

APPENDIX D
STATE OF ARKANSAS

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009



STATE OF ARKANSAS

CLEAN WATER REVOLVING LOAN FUND PROGRAM
INTENDEND USE PLAN FOR ARRA

CAPITALIZATION GRANT UNDER THE
AMERICAN RECOVERY AND REINVESTMENT ACT of 2009

STATE FISCAL YEAR 2010



WATER RESOURCES DEVELOPMENT DIVISION

of the

ARKANSAS NATURAL RESOURCES COMMISSION

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INTRODUCTION

This is a Supplemental Clean Water Revolving Loan Fund (CWRLF) Intended Use Plan (IUP) for State Fiscal Year 2010 under the American Recovery and Reinvestment Act 2009 (ARRA). The CWRLF is administered by the Water Resources Development Division (Division) of the Arkansas Natural Resources Commission (ANRC). The Arkansas Development Finance Authority (ADFA) assists ANRC by acting as Agent, Financial Advisor and the Purchaser and Seller of Bonds.

I. ARRA PROJECTS AND AVAILABLE ASSISTANCE

This section of the IUP contains a list of projects the State anticipates to fund and information on how the State plans to use the funds which were made available under the American Recovery and Reinvestment Act of 2009 (ARRA). A sources and uses of funds schedule is detailed in Table 1.

The application for the FFY 2009 ARRA appropriated funds in the amount of \$25,636,500 will be based on intended uses identified in this section of the IUP. Please note that Arkansas intends to transfer funds between Clean Water and Drinking Water program which is discussed in Section VIII.

II. ARRA CWRLF GOALS

Arkansas is committed to using the ARRA capitalization grant for which it is applying to provide assistance to wastewater and nonpoint source projects which will proceed quickly to construction, creating jobs and furthering the water quality objectives of the Clean Water Act. Arkansas's goal is to enter into binding commitments for projects which will proceed to construction or award of construction contracts by February 17, 2010.

Arkansas is being called upon to accomplish goals that may not previously have been priorities in its base SRF program. Some priorities and activities in the State's base program that may not practically be attainable within the timeframes associated with the ARRA will be pursued using funds made available through the base Clean Water State Revolving Loan Fund program.

Objectives:

- Expediently fund eligible projects that will preserve and create jobs and promote economic recovery
- Priority for projects ready to start construction
- Generate long-term benefits from infrastructure investment

Short-Term Goals:

1. The Division anticipates applying for the Federal FY 2009 ARRA Capitalization Grant which was made available under the American Recovery and Reinvestment Act of 2009 in State FY09.

2. The Division anticipates using at least 50% of ARRA funds to provide additional subsidization. Arkansas is considering using the funds from ARRA to offer zero percentage loans, principal forgiveness, negative interest loans or grants or any combination of these.
3. The Division anticipates using at least 20% (to the extent there are sufficient eligible project applications) of the ARRA funds for Green Infrastructure. Green Infrastructure includes such projects as water or energy efficiency improvements, green stormwater infrastructure or other environmentally innovative activities.
4. The Division anticipates using ARRA funds to buy, refinance or restructure the debt obligations of eligible recipients only where such debt was incurred on or after October 1, 2008.

Long Term Goals:

1. Within one year of enactment (February 17, 2009), all funds must be committed to projects under construction or having awarded contracts for construction.

III. INFORMATION ON CWRLF ARRA ACTIVITIES TO BE SUPPORTED

Arkansas anticipates using the ARRA funds to offer zero percentage loans, principal forgiveness, negative interest loan or grants or any combination of these. The Division intends to use an amount equal to four percent (4%) of the ARRA federal grant funds for payment of administrative expenses.

Arkansas provides assistance through loans to wastewater projects for secondary treatment (1); advanced treatment (2); infiltration/inflow (3-A); major rehabilitation (3-B); new collectors (4-A); new interceptors (4-B) and other categories eligible for section 212 projects.

IV. ASSURANCES AND SPECIFIC PROPOSALS

Arkansas provides the necessary assurances and certifications as part of the Operating Agreement between the State of Arkansas and the U.S. Environmental Protection Agency. Arkansas' Operating Agreement includes the following requirements of section 35.3150 (b) (4).

A. Binding Commitments (35.3135(c))

A binding commitment is defined as the execution of a contract called the Bond Purchase Agreement between the borrower and ANRC. The Bond Purchase Agreement sets out the terms of the bond that will be issued by the borrower and purchased by ADFA. The binding commitment date is the date when both parties have signed that contract. The bond closing will take place within six months of the execution of the Bond Purchase Agreement.

B. Expeditious and Timely Expenditures (35.3135(d))

Federal EPA payments shall be expended in accordance with the American Reinvestment and Recovery Act of 2009 with preference given to projects that are ready to proceed.

C. First Use of Funds (35.3135(e))

The State of Arkansas confirms that any publicly owned treatment works previously identified as part of the National Municipal Policy (NMP) universe are either in compliance, on an enforcement schedule, has an enforcement action filed, or has a funding commitment from a prior year.

D. Environmental Review Requirements (35.3140)

The State of Arkansas will conduct environmental reviews as specified in the Project Review Procedures of the Operating Agreement.

E. State Matching Funds (35.3135(b) (1))

The American and Recovery Investment Act of 2009 require no State Match.

V. CRITERIA AND METHOD FOR DISTRIBUTION OF FUNDS

The approach used to develop Arkansas' proposed distribution of its SFY 2009 CWRLF ARRA funds is as follows:

1. Source and Use of Funds

Table 1 identifies the funds and uses which are made available by the American Recovery and Reinvestment Act of 2009. Arkansas intends to transfer \$8,080,000 from Clean Water ARRA cap grant to Drinking Water ARRA cap grant. The \$8,080,000 transferred from Clean Water is 100% allocated from additional subsidization funds. The State acknowledges that the only such transfer of funds that is permissible under the ARRA appropriation is between these two capitalization grants. The State commits to

manage and expend all funds thus transferred consistent with the requirements of the American Recovery and Reinvestment Act of 2009.

TABLE 1 SOURCES AND USES OF ARRA CAPITALIZATION GRANT

SOURCES	AMOUNT
Capitalization Grant	25,636,500

TOTAL SOURCES	25,636,500
USES	
Project Assistance Loans	
Program Loans	5,631,040
Green Reserve Loans	5,300,000
Project Assistance Subsidization	
Transfer to Drinking Water SRF	8,080,000
Program Assistance Subsidization	4,000,000
Green Reserve Assistance Subsidization	1,600,000
Administration (4%)	1,025,460
TOTAL USES	25,636,500

2. Allocation of Funds among ARRA Projects

A. ARRA Project List

Arkansas conducted a comprehensive outreach campaign to alert potential borrowers of federal plans to provide economic recovery stimulus funding. Notices were placed in the Arkansas Democrat Gazette (a state wide newspaper), emails were distributed, and a new web site went on-line that covered the economic recovery loan application process. The state has focused on reaching out to communities with ready to go projects and those that may be eligible for principal forgiveness subsidy assistance. As a result of this effort the CWSRF program has identified over \$16 million in eligible projects that could be ready to proceed to construction within the time deadlines established by the ARRA. The attached project list includes projects that have been assessed through the CWSRF prioritization process.

3. Additional Subsidization

ARRA requires that not less than 50 percent of assistance provided be in the form of additional subsidies. The Arkansas legislature approved House Bill 1645 which would establish authority to provide zero percentage loans, principal forgiveness, and negative interest loan. Arkansas House Bill 1645 became Act 458 on March 18, 2009.

Arkansas plans to provide additional subsidization to those entities that demonstrate an inability to fully fund their project from loan funds. The Division will use the Median

Household Income, current user charge rates and the unavailability of a revenue source for the projects that are not traditional Publicly Owned Treatment Works.

The attached project list (Chart D-2) show a subsidy amount of \$5,000,000 for two projects. The transfer of \$8,080,000 which is 100% additional subsidization plus \$5,000,000 totals \$13,080,000. We are required to have \$12,818,250 ($\$25,636,500 \times .50$) to comply with ARRA regulations.

4. Green Infrastructure

ARRA requires that, to the extent there are sufficient eligible project applications, not less than 20 percent of the funds provided for a Green Project Reserve. Projects must be one of the following: water or energy efficient, green infrastructure, or other environmentally innovative activities. Arkansas has three projects for nonpoint source which either provide for stream restoration or restore wetlands. One other Section 212 project will create significant energy savings.

Along with placing information about the American Recovery and Reinvestment Act of 2009 on ANRC's website, solicitation efforts included e-mailing copies of the solicitations to the Arkansas Municipal League, the Arkansas Rural Water Association, the American Consulting Engineers Council of Arkansas, the Arkansas Water and Wastewater Managers' Association, the Arkansas Department of Health and the Community Resource Group. These groups agreed to e-mail or fax the solicitations on to their membership. Each of these groups was targeted because their membership has a direct connection to water and sewer systems. We feel that between all of these groups we have been able to contact all of the entities that would be eligible for funding from our two programs. We have also placed a legal notice in the Arkansas Democrat Gazette (a state wide newspaper) to make every effort in getting the word out about these funds being available for water and sewer projects.

5. Preference for Expeditious Activities

ARRA requires priority be given to projects that can be initiated within 120 days of enactment and ready to proceed to actual construction within 12 months of the date of enactment. In anticipation of compliance with this requirement, Arkansas is consulting with all potential assistance recipients with projects on the project priority list and making a determination as to which of these projects can be started and completed expeditiously. After receiving a capitalization grant, Arkansas will provide ARRA assistance to projects who qualify for this preference .

6. Avoidance of Reallotment/Relationship to Base Program

In order to meet the requirements and deadlines of the ARRA for the expeditious and timely commitment and expenditure of funds, Arkansas will regularly review the data reported to EPA on the progress of assistance recipients under the statutory deadlines specified in this IUP to identify any issues with the timeliness of this progress. If such

issues are identified, Arkansas intends to work with EPA to resolve such issues. Arkansas will include conditions in its assistance agreements to ensure that assistant recipients make timely progress with respect to entering into contracts and/or construction. If a recipient fails to maintain progress with these conditions, they will receive funding from other CWSRF monies so that ARRA funding can be provided for a project that is ready to proceed. Arkansas understands that the U.S. Environmental Protection Agency may deobligate grant funds from States that fail to meet requirements on use of ARRA funds. Arkansas intends to avoid deobligation. If Arkansas is eligible for additional funds made available by a reallocation of ARRA funds, Arkansas will provide USEPA with a list of projects from its project priority list that are immediately prepared to proceed to construction, and will also provide a certification through an amendment to this Supplemental IUP that all funds received for these projects will be under contract for construction with 120 days of reallocation.

7. Loan Terms and Fees

The lending rate is composed of two parts: the interest rate and the servicing fee. The lending rate is established at the time the project is approved by ANRC and is based on Arkansas' financial assistance objectives, an analysis of communities' ability to repay loans and the market's taxable or tax-exempt bond rate. The initial objective for ANRC is to establish a lending rate for CWRLF loans ranging from 100 basis points to 200 basis points below current bond market's taxable or tax-exempt rate depending on whether the project qualifies for a taxable or tax-exempt rate.

The Recovery CWSRF Program will offer the following loan terms:

- Lending Rate - 1% for projects without principal forgiveness
- Principal Forgiveness – for projects without loan funds
- Combination of Principal Forgiveness and lending rate of 3.25%
- Repayment Term - Up to 20 Years
- Loan Origination Fee - None
- Servicing Fee - 1% - this helps meet program operating expenses.

VI. PUBLIC REVIEW AND COMMENT

A public notice was placed in a statewide newspaper to announce the required public review dates and locations for the Arkansas Intended Use Plan including the list of projects expected to be assisted through funding from the CWRLF ARRA. The review/comment period remained open for 14 days. A copy of the legal notice published in the newspaper and a summary of the results of these public review/comments are attached.

VII. INTENDED USE PLAN AMENDMENT PROCEDURES

Revisions to this IUP that are determined significant will require Public Notice and EPA notification

and approval.

Revisions to this IUP which are deemed to be insignificant shall be made by the Division with notification to EPA.

Any changes in the project funding list shall be in accordance with procedures provided in the CWRLF Priority System and List.

VIII. TRANSFER OF FUNDS

Arkansas intends to transfer \$8,080,000 from Clean Water ARRA cap grant to Drinking Water ARRA cap grant. The \$8,080,000 transferred from Clean Water is 100% allocated from additional subsidization.

The State acknowledges that the only such transfer of funds that is permissible under the ARRA appropriation is between these two capitalization grants. The State commits to manage and expend all funds thus transferred consistent with the requirements of the American Recovery and Reinvestment Act of 2009.

IX. REPORTING

Arkansas will report on the uses of funds in accordance with American Recovery and Reinvestment Act of 2009. Arkansas will enter all ARRA project information into the Clean Water Environmental Benefits Reporting system on an on-going basis.

X. Tracking the ARRA Funds

ANRC and ADFA agree to track and account for the ARRA funds so that they can be clearly identified separately and will be in compliance with the requirements to track data as stated in Section 1512 of the American Recovery and Reinvestment Act of 2009.

APPENDIX D-1

PUBLIC NOTICE

STATE OF ARKANSAS

ARKANSAS NATURAL RESOURCES COMMISSION

PUBLIC HEARING & NOTICE REPORTS

ARRA FUNDS

On June 7, 2009, the State of Arkansas published the required public notice advertisement for the Intended Use Plan in the Arkansas Democrat-Gazette, a statewide paper. A public meeting was scheduled for June 22, 2009 and a deadline for submittal of written comments was set for June 22, 2009. Copies of the IUP were available for public inspection at the Water Resources Development Division of the Arkansas Natural Resources Commission, www.recovery.arkansas.gov, and www.anrc.arkansas.gov. A meeting was held on June 22, 2009 at ANRC offices in Little Rock, to accept comments on the Intended Use Plan. Representatives of ANRC were available to answer questions about the Clean Water IUP.

The comments received in our public hearing were in support of the Intended Use Plan.

CHART D-2

ARRA INTENDED USE PLAN PROJECTS

ITEMS

D-2 Project Priority List for SFY 2010