

## **200 KAR 17:080. Guidelines for 2020 water service account.**

RELATES TO: KRS 45.031, 224A.011, 224A.112, 224A.300-224A.314

STATUTORY AUTHORITY: KRS 224A.070(1), 224A.113, 224A.300(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224A.070(1) and 224A.113 authorize the Kentucky Infrastructure Authority to promulgate administrative regulations to implement KRS 224A.112. KRS 224A.300(4) requires the authority to promulgate administrative regulations requiring an entity receiving funding to provide specific operational information and updates of its system. This administrative regulation establishes procedures for the application for and provision of financial assistance to governmental agencies and investor-owned utilities for the construction of infrastructure projects from the 2020 water service account of the infrastructure revolving fund.

Section 1. Definitions. (1) "Applicant" means a governmental agency or investor-owned utility that has submitted an application to the authority for a loan or grant from the 2020 water service account.

(2) "Application" means an application submitted by an applicant for a loan or grant from the 2020 water service account.

(3) "Conditional commitment letter" means a letter delivered to the applicant stating the authority's commitment to provide a grant or a loan or a combination thereof under specifications and subject to the satisfaction of certain conditions by the applicant.

(4) "Index" means an index selected by the board of directors at least once annually setting forth interest rates for municipal bonds published by an organization or corporation recognized in the municipal bond market as being a publisher of municipal bond interest rate indices.

(5) "Index rate" means rates of interest published in an index.

(6) "Investor-owned utility" means a partnership, corporation, individual, association, limited liability company or other legal entity:

(a) Not owned, operated or controlled by a governmental agency;

(b) Which owns a water production or distribution facility; and

(c) Which is subject to the jurisdiction of the Public Service Commission of the Commonwealth of Kentucky.

(7) "Kentucky State Clearinghouse" means the project review mechanism, attached to the Department for Local Government, established in KRS 45.031

(8) "Kentucky Uniform System of Accounting" means the elements of a basic accounting system, including a standardized format for an annual budget, a chart of accounts with definitions, and a monthly operating report to system managers established by the authority, which shall be used by a water or wastewater system seeking or using funds of the authority if an alternative accounting system has not been approved by the authority.

(9) "Project" means an infrastructure project, including:

(a) An activity which may involve establishing accounting systems meeting the requirements of KRS 224A.306;

(b) An activity related to establishing a new uniform accounting system for the use of applicants that merge or consolidate their water services;

(c) An activity in connection with water loss audits and leak detection;

(d) Repair or replacement of a distribution facility deemed reasonable by the authority and undertaken as a result a water loss audit;

(e) An activity necessary to regionalize, merge or consolidate water systems and to eliminate structural and administrative duplication;

(f) An action to encourage new projects to provide service to unserved areas and improve service to underserved areas of the state; and

(g) An activity taken by the Kentucky Geological Survey for the purpose of continuing and expanding the identification and study of the water resource potential of underground coal mines and high yield water wells.

(10) "Project priority list" means the list developed by the authority for funding of projects in priority order.

Section 2. Eligible Projects. (1) Funds in the 2020 water service account shall be used to fund projects.

(2) Only projects identified on the authority's project priority list shall be eligible for funding from the 2020 water service account.

Section 3. Applications. (1) Each applicant shall submit one (1) original application to the authority at the address specified in the application.

(2) An application shall be submitted on forms prescribed by the authority, incorporated by reference, and posted on the following Web site: <http://wris.state.ky.us/kia/>. Only a completed application, including all supporting documentation, shall be considered for financial assistance from the 2020 water service account.

Section 4. Project Priority List. (1) The authority shall maintain a project priority list on a continuous basis.

(2) A project shall be ranked using the following criteria:

(a) Number of households served by the project;

(b) Involvement of more than one (1) system in a project;

(c) The median household income of the users of the system or systems to benefit from the project;

(d) The cost per household for the project; and

(e) Identification of the project in an area water management planning council plan.

(3) Projects shall be selected for financial assistance based on:

(a) The level of funding available in the 2020 water service account; and

(b) The position of the project on the project priority list at the time funding is available.

Section 5. Additional Conditions to Project Funding. (1) A water supply and distribution system seeking funding for a project shall:

(a) Submit with the application current information regarding the financial, managerial and technical aspects of its system;

(b) Update the information provided pursuant to paragraph (a) of this subsection, at least once each year; and

(c) Agree, in writing, to adopt and utilize the Kentucky Uniform System of Accounting on or before July 1, 2004, and to charge rates for services based on the actual cost of that service.

(2) Before funds may be disbursed to an applicant whose project has been approved for funding, the applicant shall demonstrate to the authority that the project:

(a) Has been reviewed through the Kentucky State Clearinghouse process; and

(b) Is in compliance with other state and federal requirements.

Section 6. Terms of Financial Assistance. (1) An application for funding shall be:

(a) Subject to financial viability review by authority staff; and

(b) Referred to the board of directors of the authority for final action.

(2) A project may be funded by loans or grants or a combination of loans and grants, as approved by the board of directors of the authority.

(3) Upon approval of an application for funding of a project, the authority shall issue a conditional commitment letter to the applicant setting forth the requirements to be satisfied by the applicant prior to execution of an assistance agreement, including:

- (a) Accounting standards or financial reporting conditions;
- (b) Rate covenants;
- (c) Other federal or state legal requirements relating to the project or the applicant;
- (d) Engineering or technical requirements;
- (e) Receipt of additional funding commitments from other sources; or
- (f) Other relevant requirements.

(4) Financial assistance by the authority shall be made available only upon:

- (a) Execution of an assistance agreement; and
- (b) Satisfaction by the applicant of the conditions set forth in the conditional commitment letter.

(5) A loan shall bear interest payable semiannually, commencing with a date not greater than six (6) months after completion of the project. Principal on a loan shall be payable at least annually over a term not exceeding thirty (30) years, commencing with a date not more than one (1) year after completion of the project.

(6) A grant or loan principal amount may be adjusted by up to ten (10) percent from the principal amount approved by the board of directors without the need for further action by the board if:

- (a) Requested by an applicant; and
- (b) The staff of the authority finds that:

- 1. The additional requested amount is needed for the project; and
- 2. The applicant possesses the requisite creditworthiness to make loan payments when due.

(7) Each loan shall bear interest at a rate to be established by the board at least annually, utilizing an index or indices recognized in the municipal bond market for tax-exempt or taxable obligations of comparable term and tax status to the loans to be funded. The rate or rates shall be established using the following additional guidelines:

(a) The index rates shall be the rates published for the index or indices used in a newspaper or financial journal of recognition in the municipal debt markets;

(b) The loan rates shall be based on a reduction from the published index rates as the board shall determine to be financially reasonable to:

- 1. Promote use of the 2020 water service account for projects; and
- 2. Manage the 2020 water service account for the purposes for which it was established;

and

(c) There shall be one (1) rate for all loans of the same term which do not cause interest on the authority's bonds to become includable in gross income for federal income tax purposes by the recipients of the loans, and another rate for all loans of the same term to be funded by authority bonds, the interest on which is includable in gross income for federal income tax purposes by the recipients of the loans.

Section 7. Incorporation by Reference. (1) "Form KIA-01-02 Uniform Funding Application for Water and Wastewater Projects, 3/2002" is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Infrastructure Authority, 375 Versailles Road, Frankfort, Kentucky 40602, (502)

573-0260, Monday through Friday, 8 a.m. to 4:30 p.m. (28 Ky.R. 2115; Am. 2326; eff. 5-16-2002; Crt eff. 2-28-2020.)