

COMMONWEALTH OF PENNSYLVANIA

**PA INFRASTRUCTURE INVESTMENT AUTHORITY
and
PA DEPARTMENT OF ENVIRONMENTAL PROTECTION**

DRINKING WATER STATE REVOLVING FUND

INTENDED USE PLAN

American Recovery and Reinvestment Act

March 2009

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**Drinking Water State Revolving Fund
Intended Use Plan
American Recovery and Reinvestment Act**

I. Introduction

Pennsylvania herewith submits its Intended Use Plan (IUP) for use of all Drinking Water State Revolving Fund (DWSRF) funds awarded or available through September 30, 2010 under the American Recovery and Reinvestment Act (ARRA).

The state does not intend to utilize the option to set-aside funds for the 2% Set-Aside for Technical Assistance to Small Systems or the 10% Set-Aside for Assistance to State Program as provided for in the 1996 Amendments to the Federal Safe Drinking Water Act and the ARRA.

The State has developed a comprehensive Cash Flow Projection Model to determine the optimal annual project approval funding. This Model incorporates both state and federal loan funding, as well as state grant availability.

Act 68 of 1999, commonly known as Growing Greener Grants, has provided additional grant funding to water, sewer, and storm water projects in Pennsylvania. These grants are being used to help communities improve infrastructure throughout the Commonwealth. Funding is also being made available to watershed groups and others to protect and restore watersheds, reclaim abandoned mines, and plug abandoned oil and gas wells which will improve the quality of Pennsylvania's water.

The DWSRF program is an essential component of the Commonwealth's efforts to protect and improve the quality of life of the citizens of Pennsylvania by helping to protect the water environment, promoting community revitalization, and supporting economic development. To this end, the Pennsylvania Infrastructure Investment Authority (PIIA) and the Department of Environmental Protection (DEP) work closely together and with other state and federal agencies to identify opportunities for funding specific projects and to coordinate funding efforts. These efforts are instrumental in achieving the requirements of the federal Safe Drinking Water Act and the ARRA.

II. List of Projects

A. Projects to be Funded

Under this IUP, Pennsylvania intends to utilize the entire \$65.6 million to fund up to 65 drinking water projects. The state intends to waive the ability to utilize 4% of these funds for administrative purposes by using other existing funds. The list of projects included in this IUP will be the subset of projects on the Project Priority List described below that are expected to begin construction before October 1, 2009. The final award of funding will be based on project readiness, the number of jobs created by the project, the financial need of the receiving community and similar criteria consistent with the goals of the ARRA. A minimum of \$13 million has been reserved for allocation to “Green Infrastructure” projects. In addition, a minimum of \$32.8 million will be provided to disadvantaged communities as defined in Section X in the form of principal forgiveness.

The state also does not intend to utilize set-aside amounts for the 2%, Technical Assistance Fund or the 10%, Assistance to State Programs Fund.

B. Project Development

To determine which drinking water treatment facility projects should be funded, program staff completed an extensive outreach effort and request for proposals. The cutoff date for this request was February 17, 2009. The project priority list (PPL) is a compilation of all the eligible, complete applications received. Projects that will be included on the IUP project list will be selected from the PPL using the attached project ranking framework approved by the US Environmental Protection Agency (EPA), project readiness and the number of jobs created, and other criteria consistent with the goals of ARRA.

Each project is reviewed by the regional DEP staff for cost-effectiveness, including the sizing of proposed facilities. Approved projects must be designed to meet only existing needs and future needs based on reasonably expected growth. Where project cost estimates include excess capacity for service beyond normal growth, project approval is based solely on that portion of the project needed to eliminate the Public Health or Compliance concerns for the existing and reasonably expected future customers. Although the project applicant may receive a DEP permit to construct whatever size facility it deems appropriate and which meets DEP design standards, the awarding of PENNVEST DWSRF funding is limited to those costs, which meet these criteria.

Where a project includes fire hydrants, these are in all cases a cost-effective addition, which is incidental to the project purpose.

All DWSRF projects are ranked and funded based upon the rating criteria agreed

upon by Pennsylvania and EPA. Some projects may obtain an updated rating based upon information provided by the project sponsor at the time of application. Pennsylvania has state funds that may be used for drinking water projects based upon criteria developed with the original state-funded revolving loan program. If a project is included on the original IUP as DWSRF-eligible, and the review and ranking process concludes that it is not DWSRF-eligible, it will be bypassed and potentially funded through non-DWSRF funding sources. Other DWSRF-eligible and ranked projects would move onto the IUP to fill any resulting gaps.

C. Bypass Procedure

In the event that projects identified for funding on the IUP list are unable to proceed, these projects will be bypassed, and other projects from the PPL will be funded, based on their ranking, criteria identified in Section 10(b) of Act 16, and Section 963.9 of the PIIA regulations, emergency needs for funding, readiness to proceed, the number of jobs created and other related criteria.

A project may be bypassed if the PIIA determines that funding the project from the DWSRF will supplant other funds available to finance all, or a portion of, the total costs of a project; or only a portion of the amount requested when the applicant can, based upon its ability to pay, obtain other affordable financing for the remainder of the project.

A project may also be bypassed for funding when another project, that was ranked lower on the Project Priority List (PPL) based on preliminary information or that is added to the PPL, subsequently moves ahead of it based upon new or revised ranking or project readiness information.

D. IUP and PPL Amendment Process

Consistent with the reporting requirements established in the ARRA and associated EPA grant guidance, DEP/PENNVEST will submit to EPA updated PPL and IUP/fundable lists for EPA's approval as needed to reflect changes in projects that have been approved for funding using ARRA funds. This includes the submittal of any additional project lists eligible for the reallocation of ARRA funds

Should a project be approved by PENNVEST and included on the IUP/PPL that subsequently is found to not be an eligible project, it will be removed from the fund and any funds that have been expended will be reimbursed to the fund.

E. Re-Allotment of ARRA Funds

In order to insure the goals of the ARRA are achieved Pennsylvania commits to accomplishing the following:

1. Review project progress to insure timely completion of projects to avoid the loss of ARRA funds.
2. Insure the state has the ability to recover funds from project applicants that do not make timely progress towards construction or entering into contracts for construction.
3. Provide certification to EPA that any additional ARRA funds provided to the state through re-allotment will be assigned to projects that will be under contract for construction within 120 days of reallocation.

III. Green Infrastructure Projects

In this application Pennsylvania proposes to utilize at least 20% of this capitalization grant to fund green infrastructure projects as defined by EPA in their grant guidance to include the following categories:

1. Water efficiency
2. Energy efficiency
3. Site-specific practices that mitigate stormwater at drinking water facilities
4. Environmentally innovative

A portion of this funding will be awarded in a first round of funding by the PIIA Board on April 20, 2009 based on applications that were received by February 17. The rest of this funding will be awarded to projects selected through the following process:

- A request for proposals will be released on April 6, 2009. The cutoff date for submitting an application is May 18, 2009. The application and guidance for submittal of this application will be posted on the PIIA and DEP website.
- A separate public meeting to highlight this request for proposals and answer questions will be held no later than April 17. The possibility of scheduling an additional follow up webinar to answer questions before the end of April is also being explored.
- Projects will be ranked by DEP program staff using criteria highlighted in the request for proposals.
- Final projects will be selected by the PIIA Board at their July, 2009 meeting. This list of projects will be posted with the PPL on the same website at:

<http://www.depweb.state.pa.us/watersupply/cwp/view.asp?a=1263&Q=448094&watersupplyNav=|30198|>

IV. Criteria and Method Used for Distribution of Funds

The PIIA will enter into binding commitments for 100% of these funds within 1 year of receipt of grant award. The goal is for PIIA to enter into binding commitments for at least 50% of these funds by June 17, 2009.

A. Rationale for Providing Different Types of Assistance and Terms

Pennsylvania's financial assistance policy is based upon the communities' ability to repay loans. PIIA will charge interest on all DWSRF loans in accordance with Section 963.15 of the PIIA regulations described in the following:

1. The minimum interest rate allowable for any loan is one percent. The maximum interest rates are determined by comparing the unemployment rate of the county in which the project is located to the statewide average unemployment rate. The figures used for unemployment rate comparison are the rates from the previous calendar year as reported by the Pennsylvania Department of Labor and Industry. Projects that serve multiple counties use the highest county unemployment rate in the calculations. Projects that are located within an area that has a separate unemployment rate monitored and reported by the Pennsylvania Department of Labor use the unemployment rate for that area (municipality) in the calculations to determine financial assistance. If the county unemployment rate exceeds the statewide average by 40 percent or more, the maximum interest rate allowable is one percent for the first five years of the term and 25 percent of the interest rate the Commonwealth must pay for bonds it has issued to finance the program for the remainder of the term.
2. For projects located in counties where the unemployment rate exceeds the statewide average rate by less than 40 percent, the maximum interest rate is 30 percent of the state bond issue rate for the first five years of the term, and 60 percent of the state bond issue rate for the remainder of the term. Projects in counties that have an unemployment rate below the statewide average receive maximum interest rates equal to 60 percent of the bond issue rate and 75 percent of the bond issue rate for the first five years and the remainder of the term respectively.
3. Interest rates may be set lower than the maximum if the PIIA Board determines that the community is so financially distressed that repayment of the loan is unlikely if the project were financed at the county interest rate maximums. If the Board determines that the community may not be able to repay the loan even if it were offered at one percent for the entire term, the Board may offer the system a supplemental grant, using Commonwealth funds.

4. Reduced interest rates and limited supplemental grants allow many systems to undertake needed water facility improvements/construction that would not be feasible otherwise. These projects protect the public health and safety of residents and allow system viability while utilizing SRF support.
5. The financial planning undertaken for the fund includes the use of the PIIA affordability analysis to determine loan terms and repayments. In addition to a review of individual loans, a complex cash-flow model encompassing the entire portfolio will be used to project future fund capacity. This model will allow PIIA to determine the availability of future funding based on individual loan repayments, as well as additional fund inputs (i.e. future grant allocations). An annual budget is calculated, projecting funding levels within the DWSRF.

B. Priority and Allocation of Assistance

The criteria used to prioritize projects are described in the “Priority Ranking Scale” (Attachment 1). This scale was developed from the existing criteria used to rank projects under the PIIA program and modified to incorporate the requirements and limitations of the DWSRF program. The existing ranking criteria were derived from the PIIA Act (35 P.S. Sections 751.1 et seq., specifically Section 10 (a) and (b)) and the PIIA regulations (25 PA Code Section 963.9). The affordability component of the Priority Ranking Scale was removed from DEP review and placed with PENNVEST in 2001 with the approval of EPA Region 3. This affordability component is explained in Attachment 3.

Pennsylvania applies the criteria described above to develop the technical ranking of each project. The project is then evaluated considering the debt service and operation and maintenance costs and how they impact the resulting residential user rate. This financial analysis (Affordability) will determine the amount of SRF assistance and the loan component interest rate(s).

Pennsylvania utilizes a financial capability analysis (PACNIF) to determine the financing offer to applicants. This capability analysis takes into consideration 15 variables based upon the communities’ annual financial statements submitted to the Department of Community and Economic Development. These variables include financial, burden/effort/capacity and socio/economic factors.

Consideration is provided for, but not limited to:

Change in fund equity; Cash Position; Debt Service; Fixed costs; Real estate market value; Change in earned income tax; Change in assessed valuation; Per capita debt; Percent of the population below the poverty income level; Change in population; Percent of the population over age 65; Per capita income.

These socio-economic factors are weighted with the adjusted 2000 Median

Household Income (MHI) to determine the percent of the MHI that should be available for payment of water service. This will be expressed as a percentage between one and two percent and is what we believe to be the range of what other similar systems are paying for water service. Where a particular project will fall within the one to two percent is dependent upon the socio-economic factors discussed above and the adjusted MHI.

Once a “target” user rate has been determined, the project and operation and maintenance costs are factored against the available users and a resulting user rate developed. Should the resulting user rate be higher than what is determined that similar systems are paying, the interest rate is adjusted down to as low as one percent per annum and the repayment term can be extended to as long as 30 years, if necessary, to bring the user rates to within acceptable levels. This will constitute Pennsylvania’s Disadvantaged Community Program, which is more fully described later in this document.

Should the resulting user rates be lower than what similar systems are paying, PIIA may opt to fund only a portion of the project so as not to subsidize what would otherwise be considered low rates.

C. Non-Project Activities to be Funded out of the DWSRF

Administrative

As identified in the grant application, the PIIA does not intend to use any of the capitalization grant funds for administrative support. Other existing funds will be used to cover these costs.

V. The Impact of Funding Decisions

A. Disadvantaged Communities

Based on the definition of Pennsylvania’s intended use of this program (see Section X), the financial impact to the fund corpus will be a delay in receiving loan principal and interest repayments. This program use does not diminish nor reduce the corpus of the fund. Consistent with the provisions of the ARRA, a minimum of 50% of these funds will be allocated in the form of principal forgiveness to disadvantaged communities.

B. Cash Flow Model

Pennsylvania uses a complex cash flow model that will allow for optimal funding decisions to be made. The cash flow model will provide loan portfolio activity analysis for the multiple funding scenarios.

C. Interest Rate

The Pennsylvania DWSRF loan program is required by state law to make loans with a minimum interest rate of one percent. This requirement insures the growth of the DWSRF fund in future years.

D. Loan Repayment

Pennsylvania requires repayment to commence shortly after final inspection following construction completion. Generally, repayment is done on a monthly basis. The Board may defer principal payment for up to five years in certain financially or economically distressed communities in order to maintain the fund. This procedure ensures available cash flow for continuous use of the fund. It would not, however, result in no payments being made within one year of completion of construction since some payment would always be required, even in the most extreme circumstances.

E. Automated Clearinghouse (ACH)

Pennsylvania utilizes the ACH program to electronically debit borrowers for debt service on their loans. The participation in the ACH program is a loan requirement. The ACH program insures the receipt of loan repayments on a timely basis.

F. Loan Portfolio Management

Pennsylvania uses a comprehensive Loan Monitoring Program (LMP) for loan portfolio management. The LMP includes risk definition, monthly and annual payment review, annual financial statement review and ongoing management analysis. The LMP is a pro-active management tool to protect the integrity of the loan portfolio.

VI. Financial Status

Pennsylvania agrees to submit to EPA a Financial Status Report (SF-269) within 90 days after the end of each state fiscal year during the term of the capitalization grant agreement.

Consistent with the provisions of the ARRA, Pennsylvanians use of the disadvantaged community assistance will consist of extended terms of the loan or principal forgiveness.. Pennsylvania does not plan to leverage at this time. Pennsylvania reserves the right to review all program activities on an annual basis.

VII. Outputs and Outcomes

1. Program Integration – the DWSRF program works to coordinate funding opportunities with other state and federal programs, as well as, to incorporate it into the state and federal drinking water priority systems. Where possible this will be shown in the Annual Report.
2. Compliance with current and future drinking water requirements – SDW-7 – the DWSRF program works with the DEP technical personnel to provide financial assistance for municipalities, municipal authorities, and private water companies to meet the compliance requirements. This will be shown through the NIMS compliance reporting.
3. Funds utilization rate.

C. ARRA Specific Reporting

The state agrees to comply with any additional reporting requirements of section 1512 of the ARRA as defined by guidance issued by the Director of the federal Office of Management and Budget or EPA.

VIII. Goals of the DWSRF Program in Pennsylvania

A. Long-Term Goals

1. Provide funding to promote economic recovery and the creation of jobs through expeditious use of the ARRA funds for drinking water and green infrastructure projects.
2. Encourage innovative solutions to water quality and stormwater control problems at drinking water systems throughout the Commonwealth.
3. To have all public water systems in Pennsylvania achieve compliance with drinking water standards through coordination and integration with the state Public Water Supply Supervision Program. Based on the recently completed study by the Governor's Water Infrastructure Sustainability Task Force, Pennsylvania's total drinking water infrastructure capital construction needs is approximately \$11.5 billion,
4. To protect and enhance the quality of life of present and future Pennsylvanians by providing safe and adequate supplies of potable water through coordination and integration with the Public Water Supply Supervision Program. Eligibility for DWSRF funds will allow many drinking water systems currently not eligible for

financial assistance to provide improved drinking water quality and service to existing customers by correcting problems with source water quality and quantity, treatment, storage, and distribution. Emphasis will be placed on projects designed to correct deficiencies that pose a threat to public health.

5. To administer the DWSRF to issue loans, loan guarantees, or insurance to applicants, at fees commensurate with risk, such that the revolving nature of the DWSRF is assured in perpetuity.
6. To assist communities with financial difficulties in meeting required drinking water standards. Low interest loans for the eligible project costs will be available to assist these communities. Other types of assistance are available to improve the marketability of local debt instruments. The goal is to provide, without replacing other funds reasonably available, the type and amount of assistance necessary to make the project affordable, consistent with the long-term health of the DWSRF.
7. Support and implement infrastructure sustainability initiatives to protect public health and the environment; including, but not limited to; the Public Water Supply Supervision Program, the Drinking Water Capability Enhancement Program, the Operator Certification Program, the EPA Special Appropriations Program and the state Growing Greener Programs.
8. Continue to enhance the results of the Pennsylvania Gap Study to identify the gap between available funding resources and financial infrastructure need to further enhance the estimation of total infrastructure financing need in the Commonwealth.
9. To ensure the technical integrity of the DWSRF through adequate and effective program management and project planning, design, and construction management.
10. To maintain an adequate data management system to track and monitor all DWSRF project and program information.
11. To ensure proper accounting, audit, and fiscal procedures conforming to generally accepted government accounting standards.
12. To review annually the DWSRF program funding for long-term use and viability by using the PENNVEST Cash Flow Model.

B. Short-Term Goals

1. Insure projects are in compliance with ARRA provisions for the use of American manufactured steel and the establishment of prevailing wages as established by the Davis Bacon Act.
2. Streamline the Disadvantaged Business Enterprise solicitation process to insure compliance with the Six Affirmative Steps and minimize paper, and the time necessary for DEP review and approval. DEP will continue to collect data on proposed and actual use of DBE firms by Borrowers on DWSRF loan projects and submit semi-annual reports to Region 3 on DBE firm procurement actions.
3. To obtain maximum capitalization of the DWSRF in the shortest time possible so that the funding needs of communities with inadequate drinking water facilities can be addressed.
4. To maximize the use of Growing Greener grants funds and DWSRF loan money to assist distressed communities and other systems in providing adequate water service.
5. To assure that projects under construction will initiate operations on schedule, provide loans only for uncompleted portions of projects rather than refinancing completed portions.
6. To improve the coordination of DWSRF financial assistance, planning, permitting, and enforcement activities among DEP, PIIA and other agencies, including the Public Utility Commission.
7. To continue outreach efforts to systems across the Commonwealth. This outreach is structured to inform systems of the availability of funds, the application procedures and federal requirements.
8. To continue coordination efforts with other funding sources. This coordination takes the form of regional and statewide meetings with representatives responsible for the administration of funds from EPA, the U.S. Department of Agriculture, Community Development Block Grants, Appalachian Regional Commission, Economic Development Financing Authority, the U. S. Army Corps of Engineers, local banks, bond counsel organizations and various state funding sources.
9. Implement recommendations of the the Governor's Sustainable Water Infrastructure Task Force.

10. Develop and deliver a combination of classroom and web-based training courses to promote Asset Management. Create an Asset Management Specialty Team as part of DEP's Outreach Assistance Provider Program to assist system personnel with the implementation of an asset management framework.

IX. Transfer Amounts

Pennsylvania does not intend to transfer any of the federal ARRA dollars between the DWSRF and the CWSRF. However, Pennsylvania does continue to reserve the authority to transfer additional funds as appropriate at some time in the future, up to the maximum of 33% of the ARRA capitalization grants, respectively, between the DWSRF and the CWSRF. This includes any funds generated through loan repayments. This transfer, in addition to the transfer of the maximum amount between the CWSRF and the DWSRF for all prior grants and any future transfers between funds, will assist in meeting the demand for CW and DWSRF funding. The effect of these transfers on the fund will be minimal. No additional transfers are anticipated at this time.

X. Description of How Pennsylvania Will Define a Disadvantaged System

PIIA utilizes a financial capability analysis that compares various community specific demographic data to similarly situated communities across the Commonwealth to determine a percent of the community's adjusted Median Household Income (MHI) that should be available to pay for water service. The amount that should be available to pay for water service by residential customers will range from one to two percent of the community's adjusted MHI dependent upon the specific socio-economic factors that are provided by the Pennsylvania Department of Community and Economic Development. This process aids in an equitable distribution of residential user rates.

Should the estimated resulting residential user rates be higher than similar systems, even after PIIA has provided the most favorable funding package available, based upon criteria set forth in the PIIA act and regulations and further described in this document under III.C., "Priority and Allocation of Assistance," these systems would be considered "disadvantaged" for the purpose of term extension from the normal 20 years to a term of up to, but not to exceed, 30 years repayment of principal and interest. Systems qualifying for term extensions must exceed the user rate(s) found in similar systems according to the PIIA financial capability model. The terms will be extended to a point that will allow the residential user rate to fall to a level equal to similar systems' cost of water service, as determined by the demographic analysis and financial capability analysis.

A minimum of 50% of these funds will be targeted to these communities in the form of principal forgiveness. It is Pennsylvania's intention to include

communities that are implementing either a “green infrastructure” or a “traditional” drinking water project for consideration.

XI. Assurance of Recipient Capability

All DWSRF applicants will be evaluated for compliance with technical, financial, and managerial capability requirements. Applicants considered to lack capability will be evaluated for anticipated capability as a result of DWSRF assistance. Evaluation of applicants will be performed according to criteria developed by DEP as described in Attachment 2. Determination of compliance subsequent to DWSRF assistance will be accomplished through currently established procedures for routine evaluation of system performance (routine monitoring and comprehensive performance evaluations) and according to EPA guidance.

XII. Public Review and Comment

On March 15, 2009, a notice was published in the Pennsylvania Bulletin regarding a public meeting scheduled for April 1, 2009 in Harrisburg, PA on this IUP and the PPL.

The PIIA Board schedules four project review and approval meetings each state fiscal year. The Board meets in January, April, July, and October to review and approve funding for projects. These projects are subject to the provisions included in the public comment periods for the IUP and PPL. Copies of the IUP and the PPL are available upon request from the DEP, Division of Technical and Financial Assistance or through the DEP website, at the following link:

<http://www.depweb.state.pa.us/watersupply/cwp/view.asp?a=1263&Q=449900&watersupplyNav=|30198|>

A separate list of the final “green infrastructure” projects will also be posted on this website once it is finalized

A public meeting will be held on April 1, 2009 to go over the IUP and the PPL. Written comments will also be accepted until close of business on April 15, 2009. A separate public meeting will be scheduled no later than April 15 to highlight the request for proposals for “green infrastructure” projects.

A summary of the public participation activities for this capitalization grant application will be submitted to EPA after the April 20, 2009 PIIA Board meeting.