

**NEW MEXICO
CLEAN WATER STATE REVOLVING FUND
INTENDED USE PLAN
STATE FISCAL YEAR 2016**

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I. FUND ESTABLISHMENT-INSTRUMENTALITY OF THE STATE, Sec. 603(a) & (b)

Through enactment of the Wastewater Facility Construction Loan Act (“Loan Act”), Chapter 74, Article 6A, NMSA 1978, as amended, the New Mexico Legislature created a revolving loan fund (“the fund”). The purpose of the Loan Act “is to provide local authorities in New Mexico with low-cost financial assistance in the construction of necessary wastewater facilities through the creation of a self-sustaining revolving loan program so as to improve and protect water quality and public health.”

The Fund is administered by the New Mexico Environment Department (NMED) as agent for the Water Quality Control Commission. State money appropriated to NMED to carry out the provisions of the Loan Act may be used to match Federal funds allocated to New Mexico pursuant to the Federal Clean Water Act (CWA), as amended, for the purpose of making loans to eligible local authorities. Federal capitalization grants, loan principal, interest repayments and earnings on balances in the Fund are deposited into the Fund. Administrative fee and refinance fee revenues are deposited into a separate dedicated Clean Water Administrative Fund.

The Water Quality Control Commission (WQCC), which is New Mexico’s water pollution control agency, has adopted regulations, application procedures, and an integrated priority ranking system pursuant to the Loan Act, which is used by NMED in administering the loan program. The New Mexico Water Quality Act of 1967 (Sec. 74-6-4) NMSA 1978 identified the duties and powers of the WQCC. The provision states:

“The Commission:

- A. may accept and supervise the administration of loans and grants from the federal government and from other sources, public or private, which loans and grants shall not be expended for other than the purpose for which provided.”

On June 14, 1983, the WQCC delegated day-to-day responsibility for administering the Wastewater Facility Construction Program to the Environmental Improvement Division, now known as the New Mexico Environment Department for the purposes of the New Mexico Water Quality Act. The WQCC reiterated that delegation in January 1986. On June 13, 2000 the WQCC adopted amendments to the Regulations and re-codified the regulations pursuant to the Authority provided by Sec. 74-6A-4-F, NMSA 1978.

On June 10, 2014, President Obama signed into law the Water Resources Reform and Development Act of 2014 (WRRDA). Among its provisions are amendments to Titles I, II, V, and VI of the Federal Water Pollution Control Act (FWPCA). Interpretive guidance was issued on September 18, 2014 for those provisions affecting the Clean Water State Revolving Fund (CWSRF) program.

The following amendments to the Loan Act were signed into law on April 9, 2015:

1. Update the “local authority” definition to add mutual domestic water consumers association organized under the Sanitary Projects Act, which would allow NMED to meet water quality

goals for more New Mexicans; widen the borrower base, which helps keep the fund revolving and helps mutual domestics with a dedicated wastewater funding source.

2. Change the repayment period from “no later than twenty years after completion of the construction” to “no later than thirty years after completion of the construction.” This will bring NM CWSRF in line with changes to the CWA that took effect October 1, 2014; it will reduce the annual repayment amount for some borrowers, which will assist with their cash flow, but means the fund will receive repayment funds at a slower pace to loan back out to other borrowers and will increase the interest repayments. Overall this change will grow the fund to help continue the federal mandate to keep it revolving into perpetuity. On a local level, this means the fund keeps closer pace with increasing construction costs and retains more purchasing power long-term.

II. FUND GOALS, Clean Water Act Sec. 606 (c) (2)

A. Long-term Goals for State Fiscal Year 2016 include:

1. To provide local authorities in New Mexico with low-cost financial assistance in the construction of necessary wastewater facilities through the creation of a self-sustaining Clean Water State Revolving Loan Fund Program so as to improve and protect water quality and public health. (See attached Table 1, Integrated Projects Priority List, State Fiscal Year 2016.)
2. To maintain the CWSRF into perpetuity. Perpetuity includes growing the fund by adding repayment interest and investment interest, and maintaining the principal amounts of capitalization grants and state matching funds within the CWSRF. (See attached Cash Flow Projections; Table 2, Projected Disbursements; Table 3a and 3b, Capitalization Grant Administrative Budget; Table 4, Projected Loan Repayments; and Table 5, FFY 2016 SRF Outlays. Also see Figure 1, Sources and Uses in Section XI below.)
3. To maintain the fiscal integrity of the CWSRF.
4. To reduce and/or eliminate discharges of pollutants into the State’s waters and to improve water quality in all state waters.

B. Short-term Goals for State Fiscal Year 2016 include:

1. Completion of an annual audit, intended use plan and annual report in a timely manner. CWA Sec. 606 (b, c, d).
2. Execute loan agreements for the remaining FFY 2012 Allotment subsidy in the amount of \$328,215. \$247,667 of the subsidy has already been executed. (See Table 6.)
3. Execute loan agreements for the remaining FFY 2013 Allotment subsidy in the amount of \$270,066 and identify recipients from the SFY 2016 IPPL to receive the remaining subsidy amount of \$190,614.
4. Identify recipients from the SFY 2016 IPPL to receive the subsidy amount from the FFY 2014 Allotment in the total amount of \$559,386.
5. Identify recipients to receive the subsidy amount from the FFY 2015 Allotment in the total amount of \$2,045,100.
6. Draw-down and complete the admin portion of the FFY 2014 Allotment in the amount of \$128,904 with the EPA.CWA Sec. 602 (A). Begin draw-down and complete the FFY 2015 Allotment in the amount of \$6,817,000 with the EPA. CWA Sec. 602 (A).

7. Execution of at least \$36 million in binding commitments:

Projected Borrower	Projected Loan Amt	Projected Grant Amt
Rio Rancho	\$11,558,122	N/A
Tijeras, Village of	\$500,000	\$350,000
To be determined from attached IPPL	at least \$21,000,000	at least \$2,600,000
Projected Binding Commitments*	\$33,058,122	\$2,950,000

*Note: NMED considers Binding Commitments as executed loan agreements.

8. Identify the \$681,700 in green projects for the FFY 2015 Allotment from the binding commitments listed above.
9. Apply for the current federal fiscal year's allotment in the first year that it is appropriated.
10. Execution of 20-year loan agreements (converting loans from construction phase to post construction/repayment phase) for the City of Las Vegas; City of Rio Rancho; Village of Chama; Village of Corrales; Village of Jemez Springs; City of Carlsbad; San Juan County/Lower Valley; and the City of Aztec.
11. The state commits to completing the environmental benefits in the CWSRF Benefits Reporting System (CBR) by the end of the quarter in which a loan agreement is signed and providing printouts of the environmental benefits with our Annual Report. Entering the data in the CBR in a timely fashion will help the NMED and the EPA report on the benefits realized by the CWSRF funding activities.
12. Convert the Excel based Priority List Attachment Form used by potential borrowers to apply for inclusion on the Integrated Projects Priority List (IPPL) into an online application form.
13. Complete the regulation update to match the Loan Act changes.
14. Finalize affordability criteria for additional subsidization by September 30, 2015.
15. Refine the process for soliciting and funding non-traditional CWSRF projects to include future capitalization grant green project reserves. In order to achieve this goal, NMED must review and update New Mexico statutes and administrative code.
16. Exceed the national average in terms of financial indicators.

III. CRITERIA AND METHOD ESTABLISHED FOR DISTRIBUTION OF FUNDS, Clean Water Act Sec. 606 (c) (5)

Pursuant to the Loan Act, the WQCC adopted regulations concerning eligibility requirements for financial assistance, application procedures, priority rating system and administration of the loan program and fund. The current integrated priority rating system was approved by EPA and adopted by the WQCC on April 9, 2013. The CWSRF and NMED staff evaluates and ranks projects to mitigate point sources (§212) and non-point sources (§319) of water pollution (see attached Table 1, Integrated Projects Priority List, State Fiscal Year 2016) and management plans under the National Estuary Program (§320). All §319 activities will implement the state's §319 Nonpoint Source Management Plan. The state will review this plan when determining eligibility.

Currently New Mexico has one §319 project in process. The Village of Tijeras is replacing its existing septic systems with a centralized wastewater collection system to serve an existing community. Currently, there is no §320 project planned.

Public notice of the Integrated Projects Priority List (IPPL) process was provided through publication in independent newspapers statewide and the NMED website. NMED accepted public comments regarding the SFY 2016 Intended Use Plan (IUP) and associated IPPL from June 8th – June 26th of 2015 (see Table 1, Integrated Projects Priority List, State Fiscal Year 2016 attached) and no comments were received. A project must be on the current New Mexico state fiscal year IPPL in order to receive a loan. It is the policy of NMED to make loans to communities in order of priority on the current fiscal year priority list to the extent reasonable considering the following:

1. willingness of a community to accept a loan;
2. financial capability of the community to service the loan, to perform operation and to maintain a replacement reserve fund; and
3. readiness to proceed.

A community may be by-passed if they are not willing to accept a loan, are financially incapable of servicing the loan and / or are not ready to proceed with the project.

Application Process:

The application process has 2 steps:

1. The applicant must complete an online Project Interest Form (PIF) for each project at <https://swim.water.web.env.nm.gov/>.
2. The applicant must completely fill out a Priority List Attachment Form (PLAF) for each project and attach their current rate ordinance, if applicable, and any additional information to support the application.

To be considered for funding both the online PIF and PLAF must be completed for each project and submitted to the CWSRF Program Administrator either by e-mail, fax or mail on or before the deadline date. Applicants must apply annually.

Method of Cash Draw: All projects with funding agreements signed in SFY 2016 are required to meet all federal cross-cutters, single audit, and federal procurement for A/E services because NMED utilizes the All Project Method of Cash Draws, meaning any project may receive federal funds from the SFY 2015 Allotment.

Additional Subsidization: NMED, under New Mexico Administrative Code 20.7.5.14.H(3), has the authority to award a combination of loan and grant in those years when grant funding is available for assistance to rural disadvantaged communities; please note that a loan is required in the event that subsidy is provided. NMED has developed affordability criteria to determine additional subsidization per WRRDA for use after September 30, 2015. The proposed Affordability Criteria looks at user rates as a percentage of per capita income, population trends, and unemployment levels in municipalities or counties. A municipality or county may score sufficient points in any one category to warrant additional subsidization or may score cumulative points to do so as well. The Proposed CWSRF Affordability Criteria System can be viewed at <https://www.env.nm.gov/cpb/CWSRFPPage.htm>. Prior to September 30, 2015 NMED will continue to target small and disadvantaged communities for subsidy as we have over the last 6 years. NMED considers municipalities with less than 20,000 people or counties with less than

200,000 people to be rural disadvantaged communities, which is reflected in the subsidy eligibility column on the attached Table 1, Integrated Projects Priority List, State Fiscal Year 2016.

NMED has subsidy available in the following allotments:

Allotment FFY	Cap Grant SFY	Subsidy Amount	Remaining Subsidy
2013	2013	\$460,680.00	\$190,614.00
2014	2014	\$559,386.00	\$559,386.00
2015	2015	\$2,045,100.00	\$2,045,100.00

Note: the available subsidy is subsidy that has not yet been committed as of 06/30/2015.

Out of the \$460,680 in subsidy from the FFY 2013 Allotment (2013 CG), \$270,066 is in the process of being awarded as grants to communities under pending loan/grant agreements as of June 30, 2015. The remaining \$190,614 will be awarded in SFY 2016 (see Table 6b). Projects eligible to receive subsidization in the form of grants have been noted on the attached Table 1, Integrated Projects Priority List, State Fiscal Year 2016.

The FFY 2014 Allotment subsidy amount listed above will be committed in SFY 2016. Projects eligible to receive subsidization in the form of grants have been noted on the attached Table 1, Integrated Projects Priority List, State Fiscal Year 2016.

NMED intends to commit the majority of the FFY 2015 Allotment subsidy amount listed above in SFY 2016. Projects eligible to receive subsidization in the form of grants have been noted on the attached Table 1, Integrated Projects Priority List, State Fiscal Year 2016.

NMED has identified over \$58 million in projects eligible for subsidy on the attached Table 1, Integrated Projects Priority List, State Fiscal Year 2016. Table 8 provides a list of all projects that support sustainability criteria.

Green Project Reserve (GPR): Potentially green projects to count toward the FFY 2015 Allotment GPR amount of \$681,700 are shaded green and the potential green category is identified on the attached Table 1, Integrated Projects Priority List, State Fiscal Year 2016. NMED has identified over \$13 million in projects with green components. All business cases required to meet the GPR will be posted to NMED’s website at <https://www.env.nm.gov/cpb/GreenProjectReserve.htm>

CWSRF-CWSRF Fund Transfers: The State of New Mexico reserves the authority to transfer up to 33 percent of the CWSRF Capitalization Grant to the DWSRF, or an equivalent from the DWSRF to the CWSRF. New Mexico does not anticipate utilizing this authority in SFY 2016.

IV. ELIGIBLE PROJECTS TO BE FUNDED, Clean Water Act Sec. 606 (c) (1-11)

The attached Table 1, Integrated Projects Priority List, State Fiscal Year 2016 contains a list of all projects eligible for assistance pursuant to Sec. 212 of the CWA as amended in 2014.

V. DISCHARGE REQUIREMENTS, Clean Water Act Sec. 606 (c) (3) and (4) AND Sec. 602 (b) (5)

Some projects are total retention lagoons or discharge to groundwater, while other projects which discharge to surface water will comply with secondary treatment requirements.

VI. FINANCIAL DATA, Clean Water Act Sec. 606 (c)(2) and (3) and 603 (d)(1)(a)

Pursuant to the Loan Act, revised April 9, 2015, a loan shall be made for the period of time not to exceed thirty (30) years with an annual base interest rate of three percent (3%). NMED is currently in the process of adopting amendments to the regulations to reflect this law change.

The NM CWSRF interest rate, including the administrative fee portion (see Section VIII below), cannot exceed the market loan interest rate. Per 20.7.5.14 New Mexico Administrative Code (NMAC) Subsection F, the variable interest rate categories are as follows:

“The interest rate for the loan portion of the financial assistance shall be the rate in effect when the original financial assistance agreement is executed. The interest rate shall not change during the term of the financial assistance unless refinanced in accordance with Section 20.7.5.14 NMAC Subsection I. The interest rate shall be the base rate provided in Section 20.7.5.14 NMAC Subsection G, unless the Local Authority qualifies for a hardship rate provided in Section 20.7.5.14 NMAC Subsection H”.

20.7.5.14 NMAC Subsection G states:

“The base rate for the loan portion of the financial assistance shall be three percent (3%). At the beginning of each State fiscal year, the Commission may determine a base rate for the State fiscal year which is less than or greater than the current base rate.”

20.7.5.14 NMAC Subsection H states:

“The following hardship rates shall be approved by the Department when a local authority meets the associated conditions at the time the financial assistance agreement is executed:

- (1) An interest rate which is two percent (2%), when the local authority’s median household income is less than the statewide non-metropolitan median household income based on the most current decennial U.S. Bureau of Census statistics.
- (2) An interest rate of one percent (1%) when the local authority’s median household income is less than three-fourths (3/4) of the statewide non-metropolitan median household income based upon the most current decennial U.S. Bureau of Census statistics.
- (3) A combination of loan and grant funds in those years when grant funding is available for assistance to rural communities.
- (4) An interest rate of zero percent (0%) when:
 - a. the local authority’s average user cost is at least fifteen dollars (\$15.00) per month or a higher amount as determined by the Commission. The calculation of average user cost shall be consistent with a statewide methodology established by the Department; and

- b. the local authority's median household income is less than three-fourths (3/4) of the statewide non-metropolitan median household income based upon the most current decennial U.S. Bureau of Census statistics.

20.7.5.14 NMAC Subsection I states:

“A local authority may refinance the loan portion of the financial assistance if the local authority later qualifies for a reduced rate. The refinancing may only occur at or after the execution of a final loan agreement.”

Loans must be repaid in annual installments. The first annual installment is due no later than one (1) year after completion of the project. At that time, previous cash disbursements to the community, plus accrued interest during construction, may be paid immediately or “rolled” into a final loan.

Authority for the NMED to administer a credit enhancement program was provided by the 1989 amendments to the Loan Act. Authority to refinance a local authority's wastewater debt and to leverage state appropriations and federal capitalization grants was provided by the 1991 amendments to the Loan Act in conformance with the CWA. The State does not plan to leverage the fund in the near future.

As discussed in Section II A. 2 and shown in the attached Cash Flow Projection, the State maintains the long term health of the Fund by adding the repayment interest and investment interest to the revolving fund.

VII. STATE MATCH

The State of New Mexico has proposed and EPA Region 6 has accepted that NMED will expend all of the required CWSRF state match funds up-front (first) in distributions/loans to communities toward addressing the wastewater needs in New Mexico. Once the total required state match for each CWSRF Capitalization Grant has been expended, the State will draw down one hundred percent (100%) of the Federal funds for each respective CWSRF capitalization grant. This process began in SFY 1995, is confirmed to be followed in SFY 2016 and will continue in the future. This drawing arrangement is for the convenience of the state and does not alter any other provision that would have otherwise been applicable if Federal funds had been drawn proportionately with State funds.

During the 2015 1st Legislative Special Session held June 8, 2015 the New Mexico Legislature appropriated \$1,300,000 from the Public Projects Revolving Fund (PPRF) for state match funds for the FFY 2015 Allotment of \$6,817,000. This amount plus \$63,400 in overmatch funds will fund the 20% State Match requirement of \$1,363,400. These funds were deposited on July 1, 2015 and were expended by August 4, 2015. The \$6,817,000 in federal cap grant funds were awarded on August 10, 2015 and access to the funds was requested in 1st Quarter SFY 2016.

The source of overmatch funds is a mix of Public Project Revolving Fund (PPRF), Severance Tax Bonds (STBs) and General Fund (GF) received in previous years.

The PPRF is administered by the New Mexico Finance Authority (NMFA). The PPRF is funded by NMFA's share of New Mexico Government Gross Receipts Tax (GGRT). GGRT is collected by the New Mexico Taxation and Revenue Department and is imposed on the receipts of New Mexico state and local governments (except public schools and hospitals) from:

- The sale of water by a utility owned and operated by a county, municipality or other political subdivision of the state
- Sewage services
- Refuse collection, refuse disposal, or both
- The sale of tangible personal property, other than water, from facilities open to the general public
- The performance of or admission to recreational, athletic or entertainment services or events in facilities open to the general public
- The renting of parking, docking or tie-down spaces or the granting of permission to park vehicles, tie-down aircraft or dock boats.

STBs are sold by the New Mexico State Board of Finance. The bonds are repaid with taxes on oil, gas and other natural resource extractions on state land. The CWSRF is not the source of reserve maintained for the bonds. The CWSRF interest earnings are not the source of repayment for the bonds.

The State of New Mexico's General Fund is maintained by the State Treasurer's Office. The General Fund is the State of New Mexico's main operating account. All State revenues are credited to the General Fund. Income taxes, sales taxes, rents and royalties, and other recurring revenues are deposited into the fund.

NMED has overmatched the cumulative Federal Capitalization Grants over the life of the CWSRF program (see attached Table 7, Federal Awards and State Match through SFY 2016).

VIII. PROGRAM ADMINISTRATION

Beginning in fiscal year 1990 reasonable costs for administering the loan program have been paid out of the loan fund in conformance with 40 CFR Part 35.3120 of the CWA and 74-6a-4, NMSA 1978, as amended, including WRRDA amendments. In SFY 2016, NMED has chosen to use four percent (\$272,680) of the FFY 2015 Allotment of \$6,817,000 for the costs of administering the fund.

NMED has the following amounts available for administrative costs from open/pending capitalization grants:

FFY Allotment	Allotment Amount	4% Admin Amount	Amount Remaining as of 6/30/2015
2014	\$6,853,000	\$274,120	\$93,609.21
2015	\$6,817,000	\$272,680	\$272,680.00
Total Available Admin			\$366,289.21

NM CWSRF currently charges an administrative fee of 0.004356 (0.4356%) that is earned annually on principal amount owed during repayment. The fee began to apply to loans that finished construction and went into repayment in SFY 2008. The administrative fee is subtracted from the interest rate charged to borrowers and as such, does not add to the financial burden of

the borrowers. This administrative fee is deposited into the Clean Water Administrative Fund (32700) which is budgeted and tracked separately from the Clean Water State Revolving Loan Fund. The fee promises to perpetuate the administration of the revolving loan fund with no fiscal impact on the State's general fund or any material impact on the financial strength of the fund itself. In SFY 2016, Fund 32700 is anticipated to have the following activity:

Fund 32700 SFY 2016 Activity	Amount
Balance beginning of SFY 2016 (ending balance as of 6/30/15)	\$1,494,371
Estimated investment interest from the State Treasurer's Office to be earned in SFY 2016	+1,200
Loan Administrative Fees anticipated to be collected in SFY 2016	+332,420
Program operating expenses budgeted from Fund 32700 in SFY 2016	-465,000
Balance end of SFY 2016	\$1,362,991

The expenses budgeted for use in SFY 2016 from the Clean Water Administrative Fund will be used for eligible expenses and will be tracked for EPA's review and verification.

IX. ASSURANCE AND SPECIFIC PROPOSALS, Clean Water Act Sec. 606 (c) (4); Sec. 602 (a) and (b) (3), (4), (5), (6), (9), (13), (14); Sec. 603 (d), (h)

Environmental Reviews: Sec. 602 (a). The State certifies that it will conduct environmental reviews of each project receiving assistance from the Fund in accordance with 40 CFR 35.3140. Environmental review procedures have been adopted following criteria established by the EPA. In FFY 2005, the State modified its environmental review procedures and EPA formally concurred with it in December 2005. In FFY 2015, the SERP was revised again to include changes to the Environmental Justice Index. These changes were submitted to EPA Region 6 for review.

Binding Commitments: Sec. 602 (b) (3). The State certifies that it will enter into binding commitments equal to at least 120% of each quarterly grant payment within one year. NMED defines a binding commitment as an executed Loan Agreement.

Timely Expenditures: Sec. 602 (b) (4). The State certifies to expend all funds in the Fund in an expeditious and timely manner. The NM CWSRF program projects that all funds are committed.

First Use of Funds for Enforceable Requirements: Sec. 602 (b) (5). The State certifies that all major and minor Publicly Owned Treatment Works (POTW) that have previously been identified by the EPA and the State of New Mexico as part of the National Municipal Policy universe (NMP) projects are:

- (a) in compliance, or
- (b) on an enforceable schedule, or
- (c) have an enforcement action filed, or
- (d) have a funding commitment during or prior to Federal Fiscal Year 1988.

Therefore, pursuant to Sections 602 and 603 of Public Law 100-4, other municipal wastewater facilities without unmet enforceable requirements under Sec. 212 and the programs and projects in Sec. 319 and 320 may be provided assistance from the New Mexico Wastewater Facility Construction Loan Fund.

Davis-Bacon Wage Rates: As of June 10, 2014, Section 602(b)(6) of the CWA was amended to include the application of Davis Bacon wage rates to all treatment works projects funded in whole or in part by the CWSRF. The Davis-Bacon requirements do not apply to nonpoint source or decentralized wastewater treatment projects. Davis-Bacon applies to construction contracts over \$2,000 and their subcontractors (regardless of the subcontract amount).

To ensure compliance with these requirements, NMED will continue to confirm that the correct wage determinations are being included in the bid specifications and/or construction contracts. NMED will also continue to provide assistance recipients with the specific EPA Davis-Bacon contract language that is to be included in bid specifications and/or contracts. In addition, NMED will continue to collect Certifications of Davis-Bacon compliance from assistance recipients with disbursement requests and will continue to confirm Davis-Bacon compliance during project inspections.

Generally Accepted Accounting Principles: As of June 10, 2014, Section 602(b)(9) of the CWA was amended to require States to require assistance recipients to maintain project accounts according to Generally Accepted Accounting Principles (GAAP) as issued by the Governmental Accounting Standards Board (GASB). This provision requires assistance recipients to use standards relating to the reporting of infrastructure assets. NM CWSRF includes this information in the Interim Loan Agreements and reviews compliance during the Single Audit reviews conducted on all CWSRF recipients annually.

Cost and Effectiveness: As of June 10, 2014, the CWA was amended to include Section 602(b)(13) which states that beginning in fiscal year 2016, the State will require as a condition of providing assistance that the recipient certify, in a manner determined by the Governor of the State, that the recipient:

- (A) has studied and evaluated the cost and effectiveness of the processes, materials, techniques, and technologies for carrying out the proposed project or activity for which assistance is sought under this title; and
- (B) has selected, to the maximum extent practicable, a project or activity that maximizes the potential for efficient water use, reuse, recapture, and conservation, and energy conservation, taking into account—
 - (i) the cost of constructing the project or activity;
 - (ii) the cost of operating and maintaining the project or activity over the life of the project or activity; and
 - (iii) the cost of replacing the project or activity

The State of New Mexico utilizes the USDA RUS Bulletin 1780-2 as the required format for a Preliminary Engineering Report (PER). A PER is the vehicle for determining a project's "cost and effectiveness." This Bulletin includes in the alternatives section, sustainability

considerations including water and energy efficiency, and the cost effectiveness of the selected alternative. The cost of operating and maintaining the project over the life of the project is included in the cost analysis of the PER. The NMED Construction Programs Bureau (CPB) technical staff review and approve the PER as part of the project review. The technical staff utilize a checklist when reviewing the PER to ensure that all the required elements are included in the report. The reports are required to be signed and sealed by a licensed professional engineer.

Architectural and Engineering Contracts Procurement: NMED CWSRF will satisfy Section 602(b)(14) of the CWA as amended by WRRDA by compliance with federal procurement 40 U.S.C. 1101 *et seq.*

Financial Sustainability Plan: As of June 10, 2014, the CWA was amended to include Section 603(d)(1)(E) which states that a recipient of a loan for a project that involves the repair, replacement, or expansion of a publicly owned treatment works is required to develop and implement a fiscal sustainability plan (FSP) or certify that it has developed and implemented such a plan.

The statute requires that FSPs include, at a minimum:

- an inventory of critical assets that are a part of the treatment works;
- an evaluation of the condition and performance of inventoried assets or asset groupings;
- a certification that the recipient has evaluated and has or will be implementing water and energy conservation efforts as part of the plan; and
- a plan for maintaining, repairing, and as necessary, replacing the treatment works and a plan for funding such activities.

This requirement applies to all loans for which the borrower submitted an application on or after October 1, 2014. The first loans this will apply to will be signed in SFY 2016. NM CWSRF has incorporated the FSP requirement in its Interim Loan Agreement and will ensure that:

- for recipients that self-certify, the recipient will provide certification that an FSP has been developed and is being implemented and the certification will be due at the time of loan closing.
- for recipients that are developing an FSP, they must submit an FSP certification to NMED before the final disbursement is approved.
- the borrowers meet at least the minimum requirements listed above.

Procurement Assurances: The State certifies that it shall comply with 40 CFR Part 31 and that the Federal regulations governing procurement in 40 CFR Part 31 and State procurement regulations shall be complied with for the use of capitalization grant funds for procurement activities in the State's administration of the Fund.

The State assures that the disadvantaged business enterprises (DBE) requirements including the six affirmative steps described in 40 CFR Part 31 Sec. 31.36 (e) shall be complied with.

The State has negotiated a “fair share” objective for the following goals:

	<u>MBE (%)</u>	<u>WBE (%)</u>
Construction	26.32	4.62
Equipment	16.33	16.06
Services	28.62	15.68
Supplies	19.74	22.14

These goals were negotiated by NMED with EPA in SFY 2015 and will be in effect for the next three (3) federal fiscal years.

Assistance for the Non-Federal Share: Sec. 603 (h). The State certifies it will not provide loans from the Fund to a community for the non-federal share of a project receiving construction grant assistance from the EPA unless allowed by Federal law.

The state will be utilizing the class deviation from the provisions of 40 CFR 35.3125. This class deviation will allow the non-Federal; non-State match CWSRF Second Tier Funds to be used to provide loans that can be used as the match for all EPA Grant Funded treatment works projects, except construction grant projects authorized by section 201 of the CWA. The State proposes to use its fiscal year of July 1 through June 30 as the accounting period for the Fund.

American Iron and Steel (AIS) Requirements: Section 608 of the Federal Water Pollution Control Act (FWPCA) requires the use of American iron and steel products in projects for the construction, alteration, maintenance, or repair of a public water system or treatment works. The Borrower shall comply with all applicable provisions of Section 608 of the FWPCA and related SRF Policy Guidelines found at http://water.epa.gov/grants_funding/aisrequirement.cfm, which includes the requirement that all of the iron and steel products used in the Project are to be produced in the United States unless:

- (a) the Borrower has requested and obtained a waiver from EPA pertaining to the Project; or
- (b) NMED has otherwise advised the Borrower in writing that the AIS Requirement is not applicable to the Project.

The Borrower shall comply with all AIS record keeping and reporting requirements under the CWA, including any reports required by a Federal agency or NMED such as performance indicators of program deliverables, information on costs and project progress. The Borrower understands that:

- (a) each contract and subcontract related to the Project is subject to audit by appropriate federal and state entities; and
- (b) failure to comply with the CWA may be a default and/or result in other remedial actions.

NMED will continue to ensure that these AIS Requirements are met for all projects.

Enhancing Public Awareness

NMED supports the EPA initiative of enhancing public awareness of the CWSRF program and has implemented this requirement in the Interim Loan Agreement. The Borrower must inform NMED as to the type of signage used and provide documentation of such action.

X. AUDITS AND REPORTING

The NM CWSRF is committed to transparency and accountability. To that end, program information, Intended Use Plans, Annual Reports, and other program materials are posted on the NM CWSRF website: <https://www.env.nm.gov/cpb/CWSRFPage.htm>. An independent audit is conducted by an outside CPA firm annually. Project milestones and information are reported through EPA's Clean Water Benefits Reporting (CBR) database and the National Information Management System (NIMS). The NM CWSRF commits to entering benefits information on all projects into CBR by the end of the quarter in which the assistance agreements is signed.

FFATA Reporting Requirement: The Federal Funding Accountability and Transparency Act (FFATA) was signed on September 26, 2006. The intent is to empower every American with the ability to hold the government accountable for each spending decision. The end result is to reduce wasteful spending in the government. The FFATA legislation requires information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website, which is www.USASpending.gov.

The FFATA Sub-award Reporting System (FSRS) is the reporting tool Federal prime awardees (i.e. prime contractors and prime grants recipients) use to capture and report sub-award and executive compensation data regarding their first-tier sub-awards to meet the FFATA reporting requirements. Prime contract awardees will report against sub-contracts awarded and prime grant awardees will report against sub-grants awarded. The sub-award information entered in FSRS will then be displayed on www.USASpending.gov associated with the prime award furthering Federal spending transparency.

NM CWSRF files a FFATA sub-award report by the end of the month following the month in which a loan agreement greater than \$25,000 is signed. NM CWSRF does not apply equivalency for federal cross cutters, single audit, or A/E procurement. Therefore, the first \$6,817,000 in signed loan agreements (see section II B #5 above) will be reported in the FSRS system.

XI. PLAN FOR THE USE OF ALL CWSRF FUNDS

Figure 1 Sources and Uses SFY 2016	
Beginning balance as of 6/30/2015:	
Ending cash balance as of 06/30/2015	\$121,967,718.84
Unused admin portion of FFY 2014 Allotment as of 06/30/2015	\$93,609.21
Projected Sources during SFY 2016:	
FFY 2015 Allotment (incl 4% admin)	\$6,817,000.00
FFY 2015 Allotment State Match (Laws 2015)	\$1,300,000.00
2016 Repayment Principal (see Table 4 attached)	\$8,534,438.04
2016 Repayment Interest (see Table 4 attached)	\$2,266,288.56
2016 Overnight Interest (Estimated from SFY 2015 State Treasurer reports)	\$90,000.00
Total Sources	\$141,069,054.65
Projected Uses	
Projected Admin Expense *	\$366,289.21
Projected Disbursements (see Table 2)	\$35,207,847.61
Total Projected Uses	\$35,574,136.82
Available Resources **	\$105,494,917.83
<p>* Estimated administrative expenses in FY16 will be paid for with the FFY 2014 Allotment admin balance (\$93,609.21) (See Table 3a for the FFY 2014 Allotment Administrative Budget) and the FFY 2015 Allotment admin (\$272,680) (See Table 3b for the FFY 2015 Allotment Administrative Budget.)</p> <p>** NMED plans to use all CWSRF funds not committed to projects in the manner detailed in the Cash Flow Projection charts attached to this report. As of 6/30/2015, the balance remaining to be disbursed from the loans/grants in construction is approximately \$56 million of which most is projected to be disbursed during SFY 2016 and 2017. NMED plans to make at least \$36 million in binding commitments in SFY 2016 (please see Section II B. Short-term Goals #7 for projected binding commitments). These amounts make up 87% of the \$105,494,917.83 in available resources identified.</p>	

NMED respectfully submits this Intended Use Plan. If readers are viewing this IUP from the website, the SFY 2016 Integrated Projects Priority List (IPPL) is also available from the Construction Programs Bureau's website:

<https://www.env.nm.gov/cpb/cpbtop.html>