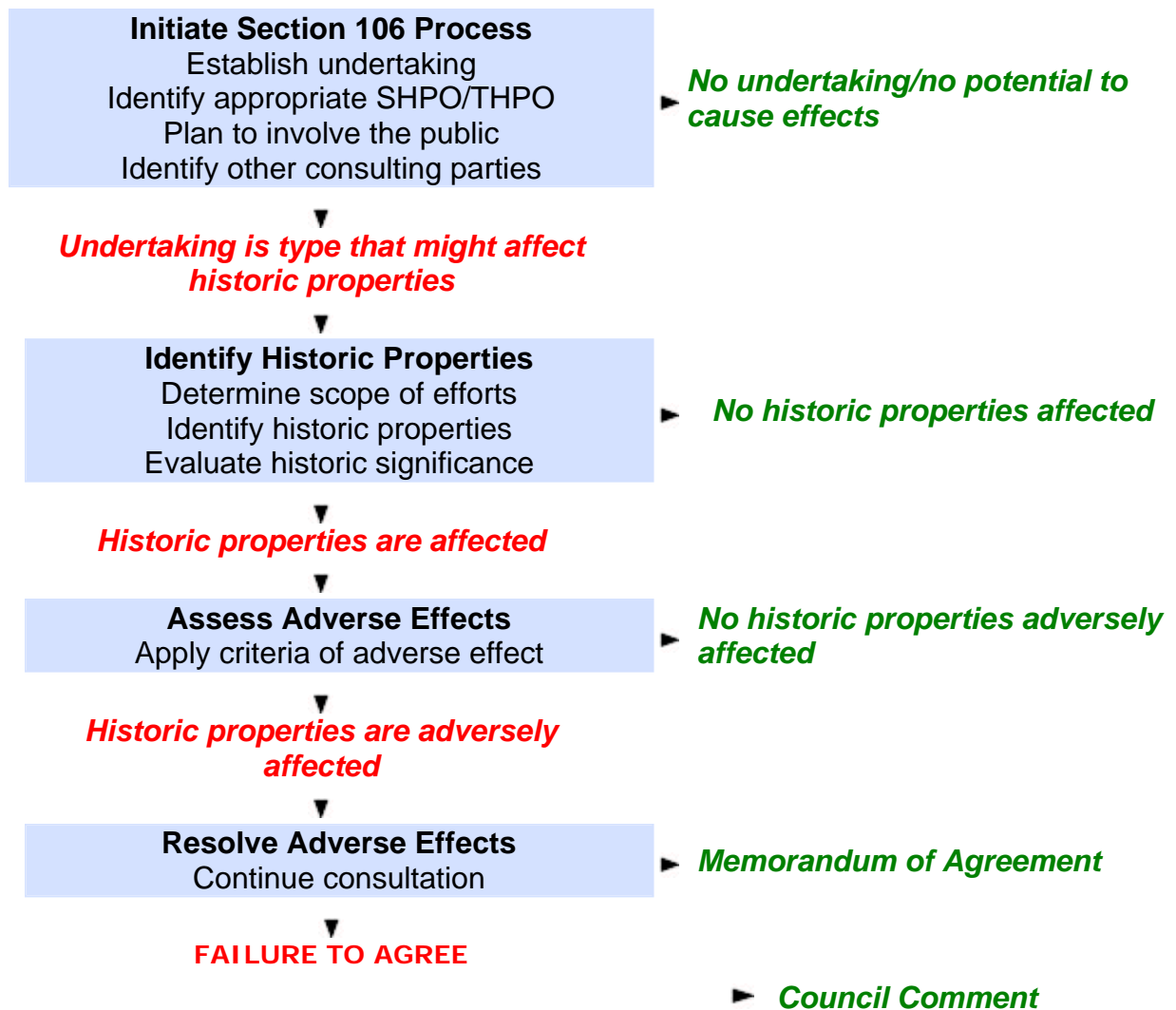
National Center; Reston, Virginia 22092; Telephone: (703) 860-6045
(<http://www.nwi.fws.gov/>);

3. USACE (<http://www.usace.army.mil/cw/cecwo/reg/>); and
4. State agencies wetland programs (<http://aswm.org/swp/index.htm>).

3.4 Historic Properties

The National Historic Preservation Act (NHPA) of 1966, as amended (16 U.S.C. § 470 *et seq.*) and the Advisory Council on Historic Preservation's (ACHP) implementing regulations, 36 CFR Part 800 (Section 106 regulations), requires federal agencies to take into account the effect their actions may have on historic properties that are within a proposal's "area of potential effect." The area of potential effect is the geographic area or areas within which a proposal may cause changes in the character or use of historic properties. Historic properties means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places. This term includes, for the purposes of the Section 106 regulations, artifacts, records, and remains that are related to and located within such properties. The term "eligible for inclusion in the National Register" includes both properties formally determined as such by the Secretary of the Interior and all other properties that meet National Register of Historic Properties listing criteria.

A detailed summary of the Section 106 process is included below:



The Section 106 consultation and review process will require particular attention because the process may be different in specific states due to any procedures negotiated by the Rural Development State Environmental Coordinator with the State Historic Preservation Officer (SHPO) and any tribal interests. Prior to initiating any Section 106 activities, applicants are advised to contact the State Environmental Coordinator as to any state-specific procedures.

In general any proposal that proposes construction activities is classified as an “undertaking” in the Section 106 regulations and absent an agreement with the SHPO and any tribal interests, applicants may be required to retain the services of a cultural resource specialist who meets the [U.S. Department of the Interior’s Secretary of the Interior’s Professional Qualification Standards](#) (48 FR 44738-9). The contracted consultant will perform an archival search of SHPO records for previously identified historic properties and determine what effect the proposal will have on these properties

and other unidentified properties within the proposal's area of potential effect. Note that some states require a qualified contractor to obtain a permit to conduct field work in those states.

Once historic properties are identified and any effects evaluated and documented, the Agency is required to submit the finding or determination to the SHPO and any effected tribes. The SHPO/tribes have 30 days to comment on the Agency's determination of effect. A lack of an objection to the Agency's determination within the 30 day period means that the Agency has completed its Section 106 responsibilities.

Applicants are advised to avoid adversely affecting any historic property prior to the completion of the environmental review process. Such actions may result in the loss of financial assistance. When an historic property is destroyed or irreparably harmed with the express purpose of circumventing or preordaining the outcome of a Section 106 review (e.g., demolition or removal of all or part of the property) this is called anticipatory demolition. Agency is required to withhold any financial assistance until at such time, in consultation with the Advisory Council of Historic Preservation, it is determined and documented that "circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant."

3.4.1 Historic Property Information

The types of information that should be provided include:

1. Identification and determination of the effect on historic properties within the proposal's area of potential affect;
2. Document methods used to identify historic properties within the proposal's area of potential effect;
3. Document efforts made to identify and solicit the views of Indian tribes and interested persons;
4. If a historic property may be affected, discuss the alternatives that were considered that would avoid or minimizing any effects to the historic property;
5. A copy of all correspondence to and from the SHPO or, if appropriate, the Tribal Historic Preservation Officer (THPO);
6. A discussion of mitigation measures proposed to either avoid or minimize any adverse effects to historic properties; and
7. A copy of any surveys performed (indicate cost of survey and number of acres surveyed). This information will be used by Agency as input into the Annual Archeological Report to Congress compiled by the NPS.

3.4.2 Potential Information Sources

1. National Register of Historic Places (<http://www.cr.nps.gov/nr>);
2. SHPO (<http://www.ncshpo.org/stateinfolist/fulllist.htm> for addresses);
3. THPO (<http://www.nathpo.org/map.html> for addresses);
4. ACHP (<http://www.achp.gov/index.html>);

5. NPS
(http://www.historicpreservation.gov/NPS_Portal/user/home/home.jsp?maximise=&page=1); and
6. State or local historical or archaeological societies
(<http://web.syr.edu/~jryan/infopro/hs.html>).

For more information see Exhibit F-2.

3.4.3 Visual Aesthetics

The visual quality of an area may be affected by the introduction of new buildings or structures. These effects may be significant to historic properties, historic properties, traditional cultural places, and cultural landscapes; in areas of scenic beauty, scenic overlooks, scenic highways, wilderness areas, parks, national forests; or along wild and scenic, recreational, or nationwide inventory rivers (see also Section 3.1.3, Formally Classified Lands). Visual aesthetics should be considered in all proposals. Moreover, for proposals in visually sensitive areas, reasonable efforts should be taken to avoid these areas entirely, or to design, construct and operate the proposal in such a way that aesthetic impacts are minimized.

3.4.3.1 Visual Information

The types of information that should be provided include:

1. Identify all visually sensitive areas that are in the vicinity or area of potential effect (the range of potentially affected areas to consider will vary with a proposal; contact the RD State Environmental Coordinator for guidance) of the proposal;
2. How much of this area will be visually affected by the proposal and from how many viewing locations the proposal may be seen; and,
3. Mitigation efforts that will be taken to minimize impacts. This may include such methods, when appropriate, as vegetative zones around the proposal. Discuss all mitigation proposals with the RD State Environmental Coordinator and the SHPO/TPHO.

3.4.3.2 Potential Information Sources

1. SHPO/THPO;
2. Federal land management agencies;
3. State land management agencies; and,
4. State and local park authorities.

3.5 Biological Resources

Threatened and Endangered Species. There are many plant and animal species that are threatened with extinction or exist in greatly reduced numbers partly as a result of human activities. The Endangered Species Act (ESA) of 1973 establishes a national program for the conservation and protection of threatened and endangered species of

plants and animals and the preservation of habitats upon which they depend. Under Section 7 of the ESA, federal agencies are required to consult with USFWS and/or the National Marine Fisheries Service (NMFS) for all threatened and endangered species. Consultations will be required with NMFS for proposals potentially affecting species that inhabit coastal areas or are anadromous (fish born in freshwater that spend most of their life at sea and return to fresh water to spawn). The consultation is to ensure that Agency's actions do not jeopardize the continued existence of any federally-listed threatened or endangered species or result in the destruction or adverse modification of a critical habitat. When a proposal cannot avoid critical habitat areas, the ESA requires mitigation measures or that reasonable and prudent alternatives be implemented to reduce an impact to minimal levels. Such mitigation measures or proposal alternatives must be negotiated between Agency, the applicant, and the USFWS or NMFS. Therefore, if it appears the proposal may affect (1) a federally-listed threatened or endangered species or its critical habitat or (2) a proposed threatened or endangered species or its proposed critical habitat, the applicant should contact the Rural Development State Environmental Coordinator as soon as possible and Agency will initiate formal consultations with the USFWS or NMFS.

State agencies should be contacted for information on state-listed species and concerns. In some instances, the state may have more detailed information on federally-listed or proposed species and/or critical habitat than the USFWS. This information will help Agency determine a proposal's effect on a particular species.

It should be noted that candidate species have no legal protection under the ESA. However, proposal impacts to these species need to be considered when preparing the ER because candidate species may become listed species and the listing would effect further project actions.

Fish and Wildlife Resources. In addition to the concern for threatened or endangered species, the applicant should take into account impacts that the proposal may have on all fish and wildlife resources. Unnecessary adverse impacts should be avoided, to the extent practicable.

Vegetation provides habitat for a variety of wildlife and acts to stabilize soils and prevent erosion. In addition, information on vegetation can be used in evaluating potential impacts to threatened and endangered species and critical habitats.

3.5.1 Biological Resources Information

Threatened and Endangered Species.

The types of information that should be provided include:

1. A list of federally-listed or proposed threatened or endangered species and candidate species and a delineation of any critical habitat in the proposal and any reasonable alternatives' area of potential effect;
2. Potential impacts of the proposal and reasonable alternatives considered on any federally-listed or proposed threatened or endangered species and candidate species and proximity to a designated critical habitat;

3. Correspondence with the USFWS and NMFS, if necessary, concerning whether or not the proposal is likely to affect a listed or proposed species or its listed critical habitat;
4. Similar information as described in 1 through 3 above for any state listed or proposed threatened or endangered species; and,
5. Mitigation measures, if avoidance is not practicable.

Fish and Wildlife

The types of information that should be provided include:

1. A brief description of the fish and wildlife species in the proposal's area of potential effect; and
2. A discussion of possible impacts to fish and wildlife resources. These impacts may result from sedimentation, ground clearing, stream or river flow impedance, forest fragmentation, and hunting or fishing pressure due to increased access to an area.

Vegetation

The types of information that should be provided include:

1. A brief description of the vegetation in the proposal's area of potential effect, the relative amount of each vegetation type, and the extent to which each type of vegetation will be affected;
2. An estimate of the amount of vegetation clearing required for the proposal and each reasonable alternative considered;
3. The short and long-term effects of proposed vegetative clearing, including those related to the ROW maintenance practices; and,
4. A description of vegetation clearing and future maintenance practices. Special areas of concern such as riparian or wetland areas may require more detailed information.

3.5.2 Potential Information Sources

1. USFWS, Region or Field Office. This office must be contacted for each proposal (<http://www.fws.gov/offices/>);
2. NMFS (for marine/anadromous species or coastal proposals) (<http://www.nmfs.noaa.gov/>)
3. State agencies (for equivalent state species and potential information on federally listed species) (<http://www.fws.gov/offices/statelinks.html>) ;
4. Administering agency on federal, state, and local government managed lands; and,
5. State Conservationist, NRCS area or field office (<http://www.nrcs.usda.gov/about/organization/regions.html>).

3.6 Water Quality Issues

This section is concerned with water quality issues as they relate to discharges from wastewater treatment or solid water facilities; surface or ground water appropriations for potable water treatment facilities; ground water protection programs - sole source aquifers and recharge areas; and water quality degradation from temporary construction activities. Water quality changes can impact other environmental resources such as wetlands, wildlife populations, and others. These impacts can also reach a considerable distance beyond the proposal's location. The possible effects that the proposal and alternatives considered could have on water quality should be addressed in the ER.

3.6.1 Water Quality Information

The types of information that should be provided include:

1. Identification and location of waterways that may be receiving streams for effluent discharges or used for water appropriations for potable water;
2. Handling of wastewater disposal for facilities;
3. Identification of all aquifers utilized as a supply for potable water or that may be impacted from runoff, infiltration by or any operational activities from wastewater and solid waste facilities;
4. Groundwater protection programs for sole source aquifers or recharge areas should be noted;
5. If the watershed that the proposal is located in is under a management plan, the plan and the proposal's compliance with the plan should be noted; and
6. Potential water quality degradation caused by temporary construction activities and any mitigation measures that are proposed to avoid or minimize any adverse environmental effects.

3.6.2 Potential Information Sources

1. National Pollutant Discharge Elimination System (NPDES) - state agencies/U.S. Environmental Protection Act (USEPA) - requirements (<http://www.epa.gov/owm/npdes.htm>);
2. Non-Point Source Pollution (storm water runoff) USEPA. Under the NPDES storm water program (Phase I), a permit is required for land clearing activities that exceed 5 acres. Proposed Phase II NPDES storm water regulations would expand this national program to construction sites that disturb 1 to 5 acres. (<http://www.epa.gov/OWOW/NPS/>);
3. Ground water protection programs/Sole Source Aquifers – (<http://www.epa.gov/OGWDW/ssanp.html>); and for sole source aquifers, the information is hosted at the USEPA regional offices. Use the following website (<http://cfpub.epa.gov/safewater/sourcewater/>) and search under sole source aquifers.
4. State agencies – Best management practices for erosion and sediment control practices for construction activities (http://www.waterwebster.com/state_framebottom.htm)

3.7 Coastal Resources

Coastal areas and barrier systems often provide excellent wildlife habitat and protect inland areas from hurricanes and other storms. Many of this country's coastal areas are experiencing severe developmental pressures for residential, recreational and industrial use. These areas are also prone to storm damage and flooding. To address this condition Congress enacted laws to protect coastal areas.

The CZMA of 1972, as amended applies to all lands on the boundary of any ocean or arm thereof, and the Great Lakes. Applicants should note that the width of the "coastal zone" might vary among the States.

The Coastal Barrier Resources Act (CBRA) and the Coastal Barrier Improvement Act only apply to selected geographic areas designated as "Coastal Barrier Resources System (CBRS) Units." At present such units have been established and delineated along the coasts of the Atlantic Ocean, Gulf of Mexico, and the Great Lakes. Proposed units have been identified but not designated along the coasts of States bordering the Pacific Ocean.

Federal agencies are prohibited from providing financial assistance in CBRS units except for the following activities: the maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities that are essential links in a larger network or system (this does not include financial assistance for the replacement of distribution networks). Prior to approving proposals in CBRS units, applicants and Agency must consult with and gain the approval of the USFWS.

In addition to the prohibitions in the above paragraph, federal law prohibits flood insurance coverage under the National Flood Insurance Program for any new construction or substantial improvements of structures located on any coastal barrier within the CBRS. Agency requires flood insurance under the National Flood Insurance Program for all insurable structures, thereby further limiting financial assistance in CBRS units.

All proposals that are within coastal zone management areas must obtain a "consistency determination" - see (<http://coastalmanagement.noaa.gov/consistency/welcome.html>). Federal consistency is the CZMA's requirement that federal actions that are reasonably likely to affect any land or water use or natural resource in a coastal zone be consistent with the enforceable policies of a coastal state's or territory's federally approved coastal management program ("state CMP" or "CMP"). Federal actions include:

1. Direct federal actions - activities and development projects performed by a federal agency, or a contractor for the benefit of a federal agency; and
2. Indirect federal actions - activities not performed by a federal agency, but requiring federal permits or licenses or other forms of federal approval, and federal financial assistance to states and territories and local governments.

The objective is to ensure that federal agencies and applicants for federal approvals and funding adequately consider and comply with state CMPs. The key to effective and efficient consistency determinations is early coordination and consultation between CMPs, federal agencies, and applicants. It is an important mandatory, but flexible, mechanism to avoid potential conflicts between states, Territories and federal agencies. Federal consistency is more than just a procedural dictate. It is a method of ensuring greater protection of coastal uses and resources through the coastal management policies of states and Territories by assisting states in managing coastal uses and resources.

Federal consistency reviews are the responsibility of the lead state CMP agency. A state CMP reviews the federal action to determine if the proposal will be consistent with the CMP. After working with state CMPs and making any appropriate changes to the proposal, federal agencies and applicants shall provide a consistency statement to the CMP, along with supporting documentation.

3.7.1 Coastal Resource Information

The types of information that should be provided include:

1. Identify portions of the proposal which will be located in the coastal zone or CBRS unit or will otherwise affect these areas;
2. Correspondence with the state coastal management program office concerning the proposal's consistency determination; and,
3. Mitigation measures necessary to achieve consistency with the state's coastal management program, if necessary.

3.7.2 Potential Information Sources

1. State CMP Agency; (<http://coastalmanagement.noaa.gov/mystate/>);
2. USFWS - CBRS information (http://www.fws.gov/habitatconservation/coastal_barrier.htm);
3. CBRS maps are available from through the website identified in item 2 or <http://projects.dewberry.com/FWS/CBRS%20Maps/Forms/AllItems1.aspx>
4. National Oceanic and Atmospheric Administration (NOAA) (<http://www.nos.noaa.gov/>) see coastal resources.

3.8 Socio-economic Issues/Environmental Justice

Proposals funded by or in part by Agency have a potential to affect the socio-economic conditions of the areas being served. Applicants should be aware of potential effects to the socio-economic makeup of the area proposed to be served and document these concerns if the effects are determined to be adverse. Effects could be beneficial or adverse. In addition, applicants need to determine if their proposal has or may have a disproportionately high and adverse human health or environmental effects on minority and low-income populations. Executive Order 12898 "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations", dated February 11, 1994, and USDA DR 5600-2 "Environmental Justice", dated December 15,

1997, requires the consideration of environmental justice issues into NEPA environmental reviews. These issues include:

1. Analyzing for the potential of disproportionately high and adverse human health or environmental effects to minority and low-income populations;
2. Providing opportunities for minority and low-income populations to participate in the NEPA process if these populations may be adversely affected; and,
3. Identifying mitigation measures that would reduce adverse human health or environmental effects to minority and low-income populations.

3.8.1 Socio-economic Issues

3.8.1.1 Socio-economic Information

Part of the USDA, Rural Development's mission is to support sound development of rural communities and provide economic opportunities for farm and rural residents. This mission may significantly affect the socio-economic make-up of the area to be served. Applicants should, in conjunction with an analysis of existing land uses and any projected land use changes caused by the proposal, be aware of and be prepared to discuss any potential changes to an area's socio-economic make-up.

3.8.1.2 Potential Information Sources

1. U.S. Department of Commerce, Census Bureau (<http://www.census.gov>); and
2. State Census Data Centers (<http://www.census.gov/sdc/www/>)

3.8.2 Environmental Justice Issues

3.8.2.1 Environmental Justice Information

Applicants must include an analysis of the potential impact of a proposal, or any part thereof, that may pose disproportionately high and adverse human health or environmental effects to minority and low-income populations. The environmental justice analysis in the ER should determine if the proposal will be located in a minority or low-income community and, if so, analyze if the location of the proposal will have, or be perceived to have, disproportionately high adverse human health or environmental effects to the community. If the proposal will have no disproportionate effects, this should be stated. If the proposal is to be located in a minority or low-income community and will have, or may be perceived to have, disproportionately high or adverse human health or environmental effects to the community, the analysis must include a description of the efforts made to include minority and low-income populations into the NEPA process. These efforts may include public notices and special outreach efforts aimed at these populations. When it is determined that there is no practicable alternative to locating a proposal in a minority or low-income community and if there will be disproportionately high human health or environmental effects, the analysis must

include a discussion of the mitigation measures evaluated that would off-set or minimize these effects.

Applicants should consult with the Rural Development Civil Rights Coordinator to discuss any state-specific issues.

3.8.2.2 Potential Information Sources

1. USEPA (<http://www.epa.gov/oswer/ej/index.html>) and Environmental Justice Geographic Assessment Tool (<http://www.epa.gov/compliance/whereyoulive/ejtool.html>).
2. Local Elected Officials/agencies;
3. Rural Development Civil Rights Coordinators;
4. U.S. Department of Commerce, Census Bureau (<http://www.census.gov>);
5. Minority Business and Trade Groups;
6. Civic Organizations;
7. Tribal Officials;
8. Religious Groups/Churches;
9. Civil Rights Organizations; and,
10. Senior Citizens Groups.

For more information see Exhibit F-3.

3.9 Miscellaneous Issues

The types of environmental issues that may be related to a proposal's designs and requirements are complex and highly site-specific. The primary issues to be considered are listed in the above sections, however, applicants need to be aware that other less significant issues may arise during a proposal's planning and design activities. The following subsections are some of the more common miscellaneous issues that may come up but is not meant to be an all-inclusive list.

3.9.1 Air Quality

Federal government actions must comply with the Clean Air Act, General Conformity Rule. Established under the Clean Air Act (Section 176(c)(4)), the General Conformity Rule and requirements are meant to prevent air quality impacts of federally approved or funded activities from causing or contributing to violations of the national ambient air quality standards (NAAQS) in an area working to attain or maintain the standards. Under the General Conformity Rule, federal agencies must work with state, tribal and local governments in nonattainment or maintenance areas to ensure that federal actions conform to the initiatives established in their applicable state or tribal implementation plans, i.e., to ensure that emissions from their actions will not exceed emission budgets established in the state implementation plan (SIP), tribal implementation plan (TIP) or federal implementation plan (FIP) or not otherwise interfere with the state's ability to attain and maintain the NAAQS. Only direct or indirect emissions originating in a

nonattainment or maintenance area need to be analyzed for conformity with the applicable implementation plan.

For the purposes of this Bulletin applicable emissions regulated are direct emissions. Direct emissions mean those emissions of a criteria pollutant or its precursors that are caused or initiated by the federal action and originate in a nonattainment or maintenance area and occur at the same time and place as the action and are reasonably foreseeable. Criteria pollutants are: CO - Carbon monoxide, NO₂ - Nitrogen dioxide, O₃ - Ozone (1-hour), O₃ - Ozone (8-hour), SO₂ - Sulfur dioxide, PM_{2.5} - Particulate matter (diameter <2.5 micrometers), PM₁₀ - Particulate matter (diameter <10 micrometers), and Pb – Lead.

For most if not all Water and Environmental Program proposals, the applicability of this issue would be associated with construction activity emissions. If any of the above apply, applicants, in consultation with the State Environmental Coordinator, will evaluate:

1. Whether the proposal occurs in a nonattainment or maintenance area;
2. In accordance with the applicable implementation plan, whether one of the specific exemptions apply to the action; or
3. Whether the total direct and indirect emissions are below or above the **de minimis** levels.

This information can be obtained from the designated state or tribal air pollution program administrators within their states.

If the applicant determines that their proposal meets any of the above emission criteria, the applicant will consult with the Agency and in consultation with the applicant the Agency must:

1. Demonstrating that the total direct and indirect emissions are specifically identified and accounted for in the applicable SIP;
2. Obtaining a written statement from the state or local agency responsible for the SIP documenting that the total direct and indirect emissions from the action along with all other emissions in the area will not exceed the SIP emission standards;
3. Obtaining a written commitment from the state to revise the SIP to include the emissions from the action;
4. Obtaining a statement from the metropolitan planning organization (MPO) for the area documenting that any on-road motor vehicle emissions are included in the current regional emission analysis for the area's transportation plan or transportation improvement program;
5. Fully offset the total direct and indirect emissions by reducing emissions of the same pollutant or precursor in the same nonattainment or maintenance area; or
6. Conducting air quality modeling that demonstrates that the emissions will not cause or contribute to new violations of the standards, or increase the frequency or severity of any existing violations of the standards.

Another air quality issue that may apply to Water and Environmental Program proposals would be off-site nuisance or annoyance odors associated with waste water and solid waste facilities. If applicable, this issue must be evaluated with regard to effects on the surrounding and potentially affected public. Ambient standards for odor causing compounds are normally regulated by state air quality permitting agencies.

3.9.1.1 Air Quality Information

The types of information that should be provided include:

1. Sources and types of any air emissions from the proposal;
2. Location of proposal to any nonattainment or maintenance or Class I areas;
3. Compliance with the SIP, either through agency exemption or proposal review;
4. Anticipated effects (including duration) on air quality from construction activities, especially if the enforcement agency has not provided an exemption or project review;
5. Analysis of Best Available Control Technologies, if required for air quality permit application;
6. Anticipated effects on air quality from operation of the facility; and,
7. Sources of odors and mitigation measures necessary to minimize off-site migration of odors.

3.9.1.2 Potential Information Sources

1. State and Local Air Pollution Program Administrators (<http://www.4cleanair.org/>); and
2. USEPA air quality operating permits (<http://www.epa.gov/oar/oaqps/permits/>)
3. USEPA air quality planning and standards (<http://www.epa.gov/oar/oaqps/emission.html>)
4. Attainment/Nonattainment areas (<http://www.epa.gov/air/oaqps/greenbk/index.html>)
5. USEPA Air Quality Datasets including maps (<http://www.epa.gov/air/data/>)

3.9.2 Transportation

Information concerning this issue may be required if the proposal proposes the construction of highway crossings or elevated water storage facilities especially where these facilities are located adjacent to airports (including airport clearance or accident zones), roads, highways, railroads, and navigable waterways. Permits may be required from the applicable agencies prior to construction.

3.9.2.1 Transportation Information

The types of information that should be provided include:

1. Changes or modification of traffic patterns as a result of the proposal;
2. Fuel and chemical delivery requirements for treatment facilities;
3. Potential impairment of highway safety or navigable waterways; and
4. Location of any airports that could be close to proposed water tanks or other potential obstacles. Specify any airport clearance or accident zones.

3.9.2.2 Potential Information Sources

1. U. S. Department of Transportation (USDOT), Federal Highway Administration (<http://www.fhwa.dot.gov/> or <http://www.fhwa.dot.gov/environment/index.htm>);
2. State transportation agencies; see (<http://www.fhwa.dot.gov/webstate.htm>); and
3. Federal Aviation Administration (FAA) offices (http://www.faa.gov/about/office_org/).
4. For any military facilities, contact the FAA (http://www.faa.gov/airports_airtraffic/airports/aip/military_airport_program/) or the DOD facilities' Public Affairs Office.

3.9.3 Noise

Information concerning this issue may be required for the construction and operation of facilities, especially those facilities that may be located in or near noise sensitive developments such as residential areas. The most current noise assessment methodology is contained in the "Noise Guidebook", published by the U.S. Department of Housing and Urban Development, Office of Community and Development.

3.9.3.1 Noise Information

The types of information that should be provided include:

1. Noise levels from construction and operation of facilities at nearby noise sensitive development; and,
2. Sound attenuation or any other mitigation measures to be taken to reduce or eliminate adverse effects from unacceptable noise levels.

3.9.3.2 Potential Information Sources

1. State and local planning or environmental agencies – (<http://www.nonoise.org/lawlib/cities/cities.htm>);
2. Noise Pollution Clearinghouse (<http://www.nonoise.org/index.htm>)
3. USEPA Noise Issues (<http://www.epa.gov/history/topics/noise/index.htm> and http://publicaccess.custhelp.com/cgi-bin/publicaccess.cfg/php/enduser/std_adp.php?p_faqid=1765); and
4. U. S. Department of Housing and Urban Development, Office of Community and Development, Washington D.C. (<http://www.hud.gov/offices/cpd/energyenviron/environment/resources/guidebooks/noise/>);
5. Federal Aviation Administration noise control information (http://www.faa.gov/about/office_org/headquarters_offices/aep/aircraft_noise/)

4.0 AGENCY CORRESPONDENCE

In completing an ER, coordination with appropriate environmental regulatory agencies may require two interactions. The first interaction may involve basic data collection, however much of this effort can be completed using the various Internet websites offered by applicable agencies. The second interaction may be required in order to obtain the concurrence of or agreement with any determinations made from the evaluation of this data for potential environmental effects of the proposal and any reasonable alternatives considered. For example, if the applicant, based on data collected from the USFWS concludes that no threatened and endangered species will be affected by the proposal, the applicant needs to obtain the concurrence in writing from these agencies. If the proposal will affect an endangered species, all documentation regarding coordination with USFWS must be included in the ER.

The applicant should make a reasonable effort to obtain written responses from agencies and others that have specialized information about or regulatory oversight concerning an environmental resource or issue (**copies of emails may be used**). Normally, they should be given a minimum of 30 days to respond to a written request for comments. If no written response is received within the requested time period, the applicant should re-contact the agency by telephone concerning whether it intends to comment on the proposal in writing. In certain cases where time is of the essence, it may be prudent to telephone the agency a few days after sending the written request to determine whether the information has been received. Written documentation of follow-up telephone conversations or meetings with agencies must be included in the ER.

It is recognized that applicants cannot force an agency to comment and that unreasonable requests for time extensions may unduly delay a proposal. It is not intended that an ER be stymied under such circumstances. When an applicant has made reasonable efforts to obtain an agency response and has not received one, the applicant should document its efforts in the ER.

4.1 Reaction to Agency Comments

When an agency raises concerns about a proposal, recommends further studies, or suggests mitigation measures to offset environmental impacts, the applicant should consult with the Rural Development State Environmental Coordinator or Processing Office for advice. **IT IS ESSENTIAL THAT THE APPLICANT ADDRESS ALL SUCH COMMENTS, RECOMMENDATIONS, OR SUGGESTIONS IN THE ER.**

The applicant shall seek to resolve all outstanding concerns with regulatory agencies prior to submitting the ER to Agency. If, subsequent to contacting regulatory agencies, an applicant has unresolved concerns about a particular issue, they shall contact the Rural Development State Environmental Coordinator or Processing Office for assistance. The Rural Development State Environmental Coordinator and Processing Office shall assist the applicant in resolving all concerns with regulatory agencies.

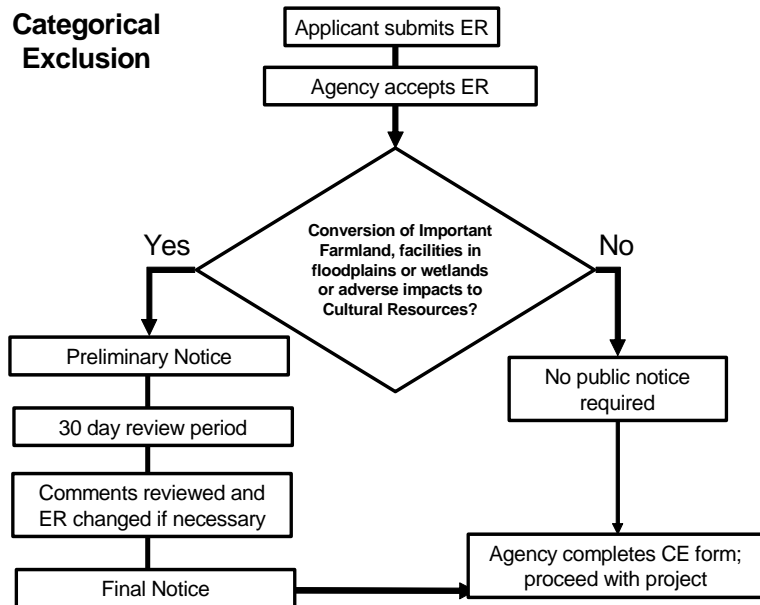
| Common Contacts | | |
|--|---|---|
| Contact | Environmental Resource Information | |
| | Primary | Secondary |
| Local/Regional/State Planners | <ul style="list-style-type: none"> • Land Use • Noise • Floodplains (local Floodplain Mgmt. Coordinators) • Environmental Justice | |
| State Environmental/Natural Resource Agencies | <ul style="list-style-type: none"> • Water Quality • Air Pollution • Biological Resources | <ul style="list-style-type: none"> • Formally Classified Land • Wetlands • Aesthetics • Important Farmland • Floodplains |
| State Coastal Mgmt. Program Agency | <ul style="list-style-type: none"> • Coastal Resources | |
| SHPO | <ul style="list-style-type: none"> • Historic Properties • Visual/Aesthetics | |
| THPO | <ul style="list-style-type: none"> • Historic Properties • Environmental Justice • Visual/Aesthetics | |
| Local/State historic groups | | <ul style="list-style-type: none"> • Historic Properties |
| BLM | <ul style="list-style-type: none"> • Formally Classified Land • Visual/Aesthetics | |
| FEMA | <ul style="list-style-type: none"> • Floodplains | |
| NRCS | <ul style="list-style-type: none"> • Important Farmland • Wetlands (Soil Surveys) | <ul style="list-style-type: none"> • Biological Resources • Water Quality • Floodplains (Soil Surveys) |
| NPS | <ul style="list-style-type: none"> • Formally Classified Land • Visual/Aesthetics | <ul style="list-style-type: none"> • Historic Properties |
| NMFS | <ul style="list-style-type: none"> • Biological Resources | |
| NOAA | <ul style="list-style-type: none"> • Coastal Resources | |
| FAA | <ul style="list-style-type: none"> • Transportation | |
| USDOT, FHA | <ul style="list-style-type: none"> • Transportation | |
| State DOT | <ul style="list-style-type: none"> • Transportation | |
| USEPA | <ul style="list-style-type: none"> • Water Quality (Sole Source Aquifers) | <ul style="list-style-type: none"> • Water Quality (NPDES) • Air Quality |
| USFWS | <ul style="list-style-type: none"> • Coastal Barrier Resources • Biological Resources | <ul style="list-style-type: none"> • Wetlands |
| USFS | <ul style="list-style-type: none"> • Formally Classified Land | |
| USACE | <ul style="list-style-type: none"> • Wetlands | <ul style="list-style-type: none"> • Formally Classified Land |

In certain instances, comments from federal, state, or local agencies may raise environmental issues of concern to state agencies which are not afforded specific protection under federal laws and regulations (e.g., a state listed endangered species which is not on the federal list). Such comments on state and local environmental issues should also be discussed in the ER. Taking such matters into account may be essential in securing state and local permits and approvals. Moreover, in considering the effect of a proposal on the quality of the human environment, NEPA and the CEQ

regulations require federal agencies to consider overall environmental impacts, not merely those environmental resources specifically protected by federal laws, regulations, or Executive Orders.

5.0 PUBLIC NOTICES

Public notices may be required on two occasions for certain proposals. A proposal classified as a CE will require a preliminary notice and a final notice if certain resources will be directly converted (important farmland, wetlands or floodplains) or adversely affected (historic properties) otherwise no public notices are required. A proposal classified as an EA will always require a public notice announcing the availability of the EA for public review and a notice announcing the Agency's environmental decision or a FONSI. To enable the public in easily locating proposals all public notices must include location maps. Templates for public notices are in Exhibit B.



5.1 Categorical Exclusion

Where a proposal proposes to convert important farmland, locate facilities in wetlands or floodplains, or adversely affect a historic property, the public will be provided an opportunity to review and comment on the proposal's effects. In accordance with the applicable Executive Orders, this notice is done in two stages, a preliminary notice announcing the proposal and a final notice where the Agency has considered input from the public and states its decision regarding the proposal.

The purpose of the preliminary notice, as required by specific Executive Orders, is to inform the public of the proposed conversion and request their comments as to alternate sites or actions that could avoid or minimize the conversion (see Exhibit B.1). The preliminary notice is issued after the Agency accepts the ER and has determined the proposal is properly classified as a CE. The public is provided a 30-day period to submit comments. The Agency and applicant will review the comments and make any appropriate changes to the ER.

The purpose of the final notice is a follow-up to the preliminary notice and is intended to inform the public of the Agency's decision on the conversion (see Exhibit B.2). When

the Agency has determined that that there is no practicable alternative to avoiding the conversion, the final notice will inform the public of the Agency’s determination and document all pertinent reasons.

The table below summarizes the CE public notice requirements.

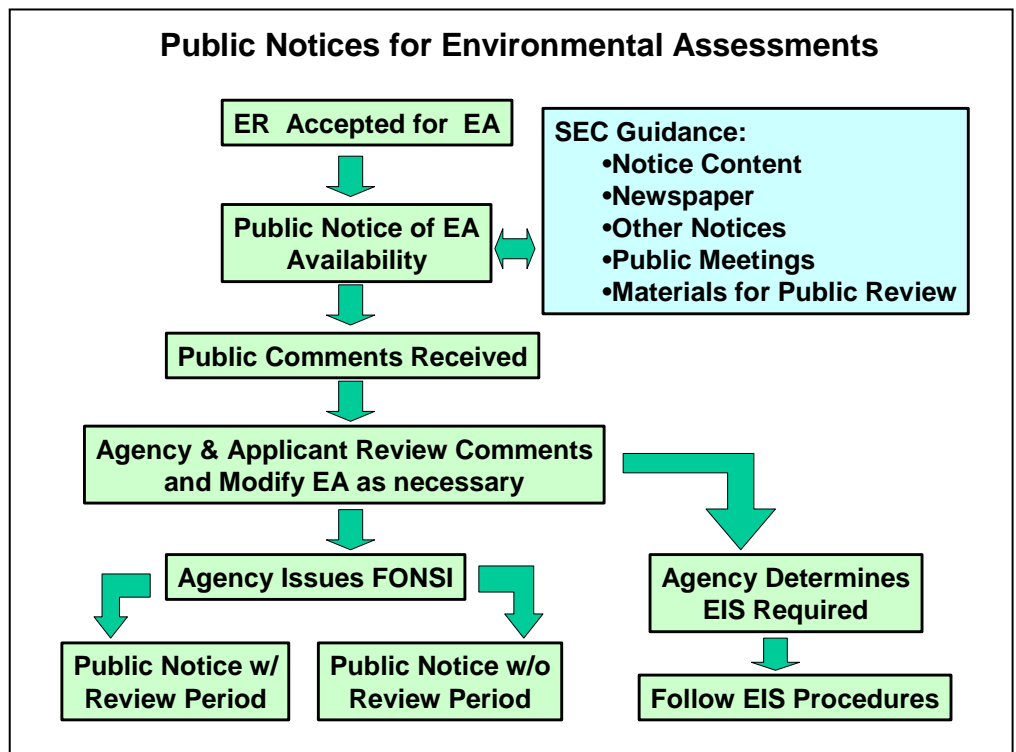
| Categorical Exclusion Public Notice Requirements | | | | |
|--|--------------------|-----------------------------------|--------------|----------------------|
| Proposed Conversion of Resource | Preliminary Notice | Review Period ³ (days) | Final Notice | Review Period (days) |
| None | N/A | N/A | N/A | N/A |
| Important Farmland ¹ | Yes | 30 | Yes | 0 |
| Wetlands | Yes | 30 | Yes | 0 |
| Floodplains | Yes | 30 | Yes | 0 |
| Historic Properties ² | Yes | 30 | Yes | 0 |

1. Includes Important Farmland (as defined by DR 9500-3)
 2. For historic properties in the context of the NHPA, the term “converted” refers to an “adverse effect.”
 3. Comment periods are calculated from the date of the first publication.

5.2 Environmental Assessment

When the Agency accepts the ER as its EA, publishing two public notices will be required. The first informs the public of the availability of the EA. The second, a FONSI, informs the public of the Agency’s determination that the proposal poses no significant environmental impacts.

The purpose of the first notice is to announce the availability of the EA for a 30-day public comment period. After the Agency has accepted the ER and determined that it will serve as its EA, the Agency will authorize the applicant to publish the public notice in local newspapers of general circulation in the area where the



proposal is located (see B.3). If the proposal proposes to convert important farmland, construct facilities in floodplains or wetlands, or adversely affect a historic property, the information required in Preliminary Notice listed in Exhibit B.1 needs to be integrated in the EA notice. The public is provided a 30-day period to submit comments. The Agency and the applicant will review the comments and make any appropriate changes to the EA.

The purpose of the second notice is to announce that the Agency has reached a FONSI (see B.4). The Agency will authorize the applicant to publish the finding including any project-specific requirements. FONSI notices must summarize whether any public comments were received and if comments were received brief summaries of the Agency’s responses to the comments. Normally there are no public comment periods after the FONSI is published. However, where substantive comments are received on or substantive changes have been made to the EA, the Agency may require an additional period (15 days) for public review following the publication of its FONSI determination. Substantive comments and any changes to the EA must be summarized in the FONSI.

This table explains the EA public notice requirements.

| Environmental Assessment Public Notice Requirements | | | | | | |
|---|---------------------------------|--|-----------------------------------|-----------------------|----------------------|-------------------------------------|
| Conversion of, Locating Facilities in, or Adverse Impact to the Listed Resource | Environmental Assessment Notice | | | FONSI Notice | | |
| | Standard EA Notice | Include Preliminary Notice Information | Review Period ³ (days) | Standard FONSI Notice | Include Final Notice | Review Period ^{4,5} (days) |
| None of the below | Yes | No | 30 | Yes | No | 0 or 15 |
| Important Farmland ¹ | Yes | Yes | 30 | Yes | Yes | 0 or 15 |
| Wetlands ² | Yes | Yes | 30 | Yes | Yes | 0 or 15 |
| Floodplains ² | Yes | Yes | 30 | Yes | Yes | 0 or 15 |
| Historic Properties ³ | Yes | Yes | 30 | Yes | Yes | 0 or 15 |

1 Includes conversion of Important Farmland (as defined by DR 9500-3)
2 Refers to a proposal to locate a facility in a wetland or floodplain.
3 An adverse affect on historic properties is defined in the context of the NHPA.
4 Comment periods are calculated from the date of the first publication.
5 An additional 15-day review is only necessary if substantive comments have been received and the EA has been significantly amended. This determination is made by the Rural Development State Environmental Coordinator.

5.3 Notifying the Public

It is Agency’s responsibility to ensure the adequacy of all public notices. Therefore, prior to publishing public notices applicants should ask the Rural Development Processing Office to review and concur with all notices. When publishing public notices, the applicant should ensure that the notice has a reasonable likelihood of attracting the

attention of individuals or organizations that may be interested in or affected by the proposal.

Normally newspaper advertisements are used to notify the public of applicant and Agency actions. However, other forms of notice may be appropriate depending on the nature of the proposal's potential impacts and the nature of the target audience. The following methods may be appropriate:

- Individual notices mailed to landowners or residents who live or own property adjacent to facilities or are directly affected by the proposed construction of the facilities;
- Radio and television announcements;
- Inserts into utility bills;
- Notices posted in areas frequented by the target audience;
- Public meetings; or,
- Announcements at public activities (schools, place of worship, town meeting, etc.)

Newspaper notices should be of reasonable size and prominence and not be placed in the classified or legal section or an obscure portion of the newspaper. Notices may be placed in sections of the newspaper that are specifically set aside for public notices. All public notices will be published in newspaper(s) of local circulation in the area affected by the proposal. The publication frequency shall be 3 consecutive days for daily newspapers and 2 consecutive weeks in weekly newspapers. **Public review dates shall be computed from the initial publication date of the notice.** Proof of publication shall be provided to Agency either as a copy of the notice or the publisher's affidavit.

Upon approval and acceptance of the ER, the Rural Development State Environmental Coordinator will determine if any unique public notice requirements (beyond the standard public notice language - see Exhibit B) for the proposal are necessary. These may include:

- Content of the notice;
- Public review period;
- Frequency of newspaper advertisements;
- Other forms of public notice;
- Public meeting;
- Materials and information to be made available to the public; or,
- Other actions necessary to obtain sufficient public involvement in the environmental review process.

Copies of all comments received by the applicant, including unsolicited comments, must be submitted to Agency as soon as possible for consideration. The Agency and the applicant will review the comments, address each comment, and make any appropriate changes to the EA. Again summaries of all public comments received during the public

review period and Agency responses must be briefly summarized in either Final Notices or FONSI notices.

5.4 Environmental Justice

If the proposal is to be located in a minority or low-income community and will have, or may be perceived to have, disproportionately high and adverse human health or environmental effects to that community, special efforts may be necessary to include these populations into the public involvement process. These efforts may include public notices, community outreach meetings, and publishing public notices in languages other than English and in non-English newspapers or publications. All special outreach efforts must be fully described in the ER.

Nothing in the foregoing discussion is meant to restrict the applicant's use of other media in publishing public notices. Agency's requirements for public notices are merely establishing a minimum. Other means of communication may be particularly effective in reaching the public in appropriate situations.

6.0 Exhibit A - Agency Correspondence for Information Gathering

Included in this exhibit are sample letters directed to a variety of federal and state agencies that are normally contacted during the preparation of an ER. These examples are designed to provide guidance to applicants in preparing information requests to environmental regulatory or natural resource agencies. Individual letters should be tailored to the nature of the specific proposal and the issues involved. At times a briefer format may be reasonable, while in other instances a more detailed explanation may be necessary. The Rural Development State Environmental Coordinator or Processing Office can provide the appropriate names and addresses of the appropriate agencies to contact.

It is not the intent of this section to require written correspondence with applicable environmental regulatory or natural resource agencies. Applicants are required to gather the appropriate resource data in order to adequately evaluate and document a proposal's potential to affect any of the resources listed in this Bulletin. The gathering of data may be accomplished by any appropriate means but whatever process is used, i.e., telephone inquiries, email, website searches, etc, all data gathering or consultation processes **must** be thoroughly documented in the ER. This will enable the Agency to determine whether proper and adequate consultation processes with applicable agencies have been followed. Copies of websites or email can be copied and provided in the ER as well as the documenting the date, time and the title and name of agency staff consulted via the telephone. As stated in Section 1.2, it is the Agency's responsibility to independently evaluate and verify the accuracy of the information provided in the ER. In addition, the Agency is ultimately responsible for the scope and content of the resulting environmental document. Providing clear and concise documentation as to the data gathering and consultation process used by applicants will enable the Agency to efficiently review the ER.

A.1 State Historic Preservation Office Letter Requesting Information Regarding Historic Properties

In accordance with Section 3.4, applicant should contact the Rural Development State Environmental Coordinator to inquire into any state-specific procedures or protocols for initiating consultation with the State Historic Preservation Office and any tribal interests. In addition applicants must establish an area of potential effect consistent with the Section 106 regulations, i.e., “Area of potential effects means the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking (see 36 CFR 800.16(d))” and provide this information to the SHPO. Under the Section 106 regulations, applicants may initiate consultation with these parties and request information but it is the Agency’s responsibility to submit any findings of effect to the SHPO or tribe.

The (*Applicant’s name*) is in the process of performing an environmental review pursuant to the National Environmental Policy Act for the USDA, Rural Utilities Service in order that it may assess the environmental impacts of (*description of the proposal*)¹ in (*county*), (*State*). The project is being proposed to (*give a brief statement supporting project need*). Enclosed is an U.S. Geological Survey map(s) that depicts the proposal’s area of potential effect for all construction activities and a description of the work involved².

(*Applicant’s name*) requests the assistance of your office in identifying historic properties that are listed or eligible for listing on the National Register of Historic Places and that may be affected by the project. Please provide any recommendations you may have to mitigate or avoid these impacts, to properties that may be affected.

We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact (*name*) at (*telephone number*).

¹Applicants should provide a complete proposal description as an attachment to this letter. In order for the SHPO to provide appropriate feedback as to historic properties in the area of potential of effect, the proposal descriptions submitted need to be explicit in the types and locations of all construction activities being proposed (see footnote 2).

² In order to expedite SHPO request for information, applicant should submit maps of an appropriate scale that will show the proposal’s area of potential effect. These areas should cover all proposed construction including easements, staging areas, etc.. Applicants should consider submitting photographs of any suspected historic properties with letters.

A.2 U.S. Fish and Wildlife Service or National Marine Fisheries Service Letter Concerning Endangered Species

The (*Applicant's name*) is in the process of performing an environmental review pursuant to the National Environmental Policy Act for the USDA, Rural Utilities Service in order that it may assess the environmental impacts of (*description of the project*)¹ in (*county*), (*State*). The project is being proposed to (*give a brief statement supporting project need*). Enclosed is an U.S. Geological Survey map(s) that depicts the proposal's construction activities and a description of the work involved.

The proposal should not represent a "major construction activity" as defined in 50 CFR 402.02. We request a list of any Federally-listed or proposed threatened or endangered species and designated or proposed critical habitat that may be present in the project area. In addition, please advise us of any present concerns you may have related to possible effects of the project listed above on such species or critical habitat, as well as any other wildlife concerns.

We would appreciate a response within 30 days. If you need any further information or wish to discuss our project, please contact (*name*) at (*telephone number*).

¹Applicants could provide a complete proposal description as an attachment to this letter. In order for the USFWS to provide appropriate proposal reviews, the proposal descriptions submitted need to be explicit in the types and locations of all construction activities that are being proposed.

A.3 Natural Resources Conservation Service (state or field office) Letter Concerning Important Farmland

Check Exhibit F for the process of submitting NRCS Form AD-1006 with this request; for copies of the form see -

http://www.nrcs.usda.gov/programs/fppa/pdf_files/AD1006.PDF

The (*Applicant's name*) is in the process of performing an environmental review pursuant to the National Environmental Policy Act for the USDA, Rural Utilities Service in order that it may assess the environmental impacts of (*description of the project*)¹ in (*county*), (*State*). The project is being proposed to (*give a brief statement supporting project need*). Enclosed is an U.S. Geological Survey map(s) that depicts the proposal's construction activities and a description of the work involved.

We are requesting information on the possible effects of the proposal on important farmland and any recommendations you have to minimize or avoid these effects. We also seek your assessment of the compatibility of the proposal with State and local government or any private programs and policies to protect important farmland.

We would appreciate a response within 30 days. If you need any further information or wish to discuss our project, please contact (*name*) at (*telephone number*).

¹Applicants could provide a complete proposal description as an attachment to this letter. In order for NRCS to provide appropriate proposal reviews, the proposal descriptions submitted need to be explicit in the types and locations of construction activities that are being proposed.

A.4 Letter to Federal Land Manager

The (*Applicant's name*) is in the process of performing an environmental review pursuant to the National Environmental Policy Act for the USDA, Rural Utilities Service in order that it may access the environmental impacts of (*description of the project*)¹ in (*county*), (*State*). The project is being proposed to (*give a brief statement supporting project need*). Enclosed is an U.S. Geological Survey map(s) that depicts the proposal's construction activities and a description of the work involved.

As is shown on the enclosed map, some of the construction may take place in the (*name of unit*). Although the submittal of a special use permit application at this time would be premature, we are seeking information on environmental effects from the projects as an input to the Rural Utilities Service's decision-making process. We request your review of this project for potential impacts to officially designated areas within the (*name of unit*), and any recommendations you may have to mitigate or avoid these effects. We would also appreciate receiving any information regarding additional review requirements that your agency may have.

We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact (*name*) at (*telephone number*).

¹Applicants could provide a complete proposal description as an attachment to this letter. In order for the agency to provide appropriate proposal reviews, the proposal descriptions submitted need to be explicit in the types and locations of all construction activities that are being proposed.

A.5 State Natural Resource or Environmental Agency Letter

The (*Applicant's name*) is in the process of performing an environmental review pursuant to the National Environmental Policy Act for the USDA, Rural Utilities Service in order that it may access the environmental impacts of (*description of the project*)¹ in (*county*), (*State*). The project is being proposed to (*give a brief statement supporting project need*). Enclosed is an U.S. Geological Survey map(s) that depicts the proposal's construction activities and a description of the work involved.

(*Applicant's name*) requests that your office review the proposal for any State and Federally-listed threatened and endangered species and any other important State natural resources that may occur in the project area. Please provide any recommendations you may have to mitigate or avoid these impacts.

We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact (*name*) at (*telephone number*).

¹Applicants could provide a complete proposal description as an attachment to this letter. In order for the agency to provide appropriate proposal reviews, the proposal descriptions submitted need to be explicit in the types and locations of all construction activities that are being proposed

A.6 State Coastal Management Program Agency Letter Concerning Coastal Zone Management Issues

The (*Applicant's name*) is in the process of performing an environmental review pursuant to the National Environmental Policy Act for the USDA, Rural Utilities Service in order that it may assess the environmental impacts of (*description of the project*)¹ in (*county*), (*State*). The project is being proposed to (*give a brief statement supporting project need*). Enclosed is an U.S. Geological Survey map(s) that depicts the proposal's construction activities and a description of the work involved.

Please advise us if the proposal is within areas of the State's Coastal Management Program and if so performs a federal consistency reviews We request your review of this project so that you may assist us in ensuring that our construction activities will be consistent with program goals. Any other information you may wish to provide regarding environmental impacts or suggestions for mitigating impacts will be appreciated and taken into consideration.

We would appreciate a response within 30 days. If you need any further information or wish to discuss our project, please contact (*name*) at (*telephone number*).

¹Applicants could provide a complete proposal description as an attachment to this letter. In order for the state CMP agency to provide appropriate proposal reviews, the proposal descriptions submitted need to be explicit in the types and locations of construction activities that are being proposed.

7.0 Exhibit B - Sample Public Notices

B.1 Preliminary Notices for Categorical Exclusions

These notices are required for proposals classified as CEs that propose to convert important farmland, construct facilities in a wetland or floodplain, or adversely affect a historic property.

Preliminary Notice of Potential Conversion of [insert issue(s)]¹

The USDA, Rural Utilities Service has received an application for financial assistance from [insert applicant's name]. The proposal consists of [itemize the project's construction activities and locations]. If implemented, the proposal will convert [insert issue(s)¹ – include acreage, locations]. The purpose of this notice is to inform the public of this proposed conversion or effect and request comments concerning the proposal, alternative sites or actions that would avoid these impacts, and methods that could be used to minimize these impacts.

The environmental documentation regarding this proposal is available for review at [insert Rural Development office location or applicant locations]. For questions regarding this proposal contact [insert name and telephone number of Rural Development official].

Any person interested in commenting on this proposal should submit comments to the address above by [have newspaper insert a date that is 30 days from the date the notice is first published].

A general location map of the proposal is shown below. [Insert map].

¹ Important Farmland, Wetland, Floodplain, or an adverse effect to a historic property

B.2 Final Notices for Categorical Exclusions

Whenever a preliminary notice is published, the publication of a final notice is required. Below is a sample of a Final Notice.

Final Notice of Potential Conversion of [insert issue(s)]¹

The USDA, Rural Utilities Service has received an application for financial assistance from [insert applicant's name]. The proposal consists of [itemize the project's construction elements and locations]. Rural Development has assessed the environmental impacts of this proposal and determined that the location of [insert construction activity or facility] will convert or effect [insert issue(s)]¹. It has been determined that there is no practicable alternative to avoiding this conversion or effect. The basis of this determination is [summarize the justification and reasons for the conversion or effect].

For information regarding this notice contact [insert Rural Development official's name and telephone number].

A general location map of the proposal is shown below. [Insert map].

¹ Important Farmland, Wetland, Floodplain, or an adverse effect to a historic property.

B.3 Notice of Availability of Environmental Assessment

Upon review and acceptance of the applicant's ER, the ER will serve as Agency's EA and shall be made available for public review and comment for a 30-day review period. If the proposal proposes a conversion of important farmland, construct a facility in a wetland or floodplain, or adversely affect a historic property, the contents of the Preliminary Notice as specified in B.1 need to be integrated into the notice below.

Notice of the Availability of an Environmental Assessment

The USDA, Rural Utilities Service has received an application for financial assistance from *[insert applicant's name]*. As required by the National Environmental Policy Act and agency regulations, the Rural Utilities Service has prepared an Environmental Assessment that evaluated the potential environmental effects and consequences of the proposal. This notice announces the availability of the Environmental Assessment for public review and comment.

The proposal consists of *[itemize the project's construction activities and locations; include information regarding any conversion(s) of [insert issue¹]; and summarize all proposed mitigation measures and locations used to minimize any adverse environmental effects]*. The alternatives considered to the proposal include: *[insert a summary of the alternatives and locations (if applicable) considered and discussed in the Environmental Assessment]*.

Copies of the Environmental Assessment are available for review at *[insert Rural Development and applicant office locations; if the EA is available at any other location(s) give address and telephone number]*. For further information contact *[insert name and telephone number of Rural Development official]*. Any person interested in commenting on this proposal should submit comments to the address above by *[have newspaper insert a date that is 30 days from the first publication date]*.

A general location map of the proposal is shown below *[Insert general location map of the proposal]*.

¹ Important Farmland, Wetland, Floodplain, or an adverse effect to a historic property.

B.4 Finding of No Significant Impact Notice

Subsequent to the notice announcing the availability of an EA and Agency approval, the applicant shall publish a public notice informing the public of Agency's determination of a FONSI for the proposal. Where the proposal proposes to convert important farmland, wetlands, or floodplains or adversely affects a historic property, the content of a Final Notice as specified in B.2 will be integrated in the FONSI notice.

Notice of a Finding of No Significant Impact

The USDA, Rural Utilities Service has received an application for financial assistance from *[insert applicant's name]*. The proposal consists of *[itemize the project's construction activities and locations; include information regarding any conversion(s) of [insert issue¹]*.

As required by the National Environmental Policy Act and agency regulations, the Rural Utilities Service prepared an Environmental Assessment of the proposal that assessed the potential environmental effects of the proposal and the effect of the proposal may have on historic properties. The Environmental Assessment was published on *[insert date]* for a 30-day public comment period. *[Insert a brief summary of the numbers of and content of the comments including brief responses to the pertinent comments]* Upon consideration of the applicant's proposal, federal and state environmental regulatory and natural resource agencies, *[insert all effect determinations to historic properties]* and public input the agency has determined that the proposal will not have a significant effect on the human environment and for which an Environment Impact Statement will not be prepared. The basis of this determination is *[briefly summarize reasons]*.

[Add if necessary] In order to avoid or minimize any adverse environmental impacts, the Rural Utilities Service will require the applicant to incorporate the following mitigation measures into the proposal's design *[briefly summarize all proposed mitigation measures and locations]*.

Copies of the Environmental Assessment can be reviewed or obtained at *[insert the Rural Development and applicant office locations and telephone numbers]*. For further information, please contact *[insert Rural Development official's name and telephone number]*.

*[If additional public review period is required have newspaper insert a date 15 day after the date of the first publication]*² A general location map of the proposal is shown below. *[insert general location map of the proposal]*.

¹ Important Farmland, Wetland, Floodplain, or an adverse effect to a historic property.

² Any person interested in commenting on this FONSI may submit comments to the address above by *[have newspaper insert date that is 15 days from the publication of this notice]*.

Normally, there is no comment period associated with a FONSI Notice; however, where the proposal is controversial or Agency has received substantive environmental comments that required a significant modification of the EA, the FONSI notice may be published with an additional 15-day comment period. Applicants will be informed by the Rural Development State Environmental Coordinator or Processing Office whether this requirement is applicable. If this is the case, information regarding the additional comment period needs to be included in the public notice - see note 2 above.

8.0 Exhibit C - Mitigation

The purpose of mitigation measures is to avoid or minimize adverse environmental impacts of a proposal. When developed as part of an ER, properly applied mitigation measures will allow Agency to determine that its financial support for a proposal will not have a significant effect on the human environment and is therefore not required to prepare an EIS.

Mitigation measures can be characterized as:

Structural. These measures are usually associated with planning, construction, and development activities. For example:

- Limit line sizes to serve only current population in a floodplain or to limit development in areas of important farmland;
- Provide a vegetative buffer zone along creeks, streams, etc.;
- Route construction away from sensitive areas – historic properties, critical habitat, etc.; or,
- Use of existing previously disturbed ROWs.

Restrictive. These measures are usually associated with development and operation. For example:

- Limit construction to certain times of the year – winter for wetland crossings, periods of low wildlife activity – after breeding season or spawning run;
- Halt work if an archaeological resource is uncovered;
- Limit access to utility lines in protected or sensitive resource areas; or,
- Minimize vegetative clearing in a riparian zone.

Regulatory. These measures rely on a third party to monitor for compliance. For example:

- Require USACE individual permit or notification of construction for nationwide permit in wetland areas;
- Evidence of approvals from land management agencies – BLM, USFS, etc.; or,
- Memorandum of agreement with SHPO.

Awareness. These measures rely on a third party to provide evidence of compliance. For example:

- Consultation with expert agencies when a resource may be impacted – NRCS for important farmland or USFWS for critical habitat for threatened and endangered species; or,
- Compatibility with local comprehensive land use plans.

Institutional. These measures rely on local zoning restrictions or applying deed restrictions to parcels of land due to releases of hazardous substances or residual contamination from hazardous wastes.

Mitigation measures can be very effective when applied properly. In reviewing potential mitigation measures give consideration to the following:

- The adverse effect must have a reasonable chance of occurring in the foreseeable future. Mitigation measures are only useful when there is a compelling reason to avoid or minimize adverse effects that have a reasonable expectation of occurring. If an adverse effect has a low expectancy in the foreseeable future, mitigation may not be necessary;
- Mitigation measures must be practicable. There must be a reasonable expectation that the measure can be applied and when applied, will have the desired outcome;
- There must be some motivation behind the mitigation measure. In other words, there must be some assurance that the measure will be implemented. Rural Development often relies on third parties to monitor and enforce implementation. Regulatory agencies are generally in the best position to accomplish this. It should also be expected that when the reason for the mitigation no longer exists, the mitigation would be discontinued;
- A mitigation measure should be in balance with both the potentials for impact on the environmental resource and the resource's relative environmental value. High potential impacts on critical resources would require a strong mitigation measure (e.g. restrictive measure). An awareness type measure would be more appropriate where there is a low potential for impact on a less critical environmental resource;
- Mitigation measures must be tailored to the specific condition of a proposal and its owner's capabilities. Customs and traditions in an area can often determine if a mitigation measure can be carried out to achieve its desired results; and,
- Developing and applying successful mitigation measures is more of an art than a science. There is no "one best solution" to avoiding or minimizing adverse impacts for all proposals. The language of mitigation implies subjective determinations – reasonable, foreseeable, practicable, value, etc. The applicant and Agency must evaluate and balance all of these elements.

C.1 Examples of Mitigation Measures

A list of typical mitigation and monitoring commitments that may be appropriate for certain types of applicant projects has been provided below. The list is by no means complete and is for illustrative purposes only.

Land Use

- Select ROW which supports present and planned land use; or
- Share an established corridor with other utilities.

Formally Classified Lands

- Avoid impacting properties that are owned and administered by federal, state, and local agencies or have been accorded special protection through formal designation.

Floodplains

- Minimize the extent of floodplains to be crossed or impacted by the construction of facilities;
- Locate support structures and facilities to allow for adequate flow of flood waters in the event of flooding;
- Design support structures to minimize accumulation of flood borne debris; and,
- Minimize clearing of riparian vegetation.

Wetlands

- Avoid crossing wetlands where practicable, or minimize the extent of wetlands crossed;
- Consider the purchase of wetlands outside the proposal's corridor to compensate for impacts to wetland resources;
- Avoid routing a permanent access road through wetlands;
- Perform certain construction activities in wetlands during dry conditions or when the ground is frozen; and,
- Minimize clearing of riparian vegetation.

Historic Properties

- Plan to route the utility lines away from historical properties;
- Consider restoration, if avoidance is not practical;
- Use vegetative screens to minimize visual intrusion;
- In consultation with Agency and SHPO, alter proposal if a "no effect" determination can not be readily achieved;
- Halt work if archaeological resources are uncovered and immediately contact SHPO and Agency. Do not resume work in the affected area until clearance has been received from SHPO and Agency; and,
- State that stipulations or agreements developed, as a result of the Section 106 process will be met.

Visual Aesthetics

- Avoid scenic areas, if possible; and
- Commit to thorough cleanup and revegetation of the ROW after project completion.

Threatened and Endangered Species

- Avoid threatened and endangered species and critical habitat;

- Perform construction outside the breeding season or when the species have migrated out of the area; and,
- If critical habitat cannot be avoided, state that stipulations resulting from consultation with the USFWS or NMFS will be met.

Wildlife

- Avoid open expanses of water or wetlands used as flight paths by migrating waterfowl;
- Avoid waterfowl nesting or rearing areas; and,
- Perform construction activities during seasons of low wildlife activity (*e.g.*, after breeding period or spawning run).

Vegetation

- Use an existing ROW to minimize new clearing;
- Use brush blades instead of dirt blades when clearing ROW;
- Coordinate new planting with the NRCS, USFS, BLM, appropriate state agencies, or individual landowners; and,
- Schedule construction in order to minimize earth disturbance during wet seasons.

Water Quality Issues

- Avoid placing utility lines within streambeds;
- Avoid use of herbicides near waterways;
- Avoid storing petroleum products, chemicals, toxic substances or hazardous materials within a floodplain;
- Avoid groundwater contamination through proper handling and storage of petroleum products, chemicals, toxic substances, and hazardous materials;
- Require sedimentation controls when working on water intake or discharge facilities in lakes and stream banks; and,
- Avoid crossing streambeds or waterways except at designated fords, crossing points, or bridges.

Soils

- Minimize soil erosion by mulching, seeding, and replanting or implementing erosion and sedimentation control (if available, include samples of best management practices into the construction contractors' obligations that are part of construction contractual specifications); and
- Describe efforts to restore or replace topsoil that may be disturbed.

Air Pollution

- During construction, dampen access roads to minimize fugitive dust; and
- Avoid burning of slash and debris or burn only within applicable regulations.

Transportation

- Avoid placing structures near airfield runways, approaches and flight paths.

Noise

- Schedule work to avoid evening or weekend shifts that might annoy local residents.

Monitoring

- Schedule periodic inspections of project area (aerial or ground surveillance of facility for damage, fatigue, failure, vandalism, etc.); and,
- Immediately after project is completed and during regular monitoring, inspect for effectiveness of the mitigation program and ensure permit conditions have been met.

9.0 Exhibit D - Regulations, Statutes, and Executive Orders

| LISTING | CITATION |
|---|---------------------------|
| Archaeological & Historical Preservation Act | 16 U.S.C. 461 |
| Clean Air Act | 42 U.S.C. 7401 |
| Clean Water Act | 32 U.S.C. 1251 |
| Section 401 Water Quality Certifications | |
| Section 404 Permits for Discharging Dredged or Fill Material into the Waters of the United States | 33 CFR Part 330 |
| Coastal Barrier Improvement Act | 42 U.S.C. 4028 |
| Coastal Barrier Resources Act | 16 U.S.C. 3501 |
| Coastal Zone Management Act | 16 U.S.C. 1451 |
| Comprehensive Environmental Response, Compensation, & Liability Act | 42 U.S.C. 9601 |
| Council on Environmental Quality Regulations | 40 CFR parts 1500-1508 |
| Endangered Species Act | 16 U.S.C. 1531 et seq. |
| Farmland Protection Policy Act | 7 U.S.C. 4201 et seq. |
| Marine Protection, Research, & Sanctuaries Act | 33 U.S.C. 1401 |
| National Environmental Policy Act | 42 U.S.C. 4321-4346 |
| National Historic Preservation Act | 16 U.S.C. 470 et seq. |
| National Trails System Act | 16 U.S.C. 1241 |
| Native American Graves & Repatriation Act | 25 U.S.C. 3001 |
| Noise Control Act | 42 U.S.C. 7901 |
| Resource Conservation & Recovery Act | 42 U.S.C. 3251 |
| Safe Drinking Water Act | 42 U.S.C. 300 |
| Toxic Substances Control Act | 15 U.S.C. 2601 |
| Wild and Scenic Rivers Act | 16 U.S.C 1271 |
| Wilderness Act | 16 U.S.C 1131 |
| Executive Order 11514, Protection and Enhancement of Environmental Quality | 3 CFR 1970 Comp., pg. 104 |
| Executive Order 11593, Protection and Enhancement of the Cultural Environment | 3 CFR 1971 Comp., pg. 154 |
| Executive Order 11988, Floodplain Management | 3 CFR 1977 Comp., pg. 117 |
| Executive Order 11990, Protection of Wetlands | 3 CFR 1977 Comp., pg. 121 |

| | |
|---|---------------------------|
| Executive Order 12898, Environmental Justice | 3 CFR 1994 Comp., pg. 859 |
| Departmental Regulation, Land Use Policy | DR 9500-3 |
| Departmental Regulation, Fish & Wildlife Policy | DR 9500-4 |
| Departmental Regulation, Policy on Range | DR 9500-5 |
| USDA's National Environmental Policy Act; Final Policies & Procedures | 7 CFR Part 1b |
| USDA, NRCS, Farmland Protection Policy | 7 CFR Part 658 |
| USDA's Enhancement, Protection, and Mgmt of the Cultural Environment | 7 CFR Part 3100 |

10.0 Exhibit E – Example of the Table of Contents for an Environmental Report Executive Summary (for Environmental Assessments)

1.0 Purpose and Need of Proposal

- 1.1 Project Description (Proposed Action)
- 1.2 Purpose and Need of the Proposal

2.0 Alternatives to the Proposed Action

3.0 Affected Environment/Environmental Consequences

- 3.1 Land Use/Important Farmland/Formally Classified Lands
 - 3.1.1 Affected Environment*
 - 3.1.2 Environmental Consequences*
 - 3.1.3 Mitigation*
- 3.2 Floodplains
- 3.3 Wetlands
- 3.4 Historic Properties
- 3.5 Biological Resources
- 3.6 Water Quality Issues
- 3.7 Coastal Resources
- 3.8 Socio-Economic/Environmental Justice Issues
- 3.9 Miscellaneous Issues

* Sections repeated through all Section 3.0 subsections.

4.0 Summary of Mitigation

5.0 Correspondence

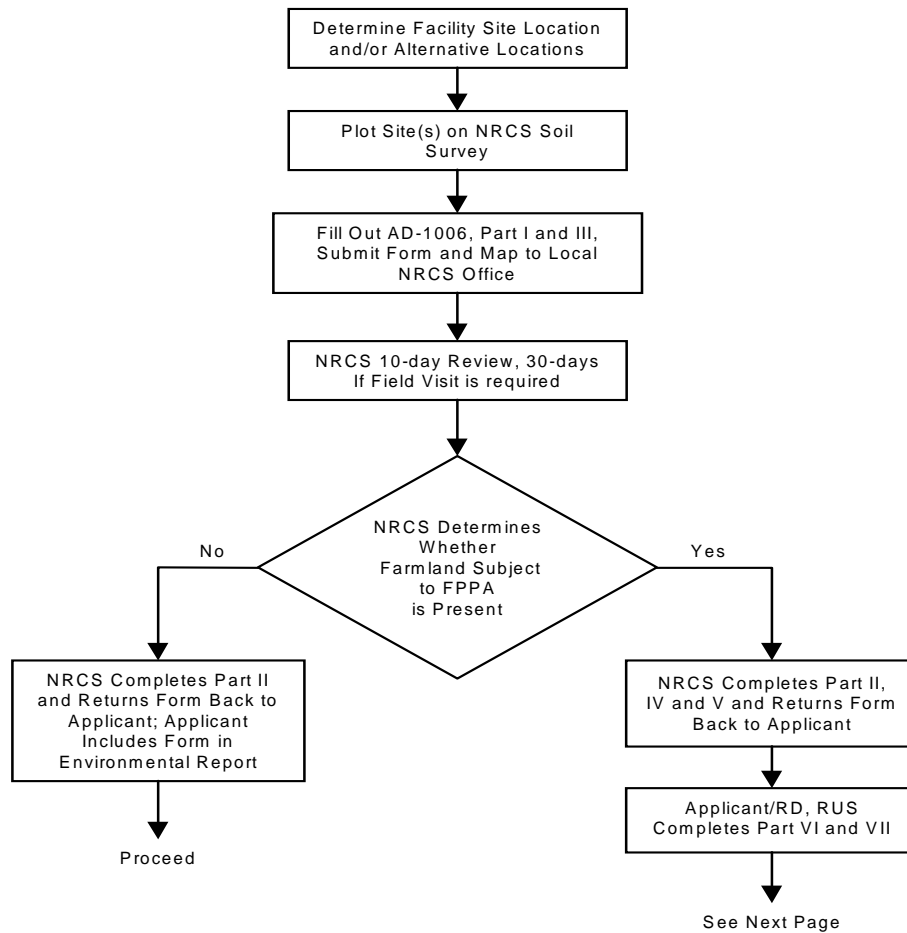
6.0 Exhibits/Maps

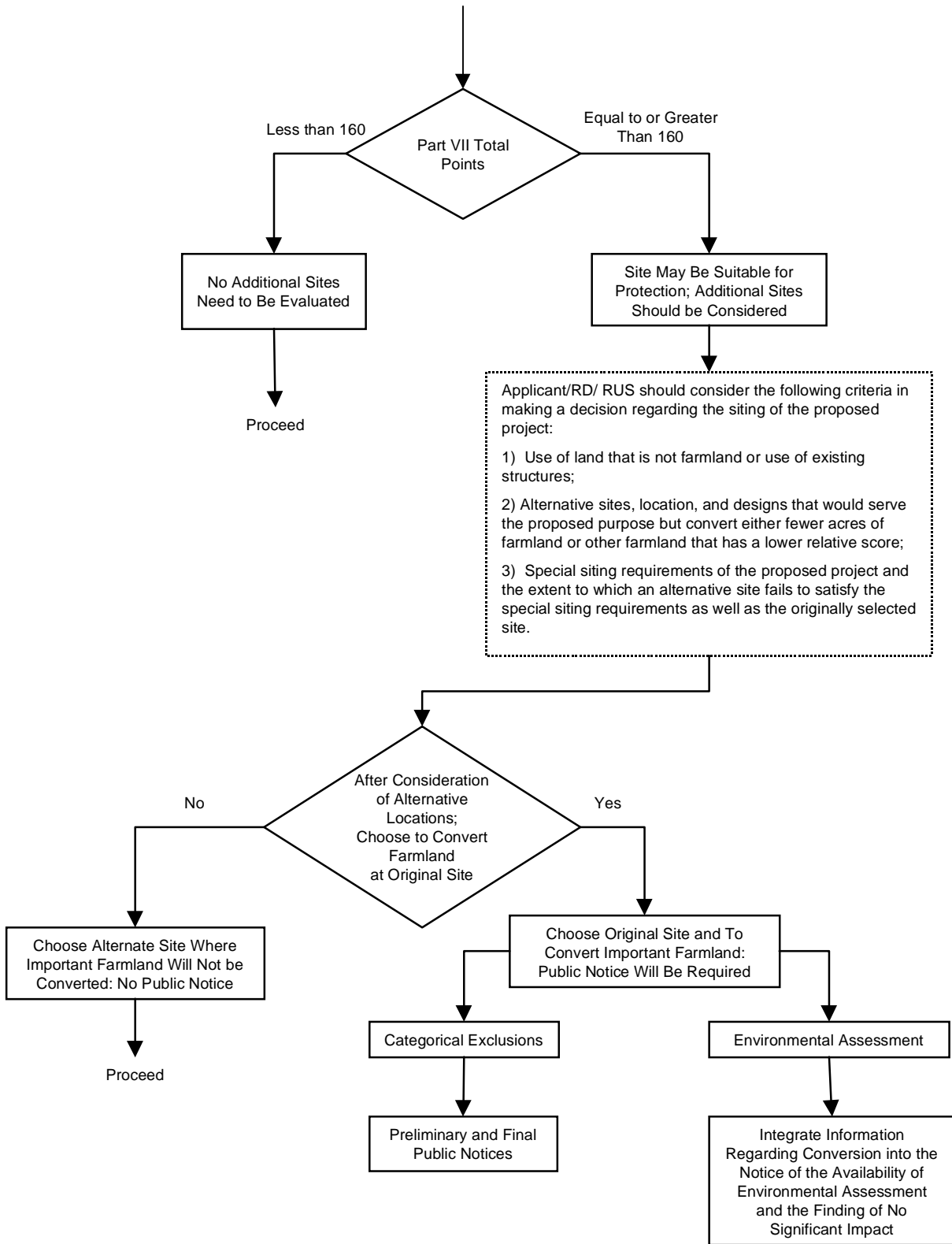
7.0 List of Preparers

11.0 Exhibit F - Regulatory Compliance Flowcharts

F-1 Farmland Protection Policy Act Flowchart (7 CFR Part 658)

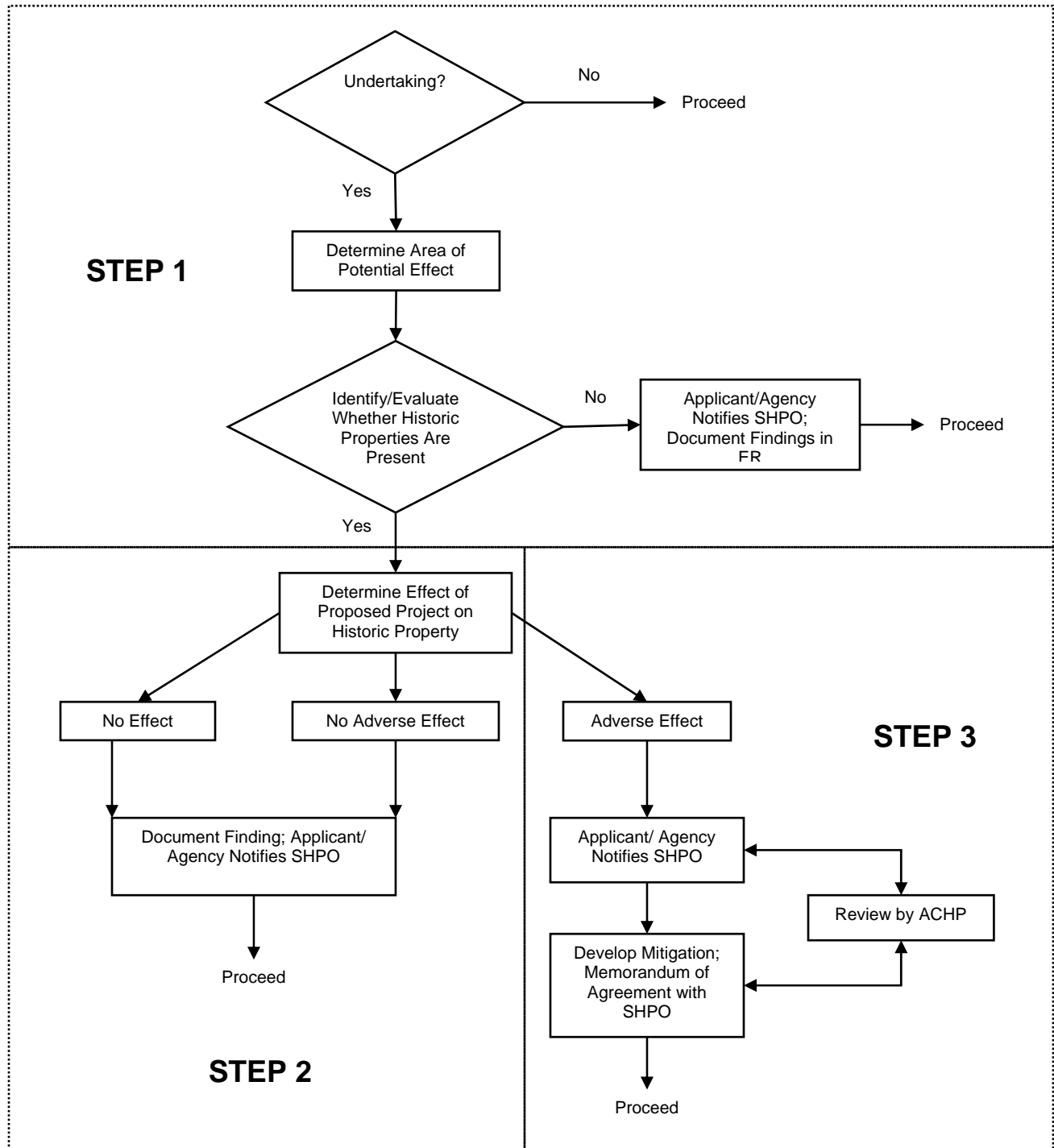
Farmland Conversion Impact Rating Form (Form AD-1006) Designed for Site Specific Facility Locations





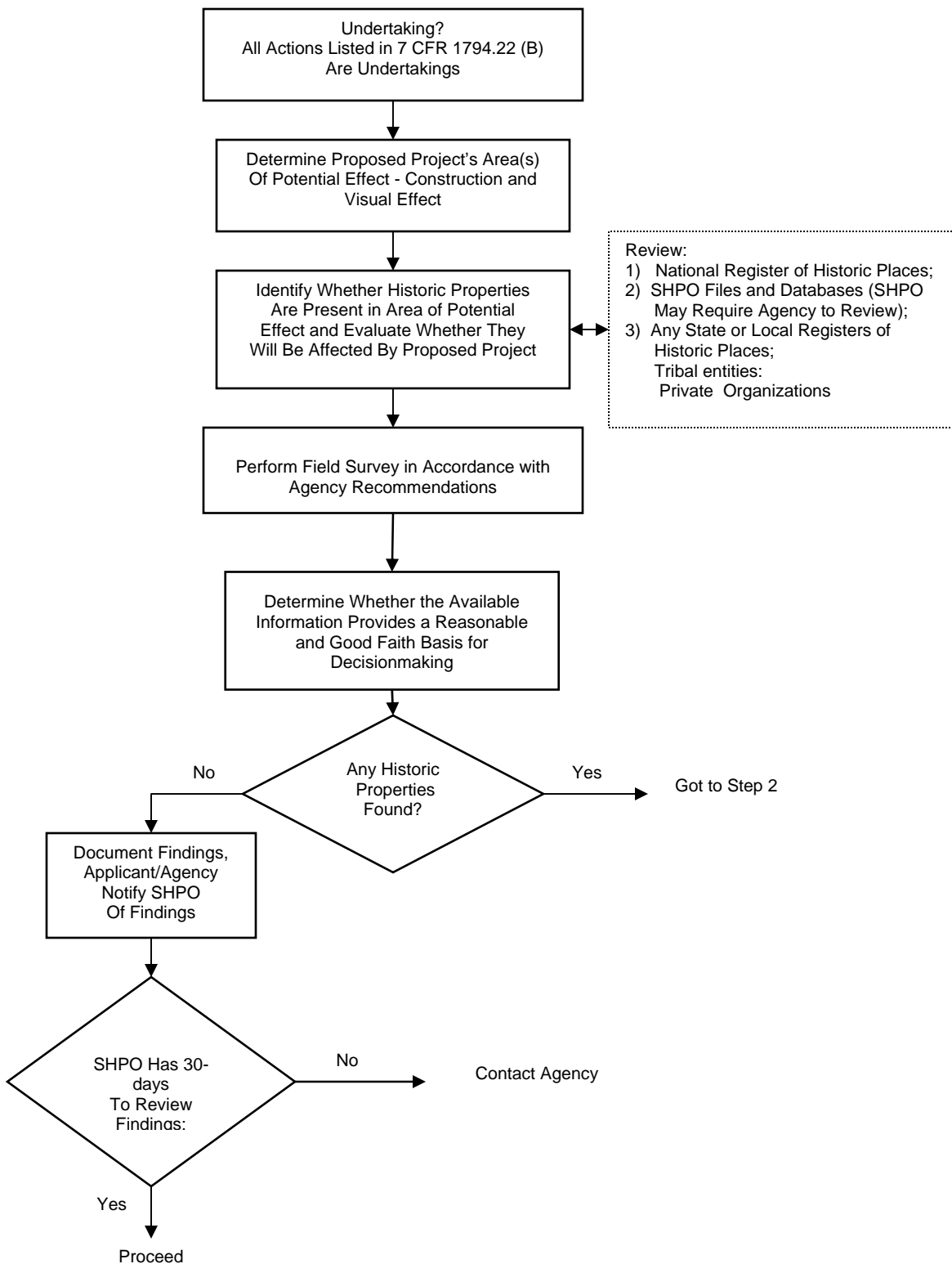
F-2 National Historic Preservation Act - Section 106 Regulations Flowchart

Overview of the Section 106 (36 CFR Part 800) Review Process



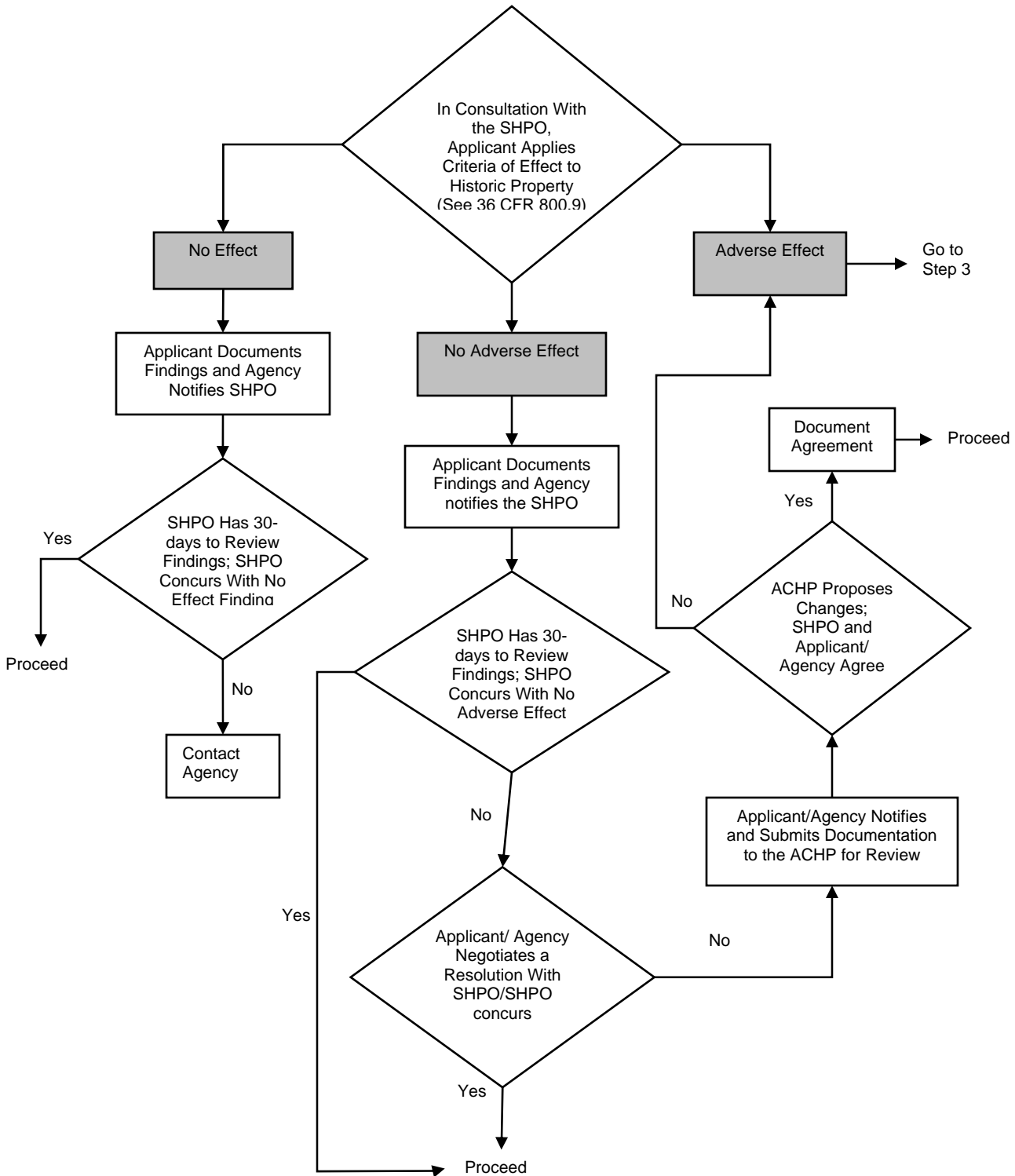
SHPO - State Historic Preservation Officer
 ACHP- Advisory Council on Historic Preservation

Step 1 - Identify/Evaluate Whether Historic Properties are Present

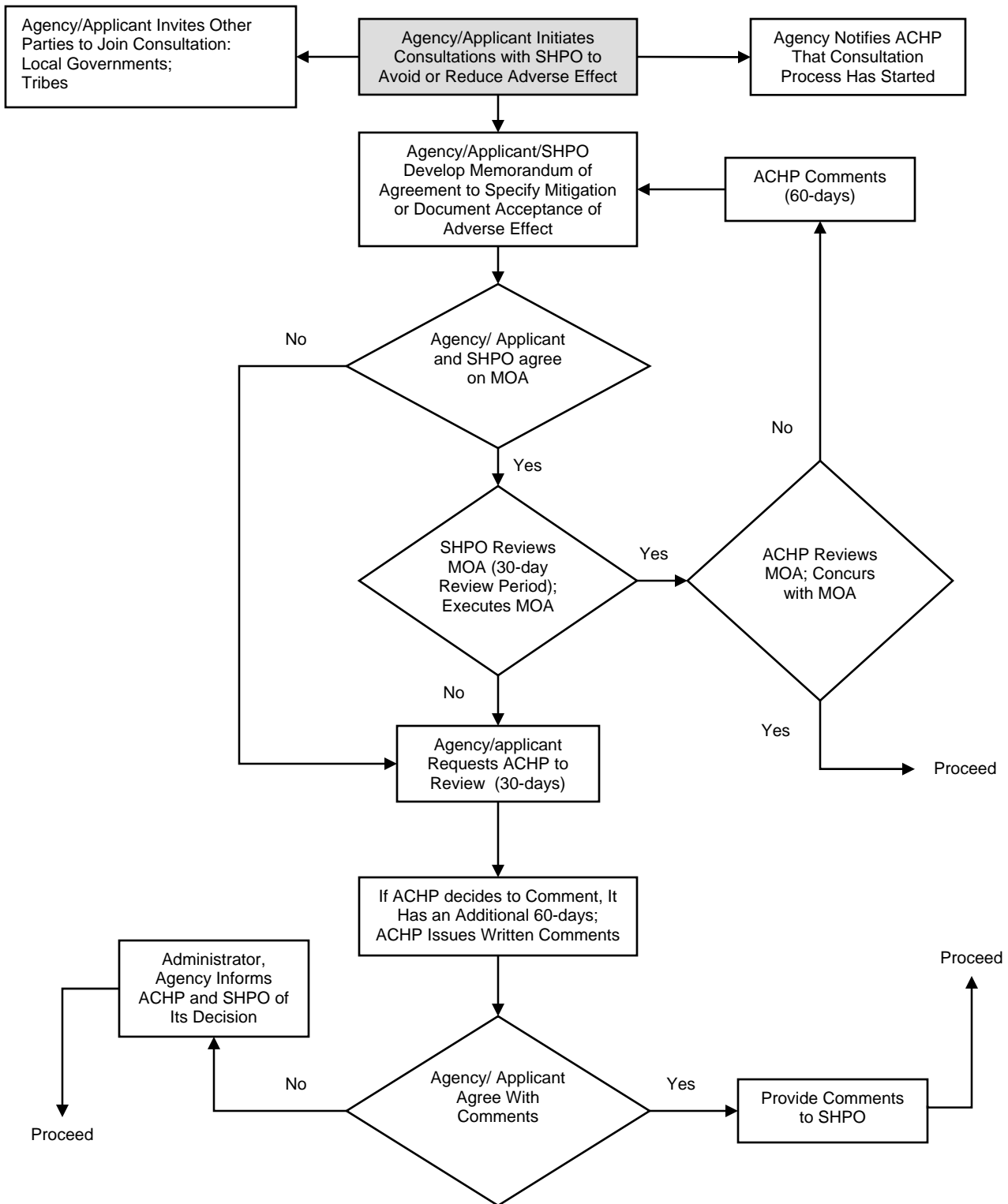


Historic Properties - means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register. This term includes, for the purposes of these regulations, artifacts, records, and remains that are related to and located within such properties. The term "eligible for inclusion in the National Register" includes both properties formally determined as such by the Secretary of the Interior and all other properties that meet National Register listing criteria.

Step 2 - Assess Effect of Proposed Project to Historic Properties



Step 3 - Consultation for Adverse Effects to Historic Properties



This flowchart represents a simplified version of the consultation process between Agency/Applicant and the SHPO and ACHP. The consultation process can be dynamic involving numerous parties and negotiations. In all cases, Agency will take the lead for Step 3 consultations.

F-3 Environmental Justice

NARRATIVE FOR ENVIRONMENTAL JUSTICE AND NEPA FLOWCHART

The Environmental Justice and NEPA Flowchart has been prepared to identify where and how environmental justice issues can be addressed in the NEPA process, if applicable. The draft CEQ's "Guidance for Environmental Justice under NEPA" (April 4, 1997) contains additional suggestions and should also be consulted.

Note that the flowchart portrays a typical EIS process. Some USDA agencies use this same process in the preparation of EAs and should therefore use this flowchart when conducting these documents.

1. Define the purpose and need and area of potential effect of the proposal

The proposal should be clearly defined so that interested parties understand what is being proposed. The NEPA document should clearly identify the purpose of the proposal and provide justification as to its need. The proposal's area of potential effect should be defined (i.e., physical boundary of area reasonably expected to be affected by the action) so that the applicant and Agency can include the minority and low-come populations within this area in all of its outreach efforts.

2. Initiate scoping.

Consideration of potential environmental justice concerns should begin with this step of the NEPA process. Any minority populations and low-income populations located within the area of potential effects should be identified.

When identifying minority and low-income populations, the following definitions used in the Departmental Regulation on Environmental Justice should be used:

Environmental Justice means that, to the greatest extent practicable and permitted by law, all populations are provided the opportunity to comment before decisions are rendered on, are allowed to share in the benefits of, are not excluded from, and are not disproportionately or adversely affected by, government programs and activities relating to human health or the environment

Minority - A person who is a member of the following population groups: American Indian or Alaskan Native; Asian or Pacific Islander; Black, not of Hispanic Origin; or Hispanic.

Minority population - Any readily identifiable group of minority persons who live in geographic proximity, and, if circumstances warrant, migrant farm workers and other geographically dispersed/transient persons who will be similarly affected by USDA programs or activities.

Low-income population - Any readily identifiable group of low-income persons who live in geographic proximity, and, if circumstances warrant, migrant farm workers and other geographically dispersed/transient persons who will be similarly affected by USDA programs or activities. Low-income populations may be may be identified using data collected, maintained, and analyzed by an

agency or from analytical tools such as the annual statistical poverty thresholds from the Bureau of the Census' Current Population Reports, Series P-60 on Income and Poverty.

Once the potentially affected parties have been identified, it will be important to communicate with and understand the concerns of these groups. All interested and/or affected parties should be notified of the proposal. Notification should be accomplished by such means as publishing notices in local newspapers, including those read by potentially impacted minority and low-income groups, and by sending notices out to elected officials, civic organizations, religious organizations, superintendents of schools, local PTAs and other community organizations that can help to facilitate outreach. Announcements should also be made through such vehicles as local radio and television stations and newspapers. Broadcasts and publications made in languages other than English can be particularly helpful in communicating with non-English speakers.

Applicant and Agency should find creative and meaningful ways to facilitate access of information about the proposal and the NEPA process to potentially affected minority and low-income populations. Outreach possibilities would include organizing public meetings at a time and place that is convenient for the potentially affected communities, scheduling meetings with elected officials and/or community organizations, and publishing a newsletter to keep people informed.

The participation of interested or affected parties should be encouraged during scoping as well as throughout the entire NEPA process. To facilitate participation by persons who do not speak or understand English documents, meetings, personal contacts, and written correspondence should be translated. Such translations pertain to each of the steps that follow.

3. Define range of alternatives to be evaluated.

In cases where a proposal might have a disproportionately high and adverse impact on minority or low-income populations, applicants and Agency should make a strong effort to encourage members of those communities to help develop and comment on possible alternatives. Efforts would include organizing meetings to facilitate public input on the alternatives.

4. Analyze effects of the proposal and alternatives considered on the quality of the human environment.

Include an analysis of the extent to which minority and/or low-income populations might be disproportionately affected. The analysis should include potential impacts to subsistence consumption and human health as well as the related economic and social effects of each alternative.

5. Develop mitigation to offset or minimize adverse effects.

The concerns and suggestions of potentially affected minority and/or low-income populations should be carefully considered in the development of mitigation measures.

Once mitigation measures have been developed there should be follow-up to ensure they are implemented and are effective.

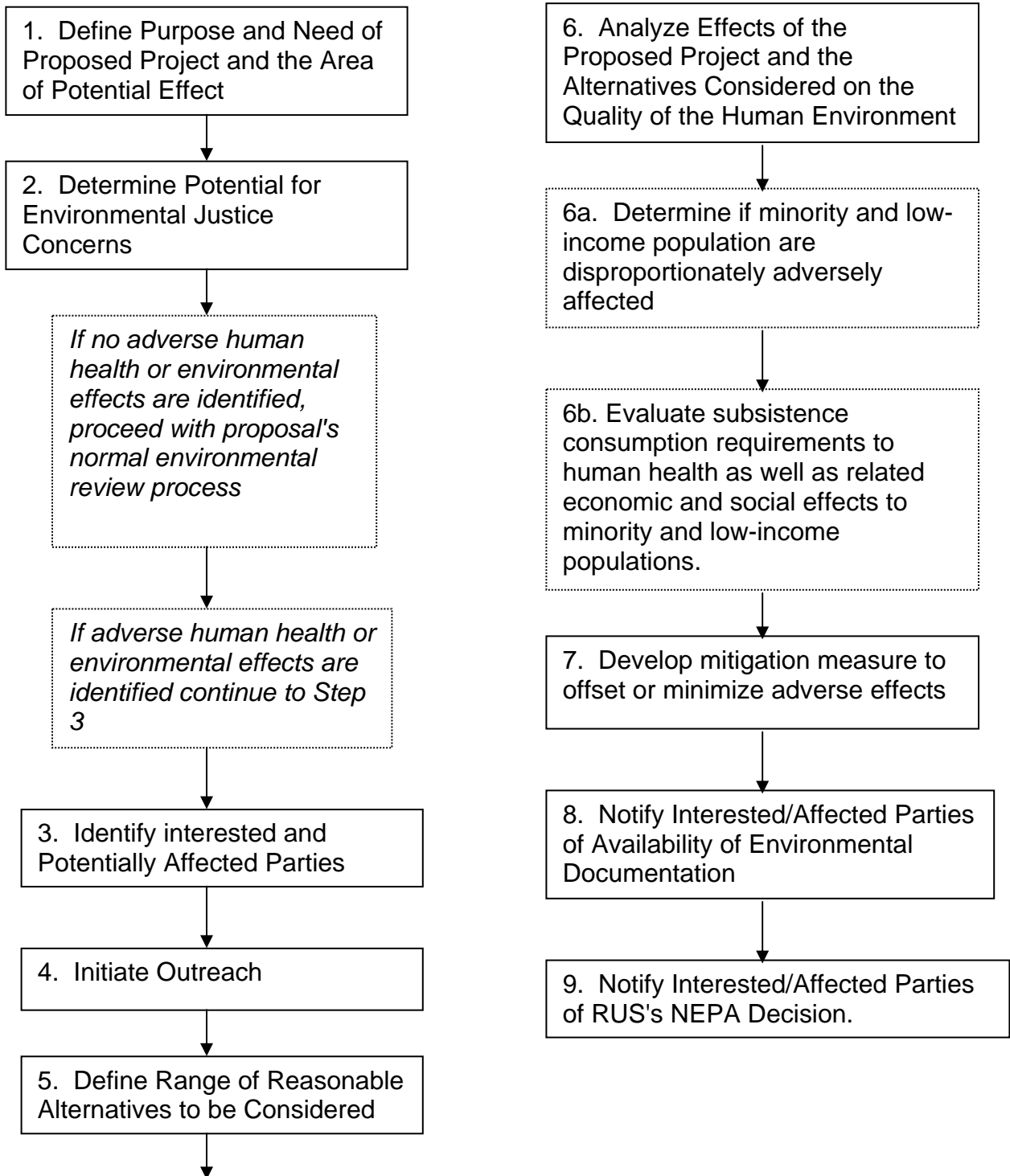
6. Where applicable, notify interested or affected parties of the availability of draft NEPA documents and encourage comment.

The draft provides an important opportunity to demonstrate how concerns raised during the scoping process have been considered in the development of alternatives and to encourage additional input.

7. Notify interested or affected parties of agency decision.

Demonstrate how concerns with the draft NEPA document have been addressed and to address any additional concerns raised before publishing a FONSI. Concerns identified at this time should be incorporated and addressed in the FONSI. Notification should include all parties contacted during the scoping process and those who provided comment on the draft NEPA document. Applicants and Agency are encouraged to meet with any affected populations to discuss and answer questions about the proposal.

Environmental Justice Implementation Flowchart for Environmental Reports



12.0 Exhibit G – Clean Water Act, Section 404 Permits

The Clean Water Act, Section 404 permitting program is applicable to all construction proposals in Agency programs. There are two primary concerns for Agency proposals on wetland areas. The first concern relates to facility placement in areas identified and delineated as wetlands in accordance with the USACE, "1987 Wetlands Delineation Manual" and the other is the routine placement of utility lines through wetland areas.

USACE's permitting program consists of two types of permits – individual permits and nationwide permits. Individual permits will be required for proposals that seek to place fill material in a wetland, such as in proposed facility construction. A nationwide permit is a form of general permit that authorizes a category of activities throughout the nation. Some states have specific state-based general and special conditions attached to nationwide permits. These permits are valid only if the conditions applicable to the permits are met. If the conditions cannot be met, a regional or individual permit will be required. For example, a nationwide permit can be utilized for placement of utility lines in wetlands or waterways provided the general conditions of the permit are followed. Below is Nationwide Permit no. 12, Utility Line Discharges.

12. Utility Line Activities. Discharges of dredged or fill material associated with excavation, backfill or bedding for utility lines, including outfall and intake structures, provided there is no change in preconstruction contours. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquefiable, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone and telegraph messages, and radio and television communication. The term "utility line" does not include activities which drain a water of the United States, such as drainage tile; however, it does apply to pipes conveying drainage from another area. This NWP authorizes mechanized land clearing necessary for the installation of utility lines, including overhead utility lines, provided the cleared area is kept to the minimum necessary and preconstruction contours are maintained. However, access roads, temporary or permanent, or foundations associated with overhead utility lines are not authorized by this NWP. Material resulting from trench excavation may be temporarily side-cast (up to three months) into waters of the United States, provided that the material is not placed in such a manner that it is dispersed by currents or other forces. The DE may extend the period of temporary side-casting not to exceed a total of 180 days, where appropriate. The area of waters of the United States that is disturbed must be limited to the minimum necessary to construct the utility line. In wetlands, the top 6" to 12" of the trench should generally be backfilled with topsoil from the trench. Excess material must be removed to upland areas immediately upon completion of construction. Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line. (See 33 CFR Part 322).

Notification: The permittee must notify the district engineer in accordance with the "Notification" general condition, if any of the following criteria are met:

- a. Mechanized landclearing in a forested wetland;
- b. A Section 10 permit is required for the utility line;
- c. The utility line in waters of the United States exceeds 500 feet; or,
- d. The utility line is placed within a jurisdictional area (i.e., a water of the United States), and it runs parallel to a streambed that is within that jurisdictional area. (Sections 10 and 404).

UNITED STATES DEPARTMENT OF AGRICULTURE
Rural Utilities Service
RUS BULLETIN 1780-26

SUBJECT: Guidance for the Use of Engineers Joint Contract Documents Committee (EJCDC) Documents on Water and Waste Disposal Projects with RUS Financial Assistance

TO: Rural Development State Directors, RUS Program Directors, and State Engineers

EFFECTIVE DATE: Date of approval. See “Use of Prior Versions of EJCDC Documents” on page three.

OFFICE OF PRIMARY INTEREST: Engineering and Environmental Staff, Water and Environmental Programs

INSTRUCTIONS: This Bulletin replaces RUS Bulletin 1780-26, dated August 20, 2009, and revised October 2009.

AVAILABILITY: This Bulletin, as well as any Rural Development instruction or Rural Utilities Service instructions, regulations, or forms referenced in this Bulletin are available at any Rural Development State Office. The State Office staff is familiar with the use of the documents in their States and can answer specific questions on Rural Development requirements.

This Bulletin is available on the Rural Utilities Service website at http://www.rurdev.usda.gov/RDU_Bulletins_Water_and_Environmental.html

PURPOSE: This Bulletin assists Rural Development staff in providing information and guidance to applicants and professional consultants in the development of engineering agreements and construction contracts that are legally sufficient, ensure appropriate services are provided at a reasonable fee, and expedite the achievement of the applicant’s goals.

MODIFICATIONS: Rural Development State Offices may modify this guidance when appropriate to comply with state statutes and regulations in accordance with the procedures outlined at Rural Development Instruction 2006-B (2006.55).



4/11/14

JACQUELINE M. PONTI-LAZARUK
Water and Environmental Programs

Date

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| 4 | PURPOSE | 4 |
| 5 | OWNER RESPONSIBILITY | 4 |
| 6 | USE OF EXHIBITS | 5 |

Exhibits:

| | | |
|---|---|--|
| A | The Engineering Agreement – Modifications for RUS Funded Projects | |
| B | Revisions to EJCDC E-500 | |
| C | RUS Certification Page | |
| D | The Construction Contract and Bidding Documents | |
| E | Engineer’s Development of Instructions to Bidders | |
| F | Engineer’s Development of Bid Form | |
| G | Engineer’s Development of Agreement between Owner and Contractor | |
| H | Engineer’s Development of Supplementary Conditions | |
| I | Certification of Owner’s Attorney and Agency Concurrence | |
| J | Engineer’s Certification of Final Plans and Specifications | |

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Agreement for Engineering Services
 Construction Contract Documents
 Water and Waste Disposal Facilities

ABBREVIATIONS

CFR – Code of Federal Regulations
 EJCDC – Engineers Joint Contract Documents Committee
 EO – Executive Order
 OGC – Office of General Counsel
 PL – Public Law
 RD – Rural Development
 RPR – Resident Project Representative
 RUS – Rural Utilities Service
 USC – United States Code
 USDA – United States Department of Agriculture
 WWD – Water and Waste Disposal

1 GENERAL

- a Approved Documents. Subject to the modifications indicated in this Bulletin, the Engineers Joint Contract Documents Committee (EJCDC) developed the following documents which were previously approved by the Rural Utilities Service (RUS) for procurement of professional and construction services by loan and grant recipients:
- (1) Agreement between Owner and Engineer for Professional Services (EJCDC No. E-500, 2014 Edition)
 - (2) Agreement between Owner and Contractor for Construction Contract (Stipulated Price) (EJCDC No. C-520, 2013 Edition)
 - (3) Standard General Conditions of the Construction Contract (EJCDC No. C-700, 2013 Edition)
- b Associated Documents. In addition to items 2 and 3, there are also associated construction contract documents, some of which are available through EJCDC and its member organizations and some of which are to be developed by the engineer based on instructions in this Bulletin.
- c Alternative Documents. Recipients not wishing to use EJCDC documents may submit alternative documents for review and consideration. Such documents must be modified to meet all federal and state requirements and must be approved for each project by the Agency and the USDA Office of General Counsel (OGC). When modified as described in this Bulletin, the EJCDC documents listed above have been determined to meet such requirements and generally do not require OGC approval.

2 AVAILABILITY

The EJCDC documents are available online from any of the sponsoring organizations: the National Society of Professional Engineers (www.nspe.org); American Council of Engineering Companies (www.acec.org); and American Society of Civil Engineers (www.asce.org); or directly from EJCDC (www.ejcdc.org). EJCDC documents are proprietary and include a license agreement. 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.

3 USE OF PRIOR VERSIONS OF EJCDC DOCUMENTS

- a Acceptable Use. Although this Bulletin is effective on the date signed, older versions of EJCDC documents may be used in the following circumstances as follows:
- (1) Project-specific EJCDC documents approved prior to the effective date of this Bulletin are still considered approved. This Bulletin does not retroactively change the status of an individual document already approved.

- (2) Project-specific EJCDC documents previously submitted to a Rural Development (RD) office or submitted up to 60 calendar days after the effective date of this Bulletin may be approved at the discretion of the approving official.
 - (3) If a set of construction contracts is approved for a project within 60 days of the effective date of this Bulletin or was approved before the effective date of this Bulletin, the associated documents from the same EJCDC construction series may be used during the construction project.
- d Approval of Previous Engineering Agreements. The approval of a previous edition EJCDC engineering agreement before the cut-off date does not enable the continued use of previous edition construction documents for that project.
- e Phase Out of Previous Editions. After 60 days have passed from the effective date of this Bulletin, EJCDC documents from any and all previous versions of EJCDC documents must not be approved by RD staff for use on Water and Waste Disposal (WWD) projects. RD staff should use this time to notify all stakeholders that previous versions of EJCDC documents will no longer be accepted.

4 PURPOSE

- a Use by Staff. This Bulletin is to be used by Rural Development staff in providing 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.
- b Assembly of Documents. This Bulletin consists of exhibits with required modifications that when combined with the standard EJCDC documents and appropriate drawings, specifications and other required documents, create a complete set of engineering and construction contracts for use with WWD projects. However, the documents in these exhibits 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 RD consultation, must determine the best approach for a successful outcome.

5 OWNER RESPONSIBILITY

- a Verify Bulletin is Current. Before an applicant or consultant proceeds with the development of an engineering agreement or a set of construction contract documents, they should contact the 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.
- b Contractual and Administrative Issues. 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.

- c Modifications. 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 project requirements or state statutes. If changes must be made to the standard documents to address project-specific issues, they must be made via bold type additions and deletions with strike-outs or addenda showing all revisions. 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.

6 USE OF EXHIBITS

The following explains the purpose of each Exhibit to this Bulletin.

- a **THE ENGINEERING AGREEMENT - MODIFICATIONS FOR RUS FUNDED PROJECTS:** This exhibit explains the use of the EJCDC Owner – Engineer Agreement for RUS funded projects and includes instructions for modification and review of the Agreement Between Owner and Engineer for Professional Services (EJCDC E-500)
- b **REVISIONS TO EJCDC E-500:** This exhibit contains the list of revisions to the E-500 (2014), “Agreement Between Owner and Engineer for Professional Services” for RUS funded WWD projects. The exhibit consists of a checklist of changes that must be made to the standard EJCDC documents to ensure they comply with Agency requirements. The actual changes must be made using either bold type additions and deletions with strike-outs or addenda showing all revisions.
- c **RUS CERTIFICATION PAGE:** This exhibit consists of a certification, to be signed by the engineer and owner, stating the fees for engineering services and certifying that the required changes were made to the Owner – Engineer Agreement. This certification is to be attached as the last page of the Owner-Engineer Agreement.
- d **THE CONSTRUCTION CONTRACT AND BIDDING DOCUMENTS – MODIFICATIONS FOR RUS FUNDED PROJECTS:** This exhibit explains the use of the EJCDC construction contract and bidding documents. It includes a table of all the required documents and instruction for modification and review of these documents.
- e **ENGINEER’S DEVELOPMENT OF INSTRUCTIONS TO BIDDERS:** This exhibit contains instructions for the engineer to develop Instructions to Bidders using C-200 (2013), “Suggested Instructions to Bidders” and a checklist of modifications included in the exhibit.
- f **ENGINEER’S DEVELOPMENT OF BID FORM:** This exhibit contains a checklist of changes that must be made by the engineer to the C-410 (2013), “Bid Form for Construction Contracts”.
- g **ENGINEER’S DEVELOPMENT OF AGREEMENT BETWEEN OWNER AND CONTRACTOR:** This exhibit contains a checklist of changes that must be

made by the engineer to C-520 (2013), "Agreement between Owner and Contractor for Construction Contract (Stipulated Price)".

- h ENGINEER'S DEVELOPMENT OF SUPPLEMENTARY CONDITIONS: This exhibit contains instructions for the engineer to develop Supplementary Conditions using C-800 (2013), "Guide to the Preparation of Supplementary Conditions" and a checklist of modifications included in the exhibit.
- i CERTIFICATE OF OWNER'S ATTORNEY AND AGENCY CONCURRENCE: This exhibit consists of two certificates, on a single page, to be attached to the construction contract and signed upon execution. The first is a certificate signed by the owner's attorney and the second is the State Engineer's concurrence in the executed construction contract. This certificate is to be attached after the Owner-Contractor Agreement (C-520) in the construction contract.
- j ENGINEER'S CERTIFICATION OF FINAL PLANS AND SPECIFICATIONS: This exhibit is a certification by the engineer to the owner and RD that the plans and specifications have been completed in accordance with RUS requirements. This certificate is to be provided to the Agency with the final plans and specifications prior to advertisement for bids.

**THE ENGINEERING AGREEMENT
MODIFICATIONS FOR RUS FUNDED PROJECTS**

1 PURPOSE

This exhibit explains the use of the EJCDC Owner – Engineer Agreement for RUS funded projects and includes instructions for modification and review of the Agreement Between Owner and Engineer for Professional Services (EJCDC E-500)

2 GENERAL INFORMATION

The EJCDC has developed a 2014 edition of the Owner-Engineer Agreement that, when assembled as described in this Bulletin, is acceptable for use on WWD projects funded by RUS.

3 INSTRUCTIONS

a Process: Instructions to modify EJCDC E-500 prior to use on RUS funded WWD projects are as follows:

- (1) Engineer must attach the list of “Revisions to the EJCDC E-500” to the Agreement as an addendum or make the specific changes listed using bold type additions and deletions with strike-outs.
- (2) Engineer must include the “RUS Certification Page” in the Agreement (Exhibit C of this Bulletin).
- (3) Project-specific requirements may be added to Exhibit J of E-500.
- (4) Owner and Engineer must select a payment method from Exhibit C of E-500 (see below).
- (5) Owner and Engineer must sign the Agreement and complete and sign the RUS Certification Page (Exhibit C of this Bulletin).
- (6) Agency must review to ensure changes were made as required or revisions were attached and that the certification is attached, completed, and acceptable.
- (7) Agency completes and signs the RUS Certification page.

b Approval. The executed Owner-Engineer Agreement must be approved by Rural Development prior to Agency concurrence in any payment of RUS funding for engineering services.

c Subsurface Utility Data. ASCE 38, “Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data,” is mentioned in Exhibits A and B of the Agreement. Note that the use of this ASCE standard is optional, but the scope of engineering services in this Agreement includes the Engineer discussing whether or not the standard will be used on a given project.

- d Payment for Services. The standard Exhibit C from E-500, “Payments to Engineer for Services and Reimbursable Expenses,” should be used along with the E-500 Owner-Engineer Agreement, but only the following Compensation Packets are allowed for use with RUS funded projects (other compensation packets are not allowed):
- (1) Allowed for Basic Services:
Lump Sum (Compensation Packet BC-1)
Standard Hourly Rates (Compensation Packet BC-2)
 - (2) Allowed for RPR Services:
Lump Sum (Compensation Packet RPR-1)
Standard Hourly Rates (Compensation Packet RPR-2)
 - (3) Allowed for Additional Services:
Standard Hourly Rates (Compensation Packet AS-1)
- f Insurance. Exhibit G (to E-500), “Insurance,” amounts should be established by the Owner based on advice from the Owner’s attorney or a risk manager hired by the Owner.
- g Limitations of Liability. Exhibit I (to E-500), “Limitations of Liability,” is not to be used on RUS funded projects. It should be deleted or crossed out by the Engineer and Owner prior to execution of the Agreement.

REVISIONS TO EJCDC E-500

- Amend paragraph 4.01.A by inserting the following text after the first sentence: “Invoices must include a breakdown of services provided.”
- In paragraph 6.04.B replace “shall” with “may”.
- Modify paragraph 7.01.A.25 by striking “, as an Additional Service.”
- Add paragraph 7.01.A.38 to the Agreement as follows:

Agency – The Rural Utilities Service or any designated representative of Rural Utilities Service, including USDA, Rural Development.

- Add paragraph 8.05 to the Agreement as follows:

8.05 Federal Requirements

A. Agency Concurrence. Signature of a duly authorized representative of the Agency in the space provided on the signature page of EJCDC form E-500 hereof does not constitute a commitment to provide financial assistance or payments hereunder but does signify that this Agreement conforms to Agency’s applicable requirements. This Agreement shall not be effective unless the Funding Agency’s designated representative concurs. No amendment to this Agreement shall be effective unless the Funding Agency’s designated representative concurs.

B. Audit and Access to Records. Owner, Agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Engineer which are pertinent to the Agreement, for the purpose of making audits, examinations, excerpts, and transcriptions. Engineer shall maintain all required records for three years after final payment is made and all other pending matters are closed.

C. Restrictions on Lobbying. Engineer and each Consultant shall comply with “Restrictions on Lobbying” if they are recipients of engineering services contracts and subcontracts that exceed \$100,000 at any tier. If applicable, Engineer must complete a certification form on lobbying activities related to a specific Federal loan or grant that is a funding source for this Agreement. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other applicable award. Each tier shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Certifications and disclosures are forwarded from tier to tier up to the Owner. Necessary certification and disclosure forms shall be provided by Owner.

D. Suspension and Debarment. Engineer certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared

ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. Engineer will not contract with any Consultant for this project if it or its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Necessary certification forms shall be provided by the Owner. The Engineer will complete and submit a form AD-1048, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – lower tier transactions," to the Owner who will forward it the USDA, Rural Development processing office.

- Replace paragraph A1.01.A.1.b with "In addition, Engineer must identify, study, and evaluate multiple potential alternative solutions potentially available to Owner, unless Owner and Engineer mutually agree with Agency concurrence that only one feasible solution exists. The number of alternative solutions should be appropriate to the specific project as concurred in by the Agency."
- Delete paragraph A1.01.A.1.c.
- Insert the following additional text at the end of Article A1.01.A.8: "The Report mentioned in paragraph 1.01.A.8 of Exhibit A to the Agreement is the Preliminary Engineering Report as defined in RUS Bulletin 1780-2. This document must meet customary professional standards as required by 7 CFR 1780.55. The Report must be concurred in by the Agency."
- Modify paragraph A1.01.A.10 by inserting "and approved by the Agency" after "When mutually agreed."
- Add the following immediately after paragraph A1.01.A.14: "Provide an Environmental Report as defined at 7 CFR 1794 and RUS Bulletin 1794A-602 or other Agency approved format. The Environmental Report must be concurred in by the Agency."
- Replace paragraph A1.01.A.16 with "Revise the Report and any other Study and Report Phase deliverables in response to Owner's and Agency's comments, as appropriate, and furnish three (3) written copies and one (1) electronic copy of the revised Report and any other Study and Report Phase deliverables to the Owner within [] days of receipt of Owner's and Agency's comments."
- Modify paragraph A1.02.A by inserting "and concurrence by Agency" after the words "acceptance by Owner."
- Modify paragraph A1.02.A.2 by inserting "and Agency" after "authorized by Owner."
- Add the following to the end of paragraph A1.02.A.8: "Engineer must also incorporate all Agency regulations, forms, and design and construction standards applicable to the project in development of the documents indicated in this Article."
- Add the following immediately after paragraph A1.03.A.9: "The Engineer shall identify the building codes and accessibility standards used in the design and indicate them on the drawings and specifications and certify that the final drawings and specifications comply with those standards."

- Modify paragraph A1.03.A.10 by adding the “and Agency” after the word “counsel.”
- Insert paragraph A1.03.A.12 stating, “Provide the Owner and Agency with a written certification that the final Drawings and Specifications, other assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables comply with all requirements of Agency. Use the Engineer’s Certification of Final Plans and Specifications (Attachment GC-B) for this purpose.”
- Modify paragraph A1.03.B by deleting the period at the end of the paragraph and adding: “and all final design phase deliverables have been accepted by Owner.”
- Add the following to the end of paragraph A1.04.A.2: “Obtain Agency concurrence on any addenda that modify the bidding documents. Obtain prior concurrence where possible.”
- Replace paragraph A1.04.A.6 with the following: “The Engineer shall evaluate and determine the acceptability of “or equals” and substitute materials and equipment proposed by prospective contractors prior to award of contracts for the Work. Engineer shall issue a bid addendum for any and all approved “or equals” and substitutes. Review of substitutes and “or equals” shall be in accordance with the General Conditions of the Construction Contract and applicable Agency regulations. Services under this paragraph are subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A.”
- Add the following sentence immediately after paragraph A1.04.A.9: “Upon award of the Construction Contract, the Engineer shall furnish to Owner five executed copies of the Contract Documents and one electronic copy of the signed documents, including Drawings and Specifications.”
- Paragraph A1.05.A.4: Insert “and chair” after “Participate in” regarding the preconstruction conference.
- Delete “If requested by Owner to do so” from Article A1.05.A.6 regarding the Engineer maintaining a set of Drawings and Specifications.
- Insert paragraph A1.05.A.9.c stating “The visits described in Article A1.05.A.9.a shall be at least monthly and the Engineer shall document all visits to the project with copies furnished to the Owner and Agency.”
- Add the following text at the end of paragraph A1.05.A.18: “Review of substitutes and “or equals” shall be in accordance with the General Conditions of the Construction Contract and applicable Agency regulations.”
- Insert paragraph A1.05.A.24.a: “Upon Substantial Completion, the Engineer shall provide a copy of the Certificate of Substantial Completion to the Agency.”
- Modify paragraph A1.05.A.22 by striking the words “Receive from Contractor, review, and transmit to Owner the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The extent

of Engineer's review of record documents shall be to check that Contractor has submitted all pages."

- Add the following to the end of paragraph A1.05.A.22: "Receive from Contractor and review the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The Engineer shall prepare Record Drawings, and furnish such Record Drawings to Owner."
- Add the following text after "preparation or review of environmental assessments and impact statements" in A2.01.A.1: "not including preparation of the Environmental Report defined under Basic Services."
- Replace the period at the end of Article A2.01.A.4 with a comma and add the following text to the end of the Article: "but only if the Owner's request is made after completion of the Study and Report Phase."
- Mark paragraph A2.01.A.17 as "[Deleted]."
- Replace paragraph A2.02.A.2 with the following: "Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items; evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract."
- Modify Exhibit C, Compensation Packet BC-1, paragraph C2.01.A.2, by adding "and Agency" after "approved in writing by the Owner."
- Modify Exhibit C, Compensation Packet BC-2, paragraph C2.01.A.5, by inserting "and Agency" after "approved in writing by Owner."
- Modify Exhibit C, Compensation Packet BC-2, paragraph C2.01.A.8, by inserting the following text at the end of the paragraph, "Changes will not be effective unless and until concurred in by the Owner and Agency."
- Modify Exhibit C, Compensation Packet BC-1, paragraph C2.01,B by inserting "with concurrence of the Owner and Agency" after "the compensation amount for Engineer's services shall be appropriately adjusted."
- Modify text of Exhibit C, Compensation Packet BC-2, paragraph C2.03.C.2 by inserting "and Agency" after Owner in "Engineer shall give Owner written notice thereof."
- Add paragraph C2.04.A.2 to Exhibit C, Compensation Packet RPR-2, by adding the following text to the end of the paragraph: "If rate(s) for RPR services is not indicated in Appendix Two to Exhibit C, "Standard Hourly Rates Schedule," the Standard Hourly Rate for RPR services is \$_____ per hour."

- Modify Exhibit C, Compensation Packet RPR-1, paragraph C2.04.A.3 by inserting the following text at the end of the paragraph, “Changes will not be effective unless and until concurred in by the Owner and Agency.”
- Modify Exhibit C, Compensation Packet RPR-2, paragraph 2.04.B.4, by inserting the following text at the end of the paragraph, “Changes will not be effective unless and until concurred in by the Owner and Agency.”
- Modify Exhibit C, Compensation Guide RPR-2, paragraph 2.04.C.3.B by inserting “and Agency” after Owner in “Engineer shall give Owner written notice thereof.”
- Modify Exhibit C, Compensation Packet RPR-2, paragraph C2.04.C.4 by deleting “at cost” and inserting “at no cost” at the end of the paragraph.
- Modify Exhibit C, Compensation Packet AS-1, paragraph C2.05.B.4, by inserting the following text at the end of the paragraph, “Changes will not be effective unless and until concurred in by the Owner and Agency.”
- Modify Exhibit C, Compensation Packet AS-1, paragraph C2.05.C.3 by deleting “at cost” and inserting “at no cost” at the end of the paragraph.
- Add the following to the end of Exhibit D, Article D1.01.A: “Full time Resident Project Representation is required unless requested in writing by the Owner and waived in writing by the Agency.”
- Mark paragraph D1.01.C.12.b as [Deleted] regarding Resident Project representative role in Change Orders, Work Change Directives, and Field Orders.
- Add the following to the end of Exhibit F, Article F5.02.D: “Engineers determinations on types and quality of materials, equipment, and component systems to be included in the Drawings and Specifications are subject to approval by Agency in accordance with requirements of 7 CFR 1780, including open and free competition.”

RUS CERTIFICATION PAGE

PROJECT NAME: _____

The Engineer and Owner hereby concur in the Funding Agency required revisions to E-500. In addition, Engineer certifies to the following:

All modifications required by RUS Bulletin 1780-26 have been made in accordance the terms of the license agreement, which states in part that the Engineer “must plainly show all changes to the Standard EJCDC Text, using ‘Track Changes’ (redline/strikeout), highlighting, or other means of clearly indicating additions and deletions.” Such other means may include attachments indicating changes (e.g. Supplementary Conditions modifying the General Conditions).

SUMMARY OF ENGINEERING FEES

Note that the fees indicated on this table are only a summary and if there is a conflict with any provision of Exhibit C, the provisions there overrule the values on this table. Fees shown in will not be exceeded without the concurrence of the Agency.

| | |
|------------------------------|----------|
| Basic Services | \$ _____ |
| Resident Project Observation | \$ _____ |
| Additional Services | \$ _____ |
| TOTAL: | \$ _____ |

Any adjustments to engineering fees or changes to maximum estimated values must be approved by the Agency and must include a table of what specific category or categories of fees are being changed, what fees were before and after the change, and the resulting total fee.

| | |
|----------|------|
| Engineer | Date |
|----------|------|

Name and Title

| | |
|-------|------|
| Owner | Date |
|-------|------|

Name and Title

Agency Concurrence:

As lender or insurer of funds to defray the costs of this Contract, and without liability for any payments thereunder, the Agency hereby concurs in the form, content, and execution of this Agreement.

| | |
|-----------------------|------|
| Agency Representative | Date |
|-----------------------|------|

Name and Title

THE CONSTRUCTION CONTRACT AND BIDDING DOCUMENTS MODIFICATIONS FOR RUS FUNDED PROJECTS

1 PURPOSE

This exhibit explains the use of the EJCDC construction contract and bidding documents. It includes a table of all the required documents and instruction for modification and review of these documents.

2 GENERAL INFORMATION

The EJCDC has developed a 2013 edition of the Construction Series (Owner-Contractor) documents that when assembled as described in this Bulletin is acceptable for use on WWD projects funded by RUS. All contract documents must be approved by the USDA, Rural Development State Engineer prior to advertisement for bids, the Agency must concur in award, and the executed contract documents must be approved by the USDA, Rural Development State Engineer prior to Agency concurrence in any payment of RUS funding for construction services. A copy of the signature page on the last page of this exhibit must be used for this purpose.

3 INSTRUCTIONS

- a Assembly of Documents. Bid packages must be assembled in accordance with the following notes, requirements of Exhibits E through H, and the table below:
- b Indicating Revised Text. Although the following instructions direct that changes be made to various EJCDC construction documents, actual changes to EJCDC standard language must be made using either bold type additions or deletions with strike-outs or addenda showing all revisions.
- c General Conditions. The EJCDC General Conditions (C-700) should not be modified. Changes to C-700 should only be made via the Supplementary Conditions, except in unusual cases as approved by the USDA State Engineer.
- d EJCDC Suggested Language. The Instruction to Bidders and Supplementary General Conditions must be developed by the Engineer based on EJCDC guidance documents and the instructions and Exhibits below. The USDA State Engineer must verify that the instructions and Exhibits below were followed prior to any advertisement for bids.
- e EJCDC Standard Language. The Bid Form and the Agreement Between Owner and Contractor are standard documents from EJCDC, but must be modified before use on an RUS funded project as explained below. The USDA State Engineer must verify that the instructions and Exhibits below were followed prior to advertisement for bidding.
- f Project Signs. 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. The Engineer should contact the Rural

Development State Office for specific requirements and include the sign standard in the bid package.

Note that at least five copies of the executed construction contracts documents (two for Agency, one for Engineer, one for Contractor, and one for Owner) must be submitted to the RD State Office for review and acceptance before issuance of the Notice to Proceed.

Assembling the Construction Contract and Bidding Documents

| | |
|--|--|
| Advertisement for Bids | Use EJCDC C-111 (2013). |
| Instructions to Bidders | Engineer will develop the Instructions to Bidders using the Suggested Instructions to Bidders for Construction Contracts (EJCDC C-200, 2013) as modified by this Bulletin. |
| Qualifications Statement | Use EJCDC C-451 (2013). |
| Bid Form | Use EJCDC C-410 (2013) as modified by this Bulletin. |
| Bid Bond | Use EJCDC C-430 (2013). |
| Notice of Award | Use EJCDC C-510 (2013). Owner must obtain concurrence of Agency prior to announcing award. |
| Agreement Between Owner and Contractor (Stipulated Price) | Use EJCDC C-520 (2013) as modified by this Bulletin. |
| Standard General Conditions of the Construction Contract | Use EJCDC C-700 (2013). Modifications to C-700 should be made in the Supplementary Conditions, not in C-700 itself. |
| Supplementary Conditions | Engineer will develop the Supplementary Conditions using the Guide to the Preparation of Supplementary Conditions (EJCDC C-800) as modified by this Bulletin. |
| Performance Bond | Use EJCDC C-610 (2013). Note that the bond must be at least 100% of the bid amount. |
| Payment Bond | Use EJCDC C-615 (2013). Note that the bond must be at least 100% of the bid amount. |
| Application for Payment | Use EJCDC C-620 (2013). This documents is pre-approved for use per 7 CFR 1780.76(e). |
| Change Order | Use EJCDC C-941 (2013). This documents is pre-approved for use per 7 CFR 1780.76(h)(2). |
| Notice to Proceed | Use EJCDC C-550 (2013). |
| Certificate of Substantial Completion | Use EJCDC C-625 (2013). |
| Compliance Statement | Use Form RD 400-6. |
| Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions | Use Form AD-1048. |
| Certification for Contracts, Grants, and Loans | Use Exhibit A-1 of RD Instruction 1940-Q. |
| Construction Project Sign | Template provided by RD State Office. |
| Certificate of Owner's Attorney | Use template provided in Attachment GC-A of this Bulletin. |
| Engineer's Certification of Final Plans and Specifications | Use template provided in Attachment GC-B of this Bulletin. |

ENGINEER'S DEVELOPMENT OF INSTRUCTIONS TO BIDDERS

The Engineer will develop the Instructions to Bidders using the Suggested Instructions to Bidders (EJCDC C-200, 2013) and using the instructions provided in this Bulletin. In addition, the Engineer must ensure that any applicable state or federal wage rate requirements are added to the Instructions to Bidders (ITB) at Article 24. The USDA, Rural Utilities Service, Water and Waste Disposal program does not require the use of Davis Bacon Wage rates in most cases, but other sources of federal funds may.

- ITB 3.01 The second suggested version of 3.01 is not acceptable for use on RUS funded projects. Owners must not preclude entities from submitting bids.
- ITB 8.01 Bid security must be at least 5% of the Bidder's maximum Bid price.
- ITB 9.01 The second suggested version of 9.01 (applicable to Price-plus-Time bids) is not acceptable for use on RUS funded projects.
- ITB 11 The following text shall be used for Article 11:

ARTICLE 11 – SUBSTITUTE AND “OR-EQUAL” ITEMS

11.01 The Contract for the Work, if awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents, and those “or-equal” or substitute materials and equipment subsequently approved by Engineer prior to the submittal of Bids and identified by Addendum. No item of material or equipment will be considered by Engineer as an “or-equal” or substitute unless written request for approval has been submitted by Bidder and has been received by Engineer at least 15 days prior to the date for receipt of Bids in the case of a proposed substitute and 5 days prior in the case of a proposed “or-equal.” Each such request shall comply with the requirements of Paragraphs 7.04 and 7.05 of the General Conditions. The burden of proof of the merit of the proposed item is upon Bidder. Engineer's decision of approval or disapproval of a proposed item will be final. If Engineer approves any such proposed item, such approval will be set forth in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner. Substitutes and “or-equal” materials and equipment may be proposed by Contractor in accordance with Paragraphs 7.04 and 7.05 of the General Conditions after the Effective Date of the Contract.

11.02 All prices that Bidder sets forth in its Bid shall be based on the presumption that the Contractor will furnish the materials and equipment specified or described in the Bidding Documents, as supplemented by Addenda. Any assumptions regarding the possibility of post-Bid approvals of “or-equal” or substitution requests are made at Bidder's sole risk.

11.03 If an award is made, Contractor shall be allowed to submit proposed substitutes and “or-equals” in accordance with the General Conditions.

- ITB 12.01 Do not include this first paragraph of Article 12.
- ITB 12.02 Do not include this second paragraph of Article 12.
- ITB 12.03 Insert the following text at the beginning of the third paragraph of Article 12, “If required by the bid documents.”

- ITB 12.05 Contractor shall not be required to employ any Subcontractor, Supplier, individual, or entity against whom Contractor has reasonable objection.
- ITB 12.06 The Contractor shall not award work to Subcontractor(s) in excess of the limits stated in SC 7.06.
- ITB 14.01 The fourth suggested versions of 14.01 (for cost-plus-fee bids) is not acceptable for use on RUS funded projects.
- ITB 14.04 Do not include Article 14.04 (applicable only to Price-plus-Time bids).
- ITB 19.03.B The fourth version of 19.03.B (for Cost-plus-Fee bids) will not be used.
- ITB 19.03.C Will not be used (applicable only to Price-plus-Time bids).
- ITB 24 The following text must be used for Article 24:

ARTICLE 24 WAGE RATE REQUIREMENTS

24.01 If the contract price is in excess of \$100,000, provisions of the Contract Work Hours and Safety Standards Act at 29 CFR 5.5(b) apply.

ENGINEER'S DEVELOPMENT OF BID FORM

Development of the Bid Form must be based on the Bid Form for Construction Contracts (EJCDC C-410, 2013) as modified below.

- In Article 5, "Basis of Bid," do not use the Suggested Formats for Price-plus-Time Bids or Cost-plus-Fee bids.
- Use the first version of Article 6.01 regarding "Time of Completion."
- Add the following additional required Attachments to Article 7.01, "Attachments to this Bid":
 - H. If Bid amount exceeds \$10,000, signed Compliance Statement (RD 400-6). Refer to specific equal opportunity requirements set forth in the Supplemental General Conditions;
 - I. If Bid amount exceeds \$25,000, signed Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions (AD-1048);
 - J. If Bid amount exceeds \$100,000, signed RD Instruction 1940-Q, Exhibit A-1, Certification for Contracts, Grants, and Loans.

**ENGINEER'S DEVELOPMENT OF AGREEMENT BETWEEN
OWNER AND CONTRACTOR**

Development of the Agreement between Owner and Contractor must be based on EJCDC C-520, 2013, as modified below:

- Delete paragraph 4.04 in its entirety and insert the following in its place:

[Deleted]

- Amend paragraph 6.02.A.1.a by adding 95 to the blank.
- Amend paragraph 6.02.A.1.a by deleting the period at the end of the first sentence, replacing it with a semicolon, and by striking out the following text: "If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage;"
- Amend paragraph 6.02.A.1.b by adding 95 to the blank.
- Amend paragraph 6.02.B by inserting "of the entire construction to be provided under the Contract Documents" after "Substantial Completion."

ENGINEER'S DEVELOPMENT OF SUPPLEMENTARY CONDITIONS

The Engineer will develop Supplementary Conditions using the guidance from the Guide to the Preparation of Supplementary Conditions (EJCDC C-800, 2013), instructions provided in this Bulletin, and by adding other project-specific supplementary conditions as required for the project.

The Supplementary Conditions document that is developed for a specific Project is the contractual means by which the Standard General Conditions (EJCDC C-700, 2013) are modified and supplemented for the Project. The references in the Supplementary Conditions items below (and in EJCDC C-800 as published) to adding, amending, or supplementing are referring to the paragraphs of C-700. Thus the first item below, SC-1.01.A.8, is a contractual provision that adds the stated language (“The Change Order form to be used etc.”) to Paragraph 1.01.A.8 of C-700.

As in C-800 itself, the actual Supplementary Conditions (contract terms) are shown in bold, as modified below. Also included below are a few Guidance Notes to assist in development of the Project-specific Supplementary Conditions document. The Guidance Notes are not in bold.

The Supplementary Conditions items that follow are mandatory for each specific Project, unless noted otherwise. In most cases they are new (supplemental) SC items; in a few cases, they replace or expand on a Supplementary Condition item that is in EJCDC C-800, as published.

In addition to including the items that follow in the Supplementary Conditions document for the specific Project, the Engineer (in cooperation with the Owner) also should follow the guidance of EJCDC C-800, as published, to develop other SC items for inclusion in the Project-specific Supplementary Conditions document; as the published guidance indicates, some of the published SC items are mandatory, or require additional Project-specific input, such as insurance coverage limits. Other SC items in C-800 as published are optional but in many cases will be useful for the specific Project.

Include the following RUS-mandated Supplementary Conditions (or follow the Guidance Notes provided) in the Supplementary Conditions document for the specific Project:

- SC 1.01.A.8 Add the following language at the end of last sentence of Paragraph 1.01.A.8:**

The Change Order form to be used on this Project is EJCDC C-941. Agency approval is required before Change Orders are effective.

- SC 1.01.A.48 Add the following language at the end of the last sentence of Paragraph 1.01.A.48:**

A Work Change Directive cannot change Contract Price or Contract Times without a subsequent Change Order.

- SC 1.01.A.49 Add the following new Paragraph after Paragraph 1.01.A.48:**

Abnormal Weather Conditions – Conditions of extreme or unusual weather for a given region, elevation, or season as determined by Engineer. Extreme or unusual weather that is typical for a given region, elevation, or season should not be considered Abnormal Weather Conditions.

- **SC 1.01.A.50 Add the following new Paragraph after Paragraph 1.01.A.49:**

Agency - The Project is financed in whole or in part by USDA Rural Utilities Service pursuant to the Consolidated Farm and Rural Development Act (7 USC Section 1921 et seq.). The Rural Utilities Service programs are administered through the USDA Rural Development offices; therefore, the Agency for these documents is USDA Rural Development.

- **SC 2.02.A Amend the first sentence of Paragraph 2.02.A. to read as follows:**

Owner shall furnish to Contractor five copies of the Contract Documents (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF).

- **SC 2.06.B (Non-mandatory). Guidance Note: If the parties do not intend to develop electronic or digital transmittal protocols, then Paragraph 2.06B of the General Conditions may be deleted. Use the following Supplementary Condition in such case:**

SC- 2.06.B Delete Paragraph 2.06.B and replace it with the term [Deleted].

Guidance Note, continued: If the use of electronic data, electronic media, or electronic project monitoring is planned for this Project, then the parties may develop a protocol with the assistance of the Engineer or Consensus DOCS form 200.2 may be added to the Construction Contract as an Exhibit. If Consensus DOCS form 200.2 will be used, then include the following Supplementary Condition:

SC-2.06.B Add the following language to the end of 2.06.B:

Special requirements for electronic data apply to this Project. See attached Exhibit entitled “Electronic Communications Protocol Addendum,” Consensus DOCS form 200.2.

- **SC 4.01.A Amend the last sentence of Paragraph 4.01.A by striking out the following words:**

In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Contract, whichever date is earlier.

- **SC 4.05.C.2 Amend Paragraph 4.05.C.2 by striking out the following text: “abnormal weather conditions;” and inserting the following text:**

Abnormal Weather Conditions;

- **SC 5.03 Guidance Note: Amend Paragraph 5.03 using one of the suggested Paragraphs SC 5.03 in EJCDC C-800, concerning reports and drawings of conditions at the Site, and any Technical Data in the reports and drawings on whose accuracy the Contractor may rely.**

- **SC 5.06 Guidance Note: Amend Paragraph 5.06 using one of the suggested Paragraphs SC 5.06 from EJCDC C-800, concerning reports and drawings regarding Hazardous Environmental Conditions at**

the Site, and any Technical Data in those reports and drawings on whose accuracy the Contractor may rely.

- SC 6.03 Guidance Note: Amend Paragraph 6.03 identifying specific insurance coverage requirements using guidance from EJCDC C-800.
- SC 7.04.A Amend the third sentence of Paragraph 7.04.A by striking out the following words:**
Unless the specification or description contains or is followed by words reading that no like, equivalent, or 'or-equal' item is permitted.
- SC 7.04.A.1 Amend the last sentence of Paragraph a.3 by striking out "and;" and adding a period at the end of Paragraph a.3.**
- SC 7.04.A.1 Delete paragraph 7.04.A.1.a.4 in its entirety and insert the following in its place:**
[Deleted]
- SC 7.06.A Amend Paragraph 7.06.A by adding the following text to the end of the Paragraph:**
The Contractor shall not award work valued at more than fifty percent of the Contract Price to Subcontractor(s), without prior written approval of the Owner.
- SC 7.06.B Delete paragraph 7.06.B in its entirety and insert the following in its place:**
[Deleted]
- SC 7.06.E Amend the second sentence of Paragraph 7.06.E by striking out "Owner may also require Contractor to retain specific replacements; provided, however, that".**
- SC 10.03 Guidance Note: Amend Paragraph 10.03 using one of the two alternatives presented in C-800's section on SC 10.03 (either the Engineer will provide Resident Project Representative services on the Project, with specific authority and responsibilities, or Engineer will not provide Resident Project Representative services).
- SC 11.07.C Add the following new Paragraph after Paragraph 11.07.B:**
All Contract Change Orders must be concurred in by Agency before they are effective.
- SC 13.02.C Delete Paragraph 13.02.C in its entirety and insert the following in its place:**
[Deleted]
- SC 15.01.B Amend the second sentence of Paragraph 15.01.B.1 by striking out the following text: "a bill of sale, invoice, or other."**
- SC 15.01.B.3 Add the following language at the end of paragraph 15.01.B.3:**

No payments will be made that would deplete the retainage, place in escrow any funds that are required for retainage, or invest the retainage for the benefit of the Contractor.

- SC 15.01.B.4 Add the following new Paragraph after Paragraph 15.01.B.3:

The Application for Payment form to be used on this Project is EJCDC C-620. The Agency must approve all Applications for Payment before payment is made.

- SC 15.01.D.1 Delete Paragraph 15.01.D.1 in its entirety and insert the following in its place:

The Application for Payment with Engineer's recommendations will be presented to the Owner and Agency for consideration. If both the Owner and Agency find the Application for Payment acceptable, the recommended amount less any reduction under the provisions of Paragraph 15.01.E will become due twenty (20) days after the Application for Payment is presented to the Owner, and the Owner will make payment to the Contractor.

- SC 15.02.A Amend Paragraph 15.02.A by striking out the following text: "no later than seven days after the time of payment by Owner" and insert "no later than the time of payment by Owner."

- SC 18.09 Add the following new paragraph after Paragraph 18.08:

Tribal Sovereignty. No provision of this Agreement will be construed by any of the signatories as abridging or debilitating any sovereign powers of the {insert name of Tribe} Tribe; affecting the trust-beneficiary relationship between the Secretary of the Interior, Tribe, and Indian landowner(s); or interfering with the government-to-government relationship between the United States and the Tribe.

- SC 19 Add Article 19 titled "FEDERAL REQUIREMENTS"

- SC 19.01 Add the following language as Paragraph 19.01 with the title "Agency Not a Party":

A. This Contract is expected to be funded in part with funds provided by Agency. Neither Agency, nor any of its departments, entities, or employees is a party to this Contract.

- SC 19.02 Add the following sections after Article 19.01 with the title "Contract Approval":

A. Owner and Contractor will furnish Owner's attorney such evidence as required so that Owner's attorney can complete and execute the following "Certificate of Owner's Attorney" (Attachment GC-A) before Owner submits the executed Contract Documents to Agency for approval.

B. Concurrence by Agency in the award of the Contract is required before the Contract is effective.

- SC 19.03 Add the following language after Article 19.02.B with the title "Conflict of Interest":

- A. Contractor may not knowingly contract with a supplier or manufacturer if the individual or entity who prepared the plans and specifications has a corporate or financial affiliation with the supplier or manufacturer. Owner’s officers, employees, or agents shall not engage in the award or administration of this Contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when: (i) the employee, officer or agent; (ii) any member of their immediate family; (iii) their partner or (iv) an organization that employs, or is about to employ, any of the above, has a financial interest in Contractor. Owner’s officers, employees, or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from Contractor or subcontractors.**
- SC 19.04 Add the following language after Article 19.03.A with the title “Gratuities”:**
- A. If Owner finds after a notice and hearing that Contractor, or any of Contractor’s agents or representatives, offered or gave gratuities (in the form of entertainment, gifts, or otherwise) to any official, employee, or agent of Owner or Agency in an attempt to secure this Contract or favorable treatment in awarding, amending, or making any determinations related to the performance of this Contract, Owner may, by written notice to Contractor, terminate this Contract. Owner may also pursue other rights and remedies that the law or this Contract provides. However, the existence of the facts on which Owner bases such findings shall be an issue and may be reviewed in proceedings under the dispute resolution provisions of this Contract.**
- B. In the event this Contract is terminated as provided in paragraph 19.04.A, Owner may pursue the same remedies against Contractor as it could pursue in the event of a breach of this Contract by Contractor. As a penalty, in addition to any other damages to which it may be entitled by law, Owner may pursue exemplary damages in an amount (as determined by Owner) which shall not be less than three nor more than ten times the costs Contractor incurs in providing any such gratuities to any such officer or employee.**
- SC 19.05 Add the following language after Article 19.04.B with the title “Audit and Access to Records”:**
- A. Owner, Agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Contractor which are pertinent to the Agreement, for the purpose of making audits, examinations, excerpts, and transcriptions. Engineer shall maintain all required records for three years after final payment is made and all other pending matters are closed.**
- SC 19.06 Add the following language after Article 19.05.A with the title “Small, Minority and Women’s Businesses”:**
- A. If Contractor intends to let any subcontracts for a portion of the work, Contractor shall take affirmative steps to assure that small, minority and women’s businesses are used when possible as sources of supplies, equipment, construction, and services. Affirmative steps shall consist of: (1) including qualified small, minority and**

women's businesses on solicitation lists; (2) assuring that small, minority and women's businesses are solicited whenever they are potential sources; (3) dividing total requirements when economically feasible, into small tasks or quantities to permit maximum participation of small, minority, and women's businesses; (4) establishing delivery schedules, where the requirements of the work permit, which will encourage participation by small, minority and women's businesses; (5) using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce; (6) requiring each party to a subcontract to take the affirmative steps of this section; and (7) Contractor is encouraged to procure goods and services from labor surplus area firms.

- **SC 19.07 Add the following after Article 19.06.A with the title "Anti-Kickback":**
 - A. Contractor shall comply with the Copeland Anti-Kickback Act (18 USC 874 and 40 USC 276c) as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Buildings or Public Works Financed in Whole or in Part by Loans or Grants of the United States"). The Act provides that Contractor or subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public facilities, to give up any part of the compensation to which they are otherwise entitled. Owner shall report all suspected or reported violations to Agency.

- **SC 19.08 Add the following after Article 19.07.A with the title "Clean Air and Pollution Control Acts":**
 - A. If this Contract exceeds \$100,000, compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h) and 42 USC 7401et. seq.), section 508 of the Clean Water Act (33 U.S.C. 1368) and Federal Water Pollution Control Act (33 USC 1251 et seq.), Executive Order 11738, and Environmental Protection Agency regulations is required. Contractor will report violations to the Agency and the Regional Office of the EPA.

- **SC 19.09 Add the following after Article 19.08 with the title "State Energy Policy":**
 - A. Contractor shall comply with the Energy Policy and Conservation Act (P.L. 94-163). Mandatory standards and policies relating to energy efficiency, contained in any applicable State Energy Conservation Plan, shall be utilized.

- **SC 19.10 Add the following after Article 19.09 with the title "Equal Opportunity Requirements":**
 - A. If this Contract exceeds \$10,000, Contractor shall comply with Executive Order 11246, "Equal Employment Opportunity," as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

- B. Contractor's compliance with Executive Order 11246 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative active obligations required by the Standard Federal Equal Employment Opportunity Construction Contract Specifications, as set forth in 41 CFR Part 60-4 and its efforts to meet the goals established for the geographical area where the Contract is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the Contract, and in each trade, and Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting Contractor's goals shall be a violation of the Contract, the Executive Order, and the regulations in 41 CFR part 60-4. Compliance with the goals will be measured against the total work hours performed.**
- C. Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the Contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number; estimated dollar amount of subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the Contract is to be performed.**
- SC 19.11 Add the following after Article 19.10.C with the title "Restrictions on Lobbying":**
- A. Contractor and each subcontractor shall comply with Restrictions on Lobbying (Public Law 101-121, Section 319) as supplemented by applicable Agency regulations. This Law applies to the recipients of contracts and subcontracts that exceed \$100,000 at any tier under a Federal loan that exceeds \$150,000 or a Federal grant that exceeds \$100,000. If applicable, Contractor must complete a certification form on lobbying activities related to a specific Federal loan or grant that is a funding source for this Contract. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. 1352. Each tier shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Certifications and disclosures are forwarded from tier to tier up to the Owner. Necessary certification and disclosure forms shall be provided by Owner.**
- SC 19.12 Add the following after Article 19.11.A with the title "Environmental Requirements":**

When constructing a Project involving trenching and/or other related earth excavations, Contractor shall comply with the following environmental conditions:

- A. Wetlands – When disposing of excess, spoil, or other construction materials on public or private property, Contractor shall not fill in or otherwise convert wetlands.**
- B. Floodplains – When disposing of excess, spoil, or other construction materials on public or private property, Contractor shall not fill in or otherwise convert 100-year floodplain areas (Standard Flood Hazard Area) delineated on the latest Federal Emergency Management Agency Floodplain Maps, or other appropriate maps, e.g., alluvial soils on NRCS Soil Survey Maps.**
- C. Historic Preservation – Any excavation by Contractor that uncovers an historical or archaeological artifact or human remains shall be immediately reported to Owner and a representative of Agency. Construction shall be temporarily halted pending the notification process and further directions issued by Agency after consultation with the State Historic Preservation Officer (SHPO).**
- D. Endangered Species – Contractor shall comply with the Endangered Species Act, which provides for the protection of endangered and/or threatened species and critical habitat. Should any evidence of the presence of endangered and/or threatened species or their critical habitat be brought to the attention of Contractor, Contractor will immediately report this evidence to Owner and a representative of Agency. Construction shall be temporarily halted pending the notification process and further directions issued by Agency after consultation with the U.S. Fish and Wildlife Service.**
- E. Mitigation Measures – The following environmental mitigation measures are required on this Project: {Insert mitigation measures here}.**

CERTIFICATE OF OWNER'S ATTORNEY AND AGENCY CONCURRENCE

CERTIFICATE OF OWNER'S ATTORNEY

PROJECT NAME:

CONTRACTOR NAME:

I, the undersigned, _____, the duly authorized and acting legal representative of _____, do hereby certify as follows: I have examined the attached Contract(s) and performance and payment bond(s) and the manner of execution thereof, and I am of the opinion that each of the aforesaid agreements is adequate and has been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties named thereon; and that the foregoing agreements constitute valid and legally binding obligations upon the parties executing the same in accordance with the terms, conditions, and provisions thereof.

Name

Date

AGENCY CONCURRENCE

As lender or insurer of funds to defray the costs of this Contract, and without liability for any payments thereunder, the Agency hereby concurs in the form, content, and execution of this Agreement.

Agency Representative

Date

Name

ENGINEER'S CERTIFICATION OF FINAL PLANS AND SPECIFICATIONS

PROJECT NAME: _____

The final Drawings and Specifications, other assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, comply with all requirements of the U.S. Department of Agriculture, Rural Utilities Service, to the best of my knowledge and professional judgment.

If the Engineers Joint Contract Documents Committee (EJCDC) documents have been used, all modifications required by RUS Bulletin 1780-26 have been made in accordance the terms of the license agreement, which states in part that the Engineer "must plainly show all changes to the Standard EJCDC Text, using 'Track Changes' (redline/strikeout), highlighting, or other means of clearly indicating additions and deletions." Such other means may include attachments indicating changes (e.g. Supplementary Conditions modifying the General Conditions).

Engineer

Date

Name and Title

Assembling the Construction Contract and Bidding Documents

| | | |
|--|--------------|--|
| Advertisement for Bids | See Note #1. | Use EJCDC C-111 (2013). |
| Instructions to Bidders | | Engineer will develop the Instructions to Bidders using the Suggested Instructions to Bidders for Construction Contracts (EJCDC C-200, 2013) as modified by this Bulletin. |
| Qualifications Statement | | Use EJCDC C-451 (2013). |
| Bid Form | | Use EJCDC C-410 (2013) as modified by this Bulletin. |
| Bid Bond | | Use EJCDC C-430 (2013). |
| Notice of Award | | Use EJCDC C-510 (2013). Owner must obtain concurrence of Agency prior to announcing award. |
| Agreement Between Owner and Contractor (Stipulated Price) | | Use EJCDC C-520 (2013) as modified by this Bulletin. |
| Standard General Conditions of the Construction Contract | | Use EJCDC C-700 (2013). Modifications to C-700 should be made in the Supplementary Conditions, not in C-700 itself. |
| Supplementary Conditions | | Engineer will develop the Supplementary Conditions using the Guide to the Preparation of Supplementary Conditions (EJCDC C-800) as modified by this Bulletin. |
| Performance Bond | | Use EJCDC C-610 (2013). Note that the bond must be at least 100% of the bid amount. |
| Payment Bond | | Use EJCDC C-615 (2013). Note that the bond must be at least 100% of the bid amount. |
| Application for Payment | | Use EJCDC C-620 (2013). This documents is pre-approved for use per 7 CFR 1780.76(e). |
| Change Order | | Use EJCDC C-941 (2013). This documents is pre-approved for use per 7 CFR 1780.76(h)(2). |
| Notice to Proceed | | Use EJCDC C-550 (2013). |
| Certificate of Substantial Completion | | Use EJCDC C-625 (2013). |
| Compliance Statement | | Use Form RD 400-6. |
| Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions | | Use Form AD-1048. |
| Certification for Contracts, Grants, and Loans | | Use Exhibit A-1 of RD Instruction 1940-Q. |
| Construction Project Sign | | Template provided by RD State Office. |
| Certificate of Owner's Attorney | | Use template provided in Attachment GC-A of this Bulletin. |
| Engineer's Certification of Final Plans and Specifications | | Use template provided in Attachment GC-B of this Bulletin. |

1. Add goals for minority and female participation in the Advertisement for Bids with the following language:
 "This project is expected to be funded in whole or in part with funds provided by the United States Department of Agriculture, Rural Utilities Service. Information on applicable federal requirements is contained in the Project Manual. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specification" included in the specifications. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for minority participation for each trade = x % (insert % based on County)

-

Note: USDA WEP does not require Davis Bacon (Federal) Wage Rates. Other Funding Agencies may require Davis Bacon.

GOALS FOR WOMEN AND MINORITY UTILIZATION IN CONSTRUCTION

These goals apply to all federally assisted construction contract and subcontracts in excess of \$10,000 (EO 11246). All hours of work (federal and nonfederal) in each trade, regardless of the location of work, are subject to these goals.

A. Goals for Women--6.9 percent (this goal applies nationwide).

B. Minority Goals--percentage listed for each county:

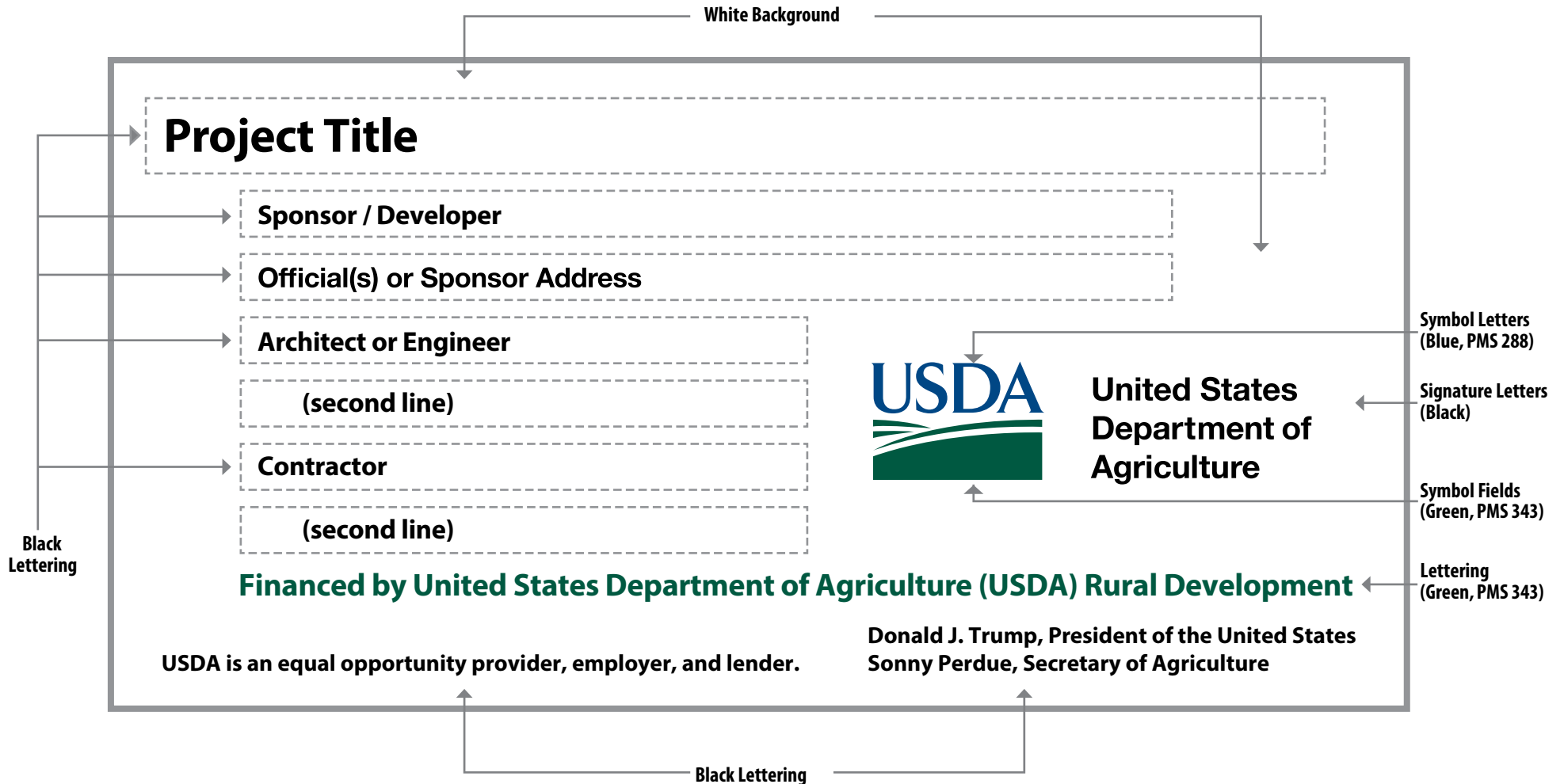
| | | | | | |
|-------------|-----|------------------|-----|-------------|-----|
| Adams | 1.7 | Iowa | 1.7 | Polk | 2.2 |
| Ashland | 1.2 | Iron | 1.2 | Portage | .6 |
| Barron | .6 | Jackson | .6 | Price | .6 |
| Bayfield | 1.2 | Jefferson | 7.0 | Racine | 8.4 |
| Brown | 1.3 | Juneau | .6 | Richland | 1.7 |
| Buffalo | .6 | Kenosha | 3.0 | Rock | 3.1 |
| Burnett | 2.2 | Kewaunee | 1.0 | Rusk | .6 |
| Calumet | .9 | La Crosse | .8 | St. Croix | 2.9 |
| Chippewa | .5 | Lafayette | .5 | Sauk | 1.7 |
| Clark | .6 | Langlade | .6 | Sawyer | .6 |
| Columbia | 1.7 | Lincoln | .6 | Shawano | 1.0 |
| Crawford | .5 | Manitowoc | 1.0 | Sheboygan | 7.0 |
| Dane | 2.2 | Marathon | .6 | Taylor | .6 |
| Dodge | 7.0 | Marinette | 1.0 | Trempealeau | .6 |
| Door | 1.0 | Marquette | 1.7 | Vernon | .6 |
| Douglas | 1.0 | Menominee | 4.0 | Vilas | .6 |
| Dunn | .6 | Milwaukee | 8.0 | Walworth | 7.0 |
| Eau Claire | .5 | Monroe | .6 | Washburn | .6 |
| Florence | 1.0 | Oconto | 1.0 | Washington | 8.0 |
| Fond du Lac | 1.0 | Oneida | .6 | Waukesha | 8.0 |
| Forest | 1.0 | Outagamie | .9 | Waupaca | 1.0 |
| Grant | .5 | Ozaukee | 8.0 | Waushara | 1.0 |
| Green | 1.7 | Pepin | .6 | Winnebago | .9 |
| Green Lake | 1.0 | Pierce | 2.2 | Wood | .6 |

For more information, a "Technical Assistance Guide for Federal Construction Contractors" is available at:

<http://www.dol.gov/ofccp/TAGuides/consttag.pdf>

TEMPORARY CONSTRUCTION SIGN FOR RURAL DEVELOPMENT PROJECTS

Recommended Fonts: Helvetica, Arial, or Myriad Pro



SIGN DIMENSIONS : 1200 mm x 2400 mm x 19 mm (approx. 4' x 8' x 3/4")
PLYWOOD PANEL (APA RATED A-B GRADE-EXTERIOR)

COMPLIANCE STATEMENT

This statement relates to a proposed contract with _____

(Name of borrower or grantee)

who expects to finance the contract with assistance from either the Rural Housing Service (RHS), Rural Business-Cooperative Service (RBS), or the Rural Utilities Service (RUS) or their successor agencies, United States Department of Agriculture (whether by a loan, grant, loan insurance, guarantee, or other form of financial assistance). I am the undersigned bidder or prospective contractor, I represent that:

1. I have, have not, participated in a previous contract or subcontract subject to Executive Order 11246 (regarding equal employment opportunity) or a preceding similar Executive Order.
2. If I have participated in such a contract or subcontract, I have, have not, filed all compliance reports that have been required to file in connection with the contract or subcontract.
 If the proposed contract is for \$50,000 or more: or If the proposed nonconstruction contract is for \$50,000 or more and I have 50 or more employees, I also represent that:
3. I have, have not previously had contracts subject to the written affirmative action programs requirements of the Secretary of Labor.
4. If I have participated in such a contract or subcontract, I have, have not developed and placed on file at each establishment affirmative action programs as required by the rules and regulations of the Secretary of Labor.

I understand that if I have failed to file any compliance reports that have been required of me, I am not eligible and will not be eligible to have my bid considered or to enter into the proposed contract unless and until I make an arrangement regarding such reports that is satisfactory to either the RHS, RBS or RUS, or to the office where the reports are required to be filed.

I also certify that I do not maintain or provide for my employees any segregated facilities at any of my establishments, and that I do not permit my employees to perform their services at any location, under my control, where segregated facilities are maintained. I certify further that I will not maintain or provide for my employees any segregated facilities at any of my establishments, and that I will not permit my employees to perform their services at any location, under my control, where segregated facilities are maintained. I agree that a breach of this certification is a violation of the Equal Opportunity clause in my contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and wash rooms, restaurants and other eating areas time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise. I further agree that (except where I have obtained identical certifications for proposed subcontractors for specific time periods) I will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause; that I will retain such certifications in my files; and that I will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays the valid OMB control number. The valid OMB control number for this information collection is 0575-0018. The time required to complete this information collection is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

**NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENTS FOR
CERTIFICATIONS OF NON-SEGREGATED FACILITIES**

A certification of Nonsegregated Facilities, as required by the May 9, 1967, order (32F.R. 7439, may 19, 1967) on Elimination of Segregated Facilities, by the Secretary of Labor, must be submitted prior to the award of a subcontract exceeding \$ 10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

DATE _____

(Signature of Bidder or Prospective Contractor)

Address (including Zip Code)

U.S. DEPARTMENT OF AGRICULTURE

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participants' responsibilities. The regulations were published as Part IV of the January 30, 1989, Federal Register (pages 4722-4733). Copies of the regulations may be obtained by contacting the Department of Agriculture agency with which this transaction originated.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name

PR/Award Number or Project Name

Name(s) and Title(s) of Authorized Representative(s)

Signature(s)

Date

Instructions for Certification

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on the reverse side in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

CERTIFICATION FOR CONTRACTS, GRANTS AND LOANS

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant or Federal loan, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant or loan.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant or loan, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including contracts, subcontracts, and subgrants under grants and loans) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(name)

(date)

(title)

000



United States Department of Agriculture
Rural Development

Rural Business-Cooperative Service • Rural Housing Service • Rural Utilities Service
Washington, DC 20250

MAY 17 2012

TO: State Directors
Rural Development

ATTN: Community Programs Directors
State Engineers

FROM: JACQUELINE M. PONTI-LAZARUK
Assistant Administrator
Water and Environmental Programs
USDA, Rural Utilities Service

SUBJECT: Open and Free Competition on Water and Waste Projects

This memorandum provides guidance to Rural Development State Office staff regarding requirements for maximum open and free competition contained in 7 CFR 1780.70(b) and (d); Departmental Regulations 3015.182, 3016.36(c) and 3019.43, and OMB Circulars A 102 and A 110. It does not apply to guaranteed loans. This document supersedes the unnumbered letter of the same title dated March 18, 2002, and should be filed with RUS Instruction 1780.

Agency responsibilities described in this memorandum are consistent with the duties of the State Engineer. Therefore, unless stated otherwise, wherever this memorandum states that the Agency will make a determination or perform an action, this means that the State Engineer will do so. State Directors are responsible for ensuring these requirements are met through oversight of State Engineer activities and responsibilities. State Directors are strongly encouraged to provide written delegations of authority for State Engineers to perform these duties.

Procurement Procedures

In accordance with the above regulations owner procurement procedures shall not restrict or eliminate competition. All procurement transactions, whether by sealed bids or negotiation and without regards to dollar value, shall be conducted in a manner that provides maximum open and free competition. Some of the situations considered to be restrictive of competition include, but are not limited to:

1. placing unreasonable requirements on firms in order for them to qualify to do business, such as requiring bidders to provide excessive documentation about an equipment item proposed as an equal product;
2. requiring unnecessary experience and excessive bonding, such as requiring manufacturers to have an unnecessary number of years doing business before their equipment may be evaluated by the consulting engineer to determine if it is an equal product;

3. noncompetitive pricing practices between firms or between affiliated companies, such as accepting a bid from a bidder that the owner knows used unethical practices in development of their bid;
4. organizational conflicts of interest, such as accepting a bid from a bidder when there is a financial relationship between the consulting engineer and the bidder;
5. specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement, and
6. any arbitrary action in the procurement process.

All procurement transactions will be conducted in a manner that prohibits statutorily or administratively imposed in-State or local geographic preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this requirement preempts State licensing laws.

Specifications

Owners procurement procedures will ensure that all solicitations:

1. Incorporate a clear and accurate description of the technical requirements for the competitive procurement of construction services, equipment, and materials. Such descriptions shall not contain features which unduly restrict competition. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements of a procurement, a "brand name or equal" description may be used as a means to define the performance or other salient requirements. The specific features of the named brand that must be met by bidders or offerors shall be clearly stated.
2. Identify all requirements which bidders or offerors must fulfill including the factors that will be used in evaluating bids or proposals, and the basis upon which the contract will be awarded.

In specifying materials, the owner and its consulting engineer will consider all materials normally suitable for the project commensurate with sound engineering practices and project requirements. The Agency shall consider any owner recommendations concerning the technical design and choice of materials to be used for a facility. If the Agency determines that other acceptable designs or materials should be considered in the procurement process, the Agency shall provide the owner with a comprehensive written justification for such a determination.

7 CFR 1780.70(d) only requires a single brand name and the words "or equal" be included in every specification listing a brand name product. As stated above, it also requires that the specific features of the named brand that must be met by bidders or offerors shall be clearly stated.

In addition, specifications, bidding, and contract documents must not prevent bidders or contractors from proposing an equal product at any time up to 5 days prior to bid opening or at any time after award of a contract. Consulting engineers must evaluate proposed equals submitted by bidders and contractors, but are not required to consider equals proposed directly by any subcontractors, suppliers, or other third parties. Prior to bid opening the results of this evaluation would be provided to plan holders as a bid addendum. After contract award the results would be provided to the contractor as part of the shop drawing submittal process.

Equals and substitutes

Bidders and contractors may propose either equals or substitutes. To qualify as an equal product the consulting engineer must determine that a product:

1. is equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
2. will reliably perform and function at least equally well as the brand named product and achieve the results imposed by the design concept of the completed project as a functioning whole; and
3. has a proven record of performance and responsive service.

In addition, the bidder or contractor must certify in writing at the time of shop drawing submittals that, if approved, there will be no increase to the owner in cost or contract times and that the proposed equal will conform substantially to the requirements of the item named in the contract documents.

As designer of record, the consulting engineer has sole discretion to determine whether the proposed item meets the requirements to be an equal. Approval of an equal will be indicated by: (1) the consulting engineer issuing a bid addendum approving the item before bid opening and/or (2) if after contract award, approval of a shop drawing submitted by the contractor.

Substitutes are items of materials or equipment proposed by a contractor and determined by the consulting engineer not to qualify as an equal. Typically they require some level of redesign on the part of the consulting engineer to incorporate into a project. Owners are not required under open and free competition requirements to consider substitutes, but they are required to consider proposed equals.

Bid Schedule

The front end bidding documents must be developed by the consulting engineer in a manner that does not restrict or eliminate competition. To accomplish this, there must not be any statements restricting competition. However, note that Buy American restrictions under Section 1605 of the American Recovery and Reinvestment Act apply if the criteria are applicable and the project includes any funding under this Act.

In addition, the bid schedule must not name any specific brand name products or material types unless a competitive pre-selection was accomplished or less than normal competition has been approved in writing by the Agency. Unless one of these criteria is met, the bid schedule must name the item and include a blank for a unit price or lump sum without reference to any material type or brand name.

Bid schedules set up around a given brand name product with additive or deductive alternatives for other brands are unacceptable. Also, note it is unacceptable to require bidders to list brands in the bidding documents that they intend to use if awarded the contract. A contractor may submit any proposed equals after award in accordance with the requirements of the General Conditions of the contract.

Less Than Normal Competition

Although the regulations require compliance with a standard of maximum open and free competition, there are cases where less than normal competition is acceptable for specific projects. The following examples list those situations. Where an owner's written request or justification is required, the consulting engineer may provide the request or justification as the owner's representative.

Bid schedules and specifications may list only one material type or brand name of equipment if the Agency concurs in writing:

- (1) with an owner's written request that project requirements are unique;
- (2) that selection of a given material or brand name product is necessary for interchangeability of parts or equipment in an existing system;
- (3) that a process is only available from a single source and the need for the process was demonstrated in the Preliminary Engineering Report through either technical justification or a life cycle cost analysis;
- (4) that only one type of material will meet technical requirements;
- (5) that an equipment item required to meet technical requirements of the project is available from only one source; or
- (6) that regulatory authorities require the use of a proprietary item in a permit.

In such cases the owner shall submit written justification to support their assertion that a given material or brand name is required. The Agency then evaluates the submitted documentation and provides a written concurrence or non-concurrence.

For example, a small town may wish to continue use of the same brand of water meters they already use when considering expansion of a water system. The Agency would evaluate the request to standardize on a given brand for a given project and should reject it unless there is a special need for standardization. Standardization may be appropriate if needed for interchangeability of parts or equipment, especially for a smaller system where resources are limited, but not for the convenience for the owner alone.

In addition, for loan-only projects the RUS Administrator may use the exception authority at 7 CFR 1780.25 to approve a written request for a waiver of the requirement for maximum open and free competition if requested by the owner and concurred in by the State Director. Such a waiver may be limited to a given material or brand name of equipment or may be issued for an entire project. Exception authority may never be used to waive the requirement for maximum open and free competition if there is any Agency grant funding in a project. If grant funds are added to a project after award, the requirement for maximum open and free competition must be added to the entire project, but would only apply to procurement transactions taking place after the grant was added.

Attached are exhibits addressing several topics related to the issue of maximum open and free competition.

If there are any questions, please contact Ben Shuman, PE at 202-720-1784 or ben.shuman@wdc.usda.gov or Jon Melhus, PE at 202-720-7817 or jon.melhus@wdc.usda.gov.
Attachments

Exhibit One: Selection of Materials

The owner and its consulting engineer will consider all materials normally suitable for the project commensurate with sound engineering practices and project requirements (7 CFR 1780.70(b)). This does not mean that the consulting engineer as the designer of record has no control over the selection of materials for a project.

The Agency must consider the preference of the owner and consulting engineer in selecting materials (such as pipe materials). If there is a legitimate technical reason for limiting design to a specific material or materials, written justification must be provided by the owner or consulting engineer and submitted to the Agency for concurrence. Written agency concurrence must be obtained prior to the submittal and concurrence in plans, specifications, and bidding documents and the issuance of the advertisement for bids (see Less Than Normal Competition above). If the Agency determines that the owner or consulting engineer's selection of materials is arbitrary or otherwise does not have legitimate technical merit, then the Agency will provide a letter to the owner and consulting engineer requiring alternate materials to be considered in the procurement process.

If there is no Agency approved justification for limiting design to a particular material or materials, then the choice of material to use for the project must be left to the construction contractor. In such a case, material specifications must be open. This may mean that more than one specifications section (e.g. one for each type of pipe) will be required for a particular item.

An example would be in the case where High Density Polyethylene (HDPE), Ductile Iron (DI) or Polyvinyl chloride (PVC) pipe are all technically feasible for a proposed water system. Even if the owner preferred DI, if there is no Agency approved justification to limit design to DI, the bidding documents, specifications, and drawings must allow all three pipe materials. If a portion of the system had to be DI due to an approved technical justification, then the bid schedule and plans and specifications would include such requirements.

Exhibit Two: Selection of a Design Approach

Often the owner and consulting engineer will want to select a specific design or technology for a given project that is proprietary or otherwise precludes the use of other technologies that may be able to meet the technical requirements of a project.

The Preliminary Engineering Report (PER) should be used to evaluate design or technology alternatives and exclude them from further consideration based on life cycle cost or technical merit analyses. § 1780.57(n) requires that a facility design provide the most economical service practicable, therefore designs and technologies excluded through life cycle cost analysis in the PER do not need to be considered later in plans, specifications, and bidding documents.

When reviewing the PER, the Agency should ensure that appropriate and technically feasible alternatives have been considered and should not concur if the applicant tries to exclude appropriate technologies. Alternative technologies or designs do not have to be considered further if they are excluded by sufficient technical or life cycle economic analysis.

In the case of proprietary equipment where only one manufacturer exists for a given technology, the selection of that technology may result in the default selection of a brand name. This is acceptable only if the use of that technology was adequately justified in the PER, but the Agency should document prior to concurring in plans and specifications that the requirement for maximum open and free competition has been met even though an item required to meet technical requirements of the project is available from only one source.

When more than one technology is acceptable for a given project, the consulting engineer and owner should leave the bidding documents open to allow as broad a variety of technologies as practicable. For example, in the case of procurement of water storage tanks, a bid schedule should call for a tank of a certain capacity rather than of a specific type (e.g. single pedestal versus multi-legged tank), unless a certain type of tank was shown in the PER not to be economical or technically feasible for a given project in which case it would not have to be considered in the procurement. Infeasible options do not need to be included in procurements, but factors excluding their use must be documented in writing by the owner or their consulting engineer and concurred in by the Agency in writing.

It is acceptable to use a base bid with alternates if the following conditions are met:

1. The base bid and alternates must not be different brand names, but rather different designs or technologies. If a base bid lists one proprietary brand name product for a given technology or design with additive or deductive alternates, this is unacceptable and should not be used.
2. The bidding documents must clearly explain which bid schedule item is potentially being replaced by the bid alternate item(s).
3. Selection of the design or technology must be made on the basis of low price and the bidding documents must clarify that the selection will be made in this manner. Owners are not allowed to use additional funds to make up the difference in cost to enable use of a more expensive design or technology.

Exhibit Three: Procurement of Equipment Prior to Selection of a Contractor

Sometimes the selection of a major equipment item can significantly impact the remainder of the project. It is important to maintain an environment of open and free competition in these circumstances. In cases like this, it may be best to conduct a "pre-selection" process. One of two approaches may be used based on whether a procurement contract is assigned upon award of a construction contract to the General Contractor or not.

For procurement contracts to be assigned to the General Contractor, a two phase process is allowed for pre-selection wherein materials or equipment may be selected prior to the selection of a construction contractor. This process enables the owner and consulting engineer to meet the requirements of maximum open and free competition and still complete the design around a specific type of material or equipment.

The first phase involves the competitive selection of the materials or equipment using competitive negotiation procedures (7 CFR 1780.72(c)). A Request for Proposals (RFP) is developed by the consulting engineer and publicly advertised by the owner. Manufacturers or suppliers reply to the RFP and submittals are ranked in accordance with the terms and conditions of the RFP. The RFP should include cost and other factors as determined by the owner and consulting engineer and concurred in by the Agency.

Negotiations on price and potentially other factors may then be completed with one or more of the manufacturers or suppliers submitting proposals. These negotiations may result in changes in the ranking of proposals. Then an award is made based on the best value to the owner in accordance with the ranking factors in the RFP.

A critical factor in using this approach is that the price of the materials or equipment must be locked in by the award based on a hold period established in the RFP. At this point a contract exists between the owner and the manufacturer or supplier. Contract documents for this purpose may be developed by the consulting engineer or standard forms of agreement between the manufacturer and the owner developed by industry groups may be used, such as the Engineers Joint Contract Documents Committee (EJCDC) procurement "P-series" forms. In either case, forms of agreement will require adaptation for use on Agency funded projects unless National Office approves a standard form of agreement for this purpose. Any form of agreement used must be approved by the Agency for individual projects with the assistance of the OGC Regional Attorney if required.

Next, the consulting engineer completes the design process. Note that the consulting engineer now has the advantage of knowing which materials or brand name equipment will be used in the final design, enabling them to complete the design with fewer unknowns.

The second phase is for selecting a contractor. The bid documents will look like bidding documents normally used, except for the following differences:

1. The bid schedule must list specific line items that were contracted for in phase one, including brand names and locked-in prices based on the first phase procurement. A base bid with additive or deductive alternates is still not allowed.
2. The specifications for the line items that were bid in phase one will not include a requirement for consideration of equals because competition requirements were met in phase one for these items.

3. Article 23 of the Instructions to Bidders (Attachment F of RUS Bulletin 1780-26) will need to be modified by the consulting engineer to clarify that the contract between the owner and manufacturer or supplier will be assigned to the construction contractor upon award to the General Contractor.

Upon award of the construction contract, the procurement contract for equipment purchases transfers from the owner to the contractor without any variation in the price or terms of the contract.

For Procurement Contracts where the owner turns over the equipment to be installed by the General Contractor without assigning the procurement contract to the General Contractor, the equipment would not be included in the bid schedule, but would be listed as owner supplied equipment in the contract. In addition, the Owner must maintain insurance and store the equipment in such a manner as to protect it until it is turned over to the General Contractor.



Re: Rural Development Maximum Open and Free Competition Requirements

Dear Engineer:

Rural Development (RD) requires the use of Maximum Open and Free Competition for projects which utilize RD funds. Rural Utilities Service (RUS) Instruction 1780.70(b) states, "All procurement transactions, regardless of whether by sealed bids or negotiation and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition."

Rural Development expects the owner and design engineer to be open to reasonable alternatives during the facility planning and design process. Competition during the procurement process is good for the owner and the government. Contractors, manufacturers, and suppliers with acceptable equipment and materials should have a chance to participate in the project. Once the facility requirements have been established that assures good quality, the goal is to construct the project at the best price for the system customers and the taxpayer.

Rural Development allows three options for the procurement of equipment which include:

- 1. Competitive Pre-selection:** Competitive Pre-selection should be used when the brand of equipment is critical to the design and layout of the project components. A competitive pre-selection process is used in accordance with the competitive negotiation process of RD Instruction 1780.72 (c) / Request for Proposals (RFP) Process. Competitive negotiations may be used when discussions and bargaining with a view to reaching agreement on the technical quality, price, and OTHER TERMS of the proposed contract and specifications are necessary. Since there are OTHER TERMS allowed, the owner isn't forced to choose the cheapest piece of equipment available, without regards to quality. The competitive pre-selection process will result with a fixed price for the materials in question. This fixed price contract from the RFP is then assigned from the owner to the contractor by having the engineer include the RFP price in the bid schedule. **The specifications for the construction contract would then not require any equals for this item because the competition was already completed.**
- 2. Competitive Sealed Bids:** Incorporate a clear and accurate description of the technical requirements for the competitive procurement of construction services, equipment, and materials. Such descriptions shall not contain features which unduly restrict competition. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements of procurement, a "brand name or equal" description may be used as a means to define the performance or other salient requirements. The specific features of the named brand that must be met by bidders or offerors shall be clearly stated.
- 3. Sole Source:** The third option is to Sole Source. This is allowable only when there is a technical need (technology ONLY available from one manufacturer and is modest in cost and design), an emergency need, or a need for interchangeability of parts or equipment. In the case of a technical need, the specifications will list only one manufacturer because the technology is only available from one source. The design engineer will need to submit a letter to RD to certify the need to sole source. This letter will be used to respond to any complaints from other equipment manufacturers, and it will be used to respond to any congressional inquiries on the use of a sole sourced specification on a project funded with taxpayer money. This letter will be public information that needs to be supported by a professional engineer. The design engineer should also include a fixed price for the sole sourced equipment into the bidding documents. The engineer must provide proof that this fixed price is comparable with the prices for the same equipment on recently bid projects.

Rural Development • Wisconsin State Office
5417 Clem's Way • Stevens Point, WI 54482
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Funding for this project could be jeopardized if these procurement policies are not followed. If you have any questions on the procurement policies of Rural Development, please contact me at 715-345-7615 X136 or at Joseph.Dorava@wi.usda.gov.

Sincerely,

Joseph Dorava
Wisconsin State Office, Engineer