

Initial Meeting Review of VCWRLF Program Requirements & Procedures

General Procedures: The letter you received from Department of Environmental Quality (DEQ) Clean Water Financing and Assistance Program Manager is the Loan Authorization from the agency provided so that you may proceed with your project(s) with the certainty of a funding commitment. DEQ staff will work with you to complete the program requirements so that you may advertise for construction bids. Upon the receipt of construction bid(s) and the development and approval of a final loan budget based on as-bid construction and contractual engineering costs, the loan will be closed and you may begin requesting monthly reimbursements for 100% of the eligible costs incurred.

There are a number of requirements which are applicable to projects funded through the Virginia Clean Water Revolving Loan Fund (VCWRLF) Program. It is DEQ's intent to ensure compliance with all of these requirements by our loan recipients through the most expeditious, streamlined, and least burdensome method. However, in order for this goal to be achieved, it is important that loan recipients be fully cognizant of these requirements and that they follow through in meeting these requirements in a thorough and timely manner.

The purpose of this overview is to provide a very brief summary of the program requirements as they relate to our loan recipients so that they are fully aware of them and can act accordingly. This initial meeting is not intended to explain all of the details of meeting these requirements, as that information is provided in the **Procedural Guidelines** on our website. It is imperative that the loan recipient read and become familiar with those Guidelines.

Professional Services Procurement: All goods and services for which the loan recipient will be requesting reimbursement must be procured in accordance with the procedures outlined in the Virginia Public Procurement Act, regardless of population size.

Documentation must be submitted to DEQ as either:

- a) A letter stating that the Virginia Public Procurement Act was followed in the procurement or
- b) Documentation of Evidence of RFP or RFQ advertisement, Evaluation criteria used, Ranking of respondents, Statement detailing final selection, Copy of executed contract.

Preliminary Engineering Report (PER): For wastewater projects, the PER in addition to the evaluation of alternatives shall include both an environmental assessment and a cost effective analysis. This will need to be submitted to DEQ for approval.

Categorical Exclusion or Environmental Assessment: For wastewater projects, an environmental review must be conducted as part of the Preliminary Engineering Report. There are three types of environmental reviews: Categorical Exclusion (CE), Environmental Assessment (EA) and Environmental Impact Statement (EIS). These are based on the potential for significant environmental impacts and will be discussed during the initial meeting. The result of the environmental review will need to be submitted to DEQ for approval.

Plan and Specifications: Final plans and bid ready specifications must be submitted to DEQ for review and approval. The appropriate set of contract inserts must be included in the specifications verbatim. The Bid Advertisement must discuss and highlight the requirements of VCWRLF. A completed plan and specifications checklist, certificate to construct (for wastewater projects), and a cost estimate must be provided with this submittal.

Environmental Permits: All required environmental permits must be in place prior to the initiation of construction. As permits are obtained, please submit copies to DEQ.

Construction Contract Procurement: All goods and services for which the loan recipient will be requesting reimbursement must be procured in accordance with the procedures outlined in the Virginia Public Procurement Act, regardless of population size. Once the loan recipient has completed the bidding process and selected the contractor for the project, they must submit a bid package to DEQ for review. The bid package must contain the following:

- a) evidence of bid advertisement
- b) the bid tabulation, bid form, and bid bond
- c) documentation regarding contractor selection
- d) documentation verifying solicitation of MBE/WBE firms and the result
- e) signed American Iron and Steel Certification Statement (for wastewater projects)
- f) Confirmation of correct Wage Determination (for wastewater projects)

Loan Closing: Once all bid documentation, signed task orders, payment bond and performance bond documentation have been received, a date with VRA will be scheduled to close the loan. An initial disbursement request will be needed to close the loan.

Disbursements: Once the loan has closed, requests for disbursements may be submitted. It is recommended that disbursements requests be submitted at least quarterly, however monthly requests are highly encouraged. With each request for disbursement, please submit any change orders that have been executed, along with a discussion for the eligible items/costs for CWFAP staff review.

Project Schedule: A project schedule is also included in the loan agreement. From the time of the initial meeting through loan close out, a Quarterly Project Status (QPS) Report form should be filled out and emailed to the Project Manager within 15 days of the end of each quarter documenting any schedule changes and providing a project update. This form will be provided. Minutes from regularly scheduled progress meetings may be submitted to the Project Manager in lieu of the QPS reports. The Project Manager should be kept updated on any schedule or cost changes throughout the project.

Site Visits: To gauge progress and compliance with approved plans and specifications, site visits will take place at various times throughout the project construction. The DEQ Project Manager will coordinate these visits with the loan recipient. In addition, the DEQ Project Manager should be invited to the pre-bid meeting, pre-construction meeting, and any routine progress meetings. A copy of the Notice to Proceed should be provided to the DEQ Project Manager.

Women and Minority Business Enterprises (WBE/MBE): The loan recipient must evaluate the low bidder's good faith efforts regarding MBE/WBE solicitation prior to contract award. All MBE/WBE solicitation and recruitment documentation must be submitted to CWFAP along with the bid package. The contract should not be awarded until CWFAP has approved the bid package. The loan recipient shall also obtain copies of the VCWRLF MBE/WBE utilization reporting form identifying the selection of minority and female-owned businesses to be utilized during construction of the facility. The contractor and all subcontractors will report their utilization of MBE/WBE firms to the loan recipient on a quarterly basis during the construction period. The loan recipient must compile these MBE/WBE utilization reports and submit on a quarterly basis to CWFAP.

Davis Bacon (DB) (for wastewater projects only): The contractor and its subcontractors shall comply with provisions of the Davis-Bacon Act and Related Acts. All laborers and mechanics employed by the contractor or subcontractors shall be paid wages at rates not less than those in the applicable wage determination for this construction trade and geographic area are required as part of this contract. The wage determination(s) must be posted at the site of the work in a prominent and accessible place. The contractor will also post the Department of Labor poster "Employee Rights under the Davis-Bacon Act" (www.wagehours.dol.gov). The contractor or subcontractor shall insert in any subcontract the applicable wage rates, and a clause requiring the subcontractor include these clauses in any lower tier subcontract. Any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage decision if possible. Additional classifications shall be requested from the Department of Labor. Upon issuance of an additional classification, the new wage rate including fringe benefits where appropriate shall be paid to all workers performing the work in that classification.

The loan recipient or agent shall:

- a) Verify that contractors and subcontractors include covered employees in fringe benefit plans as provided for in the Department of Labor wage determinations
- b) Review contractors and subcontractors use of apprentices and trainees programs
- c) Ensure all EEO, OSHA, Wage Determination and Additional Classifications, Davis Bacon, and any other required postings are displayed on each work site
- d) Certify compliance with Davis Bacon requirements as part of each reimbursement request.
- e) Maintain their records of payrolls, payroll reviews, on-site subcontractors, and compliance actions for at least three years after completion of the work

American Iron and Steel (AIS) (for wastewater projects only): The loan recipient must document that all iron and steel products which are retained as part of their "project" are American Iron and Steel. Production in the US of the iron or steel products requires that all manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives. It is the responsibility of the loan recipient to obtain and keep on file all required AIS certifications. The contractor must submit to the loan recipient an initial certification and a final certification. The prime contractor must certify that all iron and steel products which are retained as part of the project satisfy AIS requirements except those "waivered" by EPA, or those included as "De Minimis" products including those supplied or installed by their subcontractors.

Build America Buy American (BABA) (for projects designated as equivalency only): The loan recipient must document that all iron, steel, manufactured products, and construction materials used in the project for infrastructure are produced in the United States. It is the responsibility of the loan recipient to obtain and

keep on file documentation that all iron, steel, manufactured products and construction materials are BABA compliant. Signed certification letters are the most direct and effective form of compliance documentation; however other forms of documentation are acceptable as long as collectively, the five conditions outlined in EPA's [BABA Implementation Procedures for EPA Office of Water Federal Financial Assistance Programs](#). The prime contractor must certify that all aforementioned products satisfy BABA requirements except those "waivered" by EPA, or those included as "De Minimus" products including those supplied or installed by the subcontractors.

Signage (for projects designated as BIL equivalency only): The loan recipient must place a sign at the construction site displaying the official Investing in America emblem and must identify the project as a "project funded by President Biden's Bipartisan Infrastructure Law". The recipient will ensure compliance with the [guidelines and design specifications for using the official Investing in America emblem](#). The sign must be placed at the construction site in an easily visible location that can be directly linked to the work taking place and must be maintained in good condition throughout the construction period.

Project Inspections: During construction, the loan recipient must provide for project inspection. Inspections may be carried out by staff of the consulting engineering firm, third party inspection firm, or by qualified internal staff. These inspections will gauge construction progress, quality, and conformance with plans and specifications. Inspections are very valuable in claim resolution, change order negotiation, and ensuring that payments are made for work in place. Inspections should be documented with construction progress reports that can be reviewed by DEQ CWFAP staff during site visits.

Fiscal Sustainability Plan: Provisions for repair, replacement, or capacity expansion of existing wastewater treatment and collection facilities must develop a Fiscal Sustainability Plan (FSP) (Loans for new facilities or upgrades not involving repair, replacement, or capacity expansion are not required to develop an FSP).

Impacted loan recipients must develop and implement an FSP that addresses:

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

The FSP must include all assets (equipment and/or operational components) associated with the loan. After the new FSP is developed or the existing FSP is modified, the loan recipient must submit an FSP Certification to the Project Manager.

Loan Close Out: Reimbursements will be held at 95% of the total loan amount to ensure satisfactory completion of the eligible project. A final site visit will be performed once the Certificate of Substantial Completion is received. At this time, the loan recipient must submit a copy of the final change orders/adjustments (if applicable), final AIS certification, final WBE/MBE quarterly report, and FSP to the Project Manager.