

State Water Infrastructure Authority
Meeting Date: February 12, 2020
Agenda Item K – Additional Supplemental Appropriations for Disaster Relief Act, 2019

Division of Water Infrastructure Staff Report

Background

On June 6, 2019, the President signed P.L. 116-20, the "Additional Supplemental Appropriations for Disaster Relief Act, 2019" (ASADRA), into law. The Environmental Protection Agency (EPA) has allotted \$87,807,000 million in supplemental funding for the North Carolina State Revolving Fund (SRF) programs: \$19,193,000 for Clean Water State Revolving Fund (CWSRF) and \$68,611,000 for Drinking Water State Revolving Fund (DWSRF) for wastewater treatment works and drinking water facilities impacted by Hurricanes Florence and Michael. North Carolina Session Law 2019-250 appropriated \$17,600,000 to the Department of Environmental Quality to provide the required match for federal funds. The following table shows the distribution of federal and state match funding available for ASADRA eligible projects.

States are required to prepare a plan identifying the intended use of the funds in the SRF and describing how those uses support SRF goals. States must submit supplemental Intended Use Plans (IUPs) specific to the ASADRA funding prior to approving the ASADRA grant award and release of funds. Included within each program's IUP is the Priority Rating System which contains the points that are applied when an application for funding is evaluated.

At the Authority's December 11, 2019 meeting, the Division proposed the following changes to the CWSRF and DWSRF Priority Rating Systems for applicants seeking 2019 ASADRA Funds:

- **15 points** – Moving infrastructure out of floodplain (line item 2.N.1)
- **4 points** - Fortifying/elevating infrastructure within floodplain (line item 2.N.2)
- **4 points** - Improvement to assure continued operation during flood events (line item 2.N.2)
- **2 points** - Repair of infrastructure damaged by the storm event (line item 2.N.3)

The Authority approved the attached CWSRF and DWSRF Priority Rating Systems for public review. The Division opened the public comment period on December 18 and held a public meeting on January 13, 2020 to present the draft IUPs. The public comment period closed on January 17.

The Division received the following comments from Ms. Angela Mettlen of WK Dickson (written) and Monica Chevalier of The Wooten Company (verbal during the public meeting on January 13, 2020):

1. Comment: Clarification was requested regarding the process regarding an excess in ASADRA funding requests and applications that are not awarded funding under (e.g., would they be considered for non-ASADRA SRF funds, how they would be scored against non-ASADRA projects, and would non-ASADRA principal forgiveness be available).

Response: This is a request for additional clarification rather than a request to revise the draft IUP. If an application is eligible for ASADRA funding but does not receive ASADRA funding, it will be considered for the regular SRF programs and would be scored utilizing the Priority Rating Systems for the regular SRF programs. Principal forgiveness from the regular SRF

programs will also be available to any ASADRA-eligible project that is scored under the regular SRF programs.

The Division received the following comment from Ms. Angela Mettlen of WK Dickson and Mr. Gary Hartong of The Wooten Company:

2. Comment: Clarification was requested regarding the definition of the majority of construction costs to support resiliency activities.

Response: This is a request for additional clarification rather than a request to revise the draft IUP. The majority of construction costs to support resiliency activities would be construction costs greater than 50 percent. If the majority of the costs are resiliency-related, then a project would be funded with ASADRA funds.

Comments 3 through 11 were received from Grady McCallie (NC Conservation Network), Rob Moore (Natural Resources Defense Council), Peter Raabe (American Rivers), and Robin K. Smith (NC League of Conservation Voters):

3. Comment: The ASADRA legislation offers the chance for North Carolina to invest in genuine resilience and ensure that future climate impacts are factored into project design and implementation. They suggested the IUP leaves open opportunities for projects that are not resilient in their intent or implementation to receive competitive scores.

Response: ASADRA eligibility is governed by the requirements in P.L. 116-20 and includes language to limit ASADRA funds for resiliency projects. The IUP provides prioritization for specific types of resiliency allowed under the law. The Division intends to propose funding for projects in priority order, which will be governed by the Priority Rating System.

4. Comment: The Priority Rating System appears to award resilience points as an alternative to the conventional points, rather than as a threshold condition for funding in this supplemental cycle.

Response: If projects are eligible for ASADRA funding, they will be eligible to receive the points related to ASADRA in Line Item 2.N in addition to other points within the Priority Rating System.

5. Comment: It was suggested to not give two resilience points for projects that merely replace storm-damaged infrastructure, without relocating, elevating, or hardening it. Such a project is not resilient and offers only temporary recovery, meaning the investment is likely to be lost in a future disaster.

Response: Providing 2 points will enable projects that repair and/or replace infrastructure damaged during either Hurricanes Florence or Michael slight priority over other resiliency type projects that would not receive any additional priority points under 2.N.

6. Comment: The requirements of removing infrastructure from the 100-year floodplain to receive the most priority points should be strengthened, as 100-year floodplain maps are increasingly inaccurate due to impervious changes upstream and shifts in the amount of rainfall in the 100-year storm.

Response: The Division recognizes the possibility that recent rainfall events including the named storm events listed in the ASADRA funding may not be considered in the current FEMA maps. However, due to the limited timeline of this program (applications awarded in July 2020 to submit a Proposed Project List in September 2020) and the uncertainty of other available tools for evaluation of flood risk, the Division does not recommend requiring additional evaluation of flood risk or consideration for proving priority points. The Division will investigate this idea as a potential requirement for future Priority Rating Systems.

7. Comment: The final IUPs should (1) award points for applications that include a prospective flood risk analysis; (2) locate infrastructure at least three feet above the highest recorded historical flood elevations; and (3) offer points for resilience projects that have been planned by the local jurisdiction as part of a capital improvement plan (CIP) with integrated resilience components.

Response: The Division acknowledges the concern of the AR/NRDC/NCCN/NCLCV related to the issues summarized above. Due to the limited timeline of this program (applications awarded in July 2020 to submit a Proposed Project List in September 2020) the Division does not want to penalize applicants that would not have time to prepare a prospective risk analysis. At this time, the Division does not recommend providing additional priority points for system moving to areas beyond the 100-year flood elevation (e.g. 3 feet above the highest recorded historic flood elevation). While it is unknown how many projects that move infrastructure out of the flood way will seek funding additional priority points would likely reduce priority for resiliency projects in the coastal plain. Finally, while the Division recognizes the importance of systems having a capital improvement plan (CIP), documentation of a plan may result in smaller disadvantage communities in need of assistance losing project prioritization to large systems with more resources. The Division will investigate this idea as a potential requirement for future Priority Rating Systems.

8. Comment: The Division waive the requirement for a complete application for relocation projects, as some projects, while good projects, may be less likely to call for relocation out of the floodplain or for consolidation with more resilient systems.

Response: The application represents the minimum information required to identify the applicant and the project and to prioritize the project. Therefore, the Division will continue to consider only complete applications for funding.

9. Comment: The final IUPs should avoid inducing new development in the floodplain, especially projects that may be tweaked for submittal during this round.

Response: The Division prioritizes projects that focus on fixing existing infrastructure over projects that would expand or provide new infrastructure for development.

10. Comment: A monthly household average bill rather than a monthly rate per 5,000 gallons should be utilized.

Recommendations: The Division will consider a change in the affordability criteria for future rounds. However, due to the limited timeline of this round, Division staff will continue to utilize a monthly utility bill of 5,000 gallons.

11. Comment: The AR/NRDC/NCCN/NCLCV recommends clarification of the statement “The disadvantaged community either meets the affordability criteria listed in 5.3.1.7 or is representative of the criteria.”

Response: This quote provides the Authority the ability to exercise project bypass provisions in the Clean Water State Revolving Fund. Due to federal restrictions related to the Drinking Water State Revolving Fund, project bypass provisions are not allowed, and staff will make the following change: Division staff will eliminate the last part of the sentence (“or is representative of the criteria”) as well as the word “either.”

Comments 12 through 16 were received from Gary Hartong of the Wooten Company or provided verbally during the public meeting on January 13, 2020.

12. Comment: ASADRA Funds should be offered as 100 percent grants to those communities impacted by Hurricanes Florence and Michael.

Response: The Division is limited to a maximum of 30 percent principal forgiveness by the ASADRA legislation.

13. Comment: The Wooten Company stated that the Authority might want to consider revisiting the application of a pre-hurricane scoring structure for ASADRA funds.

Response: Since the ASADRA funds are part of the SRF program, Division staff recommends continuing with the proposed Priority Rating System, which includes the pre-hurricane scoring structure with the addition of changes to Line Item 2.N.

14. Comment: The Wooten Company recommends well relocation out of the floodplain as a potential grant-funded project. Infiltration / inflow (I/I) remediation where flooding occurred should be given priority over non-flooded I/I areas.

Response: As currently written, grant funding eligibility depends upon affordability criteria rather than project type. The Division recommends that principal forgiveness be awarded to all projects receiving priority points for certain times of resiliency in application Item 2.N, as well as the affordability criteria.

15. Comment: Infrastructure changes as a result of the buyout program should be considered as eligible items to be funded.

Response: The Division recommends that applicants with projects that will downsize infrastructure related to be buyouts be eligible for funding under Line Item 2.N.2. This

proposal modifies Line Item 2.N.2 by adding a third clause that reads: “Project downsizes infrastructure related to buyouts”.

16. Comment: Rehabilitation and like-for-like replacement efforts to elevate, fortify, repair, and strengthen existing systems should be given more emphasis in the Priority Rating System.

Response: ASADRA-eligible projects may also claim any items under Line Item 2.N. as well as other line items in other categories. Category I of the Priority Rating System provides priority for rehabilitation and replacement projects over expansion and new infrastructure projects.

Staff Recommendation

Staff recommends that the Authority approve the proposed Priority Rating System for 2019 ASADRA Wastewater Projects for use in the Supplemental SRF IUPs for ASADRA with the addition of a third sub-item in Line Item 2.N.2 that reads “Project downsizes infrastructure related to buyouts”.

Staff recommends that principle forgiveness be awarded in project priority order within each of the flowing categories with the ability to exceed the dollar limits if funds remain.

Non-viable rescue: Projects that eliminate a non-viable system to benefit a disadvantaged community. Projects will receive principal forgiveness for the full amount of the loan up to \$3,000,000.

Resiliency: Projects that receive prioritization points for resiliency in item 2.N.2, or 2.N.3 will receive principal forgiveness of 25% of project costs up to \$1,000,000.

Affordability: Projects that are grant eligible based on affordability criteria would receive % principal forgiveness equal to the % grant eligibility up to \$1,000,000.

Moving Infrastructure out of Flood Plains: Projects that receive prioritization points for resiliency in item 2.N.1 will receive principal forgiveness for the full amount of the loan up to \$3,000,000.

PRIORITY RATING SYSTEM for 2019 ASADRA Wastewater Projects

Instructions: For each line item, mark "X" to claim the points for that line item. Be sure that your narrative includes justification for every line item claimed. At the end of each Category, provide the total points claimed for each program in the subtotal row for that category. Then add the subtotals from each category and enter the Project Total in the last line. Note that some categories have a maximum allowed points that may be less than the total of individual line items.

Line Item #	Category 1 – Project Purpose	Claimed Yes/No	Points
1.A	Project will consolidate a nonviable drinking water or wastewater utility		25
1.B	Project will resolve failed infrastructure issues		15
1.C	Project will rehabilitate or replace infrastructure		15
1.C.1	Treatment units, pumps and/or pump stations to be rehabilitated or replaced are greater than 20 years old, OR water/sewer lines, storage tanks, drinking water wells or intake structures to be rehabilitated or replaced are greater than 40 years old		10
1.D	Project will expand infrastructure		2
1.D.1	Treatment units, pumps and/or pump stations to be rehabilitated or replaced are greater than 20 years old, OR lines, storage tanks, drinking water wells or intake structures to be rehabilitated or replaced are greater than 40 years old		10
1.E – 1.E.2	Reserved for Other Programs		
1.F	Project will provide stream/wetland/buffer restoration		15
1.F.1	Restoration project that includes restoration of a first order stream and includes stormwater infiltration BMPs		5
1.F.2	Restoration project that includes restoration and / or protection of riparian buffers to at least 30 feet on both sides of the stream		5
1.G	Project will provide stormwater BMPs to treat existing sources of pollution		20

PRIORITY RATING SYSTEM for 2019 ASADRA Wastewater Projects			
1.G.1	Project that includes BMPs or BMPs in series that achieve at least 35% nutrient reduction (both TN and TP) and 85% TSS reduction		10
1.H	Project will provide reclaimed water/usage or rainwater harvesting/usage		15
Maximum Points for Category 1 – Project Purpose			25
Subtotal claimed for Category 1 – Project Purpose			
Line Item #	Category 2 – Project Benefits	Claimed Yes/No	Points
2.A – 2.B	Reserved for Other Programs		
2.C	Project provides a specific environmental benefit by replacement, repair, or merger; includes replacing failing septic tanks		15
2.D	Project addresses promulgated but not yet effective regulations		10
2.E	Project directly addresses enforcement documents		
2.E.1	Project directly addresses an EPA Administrative Order for a local government Applicant located in a Tier 1 county, or addresses an existing or pending SOC, or a DEQ Administrative Order, OR		5
2.E.2	Project directly resolves a Notice of Violation or Notice of Deficiency		3
2.F	Project includes system merger		10
2.G – 2.H	Reserved for Other Programs		
2.I	Project improves treated water quality by adding or upgrading a unit process		3
2.J – 2.M	Reserved for Other Programs		

PRIORITY RATING SYSTEM for 2019 ASADRA Wastewater Projects			
<u>Items 2.N. Additional Priority Points are only applicable to ASADRA funds and will not be applied to other funding prioritization.</u>			
2.N	<u>Project provides redundancy/resiliency for critical treatment and/or transmission/distribution system functions including backup electrical power source.</u>		<u>3</u>
2.N.1	<u>Project relocates infrastructure out of a floodplain OR</u>		<u>15</u>
2.N.2	<u>Project fortifies or elevates infrastructure within floodplain, OR</u> <u>Project improves ability to assure continued operation during flood events OR</u> <u>Project downsizes infrastructure related to buyouts OR</u>		<u>4</u>
2.N.3	<u>Project repairs infrastructure damaged during covered event</u>		<u>2</u>
2.O	Project <u>directly benefits</u> subwatersheds that are impaired as noted on the most recent version of the Integrated Report		20
2.P	Project <u>directly benefits</u> waters classified as HQW, ORW, Tr, SA, WS-I, WS-II, WS-III* or WS-IV* (* these classifications must be covered by an approved Source Water Protection Plan to qualify)		10
2.Q	Project will result in elimination of an NPDES discharge		3
2.R	Primary purpose of the project is to achieve at least 20% reduction in energy use		5
	Maximum Points for Category 2 – Project Benefits		35
	Subtotal claimed for Category 2 – Project Benefits		
Line Item #	Category 3 – System Management	Claimed Yes/No	Points
3.A	Capital Planning Activities		
3.A.1	Applicant has implemented an Asset Management Plan as of the date of application OR		10
3.A.2	Applicant has a current Capital Improvement Plan (CIP) that spans at least 10-years and proposed project is included in the plan		2

PRIORITY RATING SYSTEM for 2019 ASADRA Wastewater Projects			
3.B	System Operating Ratio is greater than or equal to 1.00 based on a current audit, or is less than 1.00 and unit cost is greater than 2.5%		5
3.C – 3.E	Reserved for Other Programs		
	Maximum Points for Category 3 – System Management		15
	Subtotal claimed for Category 3 – System Management		
Line Item #	Category 4 – Affordability	Claimed Yes/No	Points
4.A	Residential Connections		
4.A.1	Less than 10,000 residential connections OR		2
4.A.2	Less than 5,000 residential connections OR		4
4.A.3	Less than 1,000 residential connections		8
4.B	Current Monthly Single Utility Rates at 5,000 Usage		
4.B.1	Greater than \$33 OR		4
4.B.2	Greater than \$40 OR		6
4.B.3	Greater than \$47		8
4.B.4	Greater than \$58		10
4.C	Local Government Unit (LGU) Indicators		
4.C.1	3 out of 5 LGU indicators worse than state benchmark OR		3
4.C.2	4 out of 5 LGU indicators worse than state benchmark OR		5
4.C.3	5 out of 5 LGU indicators worse than state benchmark		7
4.D – 4.E	Reserved for Other Programs		

PRIORITY RATING SYSTEM for 2019 ASADRA Wastewater Projects		
	Maximum Points for Category 4 – Affordability	25
	Subtotal claimed for Category 4 – Affordability	
	Total of Points for All Categories	

PRIORITY RATING SYSTEM for 2019 ASADRA Drinking Water Projects			
<p>Instructions: For each line item, mark "X" to claim the points for that line item. Be sure that your narrative includes justification for every line item claimed. At the end of each Category, provide the total points claimed for each program in the subtotal row for that category. Then add the subtotals from each category and enter the Project Total in the last line. Note that some categories have a maximum allowed points that may be less than the total of individual line items.</p>			
Line Item #	Category 1 – Project Purpose	Claimed Yes/No	Points
1.A	Project will consolidate a nonviable drinking water or wastewater utility		25
1.B	Project will resolve failed infrastructure issues		25
1.C	Project will rehabilitate or replace infrastructure		12
1.C.1	Treatment units, pumps and/or pump stations to be rehabilitated or replaced are greater than 20 years old, OR water/sewer lines, storage tanks, drinking water wells or intake structures to be rehabilitated or replaced are greater than 40 years old		8
1.D	Project will expand infrastructure		2
1.D.1	Treatment units, pumps and/or pump stations to be rehabilitated or replaced are greater than 20 years old, OR lines, storage tanks, drinking water wells or intake structures to be rehabilitated or replaced are greater than 40 years old		8
1.E – 1.H	Reserved for Other Programs		
Maximum Points for Category 1 – Project Purpose			25
Subtotal claimed for Category 1 – Project Purpose			
Line Item #	Category 2 – Project Benefits	Claimed Yes/No	Points
2.A – 2.A1.	Reserved for Other Programs		
2.B	Project provides a specific public health benefit to a public water supply system by replacement, repair, or merger; includes replacing dry wells, addressing contamination of a drinking water source by replacing or additional treatment; or resolves managerial, technical & financial issues		20
2.C	Reserved for Other Programs		
2.D	Project addresses promulgated but not yet effective regulations		10
2.E	Project directly addresses enforcement documents		

PRIORITY RATING SYSTEM for 2019 ASADRA Drinking Water Projects			
2.E.1	Project directly addresses an EPA Administrative Order for a local government Applicant located in a Tier 1 county, or addresses an existing or pending SOC, or a DENR Administrative Order, OR		5
2.E.2	Project directly resolves a Notice of Violation or Notice of Deficiency		3
2.F	Project includes system merger		10
2.G	Project addresses documented low pressure		10
2.H	Project addresses contamination		
2.H.1	Project addresses acute contamination of a water supply source OR		15
2.H.2	Project addresses contamination of a water supply source other than acute OR		10
2.H.3	Project addresses an emerging compound without a MCL but above a health advisory level		7
2.I	Project improves treated water quality by adding or upgrading a unit process		3
2.J	Water loss in system to be rehabilitated or replaced is 30% or greater		3
2.K	Project provides a public water system interconnection		
2.K.1	Project creates a new interconnection between systems not previously interconnected OR		10
2.K.2	Project creates an additional or larger interconnection between two systems already interconnected which allows one system's public health water needs to be met during an emergency OR		10
2.K.3	Project creates any other type of interconnection between systems		5
2.L – 2.M	Reserved for Other Programs		
2.N	Project provides redundancy/resiliency for critical treatment and/or transmission/distribution system functions including backup electrical power source.		3
<u>Items N.1 – N.3 Priority Points are only applicable to ASADRA funds and will not be applied to other funding prioritization.</u>			
<u>2.N.1</u>	<u>Project moves infrastructure out of floodplain, OR</u>		<u>15</u>

PRIORITY RATING SYSTEM for 2019 ASADRA Drinking Water Projects			
<u>2.N.2</u>	<u>Project fortifies or elevates infrastructure within floodplain, OR</u> <u>Project improves ability to assure continued operation during flood events, OR</u> <u>Project downsizes infrastructure related to buyouts OR</u>		<u>4</u>
<u>2.N.3</u>	<u>Project repairs broken infrastructure</u>		<u>2</u>
2.O – 2R	Reserved for Other Programs		
	Maximum Points for Category 2 – Project Benefits		35
	Subtotal claimed for Category 2 – Project Benefits		
Line Item #	Category 3 – System Management	Claimed Yes/No	Points
3.A	Capital Planning Activities		
3.A.1	Applicant has implemented an Asset Management Plan as of the date of application OR		10
3.A.2	Applicant has a current Capital Improvement Plan (CIP) that spans at least 10-years and proposed project is included in the plan		2
3.B	System Operating Ratio is greater than or equal to 1.00 based on a current audit, or is less than 1.00 and unit cost is greater than 2.5%		5
3.C	Applicant has an approved Source Water Protection Plan and/or a Wellhead Protection Plan		5
3.D	Applicant has implemented a water loss reduction program		5
3.E	Applicant has implemented a water conservation incentive rate structure		3
	Maximum Points for Category 3 – System Management		15
	Subtotal claimed for Category 3 – System Management		
Line Item #	Category 4 – Affordability	Claimed Yes/No	Points
4.A	Residential Connections		
4.A.1	Less than 10,000 residential connections OR		2
4.A.2	Less than 5,000 residential connections OR		4
4.A.3	Less than 1,000 residential connections		8

PRIORITY RATING SYSTEM for 2019 ASADRA Drinking Water Projects			
4.B	Current Monthly Utility Rates at 5,000 Usage		
4.B.1	Greater than \$33 OR		4
4.B.2	Greater than \$40 OR		6
4.B.3	Greater than \$47		8
4.B.4	Greater than \$58		10
4.C	Local Government Unit (LGU) Indicators		
4.C.1	3 out of 5 LGU indicators worse than state benchmark OR		3
4.C.2	4 out of 5 LGU indicators worse than state benchmark OR		5
4.C.3	5 out of 5 LGU indicators worse than state benchmark		7
4.D	Reserved for the CDBG Program		
4.E	Reserved for the CDBG Program		
	Maximum Points for Category 4 – Affordability		25
	Subtotal claimed for Category 4 – Affordability		
	Total of Points for All Categories		