# Drinking Water State Revolving Loan Fund
# Loan Management Policies

***These Policies were adopted on April 23, 2026, by the Board of Directors of the New Mexico Finance Authority, a public body politic and corporate, separate and apart from the State of New Mexico constituting a governmental instrumentality, created by the New Mexico Finance Authority Act, Section 6-21-1 et. seq., NMSA 1978.***

## I. PURPOSE

### A. Purpose Statement

The New Mexico Drinking Water State Revolving Loan Fund Act (the "Act") was created to provide local authorities with low-cost financial assistance in the construction and rehabilitation of necessary drinking water facilities through the creation of a self-sustaining revolving loan program to improve and protect drinking water quality and public health. The Act is based on the Safe Drinking Water Act ("SDWA"), originally passed in 1974 and amended in 1986, 1996, 2018, and 2021 with the passage of the Infrastructure Improvement and Jobs Act (IIJA). Pursuant to the State Act, the New Mexico Finance Authority ("NMFA") is partnered with the New Mexico Environment Department ("NMED") in the operation of the Drinking Water State Revolving Loan Fund ("DWSRLF"). These Drinking Water State Revolving Loan Fund Loan Management Policies ("Policies") set forth the criteria by which the NMFA may make DWSRLF loans to qualified entities.

### B. Objectives

The goal of these Policies is to provide guidance to NMFA staff and borrowers regarding acceptable levels of risk, pricing and securitization of individual loans, and structuring enhancements within the DWSRLF program.

### C. Implementation

These Policies shall be implemented by the NMFA Board ("Board") and may, at times, be waived by the Board if the Board determines that a deviation from its adopted policies is necessary. Such waiver will be reflected in the minutes of the meeting at which the waiver is considered and

must not conflict with federal regulations and the approved State's Environmental Review Process document.

## II. DEFINITIONS

**A. "Additional Bonds Test"**. Calculation to determine if a borrower's revenues meet levels required by the NMFA to incur additional debt against a financed facility.

**B. "Additional Subsidy"**. Principal Forgiveness provided under the DWSRLF program and as allowed under state law.

**C. "Build America Buy America Act" (BABA)**. An Act that strengthens Made in America laws and bolsters America's industrial base, protects national security, and supports high-paying jobs. None of the funds made available for a federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States.

**D. "Capitalization Grant"**. An award of funds by the United States Environmental Protection Agency (EPA) to a State for the purpose of capitalizing and administering the DWSRLF, as authorized in Section 1452 of the Safe Drinking Water Act.

**E. "Comprehensive Priority List"**. The list of prioritized water system projects using the criteria enacted by the NMED and listed in the Intended Use Plan.

**F. "Cost of Issuance"**. A one percent (1%) fee added to loan draws, as permitted by federal regulations, to cover the cost of legal services, construction monitoring, and engineering and environmental review.

**G. "Disadvantaged Entities**". An applicant whose MHI is greater than seventy-five percent (75%) but less than one hundred percent (100%) of the National MHI, based on the most recent five-year average of MHI from census data or through a survey acceptable to NMFA.

**H. "EPA"**. United States Environmental Protection Agency.

**I. "EPA equivalency"**. The total dollar amount of projects funded by the Capitalization Grant that meet specific federal requirements.

**J. "Federal Regulations"**. The collection of rules under which the DWSRLF is governed. Specifically, these include but are not limited to, 40 CFR 9 and 35, the Interim Final Rule, and the Safe Drinking Water Act, Section 1452.

**K. "Financial Capacity"**. A water system's ability to maintain sufficient financial resources to allow the system to maintain compliance with federal and state laws.

**L. "Fundable Priority List"**. The list of projects that have demonstrated Technical, Managerial, and Financial Capacity, are ready to proceed and eligible to receive financial assistance from the DWSRLF.

**M. "Green Projects"**. Means green infrastructure, water conservation, energy efficiency improvements, or other environmentally innovative activities.

**N. "Infrastructure Investment and Jobs Act (IIJA)" (Pub. L. 117-58)** previously known as the "Bipartisan Infrastructure Law" (BIL). A once-in-a-generation investment in our nation's infrastructure and competitiveness to rebuild America's roads, bridges, and rails, expand access to clean drinking water, ensure every American has access to high-speed internet, tackle the climate crisis, advance environmental justice, and invest in disadvantaged communities.

**O. "IIJA Lead Service Line Replacement Program" (LSLR)**. A IIJA funded program to remove lead service lines from water systems. Eligible projects include the identification, planning, design, and replacement of lead service lines, corrosion control optimization, lead testing and education, and interim/emergency protocols.

**P. "IIJA Emerging Contaminants Program" (EC)**. A IIJA funded program for projects that reduce exposure to perfluoroalkyl and polyfluoroalkyl substances (PFAS) and other emerging contaminants on EPA's Contaminant Candidate Lists (CCL1-CCL5).

**Q. "Intended Use Plan" or "IUP"**. The annual document prepared by both the NMED and NMFA which identifies the intended uses of the Capitalization Grant and describes how those uses support the overall goals of the program.

**R. "Interim Period"**. The construction period of a DWSRLF loan during which only interest and fees are charged to the borrower on requisitioned amounts.

**S. "Maximum Annual Debt Service" or "MADS"**. The amount of debt service for the year in which the greatest amount of debt service payments is required.

**T. "Managerial Capacity"**. A water system's ability to maintain system operations, as determined by NMED.

**U. "Median Household Income"**. The median of the combined incomes for persons living within one household, used by the NMFA to determine if a community qualifies as Disadvantaged under this Policy.

**V. "Minimum Coverage Requirement"**. The minimum ratio of revenue available to service the debt-to-debt service required on a loan.

**W. "Parity Lien"**. A lien with the same priority for payment from Pledged Revenues or other security.

**X. "Pledged Revenue"**. The revenue generated by the borrower pledged to the NMFA from which the borrower will fund repayment of the loan.

**Y. "Principal Forgiveness"**. Same as **"Subsidy;"** the amount of principal that does not require repayment.

**Z. "Public Water System"**. A public water system that provides water for human consumption through pipes or other constructed conveyances to at least fifteen (15) service connections or serves an average of at least twenty-five (25) people for at least sixty (60) days a year. A public water system may be publicly or privately owned.

**AA. "Regionalized Community"**. The residents of an area benefiting from the water system improvements to be financed with the proceeds of the loan.

**BB. "Safe Drinking Water Act" (SDWA)**. The principal federal law in the United States intended to ensure safe drinking water for the public. Pursuant to the Act, the EPA is required to set standards for drinking water quality and oversee all states, localities, and water suppliers that implement the standards.

**CC. "Senior Lien"**. Lien with higher priority for payment from Pledged Revenues or other security.

**DD. "Severely Disadvantaged Entities"**. An applicant with an MHI of seventy-five percent (75%) or less of the National MHI, based on the most recent five-year average of MHI from census data or through a survey acceptable to NMFA.

**EE. "State Environmental Review Process" or "SERP"**. The necessary components of an environmental information document prepared by the applicant, and the steps necessary for NMFA to make a determination regarding any potential environmental impacts of a proposed project.

**FF. "Technical Capacity"**. The adequacy of operation, and physical infrastructure of a water system, including the water source, treatment, storage and distribution system, which allows the public water system to achieve and maintain compliance with federal and state laws.

## III. ROLES AND RESPONSIBILITIES

**A.** NMED's Drinking Water Bureau is responsible for the determination and promulgation of a Fundable Priority List that:

1. Meets the federal regulations.

2. Gives priority to projects that cure imminent health and safety concerns.

3. Designates projects that qualify as Green projects.

4. Encourages sustainable and resilient drinking water systems.

5. For the IIJA LSLR Program, ensures projects meet IIJA LSLR project requirements.

6. For the IIJA EC Program, ensures projects meet IIJA EC project requirements.

**B.** Public Programs Staff shall be responsible for:

1. Coordinating with the Applicants appearing on the Fundable Priority List to complete and submit applications for financial assistance from the DWSRLF.

2. Determining an Applicant's Disadvantaged Entity status.

3. Determining the amount of additional subsidy, if any, that an applicant is eligible to receive pursuant to these Policies.

4. Determining a project's compliance with the SERP and federal conditions.

5. Determining borrower concentration within the DWSRLF loan portfolio.

6. Monitoring project construction and compliance with applicable federal regulations.

**C.** Lending Department Staff shall be responsible for:

1. Structuring and presenting for approval DWSRLF loans that meet the requirements outlined in these policies.

2. Administration and monitoring of permanent DWSRLF loans.

**D.** Credit Department Staff shall be responsible for:

1. Underwriting at approval and at the point the construction loan converts to a permanent loan.

2. Administration and monitoring of permanent DWSRLF loans.

## IV. GENERAL CONSIDERATIONS

**A.** **Project Eligibility**. Each project funded by the DWSRLF must meet the following federal regulations.

1. Projects funded by the DWSRLF must demonstrate Managerial, Technical and Financial Capacity to undertake the proposed water project and must appear on the Fundable Priority List.

2. Compliance with the State Environmental Review Process. Projects funded with DWSRLF funds may be used only for a project whose environmental effects were assessed pursuant to NMFA's State Environmental Review Process approved by the EPA. This review process ensures that adequate notice to the public has been made regarding the environmental findings prior to providing financing.

The construction phase of a project cannot be initiated until after NMFA has published its environmental determinations and adequate notice has been provided to the public.

3. For IIJA LSLR projects, confirmation from NMED that the project is eligible as a IIJA LSLR project and conforms to EPA Rules for such projects.

4. For IIJA EC projects, confirmation from NMED that the project is eligible as a IIJA EC project and conforms to EPA Rules for such projects.

**B. Green Project Reserve**. Consistent with the goals of the EPA, the NMFA and NMED may set aside portions of its loan funds for projects that qualify as Green projects.

**C. Concentration**. The NMFA will limit the DWSRLF funds so that no single loan comprises more than twenty-five percent (25%) of the outstanding loan portfolio.

**D. Cost of Issuance**. In order to satisfy legal services, construction monitoring, and engineering and environmental review associated with DWSRLF loans, the NMFA will incorporate into the principal amount of the loan a cost of issuance fee totaling one percent (1%) of the project costs, excluding IIJA EC and IIJA LSLR projects, which will be collected on a per-draw basis, to the extent permitted by federal regulations. In accordance with federal regulations, fees collected will be held outside of the DWSRLF and used only for purposes allowed by law.

| | |
|---|---|
| IIJA Emerging Contaminants;<br>IIJA Lead Service Line Replacement | No COI charged |
| Base and IIJA General Supplemental | |
| Non-Disadvantaged | 1% COI charged |
| Disadvantaged | 1% COI charged |
| Severely Disadvantaged | No COI Charged |
| Private non-profit | |
| Non-Disadvantaged | 1% COI charged |
| Disadvantaged | 1% COI charged |
| Severely Disadvantaged | No COI Charged |
| Private for-profit | COI charged |

## V. LOAN STRUCTURING AND RISK MITIGATION

**A. Loan Structure**. All DWSRLF loans will be structured with an Interim Period of two (2) years, or as otherwise approved by the NMFA Board, during which only interest and administrative fees will be paid on the amounts drawn.

1. Following the expiration of the Interim Period, or the certification of the last draw, whichever comes first, the loan will be converted to a permanent loan and a final debt service schedule will be provided to the borrower. The loan conversion to a permanent loan must occur within one (1) year of initiation of the system's operation.

2. The permanent loan will be structured with an amortization of up to thirty (30) years payable monthly.

3. The NMFA Board may approve a loan to have a longer Interim Period if the project's construction estimates indicate a longer construction phase is necessary.

4. All DWSRLF loans shall be pre-payable by the borrower at the conclusion of the Interim Period without penalty.

**B. Risk Mitigation**. In order to mitigate risk in the DWSRLF while maintaining a diverse pool of borrowers, the NMFA will take the following steps in structuring a transaction:

1. Lien. Generally, NMFA secures its loans on a Parity Lien with any other lenders. The NMFA may agree to accept a security pledge that is subordinate to the payment of another lender if the identified Pledged Revenue has a strong, positive historical trend and the overall coverage adheres to the Minimum Coverage Requirements and Additional Bonds Test requirements.

2. Loan Repayment. Monthly receipt of loan payments from borrowers provides the NMFA with early indication of potential loan defaults. Generally, when a monthly revenue stream is available, the NMFA will require its loans to be paid monthly. The NMFA may allow borrowers to pay semi-annually, provided, the requesting entity has demonstrated ability to meet prior debt obligations and has sufficient staffing to manage timely loan payments.

3. All loans will be structured utilizing an executed intercept agreement if the NMFA is statutorily allowed to intercept the Pledged Revenue. The NMFA may agree to hold an executed intercept agreement in abeyance while the borrower makes monthly principal and interest payments on its loan under the following conditions:

a. If the borrower fails to make the agreed upon payments in a timely manner, the NMFA will immediately begin to intercept the Pledged Revenues pursuant to the intercept agreement for the duration of the loan.

b. This "contingent" or "suspended" intercept arrangement may be offered only to borrowers that have demonstrated ability to meet prior debt obligations and have sufficient staffing to manage timely loan payments.

### C. Loan Structure for IIJA EC Projects

All IIJA EC project loans will be structured with an Interim Period of two (2) years, or as otherwise approved by the NMFA Board, the project costs of which will be reimbursed. At the completion of the Interim Period and completion of the plan and design, EC survey and/or construction, project costs will be one hundred percent (100%) forgiven.

1. Following the expiration of the Interim Period, or the certification of the last draw, whichever comes first, the loan will be converted to a permanent loan and a final debt service schedule will be provided to the borrower. The loan conversion to a permanent loan must occur within one (1) year of initiation of the system's operation.

2. The NMFA Board may approve a loan to have a longer Interim Period if the IIJA EC project's construction estimates indicate a longer construction phase is necessary.

## VI. DISADVANTAGED COMMUNITY ASSISTANCE AND ADDITIONAL SUBSIDY

### A. Base Program, IIJA General Supplemental, and IIJA LSLR Construction Projects

1. Affordability Criteria. Capitalization Grant recipients are required to define Affordability Criteria and to provide additional assistance to Disadvantaged Communities. Pursuant to public comment, NMFA defines affordability based upon MHI of the applicant and provides for two levels of Disadvantaged entity status:

a. Disadvantaged Entities. To be considered a Disadvantaged entity, the applicant's MHI must be greater than seventy-five percent (75%) but less than one hundred percent (100%) of the National MHI, based on the most recent five-year average of MHI from census data or through a survey acceptable to NMFA.

b. Severely Disadvantaged Entities. To be considered a Severely Disadvantaged entity, the applicant's MHI must be seventy-five percent (75%) or less of the National MHI, based on the most recent five-year average of MHI from census data or through a survey acceptable to NMFA.

c. Regionalization. Applications for Regionalization projects may use the MHI of the community proposed for incorporation into the applicant's water system service area for purposes of determining Disadvantaged entity status. These applications will be limited in scope to project elements related to the provision of water to the Regionalized Community and all assets funded by the loan must be owned and maintained by the borrower.

2. Disadvantaged Community Assistance. Capitalization Grant recipients are required to provide additional subsidy to its borrowers. NMFA provides additional subsidy in the form of loans with principal forgiveness, with the percentage of the principal forgiven determined by the NMFA Board of Directors at loan approval. The principal not forgiven will be structured and priced as provided otherwise in these Policies.

3. The amount of additional subsidy provided will be promulgated each year in the State's Intended Use Plan and is subject to federal appropriation. Pursuant to the Safe Drinking Water Act, DWSRLF base capitalization grant recipients must provide at least twelve to thirty-five percent (12% - 35%) of the base capitalization grant amount as additional subsidy for state-defined Disadvantaged Communities. From time to time, Congress or EPA may require capitalization grant recipients to provide additional subsidy to its loan recipients.

Pursuant to the IIJA, States must provide forty-nine percent (49%) of the general supplemental capitalization grant amount as additional subsidy for state-defined Disadvantaged Communities.

4. No single applicant may receive more than twenty-five percent (25%) of the total additional subsidy available for disadvantaged communities in any given year. Any additional funds required to complete the proposed project will be financed at the terms offered to non-disadvantaged communities. This limitation may be waived if there is not sufficient ready demand among disadvantaged communities.

5. Determination of additional subsidy for DWSRLF Base program, IIJA General Supplemental, and IIJA LSLR construction projects: The NMFA will provide additional subsidization in the form of principal forgiveness for projects using the following guidelines:

a. Borrowers subject to federal construction requirements (Davis Bacon Wage Act; American Iron and Steel; Buy America, Build America Act, etc.) will be offered a twenty-five percent (25%) subsidy. Loans for Planning and Design only will not receive this subsidy.

b. NMFA will provide additional subsidy to Disadvantaged Entities who meet affordability criteria based on the Median Household Income (MHI) of the applicant. NMFA provides two levels of disadvantaged entity status:

i. Disadvantaged Entities are provided twenty-five percent (25%) principal forgiveness;

ii. Severely Disadvantaged Entities are provided with an additional twenty-five percent (25%) principal forgiveness; and

c. Certified "Green Projects" will be provided with an additional twenty-five percent (25%) of principal forgiveness.

d. Entities that meet Disadvantaged or Severely Disadvantaged criteria may be provided up to ninety percent (90%) principal forgiveness dependent on the availability of additional subsidy, for regionalization projects related to the provision of water to a regionalized community when all assets funded by the loan will be owned and maintained by the borrower.

e. Private non-profit systems (co-ops and school districts) are eligible for the same subsidy terms listed in this section.

f. Private for-profit systems are not eligible for subsidy.

**B. IIJA LSLR Program for non-construction projects (i.e., lead service line surveys and plan and design projects)**

For IIJA LSLR projects, States must provide forty-nine percent (49%) of the capitalization grant amount as additional subsidization in the form of principal forgiveness or grants. This additional subsidization must be provided to eligible DWSRLF assistance recipients that meet the State's disadvantaged community criteria as described in SDWA §1452(d).

1. Affordability Criteria. Capitalization Grant recipients are required to define Affordability Criteria and to provide additional assistance to Disadvantaged Communities. Pursuant to public comment, NMFA defines affordability based upon MHI of the applicant and provides for two levels of Disadvantaged Entity status:

a. Disadvantaged Entities. To be considered a Disadvantaged Entity, the applicant's MHI must be greater than seventy-five percent (75%) but less than one hundred percent (100%) of the National MHI, based on the most recent five-year average of MHI from census data or through a survey acceptable to NMFA.

b. Severely Disadvantaged Entities. To be considered a Severely Disadvantaged Entity, the applicant's MHI must be seventy-five percent (75%) or less of the National MHI, based on the most recent five-year average of MHI from census data or through a survey acceptable to NMFA.

2. Disadvantaged Community Assistance. Capitalization Grant recipients are required to provide additional subsidy to its borrowers. NMFA provides additional subsidy in the form of loans with principal forgiveness, with the percentage of the principal forgiven determined by the NMFA Board at loan approval. The principal not forgiven will be structured and priced as provided otherwise in these Policies.

3. No single applicant may receive more than twenty-five percent (25%) of the total additional subsidy available for disadvantaged communities in any given year. Any additional funds required to complete the proposed project will be financed at the terms offered to non-disadvantaged communities. This limitation may be waived if there is not sufficient ready demand among disadvantaged communities.

4. Determination of additional subsidy. The NMFA will provide additional subsidization in the form of principal forgiveness for projects using the following guidelines. The IIJA LSLR Program will also allow for population served for non-construction projects.

NMFA will provide additional subsidy to Disadvantaged Entities who meet affordability criteria based on the MHI of the applicant. NMFA provides two levels of disadvantaged entity status:

a. Disadvantaged Entities are provided thirty percent (30%) principal forgiveness;
b. Severely Disadvantaged Entities are provided sixty percent (60%) principal forgiveness;
c. Disadvantaged Entities and Severely Disadvantaged Entities that serve a population of under 1,000 are provided an additional twenty-five percent (25%) principal forgiveness.

### C. IIJA EC Program

IIJA EC Program capitalization grant amounts, net of set-asides taken, are provided additional subsidization in the form of principal forgiveness. Pursuant to the provisions of the SDWA, at least twenty-five percent (25%) of the funds must be provided to eligible recipients that meet the State's disadvantaged community criteria as described in SDWA §1452(d) or to public water systems serving fewer than 25,000 persons. NMFA will apply the affordability criteria as defined in these policies to determine disadvantaged entity status for the IIJA EC Program.

1. No single applicant may receive more than twenty-five percent (25%) of the total additional subsidy available for disadvantaged communities in any given year. Any additional funds required to complete the proposed project will be financed at the terms offered to non-disadvantaged communities. This limitation may be waived if there is not sufficient ready demand.

2. The NMFA will offer IIJA EC projects additional subsidization in the form of one hundred percent (100%) principal forgiveness in the ranked order of the fundable priority list as provided by the NMED Drinking Water Bureau based on the ranking system in the IUP.

3. IIJA EC projects may be co-funded with Emerging Contaminants funding from NMED. All water systems meeting the definition of a Public Water System as defined by the EPA are eligible for this program in accordance with the SDWA. Public Water Systems may be publicly or privately owned.

## VII. INTEREST RATES (Base, IIJA General Supplemental, IIJA Lead Service Line Replacement)

**A.** To help offset costs associated with federal loan program compliance and to provide incentive for a system to undertake critical water-quality projects, the NMFA provides DWSRLF borrowers with low-cost, fixed interest rates.

1. Public Non-Disadvantaged systems, including those incorporated under the Sanitary Projects Act, will be offered an interest rate of 0.01%, plus a 0.25% administrative fee paid to NMFA for loan servicing.

2. Public or Private, non-profit water systems that meet Disadvantaged Entity or Severely Disadvantaged Entity criteria will be offered an interest rate of zero percent (0%), plus an administrative fee of 0.25% paid to NMFA for loan servicing.

3. Private, non-profit non-disadvantaged systems will be offered an interest rate of 0.01%, plus an administrative fee of 0.25% paid to NMFA for loan servicing.

4. Private, for-profit systems that meet the federal definition of "Public Water Supply System" will be offered an interest rate of four percent (4%), which is inclusive of a 0.25% administrative fee paid to NMFA for loan servicing.

5. No interest rates are associated with the IIJA Emerging Contaminants program.

## VIII. UNDERWRITING CRITERIA (NOT APPLICABLE TO BIL EC PROJECTS)

**A.** Debt Service Coverage. The NMFA structures DWSRLF loans to allow for some decline of the Pledged Revenue without affecting the borrower's ability to pay debt service. Based upon certain factors such as revenue stability and management history, the NMFA may require higher Minimum Coverage Requirements and Additional Bonds Tests, as determined by the NMFA Board of Directors.

1. Historical Revenues. The NMFA will structure its DWSRLF loans so that at a minimum, historical revenues will exceed the Maximum Annual Debt Service ("MADS") due during the life of the loan by the following Minimum Coverage Requirements:

| | | |
|---|---|---|
| a. | Gross Receipts Tax | 115% of MADS (1.15x) |
| b. | Mil Levy | 115% of MADS (1.15x) |
| c. | Net System Revenues | 120% of MADS (1.20x) |
| d. | General Obligations | 100% of Annual Debt Service (1x) |
| e. | For profit systems | 135% of MADS (1.35x) |

2. Projected Revenues. The NMFA may consider estimated or projected revenues to determine Minimum Coverage Requirements if a three-year historical average is either not available or if circumstances have changed significantly within the last three (3) years that would justify the forecasting of revenue growth to satisfy the Minimum Coverage Requirements. For example, an entity may have imposed increases in its user rates that are not reflected in financial statements. Under these circumstances, the NMFA will structure its loans so, at a minimum, the borrower's projected revenues will exceed the MADS due during the life of the loan by the following Minimum Coverage Requirements:

| | | |
|---|---|---|
| a. | Receipts Tax | 125% of MADS (1.25x) |

| | | |
|---|---|---|
| b. | Mil Levy | 125% of MADS (1.25x) |
| c. | Net System Revenues | 130% of MADS (1.30x) |

**B.** Additional Bonds Test. NMFA recognizes that public entities must utilize all legally available revenue streams to fund their governmental services and secure funding for their public projects.

The NMFA will allow borrowers to incur additional parity debt resulting in a Parity Lien to a DWSRLF loan, provided the borrower collected, in any twelve (12) consecutive month period during the past twenty-four (24) months, sufficient revenue to exceed the following Minimum Coverage Requirements, including both existing and proposed debt:

| | | |
|---|---|---|
| 1. | Gross Receipts Tax | 115% of MADS (1.15x) |
| 2. | Mil Levy | 115% of MADS (1.15x) |
| 3. | Net System Revenues | 120% of MADS (1.20x) |
| 4. | General Obligation Bonds | 100% of Annual Debt Service (1.00x) |

## IX. LOAN REFINANCING POLICY (NOT APPLICABLE TO IIJA EC PROJECTS)

**A.** While certain high-cost debt can hinder essential new water system improvement projects, federal guidelines restrict the circumstances under which the DWSRLF may refinance existing DWSRLF loans. The following are required for an existing DWSRLF loan to be eligible for refinancing:

1. The refinancing occurs in connection with a "new money" project;

2. The DWSRLF loan proposed for refinancing must have been originated no earlier than 1993;

3. The project financed by the original loan must have undergone a public review process that is consistent with the SERP, including concurrence by all requisite state and federal consulting agencies;

4. The environmental effects of the project must have been analyzed and studied in a manner consistent with the SERP; and

5. The project financed by the original loan must have been used for a purpose consistent with the eligible purposes defined by federal regulation and must have complied with all applicable state and federal regulations. The DWSRLF cannot exceed the useful life of the original project with the refinanced project.

**B.** Private entities are not eligible for loan refinancing.

## X. REFERENCES

### A. Statutes, Regulations and Rules

1. Safe Drinking Water Act. [Title XIV of the Public Health Service Act] [Section 1452 – State Revolving Loan Funds], as amended and supplemented from time to time.

2. Drinking Water State Revolving Funds. [CFR Title 40 Chapter I Subchapter B Part 35 Subpart L], as amended and supplemented from time to time.

3. EPA's Interim Final Rule for the DWSRF. [CFR Title 40 Parts 9 and 35, FRL–6846–5, RIN 2040–AD20], as amended and supplemented from time to time.

4. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (known as the "Uniform Guidance") 2 C.F.R. Part 200 - Requirements for Pass-Through Entities, as amended and supplemented from time to time.

5. New Mexico Drinking Water State Revolving Loan Fund Act. [6-21A-1 to 6-21A-9 NMSA 1978] Laws 1997, Chapter 144, Section 1, as amended and supplemented from time to time.

6. Infrastructure Improvement and Jobs Act (IIJA) (Pub. L. 117-58), as amended and supplemented from time to time.

### B. Policies or Program Documents

1. Memorandum of Understanding. The agreement between the NMFA and the NMED (DWB) to carry out the provisions of the Drinking Water State Revolving Loan Fund Act, as amended and supplemented from time to time.

2. Memorandum of Agreement. The agreement between the NMFA and the NMED Construction Programs Bureau to perform engineering and construction oversight, as amended and supplemented from time to time.