

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R109-22

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§ 1, 2, 6-27 and 30-36, NRS 445A.270; § 3, NRS 445A.270 and 445A.280;
§§ 4, 5, 28 and 29, NRS 445A.270 and 445A.295.

A REGULATION relating to water; establishing fees required to be paid by certain recipients of loans or other financial assistance from the Account for the Revolving Fund or the Account for Set-Aside Programs; making various changes relating to the environmental review of certain proposed water projects; revising various provisions related to the Account for the Revolving Fund and the Account for Set-Aside Programs; revising provisions related to the priority list of potential water projects established by the Division of Environmental Protection of the State Department of Conservation and Natural Resources; revising the method for submitting a letter of intent related to an application for financial assistance for a proposed water project; revising provisions related to the filing, review and approval of applications for financial assistance from the Account for the Revolving Fund; revising certain information related to obtaining certain accounting standards for water projects that are adopted by reference; revising provisions related to the participation of disadvantaged businesses in water projects; and providing other matters properly related thereto.

Legislative Counsel’s Digest:

Existing law: (1) creates the Account for the Revolving Fund to finance the construction of water projects and the Account for Set-Aside Programs to fund certain activities other than water projects, as authorized by the federal Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., as amended; and (2) authorizes the State Environmental Commission to adopt regulations as necessary to carry out provisions of law related to the Accounts. (NRS 445A.203, 445A.205, 445A.255, 445A.270)

Sections 6-8, 13, 14 and 17 of this regulation revise the definitions of certain terms related to water projects for consistency with definitions set forth in the Nevada Revised Statutes.

Existing regulations relating to the process for obtaining financial assistance from the Account for the Revolving Fund and the Account for Set-Aside Programs set forth specific provisions relating to a disadvantaged community, including: (1) authorizing the Division of Environmental Protection of the State Department of Conservation and Natural Resources to extend the term of a long-term loan under special conditions for a disadvantaged community; and (2) requiring the intended use plan prepared by the Division for both Accounts to include a description of any program for a disadvantaged community and the funds utilized for such

assistance. (NAC 445A.67561, 445A.67575) Existing regulations define “disadvantaged community” as an area served by a public water system in which the median household income is less than 80 percent of the state median household income. (NAC 445A.675245) **Section 9** of this regulation provides instead that a “disadvantaged community” means an area in which, as compared to other communities in this State, residents disproportionately experience economic, environmental or health issues.

Existing law authorizes the Administrator of the Division to impose and collect a fee from each public water system that receives a loan or other financial assistance from the Account for the Revolving Fund or the Account for Set-Aside Programs. (NRS 445A.280) **Section 3** of this regulation establishes such fees. **Section 16** of this regulation makes a conforming change to the definition of “recipient” to clarify that the term “recipient” means a public water system that receives such a loan or other financial assistance from the Account for the Revolving Fund or the Account for Set-Aside Programs. **Section 2** of this regulation makes a conforming change to define the term “principal forgiveness loan,” as **section 3** sets forth certain fees related to such loans.

Existing regulations authorize, under certain circumstances, the Division to extend the term of a long-term loan for a disadvantaged community to 30 years. (NAC 445A.67561) **Section 19** of this regulation provides instead that, under certain circumstances, the Division may extend the term of a long-term loan for a disadvantaged community to 40 years or the life of the water project, whichever is shorter.

Sections 11 and 12 of this regulation, respectively, revise the definitions of “long-term loan” and “median household income.”

Existing regulations prohibit the Division from providing financial assistance from the Account for the Revolving Fund for certain costs associated with a water project. (NAC 445A.67563) **Section 20** of this regulation provides instead that, unless expressly authorized by the United States Environmental Protection Agency, the Division is prohibited from providing such financial assistance for certain costs associated with a water project.

Existing regulations require the Division, at least annually, to develop a statewide priority list of water projects through a solicitation process. While not a guarantee of funding, a water project must be on the priority list in order to receive financial assistance from the Account for the Revolving Fund. (NAC 445A.67544, 445A.67567) Existing regulations set forth the solicitation process and the process for submitting proposals for water projects and requests to remain on the existing priority list. (NAC 445A.67566) **Section 21** of this regulation authorizes a public water system to submit a proposal for a water project at any time without solicitation if the proposed water project addresses an emergency situation. **Section 10** of this regulation revises the definition of “emergency situation” to include a circumstance in which there is an impact to the delivery of potable drinking water caused by certain emergencies or disasters.

Existing regulations set forth certain criteria by which the Division ranks water projects on the priority list. (NAC 445A.67569) **Section 23** of this regulation revises such criteria.

Existing regulations require the Division to hold a public participation workshop before finalizing a priority list. After the Division finalizes the priority list, the Division is required to submit the priority list to the Board for Financing Water Projects for review and possible approval. (NAC 445A.67558, 445A.67567, 445A.6757, 445A.67571) **Sections 18, 22, 24 and 25** of this regulation authorize the Division to revise the priority list to include a water project without holding a public participation workshop if the Division receives a proposal for a water project to address an emergency situation and the Board approves such action.

Existing regulations authorize the Division, under certain circumstances, to bypass a water project on the priority list. (NAC 445A.67573) **Section 26** of this regulation authorizes the Division to also bypass a water project on the priority list to give preference to a water project that addresses an emergency situation.

Section 27 of this regulation revises the method by which a letter of intent is submitted to the Division by an applicant on the priority list who wishes to proceed with an application for financial assistance. (NAC 445A.67577, 445A.67578)

Existing regulations set forth a process of environmental review of proposed water projects. (NAC 445A.6758-445A.67612) **Section 4** of this regulation provides that such provisions may be referred to as the Nevada Environmental Review Process. **Section 5** of this regulation requires the Division to post these provisions on the Internet website maintained by the Division. **Section 15** of this regulation makes a conforming change to indicate the appropriate placement of **sections 4 and 5** in the Nevada Administrative Code.

Existing regulations related to the process of environmental review of proposed water projects authorize the Division, under certain circumstances, to determine that a water project is eligible for a categorical exclusion from having to comply with certain provisions of the process. (NAC 445A.6752, 445A.67583) If the Division determines that a water project is eligible for a categorical exclusion, the Division is required to: (1) provide certain notice of its intent to grant the categorical exclusion; and (2) allow a period for comment. (NAC 445A.67584) **Section 28** of this regulation requires that the notice of intent include a physical and electronic mail address to which written comments may be sent to the Division.

Existing regulations require an applicant for a water project, under certain circumstances, to submit an environmental impact statement to the Division. The Division is required to provide notice of the availability of the draft of the environmental impact statement. (NAC 445A.67597) **Section 29** of this regulation requires that the notice include a physical and electronic mail address to which written comments may be sent to the Division.

Existing regulations set forth certain requirements for a formal request for financial assistance from the Account for the Revolving Fund, including that an application for a long-term loan include an estimate of the annual or monthly costs to various users during the 20 years after completion of the water project. (NAC 445A.67613) **Section 30** of this regulation requires instead that an application for a long-term loan include an estimate of the annual or monthly costs to various users during the term of the loan.

Existing regulations require the Division to review a completed application and any records and other documents submitted concerning the water project to make certain determinations, including that, if revenue bonds are to be issued, the applicant has executed a legally binding statement not to undertake to commit the State or any other political subdivision or municipality, other than the applicant, to incur any pecuniary liability in connection with the repayment of the bonds. (NAC 445A.67619) **Section 31** of this regulation requires the Division to also determine that, if a bond is not to be issued, the applicant has executed any required agreements for security or collateral. **Section 32** of this regulation prohibits the Division from offering a loan contract under certain circumstances until the applicant has provided additional security for the loan.

Existing regulations provide that an applicant and the Administrator may execute a loan contract only after any conditions to the commitment of financial assistance have been met. (NAC 445A.67623) **Section 33** of this regulation clarifies that such conditions include that the

applicant has established any reserve account that is required by the Division for capital replacement or debt service.

Existing regulations adopt by reference certain pronouncements issued by the Governmental Accounting Standards Board and the Financial Accounting Standards Board. (NAC 445A.67628) **Section 34** of this regulation revises information relating to obtaining these pronouncements.

Existing regulations require: (1) a recipient of a loan to comply with the requirements of federal law concerning the participation of disadvantaged businesses; and (2) if a recipient's contractor awards subcontracts relating to the water project, the recipient must ensure that the contractor takes affirmative steps to ensure that disadvantaged businesses are used to the extent possible as sources of supplies, equipment, construction and services. (NAC 445A.67636, 445A.67637) **Sections 35 and 36** of this regulation, respectively, clarify that a recipient of a loan or the recipient's contractor is required to comply with any applicable equivalency requirements of federal law.

Section 1. Chapter 445A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. *“Principal forgiveness loan” means a loan to a recipient on which interest does not accrue or the recipient is not required to repay the principal amount of the loan.*

Sec. 3. 1. *Except as otherwise provided in subsection 5, the Division shall charge a recipient a loan origination fee of:*

(a) If the recipient receives a principal forgiveness loan or a short-term loan, \$1,000.

(b) If the recipient receives a long-term loan, 0.5 percent of the total amount of the long-term loan.

2. *A loan origination fee required pursuant to subsection 1 is due to the Division not later than 30 days after the closing of the loan.*

3. *Except as otherwise provided in subsection 5, in addition to a loan origination fee, the Division shall charge a recipient:*

(a) If the recipient issues a bond, a fee equal to 0.5 percent of the original loan amount.

(b) If the recipient does not issue a bond, a fee equal to 0.75 percent of the original loan amount.

4. Any fee required pursuant to subsection 3 must be paid to the Division in equal installments over the life of the loan and is due to the Division not later than January 1 of each year.

5. The Division shall not collect from a recipient any fee set forth in this section if the recipient receives financial assistance for a water project that will serve a disadvantaged community.

Sec. 4. *This section and NAC 445A.6758 to 445A.67612, inclusive, and section 5 of this regulation may be referred to as the Nevada Environmental Review Process.*

Sec. 5. *The Division shall post the provisions of the Nevada Environmental Review Process on the Internet website maintained by the Division at <https://ndep.nv.gov/water/financing-infrastructure>.*

Sec. 6. NAC 445A.6751 is hereby amended to read as follows:

445A.6751 As used in NAC 445A.6751 to 445A.67644, inclusive, *and sections 2 to 5, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 445A.67511 to 445A.67557, inclusive, *and section 2 of this regulation* have the meanings ascribed to them in those sections.

Sec. 7. NAC 445A.67518 is hereby amended to read as follows:

445A.67518 **1.** “Capability” means:

~~(1)~~ **(a)** The technical ~~(1)~~ *capability of a public water system, as defined in NRS 445A.847;*

(b) *The managerial ~~and~~ capability of a public water system, as defined in NRS 445A.827;*

(c) *The financial capacity of a public water system ~~(1)~~, as defined in NRS 445A.817; and*

~~(2)~~ **(d)** *The ability to satisfy the requirements of chapter 445A of NRS and this chapter.*

2. The term “capability” is equivalent to the term “capacity,” as used in the Safe Drinking Water Act.

Sec. 8. NAC 445A.67522 is hereby amended to read as follows:

445A.67522 “Community water system” ~~means a public water system that:~~

- ~~—1. Serves at least 15 service connections which are used by year-round residents; or~~
- ~~—2. Regularly serves at least 25 year-round residents.]~~ *has the meaning ascribed to it in NRS*

445A.808.

Sec. 9. NAC 445A.675245 is hereby amended to read as follows:

445A.675245 “Disadvantaged community” means an area ~~[served by a public water system]~~ in which ~~[the median household income is less than 80 percent of the state median household income.]~~, *as compared to other communities in this State, residents disproportionately experience economic, environmental or health issues, including, without limitation, high rates of poverty or unemployment.*

Sec. 10. NAC 445A.67527 is hereby amended to read as follows:

445A.67527 “Emergency situation” occurs when:

1. Water at a public water system is contaminated or is likely to be contaminated to such an extent that it causes an imminent danger to public health and the contamination could not have been prevented by the operator of the system; ~~[or]~~
2. There is a reduction of a source of potable drinking water for an extended period ~~[+]~~; *or*
3. *There is an impact to the delivery of potable drinking water that is caused by an emergency or disaster and, in relation to that emergency or disaster, a state of emergency or declaration of disaster has been proclaimed by the Governor or by resolution of the Legislature pursuant to NRS 414.070.*

Sec. 11. NAC 445A.67534 is hereby amended to read as follows:

445A.67534 “Long-term loan” is a loan for which the term for repayment exceeds 5 years, but does not exceed ~~20~~ 30 years or the life of the water project, whichever is shorter, unless the term is extended by the Division pursuant to NAC 445A.67561.

Sec. 12. NAC 445A.67536 is hereby amended to read as follows:

445A.67536 “Median household income” means the most recent median household income:

1. As determined from data from the United States Census Bureau;
2. As documented by an applicant for the service area of the public water system ~~+~~

through an income survey; or

3. As determined by a method set forth in the intended use plan developed pursuant to NAC 445A.67574, 445A.67575 and 445A.67576.

Sec. 13. NAC 445A.67538 is hereby amended to read as follows:

445A.67538 “Noncommunity water system” ~~means a public water system that is not a community water system.~~ *has the meaning ascribed to it in NRS 445A.828.*

Sec. 14. NAC 445A.6754 is hereby amended to read as follows:

445A.6754 “Nontransient ~~noncommunity~~ water system” ~~means a public water system that is not a community water system which regularly serves at least 25 of the same persons over a period of not less than 6 months.~~ *has the meaning ascribed to it in NRS 445A.829.*

Sec. 15. NAC 445A.67545 is hereby amended to read as follows:

445A.67545 “Process of environmental review” means the development and evaluation of environmental information concerning a water project that enables the Division, pursuant to NAC 445A.6758 to 445A.67612, inclusive, *and sections 4 and 5 of this regulation,* to make a determination whether to:

1. Grant a categorical exclusion;
2. Make a finding of no significant impact; or
3. Require the applicant to submit an environmental impact statement.

Sec. 16. NAC 445A.67548 is hereby amended to read as follows:

445A.67548 “Recipient” means ~~{an applicant who}~~ *a public water system that* has executed a contract for a loan with the Division to receive ~~{financial assistance in the form of}~~ a loan *or other financial assistance* from the Account for the Revolving Fund ~~{}~~ *or the Account for Set-Aside Programs.*

Sec. 17. NAC 445A.67555 is hereby amended to read as follows:

445A.67555 “Transient water system” ~~{means a noncommunity water system that serves fewer than 25 of the same persons over a 6-month period.}~~ *has the meaning ascribed to it in NRS 445A.848.*

Sec. 18. NAC 445A.67558 is hereby amended to read as follows:

445A.67558 1. ~~{The}~~ *Except as otherwise provided in subsection 4 of NAC 445A.67567,* *the* Division shall, as necessary, provide for a public participation process to provide interested or affected persons a reasonable opportunity to submit to the Division orally or in writing data, views or arguments upon proposed water projects or proposed actions or determinations of the Division.

2. Unless a hearing is required, the Division shall hold a workshop to satisfy the requirements of subsection 1.

3. The Division shall provide notice of the time and place set for the workshop not less than 15 days before the workshop, unless a longer period is required. The Division may provide such notice by:

- (a) Unless otherwise required by federal law, publishing a single notice on an Internet website designed to give general public notice;
- (b) Mailing the notice to each interested person who requests to be on a mailing list maintained by the Division;
- (c) Mailing the notice to the appropriate federal and state agencies and municipalities; or
- (d) Any other means reasonably calculated to provide such notice to the general public and any person who may be affected.

4. The notice must include:

- (a) A description and the location of any proposed water project;
- (b) A description of any proposed action or determination of the Division;
- (c) Reasons for any preliminary determination by the Division;
- (d) The time that the Division will allow for public comments; and
- (e) The address where the written comments may be sent.

5. The Division shall clearly indicate the date by which any written comments concerning the subject of the workshop must be received by the Division to receive consideration.

6. In any notice that it provides and at the workshop, the Division shall clearly indicate what actions, if any, may result from the workshop.

Sec. 19. NAC 445A.67561 is hereby amended to read as follows:

445A.67561 1. The Division shall provide an applicant with a *principal forgiveness loan*, short-term *loan* or long-term loan from the Account for the Revolving Fund for a water project pursuant to the criteria set forth in this chapter and chapter 445A of NRS.

2. The Division shall determine the eligibility of a water project to receive a loan from the Account for the Revolving Fund before the Division establishes the priority list pursuant to NAC 445A.67567 to 445A.67571, inclusive.

3. Any change made by an applicant to the design of ~~his or her~~ *the* proposed water project which the applicant makes after the Division has determined that the water project is eligible for a loan, but before the Board for Financing Water Projects has committed to a loan contract, must be reported by the applicant to the Division not later than 15 days after the applicant changes the design. The Division may decide that a water project is no longer eligible for a loan based upon the design changes.

4. Water projects that are eligible for a loan from the Account for the Revolving Fund are limited to systems which are not owned by the Federal Government that are:

- (a) Publicly or privately owned community water systems; or
- (b) Nonprofit, noncommunity water systems.

5. Water projects that are eligible for a loan from the Account for the Revolving Fund include, without limitation, water projects which:

- (a) Facilitate compliance with the health protection objectives of 42 U.S.C. § 300j-12(a)(2);
- (b) Facilitate compliance with NAC 445A.453 and 445A.455;
- (c) Replace aging infrastructure, if such infrastructure is needed to maintain compliance with

or to further the public health protection goals of:

- (1) The Safe Drinking Water Act;
- (2) The provisions of NAC 445A.450 to 445A.540, inclusive; or
- (3) The provisions of NAC 445A.65505 to 445A.6731, inclusive;
- (d) Consolidate water supplies; or

(e) Facilitate the purchase of a portion of the capacity of another system to improve the cost efficiency of a public water system.

6. An applicant may be eligible to receive a loan from the Account for the Revolving Fund if the water project involves:

(a) The replacement, rehabilitation or enhancement of an existing system for the collection, pumping, treatment, storage or distribution of water, or portions thereof, which is deemed necessary by the Division for the integrity and performance of the public water system to satisfy the requirements of NAC 445A.450 to 445A.6731, inclusive; or

(b) The creation of a new distribution system designed primarily to serve residents within an existing water system who are using domestic wells which have public health or water quality problems. Such a distribution system must provide sufficient existing or planned capacity for the development, treatment and storage of the new water of the system. The applicant shall provide assurances acceptable to the Division that the existing population in the service area of the public water system currently obtaining its water from domestic wells will connect to the new distribution system within a reasonable time after completion of the water project.

7. The Division shall decide on a case-by-case basis the costs for which an applicant may receive a loan. The costs of a water project for which an applicant may receive a loan from the Account for the Revolving Fund include, without limitation, costs for:

- (a) Planning and design;
- (b) Construction management, including, without limitation, inspection;
- (c) Water project facilities;
- (d) Land and rights-of-way or easements that are necessary to complete the water project;

(e) The preparation of any environmental documents that the Division or any other state or federal agency requires;

(f) Legal and financial services; and

(g) The administration of a water project, including, without limitation, expenses relating to draws on the loan and the preparation of certified payroll reports.

8. The Division may extend the term of a long-term loan to ~~30~~ 40 years *or the life of the water project, whichever is shorter*, under special conditions for a disadvantaged community.

9. As used in this section:

(a) “Domestic use” has the meaning ascribed to it in NRS 534.013.

(b) “Domestic well” means a well that supplies water for domestic use.

Sec. 20. NAC 445A.67563 is hereby amended to read as follows:

445A.67563 ~~The~~ *Unless expressly authorized by the EPA, the* Division shall not provide financial assistance from the Account for the Revolving Fund for the following costs associated with a water project:

1. The construction or rehabilitation of a dam;

2. The purchase of water rights, unless the water rights are owned by a public water system that is being purchased in an effort to consolidate as part of a program to develop the capability of a water system;

3. The construction or rehabilitation of a reservoir other than:

(a) A finished water reservoir; or

(b) A reservoir that is part of the treatment process and is located on the property where the treatment facility is located;

4. Laboratory fees for routine monitoring of water quality;

5. Expenses for operations and maintenance;
6. A project needed primarily for fire protection;
7. A water project for a public water system that lacks adequate capability, unless the financial assistance will ensure that the system acquires adequate capability;
8. A water project for a system that is in significant noncompliance with NAC 445A.453, unless the financial assistance will ensure full compliance;
9. A project that is primarily intended to serve future growth;
10. Refinancing of a private system; or
11. A project that has received assistance pursuant to the provisions of 42 U.S.C. § 300j-12(i).

Sec. 21. NAC 445A.67566 is hereby amended to read as follows:

445A.67566 1. At least annually, the Division shall solicit from public water systems:

- (a) Proposals in the form of preapplications for water projects; and
- (b) ~~Written requests,~~ *Requests*, from each applicant whose water project is currently on a priority list, to be included on the next priority list. If an applicant has prepared an updated estimate of the cost for the water project, the applicant shall submit the updated estimate of the cost for the water project with the ~~written~~ request to be included on the next priority list.

2. *A proposal in the form of a preapplication for a water project may be submitted by a public water system at any time without solicitation if the proposed water project addresses an emergency situation.*

3. *Any proposal in the form of a preapplication for a water project or request to be included on the next priority list must be submitted to the Division pursuant to subsection 1 or 2, as applicable:*

(a) Electronically, through the Nevada Infrastructure Financial System at

<https://ndepifs.ndep.nv.gov/>; or

(b) By any other method authorized by the Division.

4. If an applicant whose water project is currently on a priority list fails to submit a ~~written~~ request to be included on the next priority list pursuant to the provisions of subsection 1, the water project is subject to exclusion from the next priority list.

~~3.~~ 5. After receiving proposals for water projects and ~~written~~ requests to remain on the priority list pursuant to subsection 1, the Division shall:

(a) Establish eligibility of each water project and applicant to receive financial assistance;

(b) Determine the rank of each water project and request to receive financial assistance on the priority list in accordance with the provisions of NAC 445A.67567 to 445A.67571, inclusive;

and

(c) Submit the priority list to the Board for Financing Water Projects.

~~4.~~ 6. If a proposed water project includes multiple phases, the applicant shall file a separate preapplication for each phase.

~~5.—The~~

7. *Any* preapplication must include, without limitation:

(a) The name, address and telephone number for the applicant or a representative of the applicant;

(b) A description of the proposed water project that indicates the project shall address specific public health concerns or problems;

(c) A map showing the location of the service area for the public water system and the water project;

- (d) If an estimate has been prepared by a professional engineer of the total cost of the water project, a copy of the estimate of the total cost of the water project;
- (e) The estimated schedule for completion of the water project;
- (f) Evidence of readiness of the applicant to proceed;
- (g) The number of service connections currently being served by the public water system of the applicant;
- (h) An estimate of the size of the population that is currently being served by the public water system of the applicant;
- (i) Any other anticipated sources of funding for the water project from a state or federal agency or other entity;
- (j) ~~{The median household income}~~ *Economic and demographic data* for the community ~~{or area}~~ that will be served ~~{or for the county in which}~~ *by* the water project ~~{is located,}~~ *in order for the Division to determine whether the community is a disadvantaged community,* including, without limitation, the source of ~~{that information,}~~ *such data;*
- (k) The anticipated impact of the costs of the water project to the rates or user charges for existing customers;
- (l) The anticipated source of revenue to pay the principal and interest on the loan, including, without limitation, a description of any authorization that may be required to use that revenue for such a purpose; and
- (m) Any additional information necessary to establish the priority rank for the water project.

~~{6.}~~ **8.** The owner or an authorized representative of the owner or governing or managing body of a public water system shall sign the preapplication.

~~17.1~~ 9. The Division shall maintain all requests and proposals that an applicant submits pursuant to this section at the main office. The Division shall make the files available to the public.

Sec. 22. NAC 445A.67567 is hereby amended to read as follows:

445A.67567 1. At least annually, the Division shall develop a statewide priority list of water projects from the solicitation process described in NAC 445A.67566. The Division shall prioritize the list to achieve water quality and public health goals consistent with the requirements of the Safe Drinking Water Act.

2. Only those projects that are included on the priority list will be considered for possible funding. Placement on the *priority* list does not guarantee that a project will receive funding.

3. If the Division receives a preapplication or a ~~written~~ request to remain on the priority list pursuant to the provisions of subsection 1 of NAC 445A.67566 after the annual statewide priority list of water projects has been developed, *except as otherwise provided in subsection 4*, the Division may, after holding a public participation workshop pursuant to NAC 445A.67558 to allow for a period of public review and with the approval of the Board for Financing Water Projects, revise the priority list to include the water project.

4. *Pursuant to subsection 2 of NAC 445A.67566, if the Division receives a proposal in the form of a preapplication for a water project to address an emergency situation after the annual statewide priority list of water projects has been developed, the Division may, with the approval of the Board for Financing Water Projects, revise the priority list to include the water project without holding a public participation workshop pursuant to NAC 445A.67558.*

5. The Division may at any time after receiving approval from the Board for Financing Water Projects revise the ranking of a water project on a priority list if the Division receives information concerning a water project that was not available at the time the list was developed.

Sec. 23. NAC 445A.67569 is hereby amended to read as follows:

445A.67569 1. The Division shall rank water projects using the following criteria:

(a) The Division shall determine whether each water system qualifies as a public water system pursuant to 42 U.S.C. § 300j-12 to satisfy the requirements set forth therein to receive loan assistance.

(b) The Division shall place each water project into one of the following four classes:

(1) A Class I water project is intended to address ~~problems,~~ *acute health concerns*, including, without limitation, demonstrated illness attributable to the public water system, significant noncompliance, a court-ordered compliance or acute health concerns related to meeting the water quality requirements of NAC 445A.453. The Division shall prioritize Class I water projects, giving projects with a higher score priority over projects with a lower score, according to the total score each receives for:

(I) Demonstrated illness attributable to the public water system, significant noncompliance, a court-ordered compliance or acute health concerns related to meeting the water quality requirements of NAC 445A.453, 5 points;

(II) Demonstrated or documented noncompliance with the rules governing the maximum contaminant levels of microbiological contaminants found in 40 C.F.R. § 141.63, 4 points;

(III) Being subject to an order to boil water issued under the authority of the Chief Medical Officer, 4 points;

(IV) Demonstrated or documented noncompliance with the rules governing the filtration and disinfection of surface water found in 40 C.F.R. §§ 141.70 to 141.75, inclusive, 3 points;

(V) Demonstrated or documented noncompliance with the rule governing the maximum contaminant levels of nitrate found in 40 C.F.R. § 141.62(b)(7)-(b)(9), 2 points; and

(VI) Any other factor as provided in the intended use plan established for the year in which the priority list is developed **⊕**, *1 point for each factor*.

(2) A Class II water project is intended to address chronic health concerns by satisfying the requirements for water quality set forth in NAC 445A.453 and 445A.455. The Division shall prioritize Class II water projects, giving projects with a higher score priority over projects with a lower score, according to the total score each receives for:

(I) Demonstrated or documented noncompliance with any one of the requirements for water quality set forth in NAC 445A.453, 10 points each;

(II) Exceeding any one of the secondary drinking water standards found in NAC 445A.455, 1 point each; or

(III) Any other factor as provided in the intended use plan established for the year in which the priority list is developed **⊕**, *1 point for each factor*.

(3) A Class III water project is intended to address deteriorated, substandard or inadequate conditions in the public water system. The Division shall prioritize Class III water projects, giving projects with a higher score priority over projects with a lower score, according to the total score each project receives for the following types of water projects:

(I) The consolidation of water supplies or facilities to eliminate water supplies that are contaminated, eliminate facilities that do not meet state regulations, or enable systems through a

physical or management consolidation to comply with technical, managerial and financial capability requirements, 25 points;

(II) The rehabilitation or replacement of treatment facilities that would improve the quality of drinking water to avoid noncompliance with NAC 445A.453 and 445A.455, 20 points;

(III) The rehabilitation, replacement or development of production facilities to replace contaminated sources, 15 points;

(IV) The installation or upgrading of storage facilities associated with finished water reservoirs and reservoirs that are part of a water treatment facility and located on the property where the treatment facility is located to prevent microbiological contaminants from entering the water system, 10 points;

(V) The installation or replacement of transmission pipes to prevent contamination caused by leaks or breaks in the pipes or to improve water pressure to satisfy the requirements of NAC 445A.6672, 8 points;

(VI) The installation or replacement of distribution pipes to prevent contamination caused by leaks or breaks in the pipes or to improve water pressure to satisfy the requirements of NAC 445A.6672, 6 points;

(VII) The installation of equipment, facilities or devices to prevent contamination by backflow or cross-connections and to satisfy the requirements of NAC 445A.67185 to 445A.67255, inclusive, 4 points;

(VIII) The installation of metering, if the metering is intended to satisfy the requirements of water conservation plans developed to comply with NRS 540.121 to 540.151, inclusive, 704.662, 704.6622 and 704.6624, 3 points;

(IX) The installation or upgrading of security-related equipment, facilities or devices, 3 points;

(X) The installation of computer control for the water system, 3 points;

(XI) Any work intended to correct any noncompliance by the water system with applicable state or federal statutes or regulations or facilitate the enforcement of such statutes or regulations, 3 points; and

(XII) Any other factor as provided in the intended use plan established for the year in which the priority list is developed ~~1~~, *1 point for each factor.*

(4) A Class IV project consists of refinancing any existing debt that was incurred after July 1, 1993, pursuant to 42 U.S.C. § 300j-12(f)(2).

(c) Regardless of the class in which a water project is placed and in addition to the criteria applicable to the project pursuant to paragraph (b), a project must be scored in accordance with the following criteria:

(1) For the water system having mapped its facilities and analyzed risks of failure in the system, the expected dates for renewing and replacing its facilities and equipment, and the sources and amounts of money needed to finance the operation, maintenance and capital expenditures of the system, ~~1 point~~ *5 points.*

(2) For the water system having developed a rate structure appropriate to build, operate and maintain the system, ~~1 point~~ *5 points.*

(3) For the water system having specifically allocated money for the rehabilitation and replacement of aging or deteriorating facilities and equipment, ~~1 point~~ *5 points.*

2. *If the Division determines that the water project will serve a disadvantaged community, the Division shall add an additional 25 points to the total score of the water project.*

3. The Division shall rank water projects first according to which class the project is in, with Class I water projects having the highest priority and Class IV water projects having the lowest priority, and then within the class according to the point total each water project receives pursuant to the ranking system set forth in subsection ~~3.1~~ 4.

~~3.1~~ 4. Within each class, the water projects will be ranked according to the type of public water system the project will affect in the following order:

- (a) Community public water systems;
- (b) Nonprofit, nontransient water systems; and
- (c) Nonprofit, transient water systems.

~~4.1~~ 5. The Division shall not move a water project from one class to another based on the ranking the water project receives from the total points within each class.

~~5. The product of the initial rank number of a water project within a class of water projects and the ratio of the state median household income to the median household income that is associated with the service area served by the public water system determines the final rank number associated with the water project within each class.~~

6. If two or more water projects within the same class have the same final rank number, the water project that is associated with the service area with the highest population shall be deemed to be ranked higher within the class.

7. The Division may also provide financial assistance pursuant to NAC 445A.67562 for planning and engineering to determine causes of problems in the public water system and to define and carry out solutions. The Division shall prioritize such a project in the order appropriate to the problem that the water project is intended to solve.

Sec. 24. NAC 445A.6757 is hereby amended to read as follows:

445A.6757 1. Except as otherwise provided in subsection 4, the priority of water projects determined by the Division pursuant to NAC 445A.67567 to 445A.67571, inclusive, is subject to the approval of the Board for Financing Water Projects.

2. Except as otherwise provided in subsection 4 ~~4~~ *and subsection 4 of NAC 445A.67558*, the Division shall hold a public participation workshop pursuant to NAC 445A.67558 to allow for a period of public review of and to comment on its proposed priority list or a revised priority list.

3. The Division shall consider comments and recommendations made in the public participation process in developing its final priority list or a revised priority list to be presented to the Board for Financing Water Projects.

4. The Division may, without obtaining the approval of the Board for Financing Water Projects or holding a public participation workshop, revise a priority list to correct minor typographical or technical errors.

Sec. 25. NAC 445A.67571 is hereby amended to read as follows:

445A.67571 1. After the Division ~~finalizes the priority list~~ *holds a public participation workshop, if such a workshop is required pursuant to NAC 445A.67568*, and at least ~~5~~ *3* working days before the meeting of the Board for Financing Water Projects, the Division shall submit the priority list to the Board for review and possible approval.

2. Any objection to the proposed priority list that is not resolved by the Division before the meeting of the Board for Financing Water Projects may be made orally at the meeting of the Board.

3. A priority list becomes finalized after approval by the Board for Financing Water Projects.

Sec. 26. NAC 445A.67573 is hereby amended to read as follows:

445A.67573 1. The Division may bypass a water project on the priority list ~~if it~~ :

(a) If the Division determines that the water project is not ready to proceed or the applicant for the project:

~~(a)~~ (1) Withdraws the water project; or

~~(b)~~ (2) Fails to file a letter of intent as required pursuant to NAC 445A.67577 and 445A.67578 ~~H~~; or

(b) To give preference to a water project that addresses an emergency situation.

2. If the Division determines that the water project is not ready to proceed ~~H~~ pursuant to *paragraph (a) of subsection 1*, the Division shall provide notice of its determination to the applicant. After receiving notice, the applicant must respond to the Division within 30 days.

3. If the applicant files an objection in the response provided for in subsection 2 that cannot be resolved by the Division, the Division shall request that the matter be heard at the next meeting of the Board for Financing Water Projects for hearing and resolution. The Division shall provide at least 15 days' notice of the meeting to the affected applicant.

4. If the Division gives preference to a water project that addresses an emergency situation pursuant to paragraph (b) of subsection 1, the Division shall provide notice of its decision to all applicants on the priority list that are being bypassed.

Sec. 27. NAC 445A.67578 is hereby amended to read as follows:

445A.67578 1. The letter of intent *required pursuant to NAC 445A.67577* must include:

(a) The name, postal address, electronic mail address and telephone number of each applicant;

- (b) The title or name, the location and a brief description of the proposed water project, including, without limitation, maps or preliminary plans;
- (c) The number of residential service connections with population served and the number of nonresidential service connections with population served;
- (d) A preliminary estimate of the cost of the water project improvement and any additional costs necessary for financing the water project improvement;
- (e) Preliminary environmental information on a form provided by the Division;
- (f) A description of future improvements planned by the applicant, if any, that are not part of the capital improvement for which the application is made;
- (g) A brief description of how the water project improvement would make the system comply with the requirements for public water systems;
- (h) A statement that the plan of water conservation adopted pursuant to NRS 540.121 to 540.151, inclusive, or 704.662, 704.6622 and 704.6624 will be, or has been, filed with the appropriate regulatory body before receipt of the loan;
- (i) The anticipated schedule for filing an application;
- (j) A request to determine whether the water project is eligible for a categorical exclusion;
- (k) Whether the applicant requests a preapplication conference with the Division;
- (l) Any additional information required by the Division; and
- (m) A brief description of any material changes to the water project that were proposed in the preapplication.

2. The letter of intent must be ~~mailed to the Division of Environmental Protection, Drinking Water State Revolving Fund.~~ *submitted to the Division:*

(a) Electronically, through the Nevada Infrastructure Financial System at

<https://ndepifs.ndep.nv.gov/>; or

(b) By any other method authorized by the Division.

3. The applicant's letter of intent to proceed with the proposed water project serves as a request to the Division to:

(a) If a preapplication conference is requested or determined to be required pursuant to the provisions of NAC 445A.67579, schedule the preapplication conference; and

(b) Initiate the process of environmental review pursuant to NAC 445A.6758 to 445A.67612, inclusive.

Sec. 28. NAC 445A.67584 is hereby amended to read as follows:

445A.67584 1. If the Division determines that a water project is eligible for a categorical exclusion pursuant to NAC 445A.67583, the Division shall provide notice of its intent to grant the categorical exclusion.

2. The notice that the Division provides pursuant to subsection 1 must be:

(a) Unless otherwise required by federal law, published on an Internet website designed to give general public notice;

(b) Provided to persons potentially affected by the water project, including, without limitation, adjacent landowners;

(c) Mailed by the Division to each person included on a mailing list maintained by the Division;

(d) Provided to appropriate federal and state agencies; and

(e) Submitted to the state clearinghouse for review by other federal and state agencies.

3. The notice must include:

- (a) A description and location of the proposed water project, or proposed action or determination of the Division;
- (b) Reasons supporting the Division's preliminary determination of eligibility of a water project for categorical exclusion;
- (c) A statement that the Division may grant a categorical exclusion and the process of environmental review shall be deemed to be complete if no comments that the Division determines to be significant are received within the time allowed for public comment;
- (d) A statement of whether the water project is being funded in whole or in part by federal funds;
- (e) The time that the Division will allow for public comment; and
- (f) The *physical* address *and electronic mail address* to which written comments may be sent.

4. The period for public comment concerning the determination that a water project is eligible for categorical exclusion is ~~30~~ 15 days after the Division has provided the notice in the manner set forth in subsection 2.

Sec. 29. NAC 445A.67597 is hereby amended to read as follows:

445A.67597 1. The applicant shall:

- (a) Provide two paper copies and one electronic copy of the draft environmental impact statement to the Division;
- (b) Provide copies of the draft environmental impact statement to all local, state and federal agencies and public organizations that have an interest in the proposed water project; and
- (c) Make copies of the draft environmental impact statement available for public review.

2. The Division shall provide notice of the availability of the draft environmental impact statement for review as soon as possible after the Division receives copies of the draft.

3. The notice provided pursuant to subsection 2 must be:

(a) Unless otherwise required by federal law, published on an Internet website designed to give general public notice;

(b) Provided to persons who are potentially affected by the water project, including, without limitation, adjacent landowners;

(c) Mailed by the Division to each person included on a mailing list maintained by the Division for the water project;

(d) Provided to appropriate federal agencies; and

(e) Submitted to the state clearinghouse for review by other federal and state agencies.

4. The notice must include:

(a) A description and location of the proposed water project;

(b) The place at which the draft environmental impact statement may be reviewed;

(c) The time allowed for public comment concerning the draft environmental impact statement; and

(d) The *physical* address *and electronic mail address* to which written comments may be sent.

5. The period for public comment concerning a draft environmental impact statement is ~~30~~ *45* days after the Division has provided the notice in the manner set forth in subsection 3.

Sec. 30. NAC 445A.67613 is hereby amended to read as follows:

445A.67613 1. An applicant may make a formal request for financial assistance from the Account for the Revolving Fund by filing with the Division an application at any time after the applicant has filed the letter of intent pursuant to the provisions of NAC 445A.67577.

2. An application for a short-term loan submitted pursuant to NAC 445A.67562 must include, without limitation:

(a) The name, postal address, electronic mail address and telephone number of the applicant or a legal representative of the applicant;

(b) A brief description of the proposed water project, including, without limitation, its effect on the public water system;

(c) A brief description of the need for water project planning, design and other related costs;

(d) The estimated costs for the request;

(e) Information necessary to understand the alternatives to be considered and their environmental impact;

(f) Information about the financial history and financial projections of the applicant, as necessary for the Division to determine the creditworthiness of the applicant;

(g) Information necessary for the Division to determine how the loan is to be repaid; and

(h) Any other information deemed necessary by the Division.

3. An application for a long-term loan submitted pursuant to NAC 445A.67561 must include, without limitation:

(a) The name, postal address, electronic mail address and telephone number of the applicant or the legal representative of the applicant.

(b) A brief description of the proposed water project, including, without limitation, its anticipated effect on the public water system.

(c) The number of service connections and estimated population currently served by the applicant.

(d) An estimate of the number of service connections and future population to be served by the water project for the useful life of the water project.

(e) Maps of appropriate scale to show clearly the location of the proposed water project with respect to other identifiable topographical or geographical features in the service area of the public water system.

(f) A complete and legible legal description of the entire area of service for the water project improvement, including, without limitation, a map showing the layout of the water project with clear reference to aerial or other maps showing sections and townships.

(g) Proof of ownership, rights-of-way, easements or agreements showing that the applicant holds or is able to acquire all land, other than public land, or acquire interests therein and any water rights necessary for the construction of the proposed water project. Copies of deeds to land to be occupied, records of surveys, easements, agreements or permits to appropriate water granted pursuant to chapters 533 and 534 of NRS may be used as evidence of ownership.

(h) A description of how the water project complies with planning and zoning requirements.

(i) A copy of the current plan of water conservation adopted by the applicant pursuant to NRS 540.121 to 540.151, inclusive, or 704.662, 704.6622 and 704.6624, as applicable, and an analysis of the effectiveness of the plan.

(j) A description of the best available technology for the water project being proposed.

(k) An itemized estimate of the total cost of the water project that is prepared by a professional engineer.

(l) Information sufficient to demonstrate, through a systematic and cost-effective analysis of alternatives that are feasible, that the alternative selected is the most effective means of meeting the applicable water quality and public health requirements over the design life of the facility.

(m) A preliminary water project schedule that provides a timetable for:

- (1) Advertising and opening bids;
- (2) The start of the construction phase;
- (3) The drawdown of money in the Account for the Revolving Fund;
- (4) The estimated schedule of progress payments to the contractor and other costs related to the drawdown of money in the Account for the Revolving Fund;
- (5) Completion of the construction phase; and
- (6) Initiation of the operation of the water project.

(n) Information necessary for the Division to determine how the loan is to be repaid, including, without limitation:

- (1) A proposed revenue program that demonstrates the cost effect on users of the public water system, including, without limitation, any connection fees or changes in user charges;
- (2) Orders or resolutions specifying the method of loan repayment from the appropriate governing board, regulatory agency or local governing body having rate jurisdiction;
- (3) Contractual loan agreements; or
- (4) Any other information requested by the Division.

(o) Estimated costs of future expansion and long-term needs for reconstruction of facilities following their design life.

(p) A summary of public participation in the development of the proposed water project.

(q) Institutional and management arrangements required for successful implementation of the water project.

(r) A report on the status of the process of environmental review for the project.

(s) A list of any required permits and a schedule of when those permits will be obtained.

(t) Information about the financial history and financial projections of the applicant, as necessary for the Division to determine the creditworthiness of the applicant.

(u) Copies of current capital improvement plans and debt management policies as provided to the Department of Taxation pursuant to chapter 350 of NRS and any applicable regulation.

(v) Security for the loan, if applicable.

(w) Evidence that the public water system has the capability to comply with the Safe Drinking Water Act and NAC 445A.450 to 445A.6731, inclusive.

4. To ensure a complete application, the applicant shall submit any other information deemed necessary by the Division.

5. The information required pursuant to paragraph (l) of subsection 3 must include, without limitation:

(a) A description of how the alternatives listed will meet the water quality and public health needs, including, without limitation, an estimate of any future growth expected after the water project becomes operational;

(b) An estimate of how improving the operations, maintenance and efficiency of existing facilities will improve the performance of the public water system compared to how much the performance would be improved by constructing new facilities;

(c) A description of any opportunities the water project will provide to reduce the use of energy or to recover energy;

(d) An estimate of the total capital costs and the annual operation and maintenance costs; and

(e) An estimate of the annual or monthly costs to residential, commercial and industrial users during the ~~{20 years after completion of the water project.}~~ *term of the long-term loan.*

6. An applicant shall consider the present worth or equivalent annual value of all capital, operation and maintenance costs when satisfying the requirements of paragraph (l) of subsection 3.

7. The forecasts of population that an applicant provides pursuant to paragraph (l) of subsection 3 must be consistent with any forecasts of population that the state demographer has prepared.

8. As used in this section, “best available technology” means the technology, treatment technique or procedure that the EPA finds is the most appropriate and most cost-effective for solving a particular problem after examining the efficacy of the technology, technique or procedure under laboratory and field conditions.

Sec. 31. NAC 445A.67619 is hereby amended to read as follows:

445A.67619 The Division shall:

1. Review the completed application and any records and other documents submitted by the applicant concerning the water project to evaluate whether:

(a) The proposed water project is feasible from an engineering and legal standpoint, is economically justified and is financially feasible;

(b) There is adequate assurance that the applicant can repay the loan;

(c) The applicant has taken sufficient and reasonable efforts to determine whether the proposed water project conflicts with any regional master plan of any local, state or federal governing authority, and those efforts have not revealed such a conflict; ~~and~~

(d) If ~~revenue bonds are~~ *a bond is* to be issued, the applicant has executed a legally binding statement not to undertake to commit the State and any other political subdivision or municipality, other than the applicant, to incur any pecuniary liability in connection with the repayment of the ~~bonds.~~ *bond; and*

(e) If a bond is not to be issued, the applicant has executed any agreements for security and collateral required by the Division.

2. Submit the report required pursuant to NAC 445A.67618 to the Board for Financing Water Projects with a recommendation that the Board:

- (a) Approve the commitment of funds requested by the applicant;
- (b) Approve the commitment of funds requested by the applicant with conditions; or
- (c) Deny the commitment of funds requested by the applicant.

3. Request the Chair of the Board for Financing Water Projects to convene a public hearing by the Board on the matter.

Sec. 32. NAC 445A.67622 is hereby amended to read as follows:

445A.67622 The Division shall not offer a loan contract to an applicant until:

1. The Board for Financing Water Projects has issued its approval of the water project to the applicant; and

2. The applicant has:

(a) Submitted to the Division a definite schedule for the water project which includes:

(1) A reasonable period to complete the water project after the commencement of bidding; and

(2) The times when funds are expected to be drawn from the Account for the Revolving Fund; ~~and~~

(b) If collateral for the loan is required, provided the collateral ~~H~~; *and*

(c) *If additional security for the loan is required, provided such security.*

Sec. 33. NAC 445A.67623 is hereby amended to read as follows:

445A.67623 The applicant and the Administrator may execute a loan contract only after any conditions to the commitment of financial assistance have been met ~~H~~, *including, without limitation, that the applicant has established any reserve account that is required by the Division for capital replacement or debt service.*

Sec. 34. NAC 445A.67628 is hereby amended to read as follows:

445A.67628 1. The Commission hereby adopts by reference the most current pronouncements issued by the Governmental Accounting Standards Board, unless a pronouncement is disapproved by the Commission within 60 days after the date the pronouncement is published. The Commission will review each pronouncement to ensure its suitability for this State. A copy of the pronouncements is available ~~at a cost of \$105~~ from the Governmental Accounting Standards Board ~~, 401 Merritt 7, P.O. Box 5116, Norwalk, Connecticut 06856-5116 or by telephone at (800) 748-0659 or~~ free of charge at the Internet address ~~https://www.gasb.org/store.~~ <https://www.gasb.org>.

2. The Commission hereby adopts by reference the pronouncements issued by the Financial Accounting Standards Board on or before November 30, 1989. If the pronouncements issued by the Financial Accounting Standards Board on or before November 30, 1989, conflict with the most current pronouncements issued by the Governmental Accounting Standards Board adopted by reference pursuant to subsection 1, the pronouncements issued by the Governmental Accounting Standards Board apply. The pronouncements are available, free of charge, from the

Financial Accounting Standards Board at the Internet address ~~<https://www.fasb.org/store>~~
<https://www.fasb.org>.

3. A recipient shall maintain separate accounts for water projects in accordance with generally accepted accounting principles, including, without limitation, those adopted by reference in subsections 1 and 2.

Sec. 35. NAC 445A.67636 is hereby amended to read as follows:

445A.67636 1. A recipient shall comply with ~~the requirements~~ *any applicable equivalency requirement* of federal law concerning the participation of disadvantaged businesses.

2. ~~Each~~ *A* recipient shall attempt to comply with the fair share percentages established annually for disadvantaged businesses by the Division and the EPA. A recipient not meeting these goals shall submit evidence of compliance with the affirmative steps identified in NAC 445A.67637.

3. A recipient shall submit with his or her request for approval to award a construction contract, a report of participation by disadvantaged businesses in the form prescribed by the Division. If the low bidder on any construction contract does not meet the fair share requirements for disadvantaged businesses, the recipient shall submit to the Division evidence of compliance by the bidder with the affirmative steps identified in NAC 445A.67637.

4. A recipient shall submit to the Division, in the form prescribed by the Division, a report of participation by disadvantaged businesses following any quarter during which a procurement ~~of \$10,000 or more~~ *equal to the value that is required by federal requirements* is executed for the water project. As used in this subsection, “quarter” means a quarter in the federal fiscal year.

Sec. 36. NAC 445A.67637 is hereby amended to read as follows:

445A.67637 A recipient shall ensure that, if his or her contractor for a water project awards any subcontracts relating to the water project, the contractor *complies with any applicable equivalency requirement of federal law and* takes affirmative steps to ensure that disadvantaged businesses are used to the extent possible as sources of supplies, equipment, construction and services. These affirmative steps must include:

1. Including such businesses on solicitation lists;
2. Ensuring that such businesses are solicited if they are potential sources;
3. Dividing total requirements, if economically feasible, into small tasks or quantities to permit maximum participation by disadvantaged businesses;
4. Establishing a schedule for the delivery of a requirement, if the requirement permits, to allow maximum participation by disadvantaged businesses;
5. Using the list of vendors certified through the federal Disadvantaged Business Enterprise Program, as maintained by the *United States* Department of Transportation, or an equivalent list of such vendors; and
6. Ensuring that all subcontractors for the water project comply with the provisions of subsections 1 to 5, inclusive.