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Gouveia, Susan

From: Lashway, Lisa
Sent: Wednesday, August 26, 2015 2:04 PM
To: Canning, Sean; Gouveia, Susan; Gene Buczynski; Quinn, Tim
Subject: FW: FFY16 PS/IUP/PPL Public Notice
Attachments: FFY16CWSPublicNotice.pdf

From: Hines, Judith [mailto:Judith.Hines@dep.nj.gov]
Sent: Wednesday, August 26, 2015 9:41 AM
To: Hines, Judith
Subject: FFY16 PS/IUP/PPL Public Notice

Attached is a Public Notice regarding the FFY16 Clean Water Financing Program that highlights the important deadlines and changes for the SFY17 Financing Program. A hearing on the Proposed FFY2016 Priority System document will be held at the offices of the NJ Environmental Infrastructure Trust, 3131 Princeton Pike, Building 4, Suite 216, Lawrenceville, New Jersey, in the large conference room on Tuesday, September 22, 2015 at 10:00 a.m. The period for submitting written comments on the proposal will close on September 30, 2015 (all comments must be received by that date).

Scott Shymon
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State of New Jersey

CHRIS CHRISTIE
Governor

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BOB MARTIN
Commissioner

KIM GUADAGNO
Lt. Governor

PUBLIC NOTICE

FOR THE PROPOSED FFY2016 PRIORITY SYSTEM, INTENDED USE PLAN AND PROJECT PRIORITY LIST DOCUMENT (CLEAN WATER FINANCING)

August 28, 2015

Dear Interested Party:

The Department of Environmental Protection (Department) has developed the Proposed Federal Fiscal Year 2016 Priority System document for the administration of the Clean Water State Revolving Fund (CWSRF) program. This document also includes information on the Sandy CWSRF program designed to provide financial assistance to facilities impacted by the storm and in need of implementing resiliency measures.

The Priority System/Intended Use Plan document must be approved by the US Environmental Protection Agency (USEPA) for the Department to be awarded its capitalization grants used to finance infrastructure projects. The FFY2016 CWSRF capitalization grant is targeted to be awarded to the Department in September 2016, for use in the State Fiscal Year 2017 Financing Program (July 1, 2016 to June 30, 2017). Projects eligible for assistance include a wide variety of wastewater treatment, combined sewer and stormwater management projects, as well as nonpoint source pollution control projects that include open space land acquisition and conservation, landfill closure and construction, remedial action activities and well sealing. Financing is generally in the form of a low-interest loan as low as one-quarter the market rate, with limited opportunities for 100% interest-free, Department-only financing and principal forgiveness loans.

The Department is proposing several significant changes to the FFY16/SFY17 Program that include the following:

- Offering 100% DEP interest-free financing (with no NJEIT loan component) to communities in a CSO sewershed sponsoring construction projects that reduce or eliminate excessive infiltration/inflow or extraneous flows (with loan terms up to 30 years);
- Allowing borrowers to convert their short-term construction loans into long-term loans from the DEP and the NJEIT every 6-8 months provided the project is listed in the approved State legislation authorizing its financing and is able to satisfy the Term Financing Criteria established by the NJEIT requiring a certain percentage of construction completion;
- Offering 100% interest-free financing through the NJEIT's Planning and Design Loan Program to help CSO permittees develop long-term control plans for the CSO sewershed (with loan terms up to 10 years) with the expectation that such plans will result in a capital improvement project. The Department is proposing to reserve \$10 million in SRF loan repayments for this purpose;
- Adjust the financing terms for projects that have significant private involvement and are utilizing a local government unit as a conduit to access the Financing Program for redevelopment purposes such that 50% of the allowable costs are financed with interest-free loans and the remaining costs financed through the NJEIT at market rate;
- Introduce the Program's Affordability Criteria developed to satisfy a new federal requirement established in the Water Resources Reform and Development Act of 2014 (WRRDA) which mandates that each state's CWSRF program develop affordability criteria that will assist in identifying applicants that would have difficulty financing projects without additional subsidization;
- Remove the existing caps of \$600,000 for emergency loans and \$500,000 for supplemental loans that is currently in place;
- Post a listing of active projects for project sponsors and other interested parties to view which will include key milestone dates with target dates or actual completion dates for all active clean water and drinking water projects on the DEP website and the NJEIT website quarterly; and
- Highlight the Program's ability to finance farmland preservation activities, including land acquisition or stream buffers and the implementation of best management practices such as fencing, feedlot and manure runoff control systems and other approved practices that help protect water quality.

The Department is expecting to have somewhere in the range of \$3M to \$6M to provide principal forgiveness loans in the SFY17 Program. The Department is proposing to reserve 50% of the available principal forgiveness funds and provide principal forgiveness loans for Combined Sewer Overflow (CSO) abatement projects utilizing green practices (such as green roofs, blue roofs, rain gardens, porous pavement, and other activities that maintain and restore natural hydrology by infiltrating, evapotranspiring and harvesting and using stormwater). The remaining 50% of the available principal forgiveness funds would be reserved for stormwater and non-point source pollution management projects in the Barnegat Bay Watershed.

In addition to the CSO and Barnegat Bay reserves, the Department is also proposing to continue to reserve up to \$5M for equipment purchases and \$30M for brownfield redevelopment projects in this year's Priority System. For the purposes of the equipment purchase reserve, equipment is limited to

street sweepers, jet-vac trucks, portable generators and other equipment where construction services (such as the installation of a pad to support a generator) are not needed to effectuate the project.

Although the Department is working to award all of the Sandy CWSRF funds in the SFY16 Program, there is the possibility that the amount of approvable projects in the SFY16 program do not utilize all of the available Sandy CWSRF funds. As such, the Department will continue to accept submittals under the Sandy CWSRF Program, which includes a principal forgiveness component of approximately 19% of the allowable costs. If all of the Sandy CWSRF funds are awarded in SFY16, new submittals will continue to be eligible under the 75% DEP and 25% Trust loan structure.

All local government units that have a project or projects listed or eligible for listing on the FFY2016 Priority List are required to commit to the following schedule by October 9, 2015 to be considered for the SFY2017 Financing Program. The commitment (also known as a Letter-of-Intent) is made through your user account at <https://www.h2loans.com/app/> . If you are new to the Financing Program, please contact the NJ Environmental Infrastructure Trust at 609-219-8600 to request a user account. Project sponsors are encouraged to make complete submittals as soon as they can so that project approvals can begin as soon as possible.

CWSRF Program Schedule (FFY16/SFY17)	
Activity	Deadline
Commitment Letter (Letter of Intent) and Planning Documents	October 9, 2015
Design Documents and Loan Application	March 4, 2016

To ensure that all projects ranked below the CWSRF fundable range have an opportunity to access to NJEIFP funding, the Department is proposing to grant priority status to approved projects that are ranked below the fundable range in the CWSRF Program based on the date of project approval. As such, there is a strong incentive for applicants to submit necessary application related documents and secure approvals as soon as possible. The Department is committing resources for the timely approval of all applications. Moreover, short term funding of such projects will be available immediately upon approval through either the Interim Financing (Construction Loan) Program or the Statewide Assistance Infrastructure Loan (SAIL) Financing Program, further ensuring that such projects commence construction as soon as possible.

All applicants are strongly encouraged to attend a pre-application meeting with appropriate staff within the Municipal Finance and Construction Element. To request a pre-application meeting, please contact Gautam Patel, Chief, Bureau of Environmental, Engineering and Permitting at (609) 633-1170. The Department is continuing to require project sponsors to submit a planning checklist with the planning document submittal so that the submittals are more complete and the reviews can be expedited.

SAIL Loan Program

The Trust-administered Disaster Recovery Emergency Loan Fund (commonly referred to as the Statewide Assistance Infrastructure Loan (SAIL) Program) is designed for project sponsors that are certain that FEMA will provide grant funding for a substantial portion of the overall project costs.

SAIL is a short-term bridge loan program to help facilitate the cash flow needs of municipalities and authorities and pay for construction costs related to the repair of infrastructure damaged during Sandy and projects to improve infrastructure resiliency in future disasters.

Projects will be financed on a first-approved, first-funded basis provided the project satisfies the requirements to be classified as a SAIL project under the approved legislation (including listing of the project on the SAIL List submitted to Legislature) and certification for eligibility by the Department and the Trust.

WRRDA Provisions

On June 10, 2014, President Obama signed into law the Water Resources Reform and Development Act of 2014 (WRRDA) that introduce new requirements for CWSRF applicants and recipients. The major changes that project sponsors should be aware of are as follows:

- **A/E services must be procured under federal procurement rules at 40 U.S.C. 1101 et seq.**

All architectural and engineering (A/E) contracts **funded by the capitalization grant** that are awarded on or after October 1, 2014 must comply with the procurement processes for A/E services (including feasibility studies, preliminary engineering, design services, surveying, mapping, construction management, etc.) as identified in 40 U.S.C. 1101 et. seq.

The base program has the ability to finance A/E contracts that did not follow federal procurement rules with non-capitalization grant funds (i.e., EIT shares, State match, loan repayments, etc.). However, sponsors of projects seeking Sandy SRF financing should be aware that the program's ability to finance A/E costs associated with contracts that did not meet the federal procurement requirements is limited to the Trust share (representing approximately 25% of the allowable project costs). **Finally, this requirement does not jeopardize the project eligibility and is only an issue associated with the program's ability to reimburse sponsors for these soft costs.**

Project sponsors subject to the requirements must follow the procurement requirements identified below for A/E services:

- Public announcement of the solicitation (e.g., a Request for Qualifications);
- Evaluation and ranking of the submitted qualifications statements based on established, publicly available criteria (e.g., identified in the solicitation);
 - Evaluation criteria should be based on demonstrated competence and qualification for the type of professional services required (e.g., past performance, specialized experience, and technical competence in the type of work required);
- Discussion with at least three firms to consider anticipated concepts and compare alternative methods for furnishing services;
- Selection of at least three firms considered to be the most highly qualified to provide the services required; and
- Contract negotiation with the most highly qualified firm to determine compensation that is fair and reasonable based on a clear understanding of the project scope, complexity, professional nature, and the estimated value of the services to be rendered;

- In the event that a contract cannot be negotiated with the most highly qualified firm, negotiation continues in order of qualification.
- **Requires treatment works receiving assistance to develop and implement a fiscal sustainability plan and certify that it has been implemented prior to receiving assistance.**

WRRDA requires a recipient of a loan for a project that involves the repair, replacement, or expansion of a treatment works 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 part of the treatment works;
- an evaluation of the condition and performance of inventoried assets or asset groupings;
- a certification that the assistance recipient has evaluated and 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.

In NJ, CWSRF loan recipients must certify that an FSP has been developed and is being implemented at the time of loan award or certify that one will be completed before construction completion.

This provision applies to all new loan applications submitted for the SFY17 Program.

- **Codifies American Iron and Steel (AIS) requirement.**
- **Codifies Davis-Bacon requirement.**

WRRDA permanently applies the prevailing wage (Davis-Bacon) provision to any projects for treatment works that are funded by a CWSRF. WRRDA also codifies a provision that had recently been included in EPA's SRF appropriations that requires assistance recipients, absent a waiver, to use iron and steel products that are produced in the United States for projects for the construction, alteration, maintenance, and repair of treatment works. These provisions apply to all CWSRF projects in New Jersey.

- **Assistance recipients must certify that it has studied cost-effectiveness, and has selected a project with the greatest potential for water reuse, water conservation, and energy conservation.**
- **In addition, WRRDA also included provisions that allow for 30-year loans, expands the eligible activities for the CWSRF program, modifies the administrative allowance calculations, formalizes the additional subsidization formula and requires EPA to conduct a study of the allotment formula to determine whether it addresses water quality needs in accordance with the most recent needs survey and any other information EPA considers appropriate and report to Congress on results of the study and recommend changes to the formula.**

- WRRDA also requires States to develop affordability criteria that are intended to assist them in identifying applicants that would have difficulty financing projects without additional subsidization. NJ's affordability criteria are explained in more detail in the Proposal document. WRRDA requires states to establish their criteria by September 30, 2015 after providing notice and an opportunity for public comment.

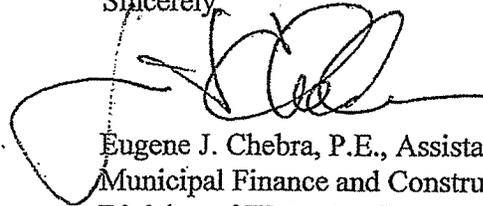
A hearing on the Proposed FFY2016 Priority System document for Clean Water Financing will be held at the offices of the NJ Environmental Infrastructure Trust, 3131 Princeton Pike, Building 4, Suite 216, Lawrenceville, New Jersey, in the large conference room on Tuesday, September 22, 2015. The hearing will commence at 10:00 a.m. and conclude at noon or the end of testimony (whichever is sooner) and will be held in conjunction with the Priority System and Intended Use Plan hearing for the Drinking Water Program. Presentations may be made orally or in writing; if written testimony is prepared, the oral presentation should be limited to a summary of the text. The period for submitting written comments on the proposal will close on September 30, 2015 (all comments must be received by that date). All comments submitted prior to the close of the comment period will be considered in the preparation of the final FFY2016 Priority System and Sandy CWSRF documents.

Written comments should be sent to the following address:

Mail Code 401-03D
Eugene Chebra, P.E., Assistant Director
Municipal Finance and Construction Element
Division of Water Quality
PO Box 420
401 East State Street, 3rd Floor, West Wing
Trenton, New Jersey 08625-0420

The Proposed Priority System document is posted on the Department's web site at <http://www.nj.gov/dep/dwq/cwpl.htm>. In addition to the complete Priority System, Intended Use Plan and Project Priority List, the web posting includes a project description and project ranking worksheet for each listed project. For questions regarding this notice or to request a copy of the Priority System Proposal, please contact Scott Shymon, Chief, Bureau of Construction, Payments and Administration at (609) 292-3114.

Sincerely,



Eugene J. Chebra, P.E., Assistant Director
Municipal Finance and Construction Element
Division of Water Quality