

INTERIM ONLINE POLICIES AND PROCEDURES RESOLUTION

WHEREAS, the West Virginia Infrastructure and Jobs Development Council (the “Council”) is required by Section 5 of Chapter 31, Article 15 of the Code of West Virginia, 1931, as amended (the “Act”), to review preliminary applications for water and sewer projects submitted by project sponsors for project feasibility (the “Applications”) and for projects declared technically feasible to recommend the source or sources of funding to be utilized by the project sponsor;

WHEREAS, the Council previously authorized its existing application and submittal processes to be automated using the new online application and tracking system developed in conjunction with the Water Development Authority (“WDA”);

WHEREAS, the Council/WDA online application and tracking system went into operation in July 2011;

WHEREAS, the Council has determined that certain formerly adopted resolutions and policies should be revised in order to support the new online system;

WHEREAS, the Council recognizes that application policies will ultimately be published in a single policy document or standard operating procedure in the near future;

WHEREAS, the Council finds that an interim resolution is needed in order to establish certain policies and procedures until such time as the final policy document is prepared;

NOW THEREFORE, the West Virginia Infrastructure and Jobs Development Council resolves as follows:

- 1) The Council hereby determines that the “Interim Online Policies and Procedures” attached hereto as Exhibit A and incorporated herein by reference is in the best interest of the Council.
- 2) The Council hereby adopts the “Interim Online Policies and Procedures” the provisions of which shall supersede any and all previously adopted policies of the Council;
- 3) This Resolution shall be effective immediately upon adoption, and shall terminate either 1) upon adoption of the final policy document or Standard Operating Procedure, or 2) on April 1, 2012 whichever occurs sooner.

Adopted the 5th day of October, 2011.

Executive Secretary

INTERIM ONLINE POLICIES AND PROCEDURES

I. PROJECT INITIATION PROCESS

- a) Projects shall be initiated through the online system via the submission of a Project Initiation Form. Such Initiation Form shall be submitted in a format to be determined by the Executive Director and shall require the following information at a minimum:
 - i. Name and contact information for all members of the project team engaged by the Project Sponsor to assist in the completion of the project;
 - ii. A basic description of the proposed project;
 - iii. If necessary, a declaration/request that grant funds are being sought to assist in the completion of the Preliminary Application;
- b) The following requirements apply to all Project Team Members:
 - i. If an Attorney, Engineer, or Accountant: Must be duly licensed to practice in the State of West Virginia;
 - ii. Must be certified by the Executive Director to use the online system after successful completion of a certification process prescribed by the Executive Director;
 - iii. No single individual or firm may serve in more than one role on the project team;
- c) Should the Sponsor request grant funds in order to assist in the preparation of the Preliminary Application, the Executive Director is hereby authorized to approve such grant requests, not to exceed 50% of the cost of the application or \$5,000 whichever is greater. It is recognized that the maximum amount of grant funds utilized annually for these purposes cannot exceed \$100,000 per fiscal year.

II. PRELIMINARY APPLICATION PROCESS

- a) Once the Project Sponsor has successfully completed the Project Initiation Form, the Preliminary Application may be filed with the Council;
- b) The Preliminary Application must be submitted within six (6) months after acceptance of the Project Initiation Form;
- c) Filing Deadline - Preliminary Applications may be submitted on a monthly cycle, with the deadline for submission being no later than noon on the 10th calendar day of the month. Should the 10th fall upon a weekend or holiday then the deadline shall be the preceding day or Friday;

- d) The Preliminary Application shall consist of three separate parts to be completed by the respective Project Team Members: Administrator, Engineer, and Accountant;
- e) The Preliminary Application, upon acceptance by the Executive Director, shall be forwarded to the Technical Review Committees of the Council for review;
- f) Upon successful technical review, Preliminary Applications are then forwarded to the Funding Committee, and then the Council as prescribed in the Council's Legislatives Rules and By-Laws;
- g) Proposed Funding – the Project Sponsor shall provide its target user rates for the proposed project. The Council shall then determine the appropriate funding scenario for the project;
- h) Revised Applications – Project Sponsors shall have the ability to submit one revision to an existing application. Should more than one revision to a project be required, a new application shall be submitted and a new project number assigned.

III. BINDING COMMITMENTS

- a) When seeking a binding commitment of Council funds, the Project Sponsor shall submit a request using the online system;
- b) At a minimum, requests for binding commitments shall be accompanied by the following:
 - i. Copy of Professional Services Agreements (Administrative, Engineering, Legal, and Accounting);
 - ii. Copy of PSC Order approving Engineering Agreement (if applicable);
 - iii. Schedule for obtaining PSC Certificate of Convenience and Necessity;
 - iv. Status of all required permitting processes;
 - v. Draft pre-bid project budget (Pre-Bid Schedule B);
 - vi. Evidence of other funding commitments;
 - vii. Evidence of rate ordinance (for municipalities)
 - viii. Status of land and easement acquisitions;
 - ix. A list of materials, with quantities, to be used in the project;
- c) The Council shall be the approving authority for all requests for binding commitments;

IV. BID AUTHORIZATION

- a) Prior to advertising for bids, the Project Sponsor shall first obtain Council approval using the online system;

- b) At a minimum, requests for bid authorization shall be accompanied by the following:
- i. Evidence that all required permits have been obtained;
 - ii. Current/updated pre-bid project budget (Pre-Bid Schedule B);
 - iii. Front-end bid documents including proposed bid advertisement;
 - iv. Preliminary title opinion demonstrating at least 80% of easements and 100% of lands have been obtained;
 - v. Treatment or water purchasing agreements (if applicable);
 - vi. Evidence of resolution of parity issues;
 - vii. Updated schedule for obtaining PSC Certificate of Convenience and Necessity;
 - viii. Certification of compliance with the WV Jobs Act (only for projects without federal funding);
 - ix. Intergovernmental agreements (if applicable);
 - x. Sewer use ordinance (if applicable);
 - xi. Certificate of insurance;
- c) The Executive Director shall be the approving authority for all bid authorization requests.

V. BID UNDERRUNS AND OVERRUNS

- a) Bid Underruns and Overruns:
- i. In the event received project bids are less than the estimated amount, the Project Sponsor may submit a request using the online system to utilize the underrun funds for specific purposes;
 - ii. In the event received project bids are greater than the estimated amount, the Sponsor may submit a request using the online system to request additional funds for the bid overrun;
 - iii. Bid Underruns:
 - a. At a minimum, requests to use Council funds resulting from a bid underrun shall be accompanied by the following:
 - A) Detail committed project funding;
 - B) Amount of the bid underrun;
 - C) Detail of the proposed uses of the bid underrun;
 - D) Provide list of construction items and costs, if applicable;
 - E) Cost per customer, if applicable;
 - F) Customer user rates for 4,000 gallons;
 - G) Justification and need for the use of the additional funds;
 - b. The approval authority for the use of excess funds resulting from a bid underrun shall be the Funding Committee;

- iv. Bid Overruns:
 - a. At a minimum, requests for additional funds due to a bid overrun shall contain the actual bid tabulations, and must specify the amount of additional funds being requested;
 - b. The approval authority for the procurement of additional funds due to a bid overrun shall be the Full Council;

VI. CLOSING OF LOAN AND GRANT PROCEEDS

- a) When seeking to establish a closing date for loan and/or grant proceeds, the Project Sponsor shall submit a request using the online system;
- b) At a minimum, requests for closings shall be accompanied by the following:
 - i. Final, post-bid project budget (Post-Bid Schedule B) signed by Project Sponsor;
 - ii. Final, non-appealable PSC Order approving project scope, funding, and construction;
 - iii. Final title opinion demonstrating 100% of easements and lands have been obtained;
 - iv. Evidence that all necessary permits have been obtained;
 - v. Affidavit of publication of bid advertisement;
 - vi. Copy of bid tabulations, certified by the Project Engineer;
 - vii. Attorney's opinion if lowest bidder was not chosen;
 - viii. Closing resolution;
 - ix. Invoices for initial draw at closing, including expenditure schedule;
 - x. Wiring instructions for funds disbursement;
 - xi. Bond Counsel documents, Resolutions, and Engineer certifications;
 - xii. CPA Certificate;
 - xiii. Evidence of parity consent;
 - xiv. Proposed or requested closing date;
- c) The Executive Director shall be the approving authority for all closings of loan and grant proceeds;

VII. DISBURSEMENTS OF FUNDS (DRAWS)

- a) When seeking to draw funds available for a project, the Project Sponsor shall submit a request using the online system;
- b) At a minimum, each draw request shall be accompanied by the following:

- i. A resolution adopted by the Project Sponsor's governing body, clearly indicating the approved fund amounts and their purpose;
 - ii. Supporting invoices, certified by the project engineer and/or contractor as necessary;
- c) The approving authority for all draw requests shall be the Executive Director;
- d) For all approved draws, the Executive Director shall submit correspondence to the Water Development Authority (WDA) indicating approval and requesting that payment be made on behalf of the Council;

VIII. PROJECT CLOSEOUT

- a) The Council, through previous policy decisions, has recognized the need to timely closeout projects once completed in order to free-up unused leftover funds for other projects;
- b) For all separate contracts associated with a project, the Sponsor shall submit to the Council, no later than 30 days following the substantial completion date, a copy of the Certificate of Substantial Completion signed by the Project Engineer;
- c) From the Date of Substantial Completion, the Sponsor shall have 90 days to provide the following items to the Council:
 - i. Certification with last draw on remaining amounts in expenditure schedule related to that contract;
 - ii. Remaining expected expenditures related to that contract;
 - iii. Provide a copy of the final inspection certification and notify the Council of the selected following options if grant and/or loan funds remain:
 - 1. Use of contingency and/or remaining budget;
 - 2. Amount to be returned to Council;
 - 3. Request to reduce number of payments (for loan balances);
 - 4. Request to pre-fund reserves (for loan balances);
- d) If the information described in VIII.c is not received within 90 days of the Date of Substantial Completion, the Council will:
 - i. Reduce any grant amounts in accordance with remaining budget;
 - ii. Remit loan funds to the Municipal Bond Commission required to fully fund any reserve requirements. If the reserve fund is fully funded, the Council will apply the balance to the last maturities and provide a revised debt service schedule showing the amount outstanding and the new maturity date;
 - iii. The Project Sponsor shall draw down any approved contingency funds within 6 months unless it has received the prior written consent of the Council for a longer period.