

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY ECONOMIC ENHANCEMENT GRANT GUIDANCE

BACKGROUND

On March 12, 2022, the West Virginia Legislature enacted HB4566 which amended the West Virginia Water Development Authority statute, WV Code 22C-1 et seq (the “WVWDA Act”) by adding a new section 6a (“Section 6a”). Section 6a authorized the West Virginia Water Development Authority (the “WDA”) to create the West Virginia Economic Enhancement Grant Fund (the “EEG Fund”). On April 25, 2022, the Legislature passed HB217 which appropriated \$250,000,000 to the EEG Fund from certain American Rescue Plan Act (“ARPA”) funds received by the State of West Virginia (“HB217”). The WDA placed the appropriation in the HB217 Enhancement Grant Subaccount (the “HB217 Subaccount”).

ELIGIBILITY

The following requirements must be met for a Project Sponsor to be eligible to receive a grant from the HB217 Subaccount:

- Project Sponsor must be either a governmental agency or a not-for-profit organization.
- The Project must be a “project” or “infrastructure project” under WV Code 31-15A-2, including (by way of example only) a project for either a water system, a wastewater/sewer system, stormwater system or an economic development type project.
- The Project Sponsor must be eligible to receive a State grant under WV Code 12-4-14.
- The Project Sponsor must be registered on SAM.gov and have a UEI number.
- The Project Sponsor must be able to enter into construction and/or acquisition contracts for Project by December 31, 2024.
- All West Virginia Water Development Authority Economic Enhancement Grant Funds for the Project must be spent (paid to contractor/vendor) by December 31, 2026.
- The Project Sponsor must be able to provide prior fiscal year audit by March 29th annually.
- The Project Sponsor must maximize all other funding sources.
- All water, wastewater/sewer and stormwater projects must have a recommendation from the West Virginia Infrastructure and Jobs Development Council.
- All infrastructure projects (economic development) must have a written recommendation from either the Secretary of Commerce, Economic Development or Tourism.
- The Project must be bid using the requirements of the most stringent funding source.

- If the estimated total Project cost (water, wastewater/sewer or stormwater) exceeds \$10,000,000, then the Project Sponsor shall require Davis Bacon Act wage rates and provide a workforce continuity plan (see Appendix A to Grant Guidance).
- BABA and AIS are not required unless required by another Project funding source.
- The Project Sponsor shall follow Disadvantaged Business Enterprise requirements unless the Project Sponsor can provide documented justification for why not followed.
- The Project may be the design of a water system, a wastewater/sewer system or a stormwater system provided that the design must be complete and ready to bid by December 31, 2024.

APPLICATIONS

The Project Sponsor shall complete the appropriate application and email it to the WDA at wda@wvwda.org and on <http://wvoasis.gov/VSS/Default.aspx> (1. VSS Portal, 2. View Grant Opportunities, 3. WV Water Development Authority Economic Enhancement Grant Fund) for the requested funding type:

- 1) Section 6a(b) Matching Grant
- 2) Section 6a(c)(1) Bid Overrun Grant
- 3) Section 6a(c)(2)-(6) Other Grant
- 4) Section 6a(c)(7) Infrastructure Grant (Economic Development)

The WDA staff shall review applications and complete a funding sheet and when necessary request additional information.

1.) Matching Grant. If a Project Sponsor is eligible for a federal or other program grant that requires a match and when that commitment is required to be submitted with the application, the WDA upon receipt of a recommendation from the IJDC or West Virginia Department of Economic Development (“WV DED”) shall consider the request and if approved, set aside money in the Matching Grant Subaccount and provide the binding commitment. If the Project Sponsor is awarded the federal or other grant, the WDA shall enter into a grant agreement for the disbursement of the grant. If the Project Sponsor does not receive the federal or other grant, the binding commitment will be rescinded.

2.) Bid Overrun. If the Project Sponsor has a bid overrun on a project approved by the IJDC, the Project Sponsor shall apply for a bid overrun grant on the appropriate application and provide the information with respect to the pre-bid funding, other funding being sought and the amount of bid overrun grant being requested. The Executive Director of the WDA in consultation with the Chair of the Water Development Board (“Board”) will initially be authorized to approve bid overrun grants up to \$10,000,000. Bid overrun grant requests in excess of \$10,000,000 shall be considered by the Board.

3.) Other Grants Section 6a(c)(2)-(6). The Project Sponsor shall complete the appropriate application and designate the section of funding being requested. WDA staff shall request any additional information necessary to complete the review.

4.) Infrastructure Grant (economic development) Section 6a(c)(7). The Project Sponsor shall complete the application and provide the recommendation letter from the applicable Secretary. WDA staff shall request any additional information necessary to complete the review.

APPROVAL PROCEEDINGS

The Board shall meet as needed to review WDA EEG Fund applications. In reviewing the applications, the Board may give priority to projects that include loans, contributions of local funding and/or high user rates. The Board may approve an application, reject an application or request additional information. If approved, the Board shall authorize WDA staff to enter into a grant agreement in compliance with Section 6a(d) and at such time as all other funding has been awarded.

Appendix A

For projects over \$10 million (based on expected total cost):

- a. A recipient may provide a certification that, for the relevant project, all laborers and mechanics employed by contractors and subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the “Davis-Bacon Act”), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State.
- b. A recipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing:
 - How the recipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project, including a description of any required professional certifications and/or in-house training;
 - How the recipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project;
 - How the recipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities, including descriptions of safety training, certification, and/or licensure requirements for all relevant workers (e.g., OSHA 10, OSHA 30);
 - Whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and
 - Whether the project has completed a project labor agreement.
- c. Whether the project prioritizes local hires.
- d. Whether the project has a Community Benefit Agreement, with a description of any such agreement.