

# Water Sector Program

## Phase 2

### Guidelines





# Water Sector Program Phase 2 – Program Guidance

## State Guidance

- Act 410 of the 2021 Regular Session of the Louisiana Legislature
- Act 497 of the 2024 Regular Session of the Louisiana Legislature

## Important Dates

- September 27, 2024 – Commission approves Water Sector Program – Phase 2 Guidance.
- October 21, 2024 – OCD-LGA conducts webinar to discuss Water Sector Program – Phase 2 guidelines and application process.
- October 28, 2024 – December 12, 2024 – Water Sector Program-Phase 2 online portal open for application submittal.
- December 13, 2024 – January 27, 2025 – Working panel reviews submitted applications and prepares ratings and recommendations for Commission.
- February, 2025 – Commission approves funding recommendations to submit to JLCB.
- February, 2025 – JLCB approves funding recommendations from Commission.

## Definitions

DOA	Louisiana Division of Administration
OCD-LGA	Louisiana Office of Community Development – Local Government Assistance
LDH	Louisiana Department of Health
DEQ	Louisiana Department of Environmental Quality
OFPC	Louisiana Office of Facility Planning & Control
JLCB	Joint Legislative Committee on the Budget
The Act	Act 497 of the 2024 Regular Session of the Louisiana Legislature
Commission	Water Sector Commission
Working Panel	LDH, DEQ, OCD-LGA, and OFPC
WSP	Water Sector Program (Rounds 1 and 2)
WSP-P2	Water Sector Program – Phase 2

## **Application Process**

Applications will be accepted via the online portal created by the Office of Technology Services. The working panel for this program is made up of representatives from the following: Louisiana Department of Health (LDH), Department of Environmental Quality (DEQ), Office of Community Development – Local Government Assistance (OCD-LGA), and Office of Facility Planning and Control (OFPC). The applications will be reviewed by LDH and DEQ based on documentation submitted and data available to the reviewing agency. OCD-LGA will review scores submitted by LDH and DEQ and develop funding recommendations for submittal to the Water Sector Commission. Funding recommendations will be provided to the Water Sector Commission in separate tiers based on the population of the community water or sewer system. The three tiers are as follows:

- Less than 3,300
- 3,301 – 10,000
- Greater than 10,000

The population of a water or sewer system is determined by multiplying 3 times the number of active services connections. On a case-by-case basis, population can also be determined using census data (i.e. when a system does not serve customers outside the corporate limits of the municipality). Nothing can be submitted to the working panel outside of the application submittal in the online portal, unless requested.

Applications will not be accepted after the online portal closes.

### Timeline

- Online portal will open at 7:30 am on October 28, 2024 and close at 4:30 pm on December 12, 2024 to receive applications.
- DOA will provide panel ratings to Commission by January 27, 2025.

### Eligible Applicants

Public water system – System for the provision to the public of water for potable water purposes through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year (LAC 51:XII).

Community sewerage system – System that serves multiple connections and consists of a collection and/or pumping/transport system and treatment facility (LAC 51:XIII).

It is important to note that for profit public water systems and/or community sewerage systems are not eligible for funding by the Water Sector Program – Phase 2. Also, any water or sewer system that received funding in the Water Sector Program – Rounds 1 or

2 is not eligible for funding under the 24/25 Program Year of the Water Sector Program–Phase 2, with the following exceptions:

- Systems funded under WSP – Rounds 1 or 2 may apply to consolidate one or more systems; or
- Systems funded in WSP – Round 1 as a result of a Capital Outlay application and did not receive funding for the same system during WSP – Rounds 1 or 2.

PWS IDs for water systems and AI numbers for sewer systems for all applications submitted under 24/25 Water Sector Program – Phase 2 will be reviewed to ensure that only eligible applications are considered.

### Eligible Activities

Guidance has aligned the use of these funds with the wide range of types or categories of projects that would be eligible to receive financial assistance through the Environmental Protection Agency’s (EPA) Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF).

The following are types of projects that are eligible under this program:

- Improvements to enable systems to comply with drinking water regulations
- Infrastructure capital improvements, including the installation and replacement of failing treatment and distribution systems
- Consolidation of existing drinking water systems
- Construct, improve, and repair wastewater treatment plants
- Control non-point sources of pollution
- Improve resilience of infrastructure to severe weather events
- Create green infrastructure
- Protect waterbodies from pollution

### Ineligible Activities

- Development of new systems for new housing construction or developments
- Improvements to eligible water/sewer systems owned by federal agencies
- Improvements to eligible water/sewer for future growth
- Improvements to for profit public water systems
- Improvements to for profit community sewerage systems
- Refinancing debt of eligible water/sewer systems

### Match Requirements

A minimum match requirement of 25% applies to all applications/awards, unless applicants request a waiver or reduction of the match requirement by completing the appropriate forms in the online portal. All match waiver requests must be submitted at the time of application submittal. No requests for waiver or reduction of the match requirement will be considered after application submittal. Commission recommendations to the Joint Legislative Committee on the Budget (JLCB) shall include proposed matching funds unless the Commission recommends a waiver of

matching funds or decreased match for any project based on the determination that the local governing authority or water system is unable to provide the match.

Applicants may propose a match larger than the 25%. The Commission may include an application in funding recommendations submitted to JLCB based on the weight the Commission chooses to give the increased match whether recommended by the working panel or not.

Match percentage will be calculated using the following equation:

Total project amount X % match committed = Amount of Match Funds from system.

For example: Town A is applying for a potable water project and the total project cost is \$4,580,000. Town A is providing a 25% match. Based on the calculation above, Town A will be providing \$1,145,000 in matching funds and apply for \$3,435,000 in WSP-P2 funds.

State funds cannot be used as a source of matching funds to meet the 25% match requirement. Other sources of funding, such as local, federal, and private can be used as a source of matching funds to meet the 25% match requirement.

### Grant Funding Cap

Maximum grant amount per application is \$5 million with the following exceptions:

- Projects involving a consolidation of systems can apply for up to \$5 million for the first system and \$2.5 million for each additional system included in the application, up to a maximum of \$10 million.
- If an exception to the cap is approved by the Commission and JLCB.

### Commission

OCD-LGA will provide the working panel's ratings and recommendations for funding to the commission for review. The working panel's recommendations to the Commission shall include other funding sources, such as Drinking Water Revolving Loan Fund, Clean Water State Revolving Fund, Community Water Enrichment and Other Improvements Fund, which are included in the application submittal. The ratings and recommendations will include scoring criteria as well as the total score for each applicant. OCD-LGA will denote applicants that are seeking a waiver of the match requirement and include documentation supporting the request for the Commission's review.

The Commission shall review the ratings and recommendations submitted by the working panel. The Commission shall submit its recommendations for projects to receive monies from the fund and funding amounts to the Joint Legislative Committee on the Budget. The recommendations shall include proposed matching funds unless the Commission recommends a waiver of matching funds or decreased match for any project based on the determination that the local governing authority or water system is unable to provide the match.

## JLCB

The JLCB shall review the recommendations submitted by the Commission and have final approval of funding for projects. No monies shall be expended from the fund without approval of the JLCB.

### **Communication Efforts**

Upon Commission approval of the program guidelines, the OCD-LGA will send information regarding the Water Sector Program, including eligibility requirements to all water and sewer systems. A variety of methods may be used to disseminate information, including mail, e-mail, Facebook, and through Louisiana Municipal Association and Louisiana Rural Water Association. OCD-LGA will conduct a virtual workshop to discuss the program and post the recording of the workshop online.

Information regarding additional funding sources for similar projects will be discussed during the webinar as well.

### **Scoring Criteria for Application Review – Up to 140 points**

#### **Project Severity and Needs – Up to 50 points**

Project Severity is the existence of conditions in violation of Federal Safe Drinking Water Act (SDWA) and provisions of the State Sanitary Code that most directly protect public health and the adequacy of the proposed improvements to eliminate such conditions. Compliance with federal and state laws and regulations will be considered as well as verification of existing conditions based on records or field investigations.

A lower score could result due to the submittal of incomplete or inaccurate information.

#### **Consolidation – Up to 20 points**

Consolidation is considered two (or more) existing water/sewer systems combining into one larger system. The responsible consolidated system must own, operate and maintain all other systems post consolidation. Purchase only systems or bulk sale systems are not considered a consolidation.

#### **Resiliency – Up to 10 points**

This will include completion of a risk assessment and resilience assessment and emergency response plan required for water systems by Section 2013 of America's Water Infrastructure Act (AWIA) of 2018. A resiliency plan, including local standards or guidelines that can be applied to sewer systems and increase resilience of the system, must be completed. Resiliency plans should include extreme weather events and the effect of water and wind damage to critical infrastructure as well as what must be done during and after an extreme weather event to maintain operating capabilities of critical infrastructure. The items identified in risk assessment/resiliency plan must be included in the cost estimate to increase resilience.

### Sustainability – Up to 15 points

This category is broken down into technical, managerial and financial capacity. Technical capacity refers to the infrastructure of the system, the technical ability of the system personnel to implement and operate the project, and an analysis of alternatives including but not limited to consolidation. Managerial Capacity refers to management structure of the system, including ownership, accountability, staffing, and organization. Financial Capacity refers to financial resources of the system including revenue sufficiency, credit worthiness, fiscal controls, and a financial strategy reflecting the full lifecycle costs and adequate revenues to ensure the system is sufficiently funded, maintained, and replaced as needed.

### Ready to Proceed – Up to 20 points

Five points will be awarded if agreements (engineering, consolidation, etc.) are executed or an engineering report is complete (System Improvement Plan, Preliminary Engineering Report, etc.). Five points will be awarded if plans and specifications are complete and ready to submit to LDH for permitting. Five points will be awarded if the LDH permit for construction has been issued for all projects involved in the application. Five points will be awarded if all acquisition required is complete.

### Match Documentation – Up to 10 points

Points will be awarded if documentation that matching funds are available to be spent is included in the application submittal. Closing documents must be included when loans are being used as matching funds source to be awarded points.

### Increased Local Cost Share – Up to 15 points

Points will be awarded for those applicants willing to provide local funds in excess of the 25% required match as follows:

- 26-30% local match – 3 points
- 31-40% local match – 6 points
- 41-50% local match – 9 points
- 51-75% local match – 12 points
- 76+% local match – 15 points

Any percentage calculated to exceed 76% will be reported as 76% for scoring and reimbursement purposes, if funded.

## Grant Award Process

The Commission makes funding recommendations to the JLCB. JLCB considers the Commission recommendations and moves to approve or not approve. OCD-LGA drafts award letters for grants approved by Commission and JLCB; then submits the draft letters to the Commissioner of Administration for signature. Completed award letters are mailed and emailed to grantees.

## Grant Implementation Process

### Grant Conditions and Release of Executed Grant Agreement

OCD-LGA drafts the Authorization to Incur Costs and Grant Agreement Transmittal Letter for all grantees. This letter will include all activities to be paid for with WSP-P2 funds, such as construction, professional services, acquisition, etc. When the following grant conditions are met, OCD-LGA will transmit the fully executed Grant Agreement and permission to bid:

1. Grant Agreement – The attached agreement must be signed by the chief executive officer identified in the agreement. The signed agreement must be received by the OCD-LGA within two (2) months of the date of the letter.
2. Electronic Funds Transfer (EFT) Enrollment Form – All grantees are required to receive funds through electronic transfer Vendor registration information can be found at <https://www.doa.la.gov/media/bahlig4w/lagov-new-vendor-registration.pdf> .The grantee must complete this process within two (2) months of the date of this letter.
3. Supplemental Information Page – Please complete this form and submit it to OCD-LGA. The form is located at (website link will be entered here). The completed document must be received by the OCD-LGA within two (2) months of the date of this letter.
4. The system must complete and submit a “Financial Management Questionnaire.” An attachment to the Questionnaire regarding proof of fidelity insurance or bonding must also be provided. The Financial Management Questionnaire (FMQ) is located at (website link will be entered here). The completed document must be received by the OCD-LGA within two (2) months of the date of this letter.
5. The system must submit a Performance Schedule that identifies the schedule for expenditure of the WSP-P2 funds and project benchmarks. The WSP-P2 Performance Schedule format and its instructions can be located at (website link will be entered here). The completed document must be received by the OCD-LGA within two (2) months of the date of this letter.
6. A copy of the plans and specifications plus a final cost estimate for the project must be **submitted** to the Louisiana Department of Health (LDH) for water

projects and to the Department of Environmental Quality (DEQ) for sewer projects for review within **six (6)** months of the date of this letter. The OCD-LGA must also receive a signed certification from the project engineer stating that the plans and specifications have been completed and submitted to cognizant agency for their approval with a copy of the final cost estimate attached by the same deadline.

7. A rate study must be completed on the utility system included in the grant. The OCD-LGA will assign an entity that will work with the grantee to complete the rate study. Costs for the completion of the rate study will be paid by OCD-LGA. If the rate study determines that actions should be taken regarding the utility rates, the system must take actions to implement the changes and forward documentation of such actions to OCD-LGA. The minimum requirements for the rate study are as follows:
  - a. Review existing revenues, compare to expenses, and determine if there are any deficiencies in the current rate structure. Determine the required rates to meet expenses, capital, and funding costs for future needs of the system with a minimum sustainability factor of 1.15 within one year.
  - b. Project demands for the system created by population projections.
  - c. Identify the system's most important asset and require a Contingency Fund that would fund the replacement of this asset in twenty years.
  - d. Review the funding requirements for capital equipment and other fixed asset replacement and recommend a prudent reserve policy for operations, capital replacement and emergencies.
  - e. Review current water utilization and determine if a large water use rate is necessary.
  - f. Provide a recommended policy requiring an annual increase to the rate structure, if necessary, that will recover projected revenue requirements for a ten- year period. Components of the base rates and volume charges should be clearly identified.
  - g. Review miscellaneous fees to assure they are reasonable and not outdated.
  - h. Review impact fee levels and methodology to address growth needs.
  - i. Provide a general discussion on current policies and trends related to payment options, deposit amounts, connections, disconnects, etc., in comparison to other Community Water Systems.
  - j. The rate study should include an easy-to-use electronic model in Microsoft Excel to be used by applicants.

The rate study must be completed and all required documentation submitted to OCD-LGA within six (6) months of the date of this letter.

8. If the completed Supplemental Information form indicates real property will be acquired, through purchase or donation and regardless of funding source, the system must submit an Acquisition Timeline that includes dates and specific actions that will be taken to complete the acquisition process that is identified in the approved application. The system should submit this document to this office within two (2) months of the date of this letter.
9. Documentation identifying matching funds provided by the system are available to be spent. The document must be received by the OCD-LGA within two (2) months of the date of this letter.
10. If the approved project involves consolidation with another system or systems, the executed agreement between the systems that memorializes consolidation must be submitted to OCD-LGA. The document must be received by the OCD-LGA within two (2) months of the date of this letter.

Grantees that meet all grant conditions with the exception of the completion of the rate study may request to move forward with bidding by submitting a certification regarding the rate study. Through completion of the certification, the system guarantees participation in the rate study process and implementation of any rate changes recommended by the completed rate study. The format for this certification can be obtained from OCD-LGA, if necessary.

#### Permission to Bid/Contract Award Process

LDH/DEQ must review plans and specifications submitted and provide confirmation that the scope in the approved application is consistent with the plans and specifications. With all grant conditions met and scope confirmation from LDH for water grants and DEQ for sewer grants, OCD-LGA will issue permission to bid. Grantees will be required to advertise for bids within thirty (30) days of the date of permission to bid letter. Grantees must follow Louisiana Public Bid Law (R.S. 38:2211, *et seq.*).

Information regarding Louisiana Public Bid Law can be found at

[https://app.la.state.la.us/llala.nsf/87BD5C74CB17E03686257AB8006F37DE/\\$FILE/Public%20Bid%20Law%20FAQ.pdf](https://app.la.state.la.us/llala.nsf/87BD5C74CB17E03686257AB8006F37DE/$FILE/Public%20Bid%20Law%20FAQ.pdf) .

Upon receipt of bids and award of contract, Grantees must complete the *Notice of Contract Award* form. The form and instructions can be found at (enter website address here).

No additional funding requests will be considered. Any deficit in funds after bidding process is complete must be funded by the Grantee.

#### Construction Period/Request for Payment Process

Grantees will be required to submit a quarterly report on construction progress once OCD-LGA receives a *Notice of Contract Award* form. This report will include the number of contracts awarded and the percent complete for all projects. Grantees will

request reimbursement of incurred costs by submitting a completed request in the online portal. This request must include documentation of incurred costs (invoices approved according to FMQ). Grantees may document expenditure of match funds at any time, but they must be completed before final payment request is approved for payment. OCD-LGA cannot approve reimbursement for activities that are not included in the grant and listed in the Grant Condition letter.

Any projects that include LDH/DEQ revolving funds must have the cognizant agency approval before OCD-LGA can process. The cognizant agency approval must be uploaded into the portal with the request.

OCD-LGA will review all documentation and request revisions, if necessary.

### Change Orders

Change orders must adhere to the following procedure:

1. The entity must submit the Change Order to the OCD-LGA signed by the Contractor and the Engineer for review and processing. The submittal should include the following:
  - a. Explanation of need for change order and a description of the scope change.
  - b. If there is an increase in funds, the source of funds for the increase.
2. The OCD-LGA will consult with cognizant agency to determine if the change order will result in a project scope or outcome change.
3. The OCD-LGA can approve the full execution of change orders that meet the following criteria:
  - a. Extension to contract work period that does not exceed six (6) months.
  - b. Reduction of contract amount that does not result in change to the project scope or outcome.
  - c. Increase of contract amount that does not result in change to the project scope or outcome and the entity will not seek additional WSP-P2 funds to pay for increase in contract amount.
4. The Commission must approve the full execution of change orders that meet the following criteria:
  - a. Change to project scope or outcome.
  - b. Change that would result in the reduction of the original score of application.
5. The CEO of the entity must fully execute the change order upon approval of the OCD-LGA or the Commission.
6. A copy of the fully executed change order must be submitted to OCD-LGA for documentation.

### Documentation of Match Funds

Grantees will be required to provide documentation of the expenditure of match funds in accordance with the approved application. Invoices paid and cancelled checks showing payment of invoices must be submitted in the online portal. Match funds

documentation can be submitted at any time during the grant implementation process, but must be submitted prior to OCD-LGA approving the final request for payment.

### Requests for Extension

Grantees must submit a letter explaining the need for an extension request to OCD-LGA. OCD-LGA staff will submit the requests to the Commission for consideration during Commission meetings.

### Grant Termination

A letter must be submitted to OCD-LGA requesting grant termination if the Grantee determines they will not complete the project. The request for grant termination will be presented to the Commission for consideration and approval. Any grant funds expended may be required to be repaid to the State.

### Closeout Process

When eighty (80) percent of the grant funds have been expended, OCD-LGA will send the Grantee a Completion Report that must be completed by the Grantee and submitted to OCD-LGA for review and approval. Upon expenditure of all grant funds and with the receipt of a correct Completion Report, OCD-LGA will issue a “Grant Closeout Approval” letter.

## **Emergency Subfund**

Act 497 of the 2024 Regular Session of the Louisiana Legislature created the Emergency Subfund. The funds are only available to provide emergency grant funding to address or mitigate an emergency related to a community water system or community sewer system.

Commission priorities for this subfund are systems taken into receivership as discussed in Louisiana Revised Statute 40:5.9.C. LDH will provide OCD-LGA with the system name and the name of the proposed receiver. OCD-LGA will work with the receiver to get access to the online portal. Within the portal, the receiver will provide general information regarding the system as well as a cost estimate for their services to develop the improvement plan due to LDH within 90 days of the receivership appointment.

The OCD-LGA will submit a recommendation for funding of Emergency Subfunds to pay the receivership costs to the Commission for review and approval. If approved, the request must be submitted to JLCB for review and approval. The approval of funds will be contingent upon the court of competent jurisdiction appointing the receiver.

The receiver will upload the required improvement plan into the online portal for LDH review. The receiver in coordination with LDH will identify any emergency infrastructure improvements that are needed. A cost estimate of these items will be uploaded into the portal. After review by OCD-LGA and LDH, a funding recommendation, if needed, will be provided to the Commission and JLCB for consideration. If approved, OCD-LGA will establish grant conditions and an implementation plan for the receiver.