



KENTUCKY INFRASTRUCTURE AUTHORITY

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Clean Water State Revolving Fund Notification of Program Changes

To: Municipal Officials, Wastewater Districts, Area Development Districts and Potential CWSRF Loan Applicants
From: Kentucky Infrastructure Authority
Date: July 25, 2016

This letter is being distributed to notify current and potential Clean Water State Revolving Fund (CWSRF) loan applicants, their consultants, and other interested parties of recent law changes to the program, new program requirements for borrowers, and additional program eligibilities. For more information on the CWSRF program please visit: <http://kia.ky.gov/loan/funda.htm>.

Law Enactment

On June 10, 2014, President Obama signed into law the Water Resources Reform and Development Act of 2014 (WRRDA). Among its provisions are amendments to Titles I, II, V, and VI of the Federal Water Pollution Control Act (FWPCA). On January 6, 2015, the U.S. Environmental Protection Agency (EPA) issued an interpretive guidance for those provisions affecting the Clean Water State Revolving Fund (CWSRF) program.

This guidance pertains to the certification that the municipal, intermunicipal, interstate or State agency recipient of CWSRF financial assistance has taken into consideration the cost and effectiveness of the processes, materials, techniques, and technologies for carrying out the project and has selected, to the maximum extent practicable, a project or activity that maximizes the potential for efficient water use, reuse, recapture, and conservation and energy conservation.

The Interpretive Guidance can be found at:

<https://www.epa.gov/cwsrf/water-resources-reform-and-development-act-wrrda-guidance-clean-water-state-revolving-fund>



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What follows is a summary of the pertinent changes in program requirements and eligibilities.

1. Fiscal Sustainability Plan, Section 603(d)(1)(E) – Starting **October 1, 2014**, a Fiscal Sustainability Plan (FSP) will be required of loan recipients for a project that involves the repair, replacement, or expansion of a treatment works. This requirement does not apply to a loan if, prior to this date, the project was listed on a CWSRF Intended Use Plan or the loan recipient submitted an application for CWSRF funding assistance.

As amended, the FWPCA now includes section 603(d)(1)(E), which states:

- (E) for a treatment works proposed for repair, replacement, or expansion, and eligible for assistance under subsection (c)(1), the recipient of a loan shall—*
- (i) develop and implement a fiscal sustainability plan that includes—*
 - (I) an inventory of critical assets that are a part of the treatment works;*
 - (II) an evaluation of the condition and performance of inventoried assets or asset groupings;*
 - (III) a certification that the recipient has evaluated and will be implementing water and energy conservation efforts as part of the plan; and*
 - (IV) a plan for maintaining, repairing, and, as necessary, replacing the treatment works and a plan for funding such activities; or*
 - (ii) certify that the recipient has developed and implemented a plan that meets the requirements under clause (i);*

2. Cost and Effectiveness Analysis, Section 602(b)(13) – Starting **October 1, 2015** municipalities and districts must certify to the CWSRF that they have studied and evaluated the cost and effectiveness of the processes, materials, techniques, and technologies for the funded project and that they have selected, to the maximum extent practicable, a project that maximizes the potential for efficient water and energy conservation, taking into consideration capital cost, operation and maintenance, and replacement cost. This requirement does not apply to a loan if, prior to October 1, 2015, the project was listed on a CWSRF Intended Use Plan or the loan recipient submitted an application for CWSRF funding assistance.

As amended, the FWPCA now includes section 602(b)(13), which states:

Beginning in fiscal year 2016, the State will require as a condition of providing assistance to a municipality or intermunicipal, interstate, or State agency that the recipient of such assistance certify, in a manner determined by the Governor of the State, that the recipient—

- (A) has studied and evaluated the cost and effectiveness of the processes, materials, techniques, and technologies for carrying out the proposed project or activity for which*



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*assistance is sought under this title; and
(B) has selected, to the maximum extent practicable, a project or activity that maximizes the potential for efficient water use, reuse, recapture, and conservation, and energy conservation, taking into account—
(i) the cost of constructing the project or activity;
(ii) the cost of operating and maintaining the project or activity over the life of the project or activity; and
(iii) the cost of replacing the project or activity;*

Guidance

All CWSRF financial assistance recipients meeting the definition of Municipality or Intermunicipal, Interstate, or State agency must certify that they have conducted the studies and evaluations described in 602(b)(13)(A) and (B) and 603(d)(1)(E), referred to collectively as a Cost and Effectiveness Analysis and Fiscal Sustainability Plan Self Certification.

To whom does this requirement apply? This provision applies to all types of assistance provided to the entities above for applications submitted or after October 1, 2014 (Fiscal Sustainability) and October 1, 2015 (Cost Effectiveness).

How is the requirement met? To meet this requirement, the financial assistance recipient must submit the Cost and Effectiveness Certification form and the Fiscal Sustainability Plan Self Certification Form.

Where do I get the certification forms? The forms are located at: <http://kia.ky.gov/loan/forms.htm>

When is the Certification due? As of the date of this letter, these new requirements will be included with the Division of Water (DOW) SRF checklist and collected by DOW as Plans and Specifications are submitted. If you are satisfying this requirement retroactively, you may submit the completed forms directly to KIA.

How will the recipient be informed of the requirement? A condition will be included in the commitment letter requiring submission of a certification form before funds will be disbursed.