

GEFA Clean Water and Drinking Water State Revolving Fund Program: Complying with the Terms of an ARRA Loan in Georgia

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Webinar Question & Answer Transcript

1. *We had a difficult time finding contact names for cross-cutter reviews. It would be helpful for that information to be distributed.*

We understand that this would be useful for folks to be able to have that information directly, and we'll work on providing that information to everyone.

2. *Do the ARRA GEFA EPD processes accommodate alternate project delivery processes, such as Design Build?*

We've been contending with this issue over time and developed some experience. Generally, yes, it's possible, but there are very specific conditions that must be met. It's best to contact us and discuss your plans with us.

3. *Will there be a change to the GEFA special conditions to include the job payroll information reporting by the contractor, similar to the current MBE/WBE requirements?*

Yes. And as quickly as possible, we'll be providing those special conditions to local governments so they can be included in their bidding documents. We understand that time is of the essence, but we just have to be sure that we cover all the appropriate items in those guidelines. [Post Script – the ARRA Special Conditions and Information (for bidding purposes) are now available from EPD or on [GEFA's website](#)]

4. *Aren't cross-cutter reviews going through GEFA?*

No. Cross-cutter reviews don't go through GEFA, cross-cutter reviews are managed through EPD.

5. *How much time does it take for EPD to review planning documents for green infrastructure projects?*

We don't currently have a lot of experience reviewing these, since they are new types of projects. Some actually have been funded through the SRF before. The most basic point is that all projects funded through the SRF must complete the state environmental review process, so these green infrastructure projects must go through a similar process as a regular construction project. In some cases, issuing a categorical exclusion for green projects may be easier, and in that case they'll be a little faster. But you should expect the review process would be about the same amount of time, perhaps a little bit shorter.

6. *Will expenses necessary to the engineering of the project be reimbursable once funding has been approved?*

Yes. Engineering costs that are necessary and related to a constructed project are reimbursable, once the community has been approved for a loan and those funds have been dispersed to the community.

7. *Can you walk us through how you see a typical project timeline going? I am hearing 45-day turnaround on a formal categorical exclusion, right now, from EPD. If we have a Part 1 and Part 2 in already and have EPD approval, should we go ahead and bid the project?*

This will have to be handled on a case-by-case basis. Typically, in Georgia the environmental review is about a 90-day process. It can be shorter for a categorical exclusion, maybe even as short as 45 days. Once the categorical exclusion is imminent, GEFA can begin the financial underwriting process. But again, that's on a case-by-case basis and you should probably talk to GEFA about the specifics of your project. There are obviously some things you may want to avoid in terms of bidding a project too early.

8. *How long does it take EPD to review the final plans and specifications?*

The answer depends on two main things: 1.) how complete the plans and specifications are, and 2.) on the level of complexity of the project. Another thing to note is that in the new ARRA certificate of readiness process, we do emphasize that **biddable** and **approvable** plans and specifications are submitted to EPD. We do not want to create an incentive for applicants to submit plans and specifications that aren't complete, thinking that this will get them in line faster.

9. *Is it too late for communities to adjust the scope of a project on the priority list?*

We will have to look at this on a case-by-case basis, because it will depend on what is meant by "scope." In some cases, communities have experienced their initial estimate to be too low/high for the price of the project, and GEFA has adjusted those numbers accordingly. However, if by "scope" you mean that the project involves different work than was originally proposed, then the community would need to discuss these changes with GEFA/EPD, so that we can better understand how the project has changed. It should be emphasized that if this is a project where the work that can be covered under one environmental planning document, that has significance in these situations. In general, this is the sort of situation where you should probably contact GEFA to discuss the details.

10. *Can a local government construct a project with its own forces as opposed to contracting the project?*

Yes. Both SRF and the Georgia fund project policies, however, forbid the funding of force account labor. GEFA cannot actually fund the force account labor itself. What GEFA can fund is any materials that are part of the project. The local government would then be required to comply with relevant funding requirements normally handled by a prime contractor, such as Buy American.

11. *Will GEFA begin the financial review process once Dr. Couch signs it, or after the 30 day comment period?*

Historically GEFA has begun the financial review process once a categorical exclusion or a notice of no significant impact (NONSI) has been signed and posted for public review. GEFA will not take the project to its board for approval until there's a final concurrence on the categorical exclusion or the NONSI.

12. *Does the local government get reimbursed if the cost of the project goes up because of unforeseen field conditions?*

The funding is limited by the total amount of the award. So if there is sufficient funding and if there is sufficient contingency then those can certainly be used for change orders that result from unforeseen conditions. But that is limited by the total amount of funding.

13. *What is the earliest expected date for funds to be released?*

The next GEFA board meeting is on May 19th. GEFA expects that there may be between two to four ARRA loans approved at this meeting. The Board then meets monthly to approve loans going forward. In terms of the release of funding as specific from the actual Board approval, generally, the contracting process takes two to four weeks after Board approval. Once the contract has been executed by GEFA and by the local government, the local government is eligible to begin submitting draw-reimbursements and be reimbursed for expenses incurred.

14. *Are the “Buy American” requirements finalized?*

Yes, we have received reliable information from EPA as to what is required for “Buy American.” We cannot release them until they have been reviewed. However, we don’t think the requirements are going to change. One thing to note about “Buy American” is that GEFA and EPD have not employed these types of requirements on any of their projects in the past. Also, EPA does not have experience in handling the waivers to “Buy American.” Some of the questions that will require a “judgment call” GEFA and EPD will get a feel for as they move through the process. There are probably some questions that no one is going to be able to answer definitely until we have gone through the process.

GEFA/EPD will try to take as much of the uncertainty out as possible.

The volume of work is probably going to force some pretty quick decisions on how to employ those requirements. Especially since EPA only has two weeks to give the recipients answers on their requests. [Post Script – the ARRA Special Conditions and Information (for bidding purposes) are now available from EPD or on [GEFA’s website](#)]

15. *Must engineering services follow a formal procurement method in order to be fundable or reimbursable?*

No, that is not required by state law or by GEFA loan contract. It is always a good idea for the owners to be prudent in the way they select the engineering services, but that is not restricted by law or policy.

16. *Will all of the additional requirements apply to a contract that is already bid and awarded?*

Yes, the ARRA requirements, as well as all the State Revolving Fund (SRF) requirements are required by law. The only way for a project to be funded, would be to add those requirements by contract modification. If a project is in the process of bidding, they could be added by addendum. There is no way to get around this.

17. *Who determines DBE percentage participation?*

There are state goals that are based on availability analyses for different types of work and different trades. The state has to report to EPA on how it is going to meet those goals. There is not a percentage set-aside on individual projects. But the contract documents require good faith efforts to include DBEs in the procurement of subcontractors and suppliers. If a contractor makes good faith effort to include them, and solicits participation, then the percentage is based on which suppliers give the contractor the best quote. They are not required to use a sub-contractor that does not give them the best price or is not qualified to do the work. So, these are good faith efforts, not set-aside goals.

18. *Do NAFTA goods meet “Buy American” provisions?*

The determination has been made that for the purposes of these projects the local governments are not subject to exemptions under NAFTA or under other international trade agreements. NAFTA goods do not meet “Buy American” provisions.

The same applies for Canada, Mexico, or any of the international trade organization participants.

19. *Do contractors need to be prequalified?*

No, but it is certainly a useful tool that owners and their representative use. Prequalification requirements are subject to the advertising requirements in the loan contract. And the qualification requirements do need to be consistently applied and objective. They need to be job related. We would generally encourage pre-qualifications under those terms.

[Note: Each contractor should have a DUNS numbers [Post Script - to obtain, go to <http://fedgov.dnb.com/webform>) and have completed the Central Contractor Registration process via <http://www.ccr.gov/Default.aspx>]

20. *When will the certificate of readiness be signed?*

We will ask communities to sign these somewhere around the time of GEFA Board approval. We will have to clarify that as we put it together, but the idea is that this document becomes relevant to a community when GEFA is on the verge of obligating funds to a given community. [Post Script – GEFA has determined that it will require applicants to submit a signed ARRA Certificate of Readiness during the financial underwriting process and that GEFA must receive the signed ARRA Certificate of Readiness before it will take an application to the GEFA board for approval.]

21. *Does the equipment waiver apply to a situation in which the local government has standardized its equipment which is not American?*

There are a number of reasons why specifications are written for particular types of equipment. Sometimes specifications are written on life cycle costs of the equipment, sometimes they are written on compatibility with other equipment at the facility. These seem to be legitimate design criteria. But EPA will make the ultimate decision. At this point, GEFA and EPD do not know, until EPA reviews the request, whether a waiver will be requested will be granted.

22. *Regarding “Buy American,” what if the material is produced outside of the United States, but is assembled in the United States?*

EPA guidance implies that components that come from other places, but are assembled (that is, manufactured) in the United States would qualify. But, you should look at the definitions in the special conditions documents to ensure that you are compliant. [Post Script – EPA is still evaluating the definition of manufacturing with respect to assembly of components that come from other countries.]

23. *What if a local government has higher and mandatory disadvantaged business requirements, can these more stringent requirements substitute for the standard ARRA requirements?*

Yes, more stringent requirements can be applied, as long as we receive the documentation of the efforts that meet the requirements of the loan contract.

24. *Where are the ARRA special conditions?*

They are under review, but will be available via the GEFA website soon. EPD staff will also have these and be able to provide them electronically via email to local governments directly. Also, GEFA will provide these to the stakeholder email list, once they are available. [Post Script – the ARRA Special Conditions and Information (for bidding purposes) are now available from EPD or on [GEFA’s website](#)]