



---

**Presentation to the  
New Mexico Finance Authority  
Oversight Committee**

**Drinking Water State  
Revolving Loan Fund  
Program Update**

*Marquita Russel, NMFA Chief of Programs*

**August 8, 2018**





## Drinking Water State Revolving Fund

---

The federal Drinking Water State Revolving Fund was created in 1996 by the Safe Water Drinking Water Act (“Act”). Through the EPA, the Act provides Capitalization Grants to states to establish revolving loan funds and to fund activities that promote sustainable, safe drinking water systems

NM’s program was created in 1997 and is jointly administered by the NMFA and the New Mexico Environment Department (NMED) By statute, NMFA is the recipient of the federal capitalization grants and is responsible for the expenditure of the funds as well as for originating, managing and servicing all loans

Through FY 2018, New Mexico has received \$197.8 million in federal grants and NMFA has provided \$36.6 million in state match -- 80% of the federal grants and all of the state match are deposited into the loan fund for an initial capitalization of \$175.6 million. *To date, NMFA has made 126 loans totaling more than \$195.8 million*



# Program Responsibilities

---



## **NMED-DWB administers the technical aspect of the program**

- ❑ enforces provisions of the Safe Drinking Water Act
- ❑ prioritizes projects on the Comprehensive & Fundable Priority Lists
- ❑ determines technical and managerial capacity for water systems

## **NMFA administers the financial aspects of the funds**

- ❑ provides low interest loans to projects on the Fundable Priority List
- ❑ through a Memorandum of Understanding with NMED's Construction Programs Bureau, monitors project construction
- ❑ through a contract with an environmental engineering firm, performs environmental reviews and determines compliance





## Loan Fund

---

The NMFA uses the loan funds to provide below-interest financial assistance to water systems prioritized by NMED that:

- ✓ address or prevent violations of health-based drinking water standards
- ✓ are necessary to maintain compliance with drinking water regulations for contaminants with acute and chronic health effects
- ✓ focus on the needs of small and disadvantaged water systems

Federal rules require that at least 15% of the loan fund annually be directed to small systems (serving populations of less than 10,000). To date, 33% of the total loans have been provided to small systems

Before NMFA can make a loan, NMED must determine that the applicant has adequate technical, managerial and financial capacity to undertake the project



# The Loan Fund

---



***Technical Capacity:*** NMED must determine that a drinking water system's source, treatment, distribution and storage infrastructure are adequate and its personnel have the technical knowledge and documentation to efficiently operate and maintain the system

***Financial Capacity:*** Systems must demonstrate to both NMED and NMFA that they have sufficient revenues to cover necessary costs, adequate fiscal controls, and engage in financial planning and asset monitoring to include savings for emergencies, routine maintenance and long term capital improvements as well as debt service

***Managerial Capacity:*** Systems that receive funding must evidence that management is adequately trained, have written policies and procedures that outline responsibilities in overseeing operations and comply with all applicable regulations and laws





# The Loan Fund

---

Guidelines established for the program defines criteria for Disadvantaged and Severely Disadvantaged Communities based upon the projected average annual user charges and the Median Household Income of the community

Federal guidelines require that the loans be made at or below market interest rates. Interest rates are set by the NMFA:

- Severely Disadvantaged Community: 0% interest rate on the first \$600,000 of the loan, up to 30 years
- Disadvantaged Community: 0% interest rate on the first \$600,000 of the loan, up to 20 years
- Non-Disadvantaged Community – 2%, up to 20 years
- Private Non-profit Water System – 3%, up to 20 years



## Additional Subsidy

---



Since 2010, the federal grants have required states provide “Additional Subsidy” to its borrowers, which NMFA meets through loans it makes with Principal Forgiveness (grant-like terms)

For FFY 2018, the Capitalization Grant requires 20% subsidy, and at the state’s discretion, up to 30% to be used for Disadvantaged Entities. New Mexico has opted to provide both pools of subsidy totaling 50% or \$5,553,500. NMFA assigns Principal Forgiveness using the following guidelines:

- ✓ **All projects involving construction are provided 25% principal forgiveness** to help offset the costs involved with federal requirements such as Davis Bacon and American Iron & Steel
- ✓ **Disadvantaged PWSs** are provided an additional 25% principal forgiveness and **Severely Disadvantaged PWSs** are provided 50% principal forgiveness





## Additional Considerations of Federal Funding

---

Federal funds impose certain requirements that can add to the cost of the project:

- American Iron and Steel – which recently increased the cost of the project by approximately 20%
- Davis Bacon Wage Act

Federal regulations require states to review projects for environmental, social and economic impacts:

- Requires as much as an additional year to complete the environmental review and public review
- Federal “Cross Cutters” add layers of time and additional monitoring





## What Are Cross Cutters?

---



Cross-cutters are “federal laws, executive orders, and government-wide policies [that] apply by their own terms to projects and activities receiving federal financial assistance, regardless of whether the statute authorizing the assistance makes them applicable...”

- Environmental Cross-Cutters
- Social Policy Cross-Cutters
- Economic and Miscellaneous Cross-Cutters

Some cross-cutters require detailed consultation and impact resolution process, especially where driven by federal law (eg, National Historic Preservation Act, Wild & Scenic River Act)

Certain Cross-Cutters are required on both “new money” and reloaned (aka “Tier II”) funds



# Cross Cutter Checklist



## Environmental Cross Cutters

### Historic Resources

- National Historic Preservation Act
- Archeological & Historic Preservation Act

### Environmentally Sensitive Lands

- Protection of Wetlands
- Flood Plain Management
- Farmland Protection Policy Act
- Coastal Area Protection
- Coastal Zone Management Act
- Coastal Barriers Resources Act

### Wild and Scenic Rivers Act

### Endangered Species Act

### Essential Fish Habitat

### Clean Air Act

### Safe Drinking Water Act

## Social Policy Cross Cutters

### Civil Rights Laws (aka “Super” Cross-Cutters)

- Title VI of the Civil Rights Act of 1964
- Section 13 of the FWPCA Amendments of 1972
- Section 504 of the Rehabilitation Act of 1973
- Age Discrimination Act of 1975

### Disadvantaged Business Enterprise Provisions

- Promoting the Use of Small, Minority, and Women- owned Businesses
- Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988
- Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993

## Economic & Miscellaneous Cross Cutters

- Prohibitions Relating to Violators of the Clean Air Act and the Clean Water Act
- Debarment and Suspension, Executive Order No. 12549
- Demonstration Cities and Metropolitan Development Act
- Uniform Relocation Assistance and Real Property Acquisition Policies Act
- Preservation of Open Competition and Government Neutrality





## FY 2018 Program Highlights

---

Given the availability of free or low-cost funding for water systems in New Mexico (Capital Outlay, Water Trust Board, PPRF, Colonias Infrastructure, etc), the DWSRLF historically had a slow pace as compared to other states

Twelve years ago, New Mexico had the lowest pace of Capitalization Grant expenditures in the nation with 48% of its funds unspent compared to the national average of 14%. Six years ago, New Mexico's unspent funds totaled more than 30% of its total funds.

*As of July 1st, the state's total unexpended funds has dropped to less than 4%*



# FY 2018 Highlights



NM's loan fund met EPA's goal of having all "Legacy" grants (FFY 2014 grants and earlier) expended by September 30, 2016

For FYE 6/30/17 – New Mexico had 3 open grants

For FYE 6/30/18 – New Mexico had only 1 open grant

NMFA currently has 29 projects in construction with a combined remaining construction budget of \$24,522,523 of loan funds

## *Other highlights:*

Metric	FY 2017	FY 2018
Total Number of Draws	114	115
Total Amount of Draws	\$ 6,320,960	\$ 11,049,355
Number of Loans Closed	16	12
Amount of Loans Closed	\$ 11,907,409	\$ 12,824,721
Projects Completing Construction	9	11

