

Office of Financial Assistance		PAGE Page 1 of 5
Guideline		
SUBJECT: Fiscal sustainability plan required for CWSRF loan recipients		

This guideline is created to describe the Office of Financial Assistance (OFA) requirements for a fiscal sustainability plan (FSP).

## Background:

On June 10, 2014, President Obama signed into law the Water Resources Reform and Development Act of 2014. Among its provisions are amendments to Titles I, II, V, and VI of the Federal Water Pollution Control Act (FWPCA). The act is codified in Title 33 of the United States Code. 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);*

Under this new law, a recipient that receives funding from the Clean Water State Revolving Fund (CWSRF) must develop and implement a FSP or certify that it has already developed and implemented such a plan. This only applies for projects that involve the repair, replacement, or expansion of a publicly-owned treatment works (33 U.S.C. §1383 (d)(1)(e)).

FSPs are not required for:

- New treatment works (unless they are physically replacing an existing treatment works or expanding the treatment capacity of an existing system)
- Projects involving an upgrade that does not involve repair/replacement or expand the treatment capacity (e.g., adding advanced treatment).

**This provision applies to all loans for which the borrower submitted an application on or after October 1, 2014.**

OFA added a requirement for borrowers seeking principal forgiveness funding from the CWSRF program to develop and implement a FSP prior to the final draw on the loan. A letter dated May 21, 2018 was sent to all water systems on the project priority lists and the letter was publically noticed. **This requirement became effective for all principal forgiveness loan borrowers summiting an application on or after June 23, 2018.**

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## Purpose:

- **All systems** have a responsibility to maintain health, reduce water loss, prevent pollution, and sustain economic vitality in their communities.
- Systems must demonstrate they have the ability to meet their operational responsibilities.
- FSPs should be treated as “living documents” that are regularly reviewed, revised, expanded, and implemented as an integral part of the operation and management of the system.
- The FSP should help the loan recipient maintain a desired level of service at the lowest life cycle cost.

## Terms outlined in the Nevada Intended Use Plans:

1. A FSP will be required for the following loans:
  - a. **All CWSRF loan applicants** seeking funding for the repair, replacement, or expansion of a publicly owned treatment works.
  - b. **All CWSRF loan applicants** seeking principal forgiveness funding for a construction project.
2. The FSP must include:
  - a. an inventory of critical assets that are part of the system;
  - b. an evaluation of the condition and performance of inventoried assets or asset groupings;
  - c. documentation of useful life of the assets;
  - d. a plan for maintaining, repairing, and, as necessary, replacing the assets and a plan for funding such activities;
  - e. a certification that the loan recipient has evaluated and will be implementing water and energy conservation efforts as part of the plan and projects, and that it has selected, to the maximum extent practicable, water and energy efficient approaches to repair or replacement of assets.
3. System assets should be broken down into logical sections using best professional judgment. For a sewer rehabilitation or replacement project, for example, it may be appropriate to segment a large collection system into areas or zones and create a FSP for the affected area only. On the other hand, it may be more appropriate for a small system to create a plan that covers the entire collection system.
4. If a loan recipient already has a FSP at the time the loan is requested, the recipient must certify to OFA that a FSP has been developed and is being implemented prior to the time of loan closing (Attachment A). **The FSP must have been reviewed and/or updated by the governing board no longer than five (5) years prior to the date of the loan application.** OFA will typically review the FSP as a part of the loan application. OFA staff may complete an evaluation checklist (Attachment B) to include with the staff report.

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5. If a loan recipient does not have a FSP at the time the loan is requested, the recipient must certify to OFA that a FSP will be completed and maintained **prior to the final draw on the loan**. The loan agreement will subsequently include a requirement for the completion of the FSP.

**For further information**

*Please contact the OFA staff at [ndep-ofa@ndep.nv.gov](mailto:ndep-ofa@ndep.nv.gov) or visit our website at <http://ndep.nv.gov>.*



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**Attachment B – Evaluation Checklist**

Date: \_\_\_\_\_

System Name: \_\_\_\_\_

Permit No.: \_\_\_\_\_

Loan Recipients Present: \_\_\_\_\_

State OFA Staff Present: \_\_\_\_\_

	<b>FSP Checklist Item</b>	<b>Y / N</b>	<b>Comments</b>
<b>1.</b>	FSP has been developed at an appropriate depth and complexity and includes:		
<b>a.</b>	a complete and organized inventory of current system assets, location, age, life expectancy & cost		
<b>b.</b>	an evaluation of the condition & performance of inventoried assets or asset groupings		
<b>c.</b>	Determination of criticality of each asset & the probability & consequence of failure		
<b>d.</b>	a plan for maintaining, repairing, &, as necessary, replacing the treatment works		
<b>e.</b>	5-, 10-, and 20-year capital improvement plans		
<b>f.</b>	long-term funding strategy for activities in Items d & e		
<b>g.</b>	certification of evaluation and implementation of water and energy conservation efforts		
<b>2.</b>	FSP has been implemented		
<b>3.</b>	The system understands the condition and costs associated with its critical infrastructure assets		
<b>4.</b>	Incorporated, to the maximum extent practicable, water and energy efficient approaches into the funded project		