

224A.320 Definitions for KRS 224A.320 to 224A.325 -- Kentucky Water and Wastewater Assistance for Troubled or Economically Restrained Systems (WWATERS) Program -- Purpose -- Duties -- Application for funding -- Evaluation of application -- Annual report.

- (1) As used in KRS 224A.320 to 224A.325:
- (a) "Board" means the Kentucky Infrastructure Authority board established in KRS 224A.030;
 - (b) "Eligible funding recipient" means a public water or wastewater system that meets one (1) or more of the criteria listed in subsection (7)(d)1. to 9. of this section;
 - (c) "Eligible project" means a project that would require capital or non-capital expenses including but not limited to expenses relating to:
 - 1. Developing technical, operational, and maintenance resources and expertise;
 - 2. Improving utility infrastructure planning, repair, maintenance, renovation, and management of plants and assets;
 - 3. Obtaining technical expertise in areas of rate-setting, cost-of-service, and proper utility accounting standards for the utility type;
 - 4. Performing and correcting deficiencies from drinking water, wastewater, and financial audits;
 - 5. Providing financing for financial inadequacies, including debt service coverage through relief or refinance of the drinking water or wastewater system's debt;
 - 6. Providing payment assistance for other financial inadequacies including but not limited to excessive maintenance costs, fines and penalties from past violations, or consultants; and
 - 7. Extending financing for inadequately maintained distribution, collection, or treatment works, including service extensions to unserved or underserved areas and the renovation of treatment works to conserve resources;
 - (d) "Kentucky Water and Wastewater Assistance for Troubled or Economically Restrained Systems Program" or "Kentucky WWATERS Program" means the program established under this section and administered by the Kentucky Infrastructure Authority under the direction of its board; and
 - (e) "Public water or wastewater system" means any of the following that serve a community:
 - 1. A water district, water association, or joint water commission formed under KRS Chapter 74;
 - 2. A sewer district or sanitation district formed under KRS Chapter 67, 76, or 220;
 - 3. A municipal water utility and water works, sewer utility, sewage system or works, or combined electric and water plant formed under KRS Chapter 96; and

4. Any combination of two (2) or more of the entities listed in subparagraphs 1. to 3. of this paragraph.
- (2) The Kentucky WWATERS Program is hereby established under the authority to provide for an orderly process for eligible public water or wastewater systems to apply for funds for eligible projects and for those applications to be evaluated, scored, and presented to the General Assembly for consideration for funding. The administration of the program by the authority, under the direction of the board, includes but is not limited to the following:
 - (a) Creating and making available standardized funding applications and regional funding applications;
 - (b) Verifying the eligibility of proposed funding recipients, including but not limited to engaging in financial reviews of proposed funding recipients to ensure that they will be able to repay the requested amounts;
 - (c) Verifying that the proposed funding recipient seeks money for an eligible project;
 - (d) Awarding funding to selected eligible funding recipients, which shall be accomplished within sixty (60) days of the effective date of legislation enacted by the General Assembly that authorizes and appropriates the funding;
 - (e) Administering the funding and monitoring funding recipients for their success in improving on any of the performance criteria described in subsection (7)(d)1. to 9. of this section;
 - (f) Enforcing compliance with the requirements of this section for eligible funding recipients; and
 - (g) On or before October 1, 2025, and each quarter thereafter, submitting a report on the status of all funding awarded and administered by the authority pursuant to this section and KRS 224A.322 to the Legislative Research Commission for referral to the Interim Joint Committee on Appropriations and Revenue, or to the House and Senate Standing Committees on Appropriations and Revenue when the General Assembly is in session.
 - (3)
 - (a) To participate in the Kentucky WWATERS Program, a funding applicant shall submit an application to the board, which shall include a corrective action plan detailing how the requested funds would be used to address the performance deficiencies that made the applicant eligible for the funding.
 - (b) Funding applications may be shared with third-party independent consultants, state agencies, or special purpose governmental entities in reviewing the funding application as allowed under subsection (4) of this section. Once the application process is complete and the funding application is ready for review, it shall be made available to the public.
 - (c) Funding applicants wishing to engage in a regional project shall submit a single application.
 - (4) The board may contract or consult with a third-party independent consultant, state agencies, or special purpose governmental entities to assist with the funding applicant analysis and scoring described in this section.

- (5) If a funding applicant is selected as an eligible funding recipient approved under the Kentucky (WWATERS) Program, it shall comply with any reporting or other requirements deemed necessary by the authority to verify that the awarded funding goes toward an eligible project and that the funding recipient is making improvements on the performance criteria described in subsection (7)(d)1. to 9. of this section. The eligible funding recipient shall also comply with any internal management and governance procedures that the authority may impose in order to correct any performance deficiencies that gave rise to the need for the requested funds.
- (6) (a) A funding recipient shall forfeit all moneys received pursuant to this section and KRS 224A.322 and all outstanding funding amounts, including accrued interest, shall be immediately due to the authority if the selected funding recipient:
1. Fails to comply with any of the requirements of this section;
 2. Uses the awarded funding for any purpose other than the eligible project for which the funding was awarded; or
 3. Transfers or assigns the obligation to repay the funding amounts to any other entity, including any successor in interest.
- (b) Funding recipients may also forfeit funds and be subject to immediate repayment to the authority of all outstanding funding amounts, including accrued interest, if the authority finds that the recipient has not made adequate improvements on the performance criteria described in subsection (7)(d)1. to 9. of this section.
- (7) In the implementation of the Kentucky WWATERS Program, the board shall:
- (a) Hold at least monthly meetings, which may be in conjunction with regularly scheduled board meetings, to discharge its duties under this section;
 - (b) Determine whether a funding applicant is an eligible funding recipient and is seeking funding for an eligible project;
 - (c) Based on the criteria listed in paragraph (d) of this subsection, develop an objective score card or rubric, which may be amended from time to time, to aid in the analysis and scoring of funding applications;
 - (d) Evaluate and score each funding applicant's project according to the extent to which it meets the following criteria:
 1. The median household income within the service area of the funding applicant is less than the Commonwealth's median household income;
 2. User rates for the public drinking water or wastewater services provided by the funding applicant are at or above one percent (1%) of annual household income for its service area;
 3. The funding applicant has failed to produce a financial statement audit in at least one (1) of the prior three (3) years;
 4. The funding applicant has negative income in any two (2) of the previous five (5) years;
 5. The funding applicant's debt service coverage ratio, calculated by

dividing its annual net operating income by its annual debt payments, was less than one and one-tenth (1.1) in any three (3) of the previous five (5) years;

6. The funding applicant's current accounts payable turnover ratio, calculated by dividing its monthly net credit purchases from suppliers by its average accounts payable balance for the month, is less than one (1);
 7. The funding applicant's current days' sales in accounts receivable ratio, calculated by dividing its monthly accounts receivable by its monthly credit sales value and multiplying the resulting quotient by the number of days in that month, is greater than forty-five (45) days;
 8. The funding applicant has received a notice of violation or has entered into an agreed order as a result of a violation of the requirements of the Safe Drinking Water Act, 42 U.S.C. sec. 300f et seq., or the Clean Water Act, 33 U.S.C. sec. 1251 et seq., in the past year;
 9. The percentage of water loss of the funding applicant's system is greater than thirty percent (30%);
 10. The funding applicant is willing to use the funding for regionalization, consolidation, or partnerships, consistent with the policy stated in KRS 224A.300(1);
 11. The funding applicant, after receiving the funding, will be able to fully resolve the pending issues that are the subject of its application using the funding and other funding sources, if available; and
 12. The funding applicant's proposed project demonstrates a high level of community or regional impact potential if funding is awarded;
- (e) Within sixty (60) days of a funding application being deemed complete under subsection (3)(b) of this section, make determinations on the eligibility of the proposed project and the applicant and issue a project score for the application;
- (f) Provide detailed feedback to all funding applicants within fourteen (14) days of the project score being completed; and
- (g) No later than December 1, 2024, and each December 1 thereafter, submit to the Legislative Research Commission for referral to the Interim Joint Committee on Appropriations and Revenue an annual report containing:
1. The evaluations and scores of the proposed funding recipients for the year to allow for the General Assembly to make the determinations for funding the proposed funding recipients. For each proposed funding recipient that meets the eligibility requirements for funding, the board shall provide a proposal for the structure and the terms of the funding, including but not limited to whether the funding should be awarded in whole or in part as a grant, loan, no-interest loan, or forgivable loan, the repayment terms and interest rates for loans or portions of loans, and any other conditions that the board proposes to be placed on the funding;
 2. A list of all program applicants;
 3. The identity of applicants who did not meet the eligibility requirements

for participation in the program;

4. Trends found in feedback given to applicants who did not meet the eligibility requirements for participation in the program; and
5. Eligible uses of funding cited in the funding applications.

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