



NEVADA DIVISION OF
**ENVIRONMENTAL
PROTECTION**



Board for Financing Water Projects Workshop

January 24, 2024

11:30 AM

Location:

The Richard H. Bryan Building

Tahoe Hearing Room

901 South Stewart Street, 2nd Floor

Carson City, NV 89701

To Access Virtually

Microsoft TEAMS

Meeting ID: 280 603 643 072; Passcode: PVMXYY

Call in from Mobile/Phone (audio only): 1-775-321-6111

Meeting extension: 246658699#



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Settelmeyer**
Director



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Agenda 2:

Introductions



Agenda 3:

Public Comment



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*NDEP Authority to change contract
amounts under certain conditions*

- Board of Financing Water Projects Board Resolution D9-0622 adopted June 29, 2022
 - NDEP was provided the authority to change Drinking Water Revolving Fund Contracts Under Certain Conditions
 - Provided for increases to the funding agreement amount up to 30% or \$2,000,000, whichever is less without prior Board approval
 - Authority provided for construction projects only
 - Increases approved by NDEP presented at the next Board meeting
 - Authority did not include budget increases for planning projects





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*NDEP Authority to change contract
amounts under certain conditions*

- Request for Discussion:
 - New Resolution Expanding this existing authority
 - Provide NDEP authority to increase the funding agreement amount for planning/design contracts (not only construction)
 - Provide NDEP additional authority to increase the funding agreement amount up to 30% or \$2,500,000, whichever is less without prior Board approval





NDEP Authority to change contract amounts under certain conditions

○ DRAFT Resolution

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RESOLUTION D_ - _____

NDEP Authority to Change Drinking Water Revolving Fund Contracts Under Certain Situations

- WHEREAS:** The Board for Financing Water Projects (Board) of the State of Nevada is authorized by Nevada Revised Statutes (NRS) chapter 445A.265 to approve the Nevada Division of Environmental Protection (NDEP) prioritized lists of water projects and to commit loans from the revolving fund account, both of which are required and made necessary under NRS 445A.800 to 445A.955, inclusive, by the Safe Drinking Water Act (42 U.S.C. §§ 300f *et seq.*), and by corresponding regulations; and
- WHEREAS:** NDEP has the responsibility of administering the Drinking Water State Revolving Fund program; and
- WHEREAS:** The Board must give prior approval before NDEP may expend any money from the revolving fund account for the purposes set forth in NRS 445A.275; and
- WHEREAS:** Planning and design costs, as well as construction costs, can escalate above engineer estimates due to volatile market conditions for materials, supplies and human resources resulting in projects needing additional funds to complete planning/design documents, solicit construction bids and procure materials; and



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NDEP Authority to change contract amounts under certain conditions

- **DRAFT Resolution (continued)**

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- WHEREAS:** Time delays in obtaining additional funding approval from the Board goes against the Boards desire to assist drinking water systems in the most expeditious manner; and
- WHEREAS:** Additional processing of paperwork for a Board approved project reduces NDEP's ability to timely and expeditiously utilize funds.
- WHEREAS:** On June 29, 2022, the Board provided the authority to NDEP to increase the funding agreement "amount not to exceed" up to thirty percent (30%), or \$2,000,000, whichever is less, if necessary cost increases occur within a Board approved construction project without prior approval from the Board.

IT IS RESOLVED by the Board for Financing Water Projects of the State of Nevada:





NDEP Authority to change contract amounts under certain conditions

- **DRAFT Resolution (continued)**

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Section 1: This resolution shall be known as the “D_____ NDEP Authority to Change Drinking Water Contract Amounts Pertaining to Minor Scope Adjustments Necessary to Carry out Approved Project Intent”

Section 2: Based on NDEP’s review of sufficient evidence presented on the project, NDEP shall have the authority to increase the funding agreement “amount not to exceed” up to thirty (30%) or \$2,500,000, whichever is less, if necessary cost increases occur within a Board approved planning/design project or construction project, without prior approval from the Board.

Section 3: NDEP shall present any increases at the next regularly scheduled Board meeting.

Section 4: All other terms and conditions negotiated in the original contracts shall remain the same.

Section 5: Planning, Design and Construction project loan resolutions may contain a clause allowing NDEP the authority granted in this resolution.

Section 5: This resolution shall be effective on its passage and approval.

Section 6: This resolution shall remain in effect until amended or rescinded



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*Borrower contributions for loans and
grants*



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Funding remote communities

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Capital Improvements Grant Program

Discussion on regulation updates

- Assembly Bill 20 (82nd Session) makes various changes to NRS 349
 - Transfer the program to the Department of Conservation and Natural Resources
 - State Environmental Commission to adopt regulations relating to the financing of water projects.
 - Expands eligible recipients for wellhead abandonment and septic-to-sewer conversions.
- Senate Bill 150 (80th Session) makes various changes to NRS 349
 - Adds Governing body and water resource plans as an eligible entity and project.
- Improved flow of process for application and award of funds.
- Incorporate 13 Board Policies into the regulations.
- Housekeeping





Capital Improvements Grant Program

Discussion on regulation updates

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1

Definitions

NAC 349.430-349.471

Summary

The Nevada Administrative Code (NAC) definitions are generally correct and current, but not complete with recent statutory changes. Two separate types of systems are eligible for grant funding: (1) purveyors of water and (2) eligible recipients.

Proposed changes

- Define the program as the Capital Improvements Grant Program.
- Define a third type of system that is eligible for funding: governing body.
- Define Division, Water Resource Plan, Authorized Representative, and Fiscal Sustainability Plan
- Correct references from State Board of Health to Division of Environmental Protection (NDEP) and applicable statutory references.



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Capital Improvements Grant Program

Discussion on regulation updates

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Program eligibility, filing of letter of intent, and application

NAC 349.475-349.530

Summary

The NAC outlines the conditions in which the Board for Financing Water Projects (Board) will award a grant from the program, the requirement to file a letter of intent, and filing a loan application.

- Current conditions for which the Board would provide a grant for a purveyor of water and eligible recipient.
- Applicant completes a letter of intent to the Board.
- The Board hears the letter of intent and approves or denies the letter of intent.
- Applicants can only apply to the program once the letter of intent is approved.
- Application is presented to the Board for approval.

Proposed changes

- Separate the recipient types into subsections that identify what each recipient type must do to receive funding. Establish requirements for those recipient types to obtain a grant.
 - o Purveyor of water
 - o Eligible recipient
 - o Governing body



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Capital Improvements Grant Program

Discussion on regulation updates

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2

Program eligibility, filing of letter of intent, and application

NAC 349.475-349.530

Proposed changes (continued)

- Incorporates funding nonprofit public water systems into program eligibility
- Updates the letter of intent content and process:
 - Directs the letter of intent to be sent to NDEP.
 - Updates the contents and submission requirements for the letter of intent.
 - NDEP to assess the applicant's ability to apply to the Board for funding.
 - Updates for the Board policy on sufficient user rates
 - Updates for the Board policy on fiscal sustainability plans
 - Updates for the Board policy on capital replacement reserves.
 - Updates for the Board policy on water meters
 - Updates for the Board policy on alternative funding
 - Process to petition the Board if the applicant disagrees with NDEP's determination.
- Updates the loan application content and process:
 - Updates for the Board policy on construction, engineering, and contingency
 - Housekeeping updates the contents and submission requirements for the application.
 - NDEP evaluates the application and presents the application to the Board or approval of grant funding.
 - Updates the information presented to the Board for approval.
 - Approval or disapproval of loan application by the Board.



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Discussion on regulation updates

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Determination to provide grant, action by the Board; amount of the grant; duties of the Division

NAC 349.535

Summary

The NAC outlines the requirements for the contents of the Board resolution, when the Board may approve an application, determine the grant amount using a scale, and directs the applicant to comply with any conditions imposed by the Board.

Proposed changes

- Update the regulations for the Board policy on the scale to determine grant amount for purveyors of water, eligible recipients, and governing bodies.
- Adds in requirements to maintain sufficient user rates, develop and maintain a fiscal sustainability plan or asset management plan, and fund a capital replacement reserve account.
- Incorporating the use of the program for septic-to-sewer system connections and nonprofits into the Boards determination.



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Capital Improvements Grant Program

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4	Bonding	NAC 349.540
Summary The NAC instructs NDEP on the request to issue general obligation bonds from the State Treasurer's Office to support the program.		
Proposed changes <ul style="list-style-type: none">• Adds, "upon approved legislation."		





Capital Improvements Grant Program

Discussion on regulation updates

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Administrative Fee and funding agreement

NAC 349.549

Summary

The NAC outlines the amount the recipient shall pay to NDEP as an administrative fee and the contents of the funding agreement.

Proposed changes

- Changes the administrative fee:
 - Applicant is obtaining funding from the DWSRF or CWSRF program in partnership with the grant: 0.25% of the grant amount.
 - Applicant is not obtaining funding from the DWSRF or CWSRF program in partnership with the grant: 0.5% of the grant amount.
 - Fee is payable in installments over 12 months. NDEP to negotiate the installment arrangement with the applicant. Any default in payment of fees results in a hold of grant funds.
 - Requires NDEP to maintain 5 years of administrative funds, evaluation of the administrative fee, and use of bond proceeds for administration per the board policy on administrative funding.
- Funding agreement not more than 3 years, with the possibility of 1 extension that is approved by the Board.
- Updates to the funding agreement deemed necessary by the Attorney General's office and NDEP.





Capital Improvements Grant Program

Discussion on regulation updates

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Recipient Responsibilities

**NAC 349.554-
349.574**

Summary

The NAC outlines the duties a recipient must follow in receiving a grant, including but not limited to: bidding, construction, draw requests, credit towards recipient portion of project funding, and completion of the project.

Proposed changes

- Require a public procurement process for soliciting and bidding contracts to show open and fair competition, regardless of the legal structure of the applicant.
- Documentation accepted for proof of payments on draws.
- Housekeeping



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