

The following changes should be made to the Draft CWSRF Policy to be adopted by the State Water Board on March 17, 2009 (listed as Agenda Item 12). The changes address comments received from stakeholders.

IV. Priority System and Intended Use Plan

A. Development of Regional Water Board Recommendations

1. Annually, each Regional Water Board Executive Officer shall be consulted regarding Projects in the Region for the Statewide Project Priority List (Statewide List).
2. Results of these consultations shall be transmitted to the Division each year by the scheduled date set by the Division. The Division shall not place a Project on the Statewide List unless the Regional Water Board Executive Officer concurs.
3. **The Regional Water Board Executive Officer shall not unreasonably deny the inclusion of a Project on the Statewide List. The Executive Officer shall provide any reasons for denial in writing to the State Water Board. An applicant denied inclusion on the Statewide List by the Executive Officer may appeal to the State Water Board to have its Project included on the Statewide List at the time the Statewide List is adopted by the State Water Board.**

IX. Approval of Construction Financing

E. Credit/Legal Review

4. Litigation or Adverse Findings

The applicant shall describe any pending or anticipated litigation, contractual or ratepayer/taxpayer disputes or adverse findings by outside **reviewers auditors (including commercial and government auditors, grand juries, or other similar entities acting in a formal capacity)** that may detrimentally affect the applicant's payment source, the ability of the applicant to agree to or pay the CWSRF financing or manage and implement the project financed by the CWSRF Program.

X. Construction Financing Agreement

H. Effective Date

The effective date of the financing agreement means the date specified as the beginning of the financing agreement. Eligible construction costs under the financing agreement may be incurred after this date. Construction ~~or equipment procurement~~ costs incurred prior to the effective date will not be eligible for CWSRF financing. **Eligible equipment procurement costs may be incurred before the effective date, at the Recipient's risk.** This date will be the date of Preliminary Funding Commitment.

I. Expiration Dates

Financing Agreements may include appropriate expiration dates **established in cooperation with the applicant to ensure that projects proceed to construction and are completed.** Disbursements will stop if any of the expiration dates are not met. The Deputy Director or designee ~~may approve up to a one hundred and twenty (120) day extension of~~ a financing agreement expiration date for good cause. Applicants that miss an expiration date and do not receive approval of an extension must reapply for CWSRF funding per Section IX.

XI. APPROVAL OF AWARD (AOA)

B. Approval of Award Package and Amended Financing Agreement

Recipients are required to submit an AOA package to the Division for review and approval prior to disbursement of equipment procurement, construction, or design-build costs. The Division will also review the AOA request package to assure that both the recipient and its contractors or vendors have complied with the applicable requirements of this section, any conditions specified in the PFC, and that all permits, approvals, and financing necessary to complete the project have been obtained. **Applicants may incur eligible equipment procurement and construction costs at their risk consistent with Section X.H, Effective Date, before receiving an executed amended financing agreement.**