

## 2016 IACC Conference

### Understanding Rural Development Funding Process

David Dunnell – State Engineer  
Darla O'Connor – Community Programs Loan Specialist



Rural Development – Community Programs

## Topic / Context

- Agency (RD) Overview
- Application Processes
- Loan Preparation / LOC Phase
- Plans & Specs Development
- Bidding Process
- Awarding Process & Pre-Construction
- Construction
- Post Construction Loan Servicing



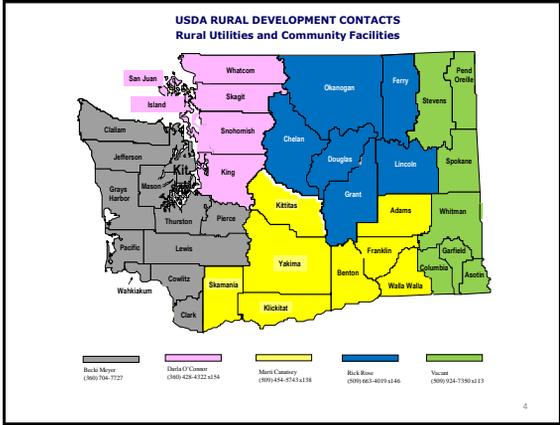
Rural Development – Community Programs

## Program (CP) Overview

- Community Program Staffing – Olympia Office
  - Peter McMillin - Program Director
  - Janice Roderick – State Loan Specialist
  - Paul Jonson (formally Janice Roderick)
    - State Environmental Coordinator (SEC)
  - David Dunnell - State Engineer (Wenatchee)
  - Ambrea Cormier - State Technician
  - Four Area Loan Specialist (one vacancy)
    - See district map



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## Program (CP) Overview

- Supervised Lending
- Much more than a Bank – How we are different!
- Manage the Lending Process
  - Determine Eligibility (applicant, project, funding strategy)
  - Advocate and advisor to applicant @ no cost
  - Experienced Support Team: Engineer, Architect, Environmental and Loan Specialists, Technical contractors (RCAC, ERWoW)
  - Minimize Financial Risk: Modest/Affordable Projects, Comprehensive Underwriting, System Sustainability Result: successful projects that improve quality of life and increase economic opportunity in rural America
  - Long Term Relationship w/ life of loan support



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## Program (CP) Overview

- Loan Specialist - “Roles and Responsibilities”
  - Loan and Grant Processing (Manage Process)
    - Work closely and cooperatively w/applicant, their representatives, other agencies and RD State Office personnel toward processing a complete application
    - Review security instruments
    - Loan approval
    - Pay requests, interim financing – EFT disbursement
    - Inspections, security and compliance reviews
    - Project close out/ loan closing
    - Servicing, payment collection and annual reports



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### Program (CP) Overview

- Loan Specialist - “Roles and Responsibilities”
  - Reviews and Originates Complete Application
  - Financial Analysis, Underwriting, Loan/Grant Determination
  - Coordinates w/ RD Engineer & Environmental Specialist, PER & ER
  - Submits recommendation to Program Director and State Loan Specialist for approval
  - Presents Funding Offer to applicant



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### Program (CP) Overview

- State Engineer – “Roles and Responsibilities”
  - Addresses Engineering Related Phases
    - PER or equivalent
    - Engineering Agreement
    - Plans and Specification
    - Bid Awards
    - Pre Construction Conference
    - Executed Construction Contract Documents
      - RD Funds Released
    - Construction Management and Change Orders
    - Final Inspection and Construction Contract Closeout



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### Application Process

#### Elements of Application Package

- Key Elements of a Complete Application Package
  - SF-424 Application Form and supporting documentation
  - Financial Statements; Audits; Operating Budget
  - Test for other credit
  - Public announcement with meeting minutes
  - Preliminary Engineering Report (PER)
  - Environmental Report (ER)



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### Application Process

#### Elements of Application Package

- Automated Underwriting
  - Need accurate EDU/ERU information (at start-up)
  - Considers all Income Sources
  - Operations and Maintenance Expenses (at start-up)
  - Replacement Reserves – Short Lived Assets
  - Debt Service and Reserves
  - Determines Amount for new loan payment and max loan based off of similar systems and sustainability
  - Project funding: cost, applicant contribution, other funding sources, and new connection fees
  - Final calculations then determine grant needed



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### Application Process

#### Elements of Application Package

- Environmental Report (ER) & NEPA
  - RUS Bulletin 1970A-602 Guide
    - Preparation of the Environmental Report (ER) for Water and Environmental Program Proposals
  - Consult with Loan Specialist to determine type of environmental needed. Do this early in the application stage.
  - Paul Johnson - (SEC) State Environmental Coordinator - review and approval



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### Application Process

#### Elements of Application Package

- Preliminary Engineering Report (PER)
  - Submitted with Funding Application
  - Instructions provided by Bulletins:
    - RUS Bulletin 1780-2
    - Used for Water, Sewer, Storm and Solid Waste Facilities
  - Establishes the Scope of Work, Costs, Design Parameters, and other important data



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### Application Process Elements of Application Package

- Preliminary Engineering Report (PER) Content - RUS Bulletin 1780-2
  1. General
  2. Purpose
  3. How to Use the Interagency Template
- General Outline of a PER
  1. Project Planning Area
  2. Existing Facilities
  3. Need for Project
  4. Alternatives Considered
  5. Selection of an alternative
  6. Proposed Project (Recommended Alternative)
  7. Conclusions and Recommendation



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### Application Process Elements of Application Package

- PER Alternative
  - State DOH / DOE equivalent reports augmented by a Simplified/Reduced PER
  - Simplified/Reduced PER
    - Cross reference common sections with State Equivalent Report
    - Only address those sections of the Bulletin 1780-2 not addressed in State Equivalent Report
    - "WA State PER Guide" with Key Emphasis
      1. Number of System Connections at Start-up
      2. System Flows at Start-up
      3. List of Short Lived Assets (SLA)
      4. Updated Budget Estimate
      5. Updated O&M Budget Estimate
      6. Alternate construction items if bids \$ low (PER)



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### Application Process Elements of Application Package

#### WA State PER Guide with Key Emphasis

##### 1. System Users and Flows – EDU/ERU Determination

- Number of System Connections at Start-up
  - Must reflect all users who will be responsible for debit repayment at start-up
    - Residential Users
    - Non-residential Users
    - Delineation of large Non-residential Users (if applicable)
- System Flows at Start-up
  - Must reflect system flows projected at start-up
    - Total flows, Total Residential, Total Non-residential
    - Typical Residential Flow (gpd/eru)
    - Non-irrigation periods
    - Water flow data can be used to estimate flows for sewer systems
  - Tabulate monthly average flows for most recent year. If no or poor records (no meters), then estimates using DOE/DOH approved methods (DOH Water System Design Manual etc.)



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### Application Process Elements of Application Package

#### WA State PER Guide with Key Emphasis

##### 2. List of Short Lived Assets (SLA)

- Assets with estimates life spans of 5, 10, and 15 years
  - Current replacement cost estimate, w/o inflation etc..
  - Annual O&M items not applicable
- (The intent is to establish a reserve account dedicated to the replacement of key assets over the life of the loan.)



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USDA RURAL DEVELOPMENT  
ESTIMATED SCHEDULE OF SHORT-LIVED ASSETS

Owner/Type of Asset	Year	11/30/2004	12/1/2004	12/1/2004	12/1/2004	12/1/2004	12/1/2004	12/1/2004
	Quantities	Unit Price	Total	Quantities	Unit Price	Total	Quantities	Unit Price
Item 1: Sewer System Assets								
Item 1.1: Sewer System Assets	1	\$ 40,000	\$ 40,000	0	\$ -	\$ -	0	\$ -
Item 1.2: Sewer System Assets	100	\$ 100	\$ 10,000	0	\$ -	\$ -	0	\$ -
Item 1.3: Sewer System Assets	0	\$ -	\$ -	0	\$ -	\$ -	0	\$ -
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By David Dornier  
USDA-RCR State Engineer

Short live assets example  
for edition January 16, 2005

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### Application Process Elements of Application Package

#### WA State PER Guide with Key Emphasis

- 3. Updated Project Budget and O&M Estimate
  - Budget matches the application
  - Update if over a year old (PER print date)
  - Recommended Categories:
    - Construction by Phase / Schedule w/tax
    - Engineering fees
    - Land and Rights-of-Ways
    - Applicant's Administration & Legal
    - Interim Financing
    - Bond Counsel
    - Project contingency
  - Updated O&M budget at start-up with projected inflation estimates



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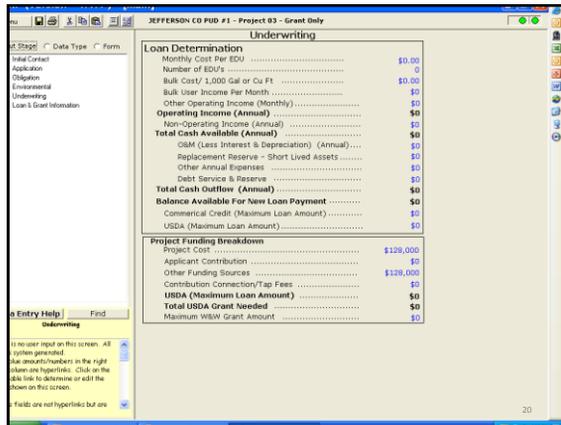
## Application Process

### Elements of Application Package

- PER WEAKNESSES (Reviewer perspective)
  - Insufficient number of Alternatives presented
  - Present Worth analysis not performed
  - Sole Source selection of Products/Brands (open and free competition)
  - Outdated construction cost and O&M estimates
  - Missing list of Short-Lived-Asset
  - Missing Interim Financing (bank interest on loan) and Bond Council costs (contact Loan Specialist for assistance)
  - Projected user rates based on grants (assume loan only)



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**Underwriting**

Monthly Cost Per EDU	\$0.00
Number of EDUs	\$
Bulk Cost/ 1,000 Gal or Cu Ft	\$0.00
Bulk User Income Per Month	\$0
Other Operating Income (Monthly)	\$0
Operating Income (Annual)	\$0
Non-Operating Income (Annual)	\$0
Total Cash Available (Annual)	\$0
OSM (Less Interest & Depreciation) (Annual)	\$0
Replacement Reserve - Short Lived Assets	\$0
Other Annual Expenses	\$0
Debt Service & Reserve	\$0
Total Cash Outflow (Annual)	\$0
Balance Available For New Loan Payment	\$0
Commercial Credit (Maximum Loan Amount)	\$0
USDA (Maximum Loan Amount)	\$0

Project Cost	\$128,000
Applicant Contribution	\$0
Other Funding Sources	\$128,000
Contribution Connection/ Tap Fees	\$0
USDA (Maximum Loan Amount)	\$0
Total USDA Grant Needed	\$0
Maximum W&W Grant Amount	\$0

## Loan Preparation

### Letter of Conditions

- Key elements of LOC
  - Project Account: Budget and Funding Sources
  - Security for loan and repayment terms
  - Grant Agreement if applicable
  - Reserves: Debt Service and Short Lived Assets
  - Interim financing requirements
  - Proposed Operating Budget and Rate Analysis
  - Environmental Mitigation Measures
  - Agreement for Services; Legal, Engineering, etc..
  - Construction contract document requirements, ROW
  - Loan closing and servicing requirements



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## Loan Preparation

### Letter of Conditions

- Applicant reviews LOC offer
  - Applicant accepts offer
  - Signs “Letter of Intent” to meet conditions (not a security instrument, only obligating funds)
- Applicant implements instructions in LOC
  - Authorizes Engineer to proceed with design and construction using Agency Endorsed construction contracting documents



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## Plans & Specs Development

### Agency Endorsed Contract Document Requirements

- Project Construction Documents
- Engineering & Construction Contract Document
  - Applicant required to use Agency endorsed documents and forms when developing Engineering and Construction Contracting Documents for public works improvements to be funded in part or full
- Agency Endorsed Documents
  - Engineers Joint Contract Documents Committee (EJCDC)
  - Modified by RUS Bulletin 1780-26



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## Plans & Specs Development

### Agency Endorsed Contract Document Requirements

- Key Funding Agency Conditions
  - Owner – Engineer Agreement using the EJCDC E-500 modified by RUS Bulletin 1780-26
  - Owner – Contractor Agreement using the EJCDC C-520 modified by RUS Bulletin 1780-26
  - Contract Documents must be reviewed and approved prior to execution / payments
  - OGC must review any contract format other than EJCDC / Bulletin 1780-26 edition
  - Funds are released for any reimbursements only after Agency concurs with the Executed Construction Contract Agreement
  - Construction solicitations through Public Advertisement (> \$100k)
  - Concurs with:
    - Engineering amendments
    - Engineer’s recommend of award Construction Contract prior to Owner’s announcement
    - Executed construction contract documents
    - Change orders and partial pay estimates
    - Partake in pre-final & final inspection



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### Plans & Specs Development Engineer Agreements Agency Endorsed Contract Document Requirements



- EJCDC E-500 (2014 edition)
- Agreement between Owner - Engineer for Professional Services
- Purchase from Sponsoring Organizations
  - ACEC, NSPE, ASCE, AGCA
- Supersedes 2008 edition of the EJCDC E-500



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### Plans & Specs Development Engineer Agreements Agency Endorsed Contract Document Requirements



RUS Bulletin 1780-26 (2014 edition)

- Modifies Standard EJCDC Owner – Engineer Agreement (2014 Edition)
- Bulletin’s Exhibits - Provides a “checklist” of language to be added or stricken
- Bulletin Exhibits
  - A - Engineering Agreement- Modifications for RUS Funded Projects
  - B - Revisions to EJCDC E-500
  - C - RUS Certification Page



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### Plans & Specs Development Engineer Agreements Agency Endorsed Contract Document Requirements



- EJCDC C-520 (2013 edition)
- Agreement between Owner - Contractor for Construction Contract
- Purchase from Sponsoring Organizations
  - ACEC, NSPE, ASCE, AGCA
- Supersedes 2007 edition of the EJCDC



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### Plans & Specs Development Engineer Agreements Agency Endorsed Contract Document Requirements

- The EJCDC Construction Contract Documents
  1. EJCDC C-520 Owner – Contractor Agreement (2013 edition)
  2. EJCDC C-700 Standard General Conditions (2013 edition)
  3. EJCDC C-800 Supplementary Conditions (2013 edition)
  4. EJCDC Related Documents and Forms (latest edition)
    - a. C-200 – Instructions to Bidders
    - b. C-410 – Bid Form
    - c. C-430 – Bid bond
    - d. C-451 – Qualification Statement
    - e. C-510 – Notice of Award
    - f. C-550 – Notice to Proceed
    - g. C-610 – Performance Bond
    - h. C-615 – Payment Bond
    - i. C-620 – Application for Payment
    - j. C-941 – Change Order
    - k. C-625 – Certification of Substantial Completion



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### Plans & Specs Development Engineer Agreements Agency Endorsed Contract Document Requirements



RUS Bulletin 1780-26 (2014 edition)

- Modifies Standard EJCDC Construction Contract Documents (2013 edition)
- Bulletin’s Exhibits - Provides a “checklist” of language to be added or stricken
  - D – User Instructions for the development of the Construction Contract and Bidding Documents
  - E – Instructions to Bidders
  - F – Bid Form
  - G – Owner – Contractor Agreement
  - H – Supplementary Conditions
  - I – Certification of Owner’s Attorney & Agency Concurrence
  - J – Engineer’s Certification of Final Plans and Specifications
- Substitutes equivalent EJCDC (2007 edition)



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### Plans & Specs Development Engineer Agreements Agency Endorsed Contract Document Requirements

- Washington State Guides to EJCDC Doc’s
  - WA Guide 1: Introduction to **Design and Construction Related Documents** on Projects Funded by USDA RD
  - WA Guide 2 AES: Introduction for Developing **Owner-Engineering Agreement** for Projects Funded by USDA RD
  - WA Guide 3 (P&S): Additional Instructions for the Development of **Design and Construction Related Documents**



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**Plans & Specs Development**  
Engineer Agreements  
Agency Endorsed Contract Document Requirements

- **Key Agency Provisions**
  - **Surety:** Performance & Payment bonds, each 100% of contract amount
  - **Change Orders:** Agency review and approval
  - **Payment Applications:** Agency review and approval
  - **Agency Approval of Contracts:** But not a party of...

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**Plans & Specs Development**  
Engineer Agreements  
Agency Endorsed Contract Document Requirements

- **Key Agency Provisions (cont)**
  - **Retainage:**
    - 5% withheld until substantial completion
    - Can not be placed in escrow nor invested for the benefit of the contractor
    - Takes Precedence over RCW 60.28.011
      - RCW 60.28.010 has been stricken – was nearly a duplicate

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**Plans & Specs Development**  
Engineer Agreements  
Agency Endorsed Contract Document Requirements

- **Key Agency Provisions (cont)**
  - **Procurement:**
    - No base bid method (no restrictions on “or-equal” or substitutes during the bidding process)
    - Maximum open and free competition
    - List (was two) brand name with “or-equal” to the extent practical
    - Selection of Major Equipment through Pre-selection bidding process (basis of design)
    - “or-equals” may be evaluated / approved prior to bid opening

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**Plans & Specs Development**  
Engineer Agreements  
Agency Endorsed Contract Document Requirements

- **Agency Approval of Contract Documents**
  - State Engineer issues P&S approval letter
  - Authorizes Applicant to proceed w/ bidding
  - Provides list of Post Bid Submittal Items
    - Items needed by agency in order to concur with the engineers recommendation to award

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**Bidding Process**

- Applicant conducts bidding process
  - RD invited to bid opening and other applicable parties
- Engineer audits bid, makes recommendation to Owner and submits Post Bid Submittal items to RD
- RD reviews Post Bid Submittals
  - DOE / DOH P&S approval letter
  - Rights-of-Ways Forms and Maps
  - Resume of Resident Project Representative
  - Revised OLR with updated construction Cost
  - Bid tabs, low bidders proposal, 400-6, AD 1048, 1940Q, bid bond, Engineer’s recommendation
  - Debarment of contractor (SAM) (System for Award Management)
  - Surety against Treasury Circular 570

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**Bidding Process**

- **Outlay Report** – Budget Breakdown and Tracking Spreadsheet
  - Soft costs
  - Engineering fees
  - Construction costs
  - Contingency
  - Funding sources \$
  - Signature block
  - Financial status



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## Bidding Process

Prior to Bid Award - LOC conditions (Loan Specialist)

- Rural Development funding must be ready to close prior to Bid Award:
  1. If the RD loan is above \$500,000, then interim financing must be secured. The interim lender will need to provide documentation of applicable rates and terms. The interim loan will be paid off once the equivalent RD loan funds have been exhausted through construction pay requests.
  2. Draft bond documents must be received from the borrower's bond attorney, reviewed by the Office of General Council and approved by RD.
  3. Verification of owner's insurance and bonds.
  4. All other applicable requirements per the Letter of Conditions.



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## Awarding Process

- RD Concurs with the Recommended Award

– Applicant Issues Notice of Award (NOA)

- Sends Construction Contract EJCDC C-520 & Surety etc.
- Contractor signs and returns
- Applicant's Attorney reviews
  - Executes Certificate of Owner's Attorney and Agency Concurrence
  - Exhibit I (GC-A) of RUS Bulletin 1780-26

– Applicant Enters into Construction Contract



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## Awarding Process

- RD Concurs with executed contract documents
  - Reviews Executed Owner - Contractor agreement EJCDC C-520
  - Date of Surety on or after date of agreement
  - Surety listed on Treasury Circular 570
  - Contractor Insurance Accord form
  - Owner's Attorney executed "Certificate of Owner's Attorney and Agency Concurrence"
    - Exhibit I of RUS Bulletin 1780-26
- RD signs Agency Concurrence Block
  - Exhibit I of RUS Bulletin 1780-26
- Release of RD Funds
  - Following RD execution of Exhibit I, RUS Bulletin 1780-26
- Applicant issues Notice to Proceed (NTP)



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## Construction Phase

- Conducts Pre-Construction Meeting
  - Engineer uses RD format agenda or approved equivalent
  - Engineer facilitates/leads pre-con meeting
  - RD approves executed contract documents (if not earlier)
- Contractor proceeds with construction
  - Engineer & Resident Project Representative perform construction services
  - Applicant monitors construction through engineer
  - RD monitors construction through engineer
    - approves payments
    - approves change orders
    - periodic site visits
    - attends pre-final and final inspections



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## Construction Phase

- Construction, Completion and Close-out
  - Loan specialist to monitor pay requests, disperse funds and track budgets through outlay reports.
  - Establish Date of Substantial Completion
  - Final inspection, complete punch list items
  - Owner receives As-builts and O&M manual
  - Establish Warranty Inspection date
    - 11 months past SC, Owner, Eng'r, Agency, Contractor
  - All parties accept project
  - Issues final payment and release of retainage
  - Excess funds to be used ASAP or released for de-obligation



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## Post Construction Phase

- RD Services Loan
  - Assist w/bank accounts
  - Security inspections & ADA/Civil Rights Compliance review
  - Payment collection, using Pre-Authorized Debit
  - Annual Reports Audit reviews
    - Cash Flow and Sustainability
    - O&M budgets
    - Reserve Balances
  - Loan delinquency
  - Graduation review



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### New Items at RD

- RDAppl  
• New Online Application system  
• Must obtain eAuth ID (electronic authorization)  
• Application consists of Interview Questions
- ePER  
• Electronic Preliminary Engineering Report
  - Integrates with RDAppl



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### Rural Development Web Sites

- Engineering Documents
  - Preliminary Engineering Report
    - RUS Bulletin 1780-26
  - Most RUS Forms & Bulletins
- <http://www.rd.usda.gov/programs-services/services/water-environmental-engineers>



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### Rural Development

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