



NEVADA DIVISION OF
**ENVIRONMENTAL
PROTECTION**



Drinking Water SRF Principal Forgiveness Changes Public Workshop



March 11, 2024
1:00 PM – 3:00 PM

To be held in person in Carson City:

To be held in person in Las Vegas:

To be held Virtually at:

Call in option:

901 S. Stewart Street, Carson City, NV

375 E. Warm Springs Road, St. 200, Las Vegas, NV

TEAMS: Meeting ID: 279 352 570 293 Passcode: 8JTwEY
+1 775-321-6111 Phone Conference ID: 580 889 23#

Workshop Materials

<https://ndep.nv.gov/water/financing-infrastructure/state-revolving-fund-loans>

Virtual Participation

Please make sure to mute your microphone

- Moderator may mute your microphone if sounds are disrupting the meeting. Microphones will be muted during the presentation portion of the workshop.
- To make a comment during the comment periods, please use the “raise hand” feature.

Comments can also be submitted in the text box

Agenda

1. **Public comment period.**
2. **What is the issue?**
3. **What is the law?**
4. **Questions from the Board for Financing Water Projects?**
5. **What are the proposed changes in the Intended Use Plan?**
6. **Public comment period.**



Jennifer L. Carr
Administrator

Danilo Dragoni
*Deputy
Administrator*

Jeffrey Kinder
*Deputy
Administrator*

Rick Perdomo
*Deputy
Administrator*

**James A.
Settelmeyer**
Director



Nevada Department of
**CONSERVATION &
NATURAL RESOURCES**

Public Comments?

*Comments will be limited to 3 minutes per presenter
for time constraints. Full comments can be
submitted to NDEP at:*

ndep-ofa@ndep.nv.gov

Office of Financial Assistance
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701

DEADLINE FOR COMMENTS:

March 8, 2024

What is the issue?

- a) State Drinking Water Revolving Fund (DWSRF) is not authorized beyond September 30, 2026.
 - Federal grants cannot be appropriated to the program.
 - Bipartisan Infrastructure Law (BIL) funding appropriations expire.

- b) DWSRF Grants fund:
 - a) Principal Forgiveness Loans
 - b) Technical Assistance, including operator certification trainings
 - c) Partial NDEP staff to support enforcement of the Safe Drinking Water Act

Congress must pass at least TWO separate bills

- A) Authorization of the DWSRF (has been done for past time period)
- B) Appropriation of the DWSRF (annually)

What is the issue?

- a) State Drinking Water Revolving Fund (DWSRF) is not authorized passed September 30, 2026.
 - Federal grants cannot be appropriated to the program.
 - Bipartisan Infrastructure Law (BIL) funding appropriations expire.
- b) DWSRF Grants fund:
 - a) Principal Forgiveness Loans
 - b) Technical Assistance, including operator certification trainings
 - c) Partial NDEP staff to support enforcement of the Safe Drinking Water Act

Congress must pass separate bills

- A) Authorization of the DWSRF (has been done for time period)
- B) Appropriation of the DWSRF (annually)

What is the issue?

FEDERAL FUNDS ARE NOT AUTOMATIC

Only a portion of the funds awarded to Nevada may be used as principal forgiveness. The rest must go towards loans or technical assistance.
(Cannot apply only for principal forgiveness portion).

Total 2023 Base Grant Amount ^A	\$5,236,000
Principal Forgiveness (49%)	\$2,565,640
Technical Assistance (11.5%)	\$599,800
Loans (39.5%)	\$2,070,560

^A Nevada must have signed loan contracts within 1 year of receiving the grant¹.

- As of June 30, 2023, Nevada **has not met this requirement.**

¹40 C.F.R. 35.3550(e)

What is the issue?

Base Program Principal Forgiveness (not Emerging Contaminants or Lead Service Lines)

- In 2009, the **American Recovery and Reinvestment Act (ARRA)** added a requirement that a portion of the DWSRF grant be distributed as principal forgiveness.
 - Was meant to be ***additional subsidy*** (reduction in loan interest rates) to make the program more of an incentive to use than the public market.
 - **Was never meant to completely fund an entire project as a permanent solution to water system issues.**
 - Nevada wanted to make sure that as many systems as possible were able to get a portion of the principal forgiveness funding to help their project be even more affordable to their rate payers.

By 2019, NDEP's philosophy has not changed. However, water systems stopped advancing projects because they could not receive 100% principal forgiveness funding.

What is the issue?

How will systems address their infrastructure needs if funding is reduced or cut?

- 1) Take out loans from the DWSRF?
- 2) Take out loans from other funding sources that are government or non-government supported?
- 3) Host bake sales/car washes?
- 4) Do nothing?

What is the law?

Nevada State Statutes

Public Water Systems

NRS 445A.847 “Technical capability” defined. “Technical capability” means the ability of a public water system to:

1. Obtain an adequate and reliable source of water that is necessary to provide the quantity and quality of water required by the system;
2. Establish and maintain an adequate infrastructure for the treatment, storage and distribution of the quantity and quality of water required by the system; and
3. Employ operators who have the technical knowledge and ability to operate the system.

(Added to NRS by [1999, 1865](#))

What is the law?

Nevada State Statutes

Public Water Systems

NRS 445A.827 “Managerial capability” defined. “Managerial capability” means the ability of a public water system to conduct its administrative affairs in a manner that ensures compliance with all applicable standards based on:

1. The accountability, responsibility and authority of the owner or operator of the system;
2. The personnel and organization of the system; and
3. The ability of the persons who manage the system to work with:
 - (a) Jurisdictional, regulatory and other governmental agencies;
 - (b) Trade and industry organizations; and
 - (c) The persons served by the system.

(Added to NRS by [1999, 1865](#))

What is the law?

Nevada State Statutes

Public Water Systems

NRS 445A.817 “Financial capability” defined. “Financial capability” means the ability of a public water system to:

1. Pay the costs related to maintenance, operations, depreciation and capital expenses;
2. Maintain creditworthiness; and
3. Establish and maintain adequate fiscal controls and accounting methods required for the operation of the system.

(Added to NRS by [1999, 1865](#))

What is the law?

Drinking Water State Revolving Fund (DWSRF) Regulations

Nevada Administrative Code (NAC) 445A.67518 “Capability” defined:

1. “Capability” means:

- (a) The technical capability of a public water system, as defined in NRS 445A.847;
- (b) The managerial capability of a public water system, as defined in NRS 445A.827;
- (c) The financial capacity of a public water system, as defined in NRS 445A.817; and
- (d) The ability to satisfy the requirements of chapter 445A of NRS and this chapter.

2. The term “capability” is equivalent to the term “capacity,” as used in the Safe Drinking Water Act.

Updated December 2022 R109-22P

What is the law?

DWSRF Regulations

NAC 445A.67563 (7)

NDEP cannot provide funding from the DWSRF to systems that lack adequate capability/capacity

NAC 445A.676144

Systems must charge a user rate that:

1. Produces the money required for the costs of operation, maintenance and replacement of the water project and public water system;
2. Provide that each user or class of users shall pay its proportionate share of the costs of operation, maintenance and replacement of the water project and public water system; and
3. Include an adequate system of financial management that will account accurately for revenues generated by the system and expenditures for operation, maintenance and replacement based on an adequate budget...

Questions from the Board for Financing Water Projects

Workshop January 24, 2024

1) Are systems developing sufficient rates to account for full depreciation?

Only the larger water systems. Most small systems do not understand depreciation or how it will possibly benefit future capital replacements.

2) Are systems adjusting rates frequently and/or indexing them to inflation?

Only the larger water systems. Some systems are proud of not having raised rates for the past several years.

3) Are tiered rates being utilized to ensure those using more water are paying their share of the expenses?

Technical assistance providers are helping systems understand the benefits of tiered rates and helping small systems implement them.

4) Are systems preparing for the day that federal grant funding goes away?

The demand for principal forgiveness/grant funding has increased with several communities implementing "no debt" policies.

What are the proposed changes to the Intended Use Plan?

First, what is an Intended Use Plan (IUP)?

42 United States Code (U.S.C.) §300j-12(b) Intended use plans
Nevada Administrative Code (NAC) 445A.67574-445A.67576

1. How all money in the DWSRF program will be used, including federal grants, state bonds, repayments, and interest earnings.
2. Short- and long-term goals of the program.
3. The amount of money transferred between the DWSRF and the Clean Water State Revolving Fund.
- 4. *Any program for a disadvantaged community and the funds utilized for this type of assistance.***
5. The method employed by the Division to rank water projects on the priority list.
6. A list of projects that are planned to be assisted in the fiscal year.

What are the proposed changes to the Intended Use Plan?

Where can I find the DWSRF IUP?

<https://ndep.nv.gov/water/financing-infrastructure/state-revolving-fund-loans>

IUP's are posted on our website and publicly noticed for 30 days as DRAFT for public comment. The IUP will be finalized after 30 days with all public comments received included in the final version of the IUP.

What are the proposed changes to the Intended Use Plan?

Attachment B

Principal Forgiveness Funding for base or BIL Supplemental

What does the FY23 IUP Say?	What is planned for the FY24 IUP?
<p>NDEP statement on use of principal forgiveness funding</p> <p>Nevada seeks to support as many communities as possible with the limited resources available. Therefore, the amount a single project may receive as principal forgiveness funding is limited.</p> <p>Funds are committed on a first-come, first-served basis, depending on project priority list rank and readiness-to-proceed within a grant cycle. Projects already partially funded or projects meeting the definition of disadvantaged will be prioritized over other projects when determining if available funds exist.</p>	<p>NDEP statement on use of principal forgiveness funding</p> <p>Nevada seeks to support as many communities as possible with the limited resources available. Therefore, the amount a single project may receive as principal forgiveness funding is limited.</p> <p>Funds are committed on a first-come, first-served basis, depending on project priority list rank and readiness-to-proceed for the phase of the project within a grant cycle. Projects already partially funded or projects meeting the definition of disadvantaged will be prioritized over other projects when determining if available funds exist.</p>

What are the proposed changes to the Intended Use Plan?

Attachment B

Principal Forgiveness Funding for base or BIL Supplemental

What does the FY23 IUP Say?	What is planned for the FY24 IUP?
Maximum amount available for construction projects.	Maximum amount available for acute or chronic construction projects.
\$2,500,000 per project	\$2,500,000 per project
	Maximum amount available for rehabilitation projects.
	\$1,500,000 per system , or \$2,500,000 per system if the system is: 1) Fully funding depreciation, or 2) Physically or managerially consolidating a deficient system

What are the proposed changes to the Intended Use Plan?

Attachment B

Principal Forgiveness Funding for base or BIL Supplemental

What does the FY23 IUP Say?	What is planned for the FY24 IUP?
Exceptions to the funding limit:	
<ul style="list-style-type: none">• NDEP has available funds from the grants, AND<ul style="list-style-type: none">• The system would take on unreasonable bonding costs for the additional loan amount, or• The system is addressing a public health emergency, or• The system has demonstrated that a loan for the remaining cost of the project would raise reasonable rates by more than 10%.	See next slide

What are the proposed changes to the Intended Use Plan?

Attachment B

Principal Forgiveness Funding for base or BIL Supplemental

Requirements for Additional Funding

***NDEP has additional funds from the grants, AND**

Requirements for Additional Funding		
*NDEP has additional funds from the grants, AND		
Acute or Chronic Projects	Rehabilitation Projects	
To exceed \$2,500,000	To exceed \$1,500,000	To exceed \$2,500,000
<ul style="list-style-type: none">Additional funding required to complete the project would raise the average rates by more than 10%, orSystem is funding a portion of the project with a loan.	<ul style="list-style-type: none">System can demonstrate that adding in the full cost of depreciation into their rate structure would increase average rates by more than 30%, orSystem is funding a portion of the project with a loan.	<ul style="list-style-type: none">Additional funding required to complete the project would raise the average rates by more than 10%, orSystem is funding a portion of the project with a loan.

What are the proposed changes to the Intended Use Plan?

Attachment B

Principal Forgiveness Funding for base or BIL Supplemental

What does the FY23 IUP Say?	What is planned for the FY24 IUP?
Preliminary Engineering Reports (PER) and Environmental Reviews (ER):	Funding short-term planning and design loans:
PER/ER Limit: 85% of the report up to \$100,000. 15% match required on each draw.	PER/ER Limit: 80% of the report cost. 20% match required on each draw.
Test wells/exploratory drilling: Funded as part of a PER/ER	Test wells/exploratory drilling: 80% of the costs. 20% match required on each draw.
Pre-construction planning and design: Funded as part of a PF loan No match required	Pre-construction design: Up to the construction limit No match required
NOTE: DWSRF cannot fund master plans or regional water plans that do not directly contribute to the construction of a capital project.	

What are the proposed changes to the Intended Use Plan?

Attachment B

Principal Forgiveness Funding for emerging contaminants

What does the FY23 IUP Say?	What is planned for the FY24 IUP?
No limits	Construction Projects: No limit
	PER/ER Limit: 80% of the report cost. 20% match required on each draw.
	Test wells/exploratory drilling: 80% of the costs. 20% match required on each draw.
	Pre-construction design: Up to the construction limit No match required
NOTE: DWSRF cannot fund master plans or regional water plans that do not directly contribute to the construction of a capital project.	

What are the proposed changes to the Intended Use Plan?

Attachment B

Principal Forgiveness Funding for base or BIL Supplemental

Special Terms and Conditions for Principal Forgiveness Funding

User Rates

Evaluate user rates approved by the governing board at least once every five years to ensure they are sufficient to cover costs of:

- Operating the current and funded system, and
- Maintaining the current and funded system, and
- Debt service of the current and funded system, and
- Reserve requirements of any funding authority, and
- Evaluate the impact to rates to fully fund depreciation.

Technical assistance in developing sufficient rates can be provided to applicants free of charge.

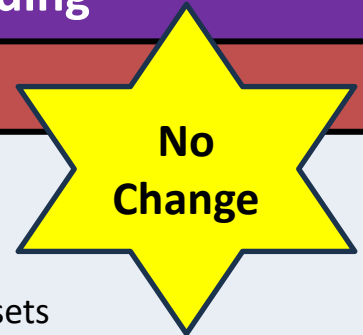
What are the proposed changes to the Intended Use Plan?

Attachment B

Principal Forgiveness Funding for base or BIL Supplemental

Special Terms and Conditions for Principal Forgiveness Funding

Develop and maintain an Asset Management Plan



An Asset Management Plan (AMP):

- Evaluates the level of service required for the system,
- Contains an inventory of all assets that are part of the system,
- Contains an evaluation of the condition and performance of inventoried assets
- Lists the useful life of the assets,
- Contains a plan for maintaining, repairing, and as necessary, replacing the assets,
- Contains a plan for funding maintenance, repair, and replacement, and
- Evaluates and implements water and energy conservation efforts.

Loan applicants must certify as part of the funding agreement that the recipient has, or will develop, a plan prior to the final draw on the loan. Existing applicant plans must have been reviewed and/or updated by the governing board no longer than five years prior to the date of the loan application. **Technical assistance in developing an AMP can be provided to applicants free of charge.**

What are the proposed changes to the Intended Use Plan?

Attachment B

Principal Forgiveness Funding for base or BIL Supplemental

Special Terms and Conditions for Principal Forgiveness Funding

Develop and Maintain a Capital Replacement Reserve Account

Systems will need to establish and fund a short-lived capital replacement reserve account for the life of the project.

- Must be funded at least yearly based upon the system's short-lived assets
 - (15 years or less), amortized on a straight-line basis.
- Utilities may only use these reserve funds for capital improvements.
- Utilities cannot use these reserve funds for inventory, maintenance, or operation expenses.
- Utilities must clearly identify their annual contribution to this fund and the fund balance — in their financial statements
- NDEP may consider other cash the system has available for capital improvements to meet this requirement.
- **NDEP may consider this requirement satisfied if the system is fully funding depreciation.**

Technical assistance in developing a reserve account can be provided to applicants free of charge.



Jennifer L. Carr
Administrator

Danilo Dragoni
*Deputy
Administrator*

Jeffrey Kinder
*Deputy
Administrator*

Rick Perdomo
*Deputy
Administrator*

**James A.
Settelmeyer**
Director



Public Comments?

Comments will be limited to 3 minutes per presenter for time restraints. Full comments can be submitted to NDEP at:

ndep-ofa@ndep.nv.gov

Office of Financial Assistance
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701

DEADLINE FOR COMMENTS:

March 8, 2024

Contacts:

ndep-ofa@ndep.nv.gov

Website:

<https://ndep.nv.gov/water/financing-infrastructure>

Public Notices:

<https://ndep.nv.gov/posts>