

STATE OF NEW MEXICO DRINKING WATER STATE REVOLVING FUND



American Recovery and Reinvestment Act of 2009 Intended Use Plan



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EXECUTIVE SUMMARY

In State Fiscal Year (SFY) 2009, New Mexico's Drinking Water State Revolving Fund (DWSRF) received an injection of funds from the American Recovery and Reinvestment Act of 2009 from the United States Congress. Simply put, these funds are to finance infrastructure projects in the State of New Mexico that may not receive funding from any other funding sources. The objectives of the American Recovery and Reinvestment Act, as they relate to the DWSRF are clear:

1. Preserve and create jobs and promote economic recovery;
2. Assist those most impacted by the recession;
3. Provide investments needed to increase economic efficiency by spurring technological advances in science and health;
4. Invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and
5. Stabilize state and local government budgets, in order to minimize reductions in essential services.

The New Mexico Finance Authority (NMFA) and New Mexico Environment Department – Drinking Water Bureau (DWB) along with guidance from the Environmental Protection Agency (EPA) Region 6 look to solicit projects that meet the spirit of the Act as mentioned above. These agencies will implement policies and guidelines on how these funds will be administered and how projects qualify for this stimulus funding.

The State is primed to continually improve the water quality standards within the State and move forward with sustainable infrastructure into the future. NMFA and DWB will work with the water systems in the State to help create jobs and assist local governments in minimizing the effects of the economy through funds provided by the ARRA stimulus package through the DWSRF program. This Intended Use Plan (IUP) will provide information that will be useful in completing those projects that otherwise would not be in the position to go forward without these funds.



I. INTRODUCTION

A. New Mexico's Drinking Water State Revolving Fund Program

The American Recovery and Reinvestment Act (ARRA) of 2009 authorized a Drinking Water State Revolving Fund (DWSRF), a low-cost loan program for public water systems to finance the cost of repair and replacement of drinking water infrastructure, maintain or achieve compliance with the Safe Drinking Water Act (SDWA) requirements and protect drinking water quality and public health. More importantly, the Act, through the NMED and the NMFA, has clear objectives for the DWSRF which are the following:

1. Preserve and create jobs and promote economic recovery;
2. Assist those most impacted by the recession;
3. Provide investments needed to increase economic efficiency by spurring technological advances in science and health;
4. Invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and
5. Stabilize State and local government budgets, in order to minimize and avoid reductions in essential services.

The NMFA, as grantee, is responsible for the oversight of the loan fund including binding commitments. The ARRA also funds several programs that help develop and sustain the State's drinking water programs such as source water protection, capacity development and training for operator certification. The DWB, as sub-grantee, is responsible for the oversight of these programs through a funding mechanism known as the DWSRF set-asides. The ARRA allows states to utilize up to 16% of the ARRA Capitalization Grant to fund programs in three different set-aside areas that include:

1. Administration of the DWSRF;
2. Small System Technical Assistance; and
3. State Program Management.

The ARRA will provide the State with approximately \$19.5 million in Federal Capitalization Grant through the EPA and requires a State Match only for the State Program management. Overall, goal with respect to the ARRA Funds is to have all loan funds under construction or have a contract in place with the funds by February 17, 2010.

B. Intended Use Plan Overview

An IUP is required by the SDWA in order to receive the DWSRF Capitalization Grant, pursuant to 40 CFR 35.3555. The Capitalization Grant funds the loan fund and the set-asides. The amount of the Capitalization Grant allotted to the State is determined by Congress and administered by the EPA. The IUP contains information about the short and long-term goals of the programs funded by the DWSRF. These goals are established to comply with the ARRA's efforts to promote economic growth by: 1) Preserving the Davis-Bacon Wage Act for all ARRA projects; 2) Encouraging the "Buy American" manufactured goods that will be used in the projects; 3) Promoting Green Infrastructure Projects by setting aside at least 20% of the funds for these projects; and 4) Certifying that all



funds are under construction or under contract for construction by February 17, 2010. The IUP describes how the funds will be used to ensure the compliance of the ARRA.

C. State Match Summary

The ARRA Cap Grant in the amount of \$19,500,000 was announced on February 17, 2009. The 20% State Match is not needed for the majority of these funds. However, there is a requirement of 1:1 match for the State Programs Set-Aside which will be provided by NMED when the state applies for the grant.

D. One Percent Interest Loans

The NMFA has established low interest rates for the loan program which promotes a low cost viable source of money to finance drinking water projects across the State. The NMFA will provide loans at 1% for all ARRA projects. This interest rate will be provided to all water systems that are eligible to receive the loans through the Drinking Water Revolving Loan Fund (DWRLF). This rate is below the average DWRLF loan that NMFA typically offers to public water systems and well-below market interest rates for loans to these projects.

E. Subsidy for ARRA Loans

Pursuant to ARRA, the NMFA will provide a subsidy in the form of principal forgiveness for loans to ARRA recipients. Water systems on the ARRA Fundable Priority List will receive a minimum of 30% principal forgiveness and a maximum of 75% principal forgiveness dependent on the project and the water system's designation as a disadvantaged community. NMFA identifies a disadvantaged community by the usage of the affordability criteria which takes into account both the price and the ability to pay and a ratio of average annual user charges which would result from the completion of a proposed project to the MHI of the water system service area. Page 14 of the IUP provides a more detailed description on how the NMFA calculates the disadvantaged assistance and the assistance that will be provided to disadvantaged communities.

F. Drinking Water State Revolving Fund Set-Asides

According to the ARRA, up to 16% percent of the Federal Capitalization Grant is designated by the SDWA for "Set-Aside" activities. The State uses the maximum Set-Aside allocation to ensure public health protection. The DWB uses 12% of the grant for the eligible Set-Asides programs. The activities funded by this portion of the Set-Asides allow the DWB to: a) increase the technical, managerial, and financial capacity of local water systems; b) assist entities in qualifying for loans; and c) provide technical assistance targeted to systems serving 10,000 persons or less. The NMFA uses 4% of the Set-Asides to cover reasonable administrative costs of the DWRLF. The Federal Capitalization Grant, less the amount of Set-Asides, is deposited in the loan fund. The NMFA can then utilize funds in the DWRLF to make loans to community water systems for eligible water system improvements. The DWB and NMFA are responsible for providing the administrative oversight for the use of the Set-Asides to support public water systems (PWSs).



G. Public Input, Review and Comment Procedures

The draft ARRA IUP will be made available to the public on March 26, 2009 at the New Mexico Finance Authority Board meeting, on the DWB webpage, and on the NMFA webpage. The NMFA Board meeting is open to the public and the Board is comprised of several members of the Governor's Cabinet Secretaries, members of organizations that represent the Counties and Municipalities of the State and members from the public. The NMFA Board meetings are held monthly in Santa Fe, NM. Notice of the Board meeting is published in the newspapers to extend the opportunity for public members to attend the meeting. The IUP will be presented at the Board meeting and hard copies given out upon request. The audience will be informed that they have 15 days to submit written comments on the plan.

II. GOALS OF THE ARRA DWSRF FUND AND SET-ASIDE PROGRAMS

1. Support PWSs, using the Set-Aside activities outlined in this document and the approved work plan, to maximize SDWA compliance, public health protection, ensure affordable drinking water and system sustainability, particularly focusing on water systems serving populations of less than 10,000.
2. Promote job creation through the investment into infrastructure projects
3. Enter into binding commitments for projects to proceed to construction or award of construction contracts by February 17, 2010.
4. Maintain timely, accurate and complete administrative functions to sustain the DWRLF, including grant applications and reporting requirements.
5. Post the ARRA IUP for public review in March of 2009. Provide an opportunity for public participation by hosting a NMFA Board meeting and presenting the IUP for public comment.
6. Prepare and submit the ARRA Application by March of 2009, including the IUP and the Fundable Priority List.
7. Increase the amount of innovative and green projects eligible for ARRA funding to 20% of the available ARRA funding by August 1st of 2009.
8. Submit the ARRA Set-Aside work plan detailing the use of the DWSRF funds within 90 days of receiving the ARRA Grant.
9. Maintain DWB staff positions through FY2010 to assure staffing levels sufficient to appropriately administer approved ARRA Set-Aside work plan.
10. Provide training, education, and in-house professional technical resources targeted to small water systems serving a population \leq 10,000 to assist these systems in achieving and maintaining long-term compliance with SDWA.
11. Provide technical assistance through the capacity development program to target water systems that are on the Comprehensive Priority List but are unable to qualify for the Fundable Priority List.
12. Continue to provide technical assistance for water systems to help with the preparation and implementation of asset management plans, self-sufficient rates, and long-term planning.

III. SOURCES AND USES OF FUNDS

**DWSRF SOURCES AND USES OF FUNDS STATEMENT
Balances thru 6/30/08 - Uses for State FY09**

Sources of Funds	Set-Asides (excludes admin.)	Administration	Loan Fund	Total
ARRA Capitalization Grant	\$2,340,000	\$780,000	\$16,380,000	\$19,500,000
TOTAL SOURCES OF FUNDS	\$2,340,000	\$780,000	\$16,380,000	\$19,500,000
Uses of Funds				
<u>Loans</u>	\$0	\$0	\$16,380,000	\$16,380,000
<i>Total ARRA loans anticipated</i>	\$0	\$0	\$16,380,000	\$16,380,000
<u>Set-Asides</u>				
Administration (4%)	\$0	\$780,000	\$0	\$780,000
Small Systems Tech Assistance (2%)	\$390,000	\$0	\$0	\$390,000
State Program Mgt (1452(g)(2)-10%)	\$1,950,000	\$0	\$0	\$1,950,000
<i>Total for Set-Asides</i>	\$2,340,000	\$780,000	\$0	\$3,120,000
TOTAL USES OF FUNDS	\$2,340,000	\$780,000	\$16,380,000	\$19,500,000

IV. SET-ASIDE ACTIVITIES

A. Drinking Water Revolving Loan Fund (DWRLF) Administration Expenses

Section 1452(g) of the SDWA authorizes states to provide funding for DWRLF Administration as a Set-Aside activity. The administration of the State DWRLF is delegated by statute to the New Mexico Finance Authority (NMFA). Administration of the DWRLF includes reporting activities; payment processing; pre-application activities; application review; engineering, construction and environmental review; portfolio, audit and cash management; and financial management. DWRLF programmatic administration costs also include contractual technical services for engineering and construction oversight, environmental reviews, and legal fees associated with closing DWRLF loans.

In accordance with Section 1452(g) of the SDWA and the “American Recovery and Reinvestment Act of 2009” (ARRA) this 4% Administrative Set-Aside will be utilized by the NMFA and will be held in a separate account apart from the Loan Fund and the 2% and 10% Set-Asides. The NMFA reserved and specified an amount equal to 4% of the Drinking Water SRF Capitalization Grant as appropriated by P.L. 111-5, the “American Recovery and Reinvestment Act of 2009.” The total award for New Mexico’s Drinking Water SRF as appropriated by the ARRA is \$19.5 million, so NMFA will utilize 4% of the Cap Grant, or \$780,000 for administration of ARRA



specific projects and activities under the DWRLF Program. The NMFA estimates that twelve of its employees will work on ARRA specific projects and activities under the DWRLF Program, on a part-time basis, for an equivalent of approximately 4.25 Full-Time Employees. The NMFA staff members charge their time based on actual hours worked. The NMFA contracts with the NMED's Construction Programs Bureau for engineering and construction oversight, as well as other parties for technical services which include environmental compliance reviews and legal services. Please see the below list for a further description of DWRLF Administration Expenses associated with the ARRA.

- **Reporting Activities** - This includes preparing the capitalization grant application; conducting annual solicitation of projects; preparing and submitting an Intended Use Plan (IUP); preparing and submitting weekly reports, entering information into the DWSRF Project Tracking System, and any other reporting as required by the ARRA.
- **Payment Processing** - This includes loan closings, processing requests for reimbursement, making wire transfers, processing cash draws from the automated clearing house (ACH), and preparing and submitting annual outlay reports.
- **Pre-Application Activities** - This includes contacting systems on the IUP Priority List to arrange for pre-application meetings, scheduling and conducting meetings with potential applicants, counseling and providing advice and information on preparation of financial applications, engineering feasibility reports and environmental information documents.
- **Application Review** - This includes conducting financial, engineering, environmental, financial, and legal reviews of financial assistance application materials; and preparing and presenting agenda items for NMFA Board approval of loan commitments.
- **Engineering, Construction and Environmental Review** - This includes conducting reviews/approvals of engineering and construction plans and contract documents, reviewing/approving bid documents and checking for compliance with federal cross-cutters, completing environmental reviews, preparing documents for loan closings, authorizing contract award and issuing notices to proceed, participating in contract pre-construction conferences, monitoring of construction progress, reviewing/approving contract change orders, and review/approval of project close-out documents.
- **Portfolio, Audit and Cash Management** - This includes audit monitoring to ensure finance related legal and contractual compliance and ongoing financial stability of applicants; and managing program cash flows and related banking and investment activities in compliance with applicable laws, contracts, and policies of the NMFA Board.
- **Financial Management** - This includes processing payments (loan closings, making wire transfers, processing cash draws from EPA, and administration), preparing accounting entries to the general ledger, preparing reports (Quarterly Federal Cash Transaction Report, Annual Financial Status Report, Annual Financial Report), preparing reconciliations, and monitoring all Federal Capitalization Grants.

- **Contractual Technical Services** – This includes contractual technical services for engineering and construction oversight, environmental reviews, and legal fees associated with closing DWSRF loans.

Outcomes/Environmental Results

Outputs¹ – to be documented in Mid-year/Annual Reports:

Output Type	Quantitative/Qualitative Description of Output	Period of Performance
Commit 100% of the loan funds to eligible projects by June 17, 2009.	NMFA will commit 100% of the loan funds for eligible activities not later than 120 days of ARRA enactment. Preference shall be given to projects most likely to start construction by June 17, 2009.	Within 120 days of date of ARRA enactment
100% of funds to be under contract for construction by February 17, 2010.	NMFA will ensure 100% of funds will be under contract for construction within 12 months of ARRA enactment.	Within 12 months of date of ARRA enactment

¹“The term “Output” means an environmental activity, effort and/or associated work products related to an environmental goal or objective, what will be produced or provided over a period of time or by a specified date. Outputs may be quantitative or qualitative but must be measurable during an assistance agreement funding period.” EPA Order Classification No.: 5700.7

Outcomes/environmental results¹ – to be documented in Mid-year/Annual Reports:

Outcome Type	Quantitative Description of Outcome	Period of Performance
Environmental	Not less than 20% of funds will be used for projects to address green infrastructure, water or energy efficiency improvements or other environmentally innovative activities.	Within 180 days of date of ARRA enactment

¹The term “outcome” means the result, effect or consequence that will occur from carrying out an environmental program or activity that is related to an environmental or programmatic goal or objective. Outcomes may be environmental, behavioral, health-related or programmatic in nature, must be quantitative, and may not necessarily be achievable within an assistance agreement funding period.” EPA Order Classification No.: 5700.7

B. Small Systems Technical Assistance

SDWA authorizes states to use this Set-Aside to support a state technical assistance team or to support contracts with outside entities and individuals in order to provide technical assistance to PWSs serving a population of 10,000 or fewer. The goal for the technical assistance is to enable such systems to achieve and maintain compliance with the SDWA and State regulations.

The DWB provides staff assistance to small water systems on a daily basis. The compliance staff in district and field offices across the State work to assist water systems with questions and problems. They provide guidance materials to the water systems as needed. When a water system receives violations, the compliance staff prepares a notification letter that details the violations and procedures for returning to compliance. The compliance staff can provide detailed explanations of the violations and the recommended steps to correct deficiencies. Compliance staff will work with water systems to develop strategies to return them to compliance as part of informal compliance



agreements. If the number of violations rises to the level of formal enforcement, the enforcement staff provides direction and uses an escalated enforcement policy to prepare the appropriate enforcement actions. Small systems under enforcement actions receive priority technical, financial and managerial assistance from the DWB's technical services staff or contractors. .

The goal for the small systems technical assistance is to enable PWSs to achieve and maintain compliance with the SDWA and State regulations. The DWB will provide technical assistance to small water systems, through both staff resources and/or technical assistance contractors.

Outcomes/Environmental Results

Outputs – to be documented in Mid-year/Annual Reports:

Output Type	Quantitative/Qualitative Description of Output	Period of Performance
Associated Work Product of Environmental Effort	The DWB staff in each District will meet weekly and discuss water systems issues and how staff and or contractors can assist the water systems in need of technical or other help.	SFY10,SFY11
Environmental Activity	The enforcement staff, the technical assistance contractors, technical services staff and the district compliance staff will meet to discuss enforcement activities and needed assistance to small water systems at least four times per year per district.	SFY10,SFY11

Outcomes/environmental results – to be documented in Mid-year/Annual Reports:

Outcome Type	Quantitative Description of Outcome	Period of Performance
Programmatic	All assistance actions will be entered into Safe Drinking Water Information System (SDWIS) and reported on a monthly basis to management.	SFY10, SFY11
Environmental	The number of water systems in Significant Non-Compliance (SNC) will decrease from the SFY 08 level by 5%.	SFY10, SF11
Environmental	DWB staff will provide technical assistance to small water systems to assist them in maintaining compliance. Assistance will be provided to at least 80% of all small water systems requiring assistance during the fiscal year.	SFY10,SFY11

C. State Program Management

Source Water Assessment and Protection Program

This Set-Aside will be used to administer the Source Water Assessment and Protection (SWAP) Program. The SWAP program facilitates on-going state efforts to protect public drinking water supplies from contamination. Activities planned to administer the SWAP program include finalize a statewide SWP program implementation strategy, manage the state SWP activities, track and report SWP program activities, and develop SWP outreach and training materials.



Public Water System Supervision Program

This Set-Aside will be used by the State to administer the Public Water System Supervision (PWSS) program. The activities planned to support the PWSS program include implementation of new rules, conducting sanitary surveys to assess the needs and deficiencies of PWSs, provide appropriate enforcement documentation in support of formal enforcement actions taken by the State and respond to identified needs and regulatory deficiencies.

Operator Certification Program

The NMED has authority to administer the Utility Operator Certification (UOC) program pursuant to the SDWA. The UOC Program is organizationally located in the Facility Operations Team (FOT) of the Surface Water Quality Bureau (SWQB). The DWB coordinates, reviews, and oversees the UOC program administration in conjunction with the SWQB. DWB staff and/or contractors will conduct training for water system operators. Staff will also assist water systems in need of a certified operator by providing a contact list of operators available

Capacity Development Program

The DWB's Capacity Development Program strives to increase the level of knowledge of water system administrators, operators and customers. The State has a large number of small, community-administered water systems with board members that have little formal experience running a water system or a business. This situation presents a significant and ongoing challenge to the State. The DWB's strives to increase the technical, managerial and financial capacity of water systems through the work of its staff and contractors to provide assistance, training and professional oversight. In SFY 10, DWB will update its capacity development strategy including addition of a new program element to address new water systems capacity

Activities that will be pursued include enhancing the public outreach efforts with new materials and increased participation in a broader scope of events and venues, conducting a minimum of two Drinking Water Advisory Group (DWAG) meetings, direct assistance and training to water systems to address their technical, managerial and financial capacity deficiencies. DWB will conduct capacity assessments in a timely manner in response to submittal of an ARRA Project Interest Form, a request for managerial/financial assistance or upon becoming aware of a new PWS.

The Capacity Development Team intends to make a timely and concerted solicitation for additional projects, with the objective of obtaining additional qualifying projects to reach the 20% requirement for green projects. Solicitation efforts will include a public announcement of the availability of funds and targeted meetings with associations and other groups involved in green infrastructure, water or energy efficiency improvements and other environmentally innovative activities.

Engineering Program

DWBs engineering program conducts timely reviews of plans and specifications for all new PWSs and for all major modifications to existing PWSs. These reviews ensure that new water systems and existing water systems who propose modifications have sufficient managerial, technical, and financial capacity. These activities are focused



on assessing and assisting new and existing water systems to ensure they are able to meet the requirements of the SDWA at present and in the future. The engineering program is also responsible for implementing all new SDWA rules.

Outcomes/Environmental Results

Outputs – to be documented in Mid-year/Annual Reports:

Output Type	Quantitative/Qualitative Description of Output	Period of Performance
Programmatic	Revise the SWP Program Implementation Strategy to increase activity in the SWP program.	SFY10,SFY11
Environmental	Complete more than 90% of sanitary surveys during the year they are scheduled. The current schedule of sanitary surveys for New Mexico is 3 years for CWS, 3 years for NCWS with a vulnerable population, and 5 years for remaining NCWS.	SFY10,SFY11
Programmatic	Participate in all UOC Program meetings.	SFY10,SFY11
Programmatic	Continue to revise the Capacity Development Strategy and define a capacity development review process for new water systems.	SFY10,SFY11
Programmatic	Provide training to water system operators through staff efforts.	SFY10,SFY11
Programmatic	Provide capacity assessments for water systems that are identified by DWB's capacity targeting database	SFY10,SFY11
Programmatic	Complete a solicitation process to increase the number of green projects and energy efficient projects on the Fundable Priority List.	SFY10,SFY11
Programmatic	Review plans and specifications for all new construction and major modifications for conformance with the State Drinking Water Regulations.	SFY10,SFY11
Programmatic	Meet bi-weekly with EPA to review PWSs in violation of the SDWA and on the SNC List.	SFY10,SFY11

Outcomes/environmental results – to be documented in Mid-year/Annual Reports:

Outcome Type	Quantitative/Qualitative Description of Outcome	Period of Performance
Environmental	45 % of the state's population will be served by a water system with a substantially implemented SWP Plan which is in line with the National goal.	SFY10,SFY11
Environmental	88% of the community water systems in the State will meet all applicable health-based drinking water standards.	SFY10,SFY11



Programmatic	85% of community water systems will have a certified operator.	SFY10,SFY11
Programmatic	All water systems with completed capacity assessments identified in need of technical, managerial or financial assistance will receive an offer of assistance from DWB staff or its contractors within 30 days of identifying the need.	SFY10,SFY11
Programmatic	20% of the ARRA funds will be expended on green or energy efficient projects.	SFY10,SFY11
Environmental	80% of all plans and specifications submitted for review will be reviewed and commented on within 30 days of receipt.	SFY10,SFY11
Programmatic	90% of water systems identified during bi-weekly meetings as needing technical, managerial, or financial assistance will receive either staff or contractor assistance within 60 days of identifying the need.	SFY10,SFY11

V. CRITERIA AND METHOD FOR DISTRIBUTION OF FUNDS

A. Distribution of Funds Analysis

The NMFA will fund the DWRLF projects using the priority system established by the DWB. For the ARRA Funds, the State prefers to fund the projects on the DWSRF Fundable Priority List in rank order and have their necessary project documents in place to begin the construction of the project within one year from February 17, 2009. The documents that will be needed to be considered for project readiness are the following:

1. Preliminary Engineering Report (PER) – approved by NMED – Construction Programs Bureau (CPB);
2. Environmental Justice completed for the project being funded; and
3. Plans and Design – approved by CPB.

B. Loan Terms and Fees

The State, through the NMFA shall provide 1% interest loans to all water systems that qualify for ARRA DWSRF funding. The interest rate has a .25% administrative fee that is imbedded in the interest rate for administrative costs that are associated for maintaining the services over the life of the loan. There will be also a 1% Cost of Issuance (COI) that will be assessed for the legal cost for drafting the loan closing documents and any cost associated with the preparation any environmental decision for the project. Due to the intent of these funds, NMFA believes the lowering the interest rate from 2% to 1% provides additional subsidy to the water projects that will access these funds. NMFA will seek to have an expeditious repayment period for the loans without stressing the cash-flows of the systems and loan terms may not exceed 20 years except for the cases where as disadvantaged communities who could not afford the terms of the agreement, NMFA may extend the terms to 30 years. Per Loan Management Policies governing the ARRA Funds, NMFA may not make an ARRA-DWRLF loan of more than



\$3,276,000 which is 20% of the ARRA Capitalization Grant Loan Fund. Any project amount larger than \$3,276,000 will be supplemented with the regular DWRLF loan or any other eligible funding programs available to the PWS. This will leverage the ARRA-DWRLF Funds into more eligible communities throughout New Mexico.

C. Additional Subsidization

The ARRA requires that 50% of assistance provided be in a form of additional subsidies. NMFA is directed by the DWRLF Act (Laws of 1997, Chapter 144) to establish, with the assistance of the NMED, procedures to identify affordability criteria for disadvantaged communities and to extend a program to assist such communities. To assess affordability in a manner which takes into account both the price and the ability to pay, the NMFA will calculate for each applicant, the ratio of average annual user charges which would result from the completion of a proposed project to the MHI of the water system service area.

$$\text{Affordability Ratio} = \text{Average Annual User Charges} / \text{MHI}$$

Based on the described Affordability Ratio, NMFA also will provide additional subsidy in the form of principal forgiveness for projects that meeting the following categories:

1. Compliance with American Iron, Steel and Manufactured Goods which is section 1605 of ARRA will generate a subsidy of 25% in principal forgiveness;
2. Compliance with Davis Bacon Act, section 1606 of ARRA will generate a subsidy of 5%;
3. Green Projects that consider green infrastructure, water or energy efficiency improvements or other environmentally innovative activities will be assessed an additional 20% of principal forgiveness;
4. Disadvantaged community is defined as those communities with a MHI less than 90 percent of the state MHI and with the affordability ratio greater than .01 and no more than .015 will receive an additional 20% of principal forgiveness; and
5. The second group of disadvantaged communities is defined as those communities with a MHI less than 90 percent of the state MHI and with the affordability ratio (the ratio of annual water charges including the completion of the proposed project to the annual MHI of the water users) greater than .015 will receive an additional 40% of principal forgiveness.

No one project shall receive more than 75% principal forgiveness based on the different categories outlined above. NMFA and DWB reserves the right to by-pass certain projects, using a by-pass procedure, as described below in Section V.G. In such an instance lower ranked projects may be funded over higher ranked projects if, in the opinion of the NMFA and NMED, the higher ranked project meets the by-pass screening criteria.

D. Screen Process for Projects

The following narrative is an overview of the screening process that has been used for projects receiving funding from the DWRLF in the State. It is important to understand that the ranking and other screening processes will occur in a phased approach. These activities will contribute both to project ranking for the DWRLF and also to focus the resources of the DWRLF Set-Asides. The State's project ranking process is initiated and implemented in



the following manner:

- a) In December 2008, DWB sent all eligible PWSs a Project Interest Form, which allowed interested systems to identify their proposed projects. A cover letter and DWRLF fact sheet was sent along with the Project Interest Form;
- b) The DWB will perform a capacity assessment (if a current one is not available) on water systems that have submitted a Project Interest Form;
- c) Water systems that submit a completed Project Interest Form will be ranked through the DWB prioritization process and be included in the ARRA IUP Comprehensive Priority List (Attachment D);
- d) Analysis by the DWB of the administered capacity assessments for technical, managerial and financial capacity, readiness to proceed, and green infrastructure will result in a Fundable Priority List (Attachment D); and
- e) To be eligible for a loan from the DWRLF, water system projects must:
 - Be on the Fundable Priority List;
 - Submit a readiness to proceed certification;
 - Submit a loan application to NMFA, including financial audits; and
 - Be found by the NMFA to be loan worthy (40 CFR 35.3555(c) (2) (i)).

Water systems currently unable to meet the criteria for inclusion on the Fundable Priority List will receive an explanation of the exceptions that have prevented their inclusion and recommended steps for addressing such exceptions. The NMED and NMFA expect to use the resources of the Set-Asides to assist such water systems in addressing any exceptions, should they accept the offer for assistance. Thus, these water systems potentially will be able to meet all eligibility requirements for the DWRLF in the future.

The State's ranking and screening processes are described as the following: **a) federal ranking criteria** for water system projects; **b) state ranking criteria** for water system projects; **c)** other water system screening processes; and **d) ARRA ranking criteria**. Through these program activities, items **a), b), d)** are meant to rank the **specific water system project**. Item **c)** provides additional **screening of the water system** along with a **general policy** for allocation of a certain percentage of the fund to small water systems and a project by-pass procedure. In all cases of tied scores, the smaller water system will be ranked higher than the larger water system, based on the population served. The ranking criteria can be found in Attachment D.

Water system population is calculated differently for DWB and NMFA. In all cases DWB calculates the population based on the water system inventory information in SDWIS. For example, any reference to population in the DWB capacity assessment or the DWB ranking document refers to SDWIS for population information. NMFA uses the population information found in the most recent decennial census by the US Census Bureau to calculate MHI and to determine the categorical exclusion eligibility. In all other instances, the agencies negotiate and specify the population calculation to be utilized, as needed. Because of the potential for changes in a community's population over time, the IUP opening date in which a specific project is listed serves as the date for all subsequent population determinations.

E. Federal Ranking Criteria for Water System Projects

1. **PUBLIC HEALTH THREAT:** PWSs that have proposed projects addressing the threats of the most serious risk to human health shall receive a higher ranking. The State reserves the right to include these water systems on the list through the annual process described under Section V.A. or at any time such public health threat emerges during the year at an eligible water system. The IUP may allow for the funding of projects that require immediate attention to protect public health on an emergency basis. The criteria for an emergency basis are set forth in Section V - G. Such projects shall be identified in the Annual Report and during the annual review.
2. **SDWA COMPLIANCE:** PWSs that have projects which are necessary to ensure compliance with SDWA requirements.
3. **AFFORDABILITY:** Assistance to systems most in need, on a per household basis, according to state affordability criteria, which is outlined in Section V of this report.

F. State Ranking Criteria for Water System Projects

1. **WATER SYSTEM REGIONALIZATION:** Including source and storage reliability, mitigation of SDWA contaminants for one or more water system, and/or initiation of concrete measures to bring about regionalization of two or more water systems.
2. **EMERGENCY PLANNING:** Including development of a drought plan, emergency response plan, emergency source, or water conservation ordinance/policy/rate structure. This category also includes the implementation of water use restrictions.
3. **POPULATION:** Points are only available to community water systems. The population is based on SDWIS inventory information, as a part of NMED's ranking activity, and only water systems that serve populations up to 10,000 will be awarded points.
Formula: Points Awarded = 50 - (Population/200).
4. **PROJECT FACTORS:** Points will be awarded to projects that address water loss issues, streamline operations or enhance water supply.

G. ARRA Ranking Criteria for Water System Projects

1. **READINESS TO PROCEED:** PWSs with projects that have completed the environmental documentation required by the SERP and have completed plans and specifications shall receive a higher ranking.
2. **GREEN AND ENERGY EFFICIENCY INFRASTRUCTURE:** PWSs with projects that comply with EPA's ARRA guidance for innovative, energy efficient or green infrastructure projects shall receive a higher ranking.
3. **GEOGRAPHICAL DISPERSION:** PWSs with projects that are not centrally located in one area of the state. The goal of these funds is to provide an economic impact throughout the state.

H. Priority Lists

The ARRA requires that project funds be expended on projects that will have entered into a construction contract by February 16th, 2010. Prioritization will be given to projects based upon the expected date for awarding the construction contract and the date of completion of the state environmental review process. The DWSRF rules state that the IUP “must include a priority system for ranking individual projects for funding” and that the prioritization i) address the most serious risk to human health; ii) ensure compliance with the requirements of the SDWA; and iii) assist systems most in need, on a per household basis, according to State Affordability criteria. The project prioritization criteria are listed in Attachment D. It can be seen to give significant points if the project addresses a public health threat or violations of the SDWA, satisfying requirements in Section V.B.1 above. Points for addressing compliance issues with the SDWA address requirement Section V.B.2 above. The affordability points address requirement in Section V.B.3 above. Other point categories not specifically addressed in the DWSRF rules are given points for specific types of projects, regionalization and water conservation planning.

The ranked projects form the Comprehensive Priority List as required in the IUP, and is, according to the DWSRF rules, a “list of projects that are expected to receive assistance in the future.” NMED has interpreted this as a list of all submitted projects, whether the system meets the capacity requirements or not. The intent is to offer assistance to those systems that do not meet the capacity requirements in the hope of increasing the system capacity to the point where they would qualify for funding.

Also required in the Intended Use Plan is a Fundable Priority List which, according to the DWSRF rules, is a “list of projects that are expected to receive assistance from available funds designated for use in the current IUP”. A project must be on the Fundable Priority List in order to apply for a DWRLF loan. NMED has interpreted this as a list of all proposed projects where the water system satisfies a minimum set of capacity criteria and has the ability to meet the readiness to proceed and green infrastructure requirements of the ARRA. The capacity data is obtained from the capacity assessments. The capacity criteria are broken into technical, managerial and financial capacity criteria. The readiness to proceed and green infrastructure requirements are determined by a review of the available funding agency databases, and direct contact with the PWSs. The criteria and requirements can be found in Attachment D. A water system with a project that appears on the Fundable Priority List, should it apply for a DWRLF loan, still has to pass the more detailed financial review of the NMFA, including a thorough review of audited financial statements.

I. Emergency Conditions

Unforeseen or unanticipated conditions at a water system which include impact on the source, treatment, storage or distribution of water at an eligible public water system and which will have a direct impact on public health may constitute an emergency condition. The proposed project must address the specified emergency conditions. Such projects and their related emergency conditions must be identified in the subsequent Biennial Report and during the annual review.



J. Bypass Procedure

The DWB and the NMFA expect to fund the projects on the Fundable Priority List in order of rank, but reserve the right to “by-pass” certain projects using a by-pass procedure. The State reserves the right to fund lower priority projects over higher priority projects, if in the opinion of the DWB or the NMFA, the higher priority project does not meet the screening criteria discussed below. The following is the screening process, in order of its application, for the Fundable Priority List:

The water system must be willing to undertake a loan and be ready to proceed. The water system has one month to notify the NMFA of its intention to proceed on the ARRA funding. The water system must have taken the necessary steps to expeditiously prepare funding documentation and initiation of construction. If the community does not agree to undertake a loan or if it has not proceeded expeditiously to complete all funding documentation and move toward construction, then the community will be by-passed to allow other systems to take advantage of the loan program. If after a PWS has been notified in writing of its eligibility for DWSRF funding by the DWB and the NMFA, and the water system fails to express its intent to follow through with DWRLF funding, the DWB and the NMFA will continue with the next project on the DWRLF Fundable Priority List. Projects with current binding commitments will take priority over any new additions to the Fundable Priority List, during the program’s IUP yearly cycle.

K. DWRLF Project Funding Summary

Using the criteria and processes as set forth in Section V, the DWB and the NMFA will then proceed through the Fundable Priority List until they have identified sufficient projects through the application process to accommodate the funds that will be deposited in the DWRLF for a specific funding cycle. The funding commitments will be made to obligate funds within the time limit specified in the SDWA. Loans will be executed at the time when the environmental review, financial requirements, and all other obligations have been met. Any future amendments to the DWB/NMFA Priority System will be considered to be appropriate to reflect the changing character of the program and will be published in the subsequent annual IUP.



Appendix A
NMFA PUBLIC MEETING ANNOUNCEMENT

March 17, 2009

P: (505) 984-1454 | TF: (877) ASK-NMFA | F: (505) 992-9635



"Financing Your Future Believing in New Mexico."
 - NMFA Vision Statement 

HOME ABOUT LOAN PROGRAMS GOVERNMENT AFFAIRS MEETINGS / EVENTS



MEETINGS / EVENTS

Upcoming Meetings / Events

MINUTES

NMFA Board Meetings

Water Trust Board Meetings

DOCUMENTS

- RFP - Disaster Recovery-Business Continuity System
- NMFA Financial Statements FYE 6-30-2007
- NMFA Board Agenda - 2-26-09
- RFP for Trustee Services
- NMFA Financial Statements FYE 6-30-2008
- Senior Lien PPRF Revenue Bonds Series 2008B Official Statement
- PPRF (Blank) Form
- PPRF (Sample) Form
- water trust board NMFWR1 by Ken Smith 10-22-08
- Acequia Project Fund 10-22-08

Upcoming Meetings /

NMFA Board Meetings

DAY: 03-26-2009

LOCATION: Public Education Building

DAY: 04-23-2009

LOCATION: State Capital, Room TBD

DAY: 05-28-2009

LOCATION: State Capital, Room TBD

DAY: 06-25-2009

LOCATION: State Capital, Room TBD

DAY: 07-23-2009

LOCATION: State Capital, Room TBD

Appendix B

ENVIRONMENT DEPARTMENT MATCH FOR STATE PROGRAMS CATEGORY

NMED State Programs 1:1 Match Formula

<i>DWRLF STATE PROGRAMS SET-ASIDE ELEMENT</i>	FY10 Operating Budget
	July 2009-June 2010
State Programs Stimulus Budget	\$1,950,000
State Match Funds	FY10 Operating Budget
	July 2009-June 2010
Water Conservation Fee Fund	\$1,950,000
Available State Match-Current Year	\$1,950,000

Appendix C

COMPREHENSIVE AND FUNDABLE PRIORITY LISTS FOR ARRA PRIORITY LIST PROJECT REVIEW CRITERIA

DRAFT

DWSRF FUNDABLE PROJECT PRIORITY LIST FOR ARRA

DRAFT

PRIORITY RANKING SYSTEM FOR DWSRF PROJECTS

DRAFT