APPENDIX E

Summary of Existing and New WRRDA Program Requirements for CWSRF Loan Recipients

The 2014 Water Resources Reform and Development Act (WRRDA) was signed into law by President Obama on June 10, 2014. In addition to other amendment changes under the Clean Water Act, the law amended Title VI which applies to the Federal Water Pollution Control Act that created the Clean Water State Revolving Fund (CWSRF) Program.

The following is a list of existing and new programmatic and financial requirements that may apply to your proposed CWSRF project and loan. If you have any questions or concerns please contact the Project Engineer assigned to your project, or call the Financial Assistance Branch for assistance at 302.739.9941.

Definitions

- **Application** – An application has been determined by the State as a submitted project Notice of Intent (NOI).
- **Treatment Works** – The term ‘‘treatment works’’ means any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 201 of the CWA or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and acquisition of the land that will be an integral part of the treatment process (including land use for the storage of treated wastewater in land treatment systems prior to land application) or will be used for ultimate disposal of residues resulting from such treatment and acquisition of other land, and interests in land, that are necessary for construction.
- **Equivalency Project(s)** – Projects designated as receiving funds equivalent to the amount of the federal capitalization grant. One or multiple projects may be designated by the State as equivalency in a Federal fiscal year.

Applies to ALL Loan Recipients

- **Super Cross Cutters** - Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, section 13 of the Federal Water Pollution Control Act Amendments of 1972, and Executive Order 11246 on affirmative action in federal contracting
- **Delaware State Prevailing Wages** - http://dia.delawareworks.com/labor-law/prevailing-wage.php
- **State Environmental Review Process** (“NEPA-like” environmental review)

Applies to Municipal Governments and State Agencies

- **Cost and Effectiveness** – This provision applies to municipalities or intermunicipal, interstate, or State agencies for which the loan recipient submits an “application” on or after October 1, 2015. The statute requires that a cost and effectiveness analysis involve, at a minimum:

- the study and evaluation of the cost and effectiveness of the processes, materials, techniques, and technologies for carrying out the proposed project or activity for which assistance is sought under this title; and
- the selection, to the maximum extent practicable, of a project or activity that maximizes the potential for efficient water use, reuse, recapture, and conservation, and energy conservation, taking into account—
    - the cost of constructing the project or activity;
    - the cost of operating and maintaining the project or activity over the life of the project or activity; and
    - the cost of replacing the project or activity.

Applies to all Project Considered "Treatment Works"

- **Davis-Bacon Wages** - http://www.wdol.gov/
- **American Iron and Steel (AIS)** – CWSRF loan recipients, absent a waiver, are required to use iron and steel products that are produced in the United States for projects for the construction, alteration, maintenance, and repair of treatment works.
- **Fiscal Sustainability Plans** – Applies to all entities in which the loan recipient submits an application on or after October 1, 2014.

  Fiscal Sustainability Plans (FSPs) are required for treatment works repair, replacement, or expansion. The minimum federal program requirements are listed below:
    - An inventory of critical assets that are part of the treatment works
    - An evaluation of the condition and performance of those assets
    - A certification that the assistance recipient has evaluated and will be implementing water and energy conservation efforts as part of the plan
    - A plan for maintaining, repairing, and replacing the treatment works and a plan for funding such activities

Applies to all Projects Considered "Equivalency"

- **Disadvantaged Business Enterprises (DBE) -** EPA's Disadvantaged Business Enterprise (DBE) rule applies to procurement actions for projects considered equivalency. Loan recipients, their prime contractors and DBE subcontractors are responsible for complying with these regulations during procurement of construction contracts, equipment purchase orders, service agreements (engineering, inspection, legal, etc) and supplies.
- **A/E Procurement** - A/E Procurement applies to contracts for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services. The proposed plan is for the CWSRF to adopt the State's Procurement Process to meet the federal requirement for select equivalent jointly funded projects.
- **General Accepted Accounting Practices (GAAP)** – GAAP compliance will be required as a condition of making a loan or providing other assistance from the fund. Recipients will be required to maintain project accounts in accordance with generally accepted government accounting standards, including standards relating to the reporting of infrastructure assets. CWSRF loan financing agreements will include language that will require loan recipients to comply with the GAAP Reporting Requirement.

- **Single Audit Requirement** – Applies to loan recipients receiving federal assistance greater $750,000+ threshold in a federal fiscal year.

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