

## **2009 New Jersey Environmental Infrastructure Financing Program Summary**

This program summary has been prepared by the New Jersey Environmental Infrastructure Trust (Trust) and the New Jersey Department of Environmental Protection (Department), which fund and manage the annual New Jersey Environmental Infrastructure Financing Program (NJEIFP). The 2009 NJEIFP consists of the traditional low-interest financing program (Traditional Financing Program) for clean water and drinking water environmental infrastructure improvements, as well as the New Jersey 2009 Recovery and Reinvestment Plan (ARRA Financing Program) in response to federal clean water and drinking water funds received through the American Recovery and Reinvestment Act of 2009 (ARRA).

A. **OVERVIEW – LOAN STRUCTURE.** Both 2009 Traditional Financing Program loans and ARRA Financing Program loans are comprised of State and Trust loan components. Seventy-five percent of the loan in these financing programs will be financed with the State loan component at an annual interest rate of zero percent.<sup>1</sup> Twenty-five percent of the loan in these financing programs will be financed with the Trust loan component at an annual interest rate equal to the Trust's AAA market rate. These two financing programs generally differ in the following respects: (1) the sources of the State loan component in the Traditional Financing Program include federal capitalization grants, State bond issues, State legislative appropriations, loan repayments and interest earnings; and the source of the State loan component in the ARRA Financing Program is limited to ARRA funds; (2) ARRA Financing Program loans (combined State and Trust loan components) shall not exceed \$10 million for any particular borrower;<sup>2</sup> (3) a portion of the State loan component of ARRA Financing Program loans, equal to fifty percent of total ARRA Financing Program funding for a given borrower (i.e., up to \$5 million), shall be subject to principal forgiveness;<sup>3</sup> (4) certain environmental infrastructure activities eligible for financing under the Traditional Financing Program are ineligible for ARRA Financing Program financing; and (5) each Program has a separate methodology utilized to determine a project's funding rank. The Planning and Design Loan Program provides loans to eligible projects seeking temporary financing for engineering services in the preliminary stages of project development at an annual interest rate of zero percent for local government units and small water systems and two-percent for other borrowers.

B. **FUNDING SOURCES.** Funding sources for the 2009 Traditional Financing Program include prior federal capitalization grants, State bond issue proceeds, State legislative appropriations, loan repayments, interest earnings, and Trust market rate loans. Funding sources for the ARRA Financing Program consist of federal ARRA funds, totaling \$203 million, and Trust market rate loans. Approximately \$160 million and \$43 million of ARRA funds will be utilized to fund clean water and drinking water projects respectively. In total, it is estimated that approximately \$214 million in ARRA funds and market rate loans will be available for Clean water project loans and \$57 million for drinking water project loans. Of the \$203 million in total ARRA funding, \$40 million will be utilized to finance green infrastructure and water or energy efficiency improvements or other environmentally innovative activities.

C. **FINANCING PROGRAM DEMAND.** Based upon applications submitted to the Department prior to the application deadline, there are approximately 500 clean water and drinking water projects that are eligible to participate in the Traditional Financing Program this year in the approximate amount of \$2.6 billion in project costs (inclusive of (i) previously funded projects requesting supplemental loans and (ii) land preservation loans), and approximately 168 clean water and drinking water projects that are eligible to participate in the ARRA Financing Program in the approximate amount of \$569 million in project costs.<sup>4</sup> There are approximately 119 ARRA Financing Program clean water projects totaling

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<sup>1</sup> The loan structure for land preservation will be a fifty-percent State loan component at a zero percent annual interest rate, and fifty-percent Trust Loan component at an annual interest rate equal to the Trust's AAA market rate. The loan structure for Supplemental Loans will be consistent with that of the original Program loan.

<sup>2</sup> The State loan component is capped at \$7.5 million and the Trust loan component is capped at \$2.5 million.

<sup>3</sup> Two-thirds of the State loan component of ARRA Financing Program funding is subject to principal forgiveness.

<sup>4</sup> The ARRA Financing Program project amounts for clean water projects reflect the \$7.5 million ARRA Fund loan cap per borrower.

approximately \$455 million and approximately 49 ARRA Financing Program drinking water projects totaling approximately \$114 million eligible for consideration.

D. **LOAN ELIGIBILITY.** There are generally five prerequisites to any borrower's eligibility to receive a Traditional Financing Program or ARRA Financing Program loan for a particular project: (1) identification of the project on a project priority list (signifying project eligibility), (2) the NJEIFP's issuance of project certification, (3) borrower certification demonstrating construction contract award (ARRA Financing Program projects only); (4) availability of funds for the given project, and (5) borrower's satisfaction of loan closing requirements. As discussed herein, a borrower having projects identified in the ARRA Financing Program may be eligible to receive total ARRA Financing Program funding for such projects of up to \$10 million of which \$5 million is subject to principal forgiveness.<sup>5</sup>

1. **Project Priority Lists/Project Eligibility.** The Department will publish in the near future its proposed amended FFY2009 Clean Water State Revolving Fund Priority System, Intended Use Plan (CWSRFIUP), and Project Priority System and proposed amended FFY2009 Drinking Water State Revolving Fund Plans (DWSRFIUP) which will provide a summary of the program parameters as well as project and priority list for the ARRA Financing Program and Traditional Financing Program. A project's inclusion on a project list does not guarantee project funding under either the Traditional or ARRA Financing Program; rather, inclusion in conjunction with identification of Program funds, signifies a project's eligibility to seek financing in the respective financing program in the 2009 Financing Program year. The NJEIFP is also preparing its annual Financing Report to be submitted to the State Legislature in early May that will identify project priority lists and financing program detail. The CWSRFIUP, DWSRFIUP and the May Report will be posted on the njeit.org website and the Department's website.

The Department's receipt of the following administratively complete documents prior to March 16, 2009 is a prerequisite to inclusion of a project on a project priority list: (1) a request to be placed and ranked on a project priority list through submission of project ranking forms; (2) a commitment letter to participate in the FFY 2009 / SFY 2010 funding cycle; (3) environmental planning documents; and (4) design documents and a 2009 State loan application.

a. **Traditional Financing and ARRA Financing Program Clean Water Project List.** The Traditional / ARRA Financing Program clean water project list sets forth all clean water projects eligible to seek financing in the 2009 Traditional Financing and ARRA Financing Programs. Eligible Traditional Financing Program clean water projects are those that have satisfied the March 16, 2009 document submission requirements referenced above, and have been determined by the Department to be engaged in one or more of the following eligible activities: wastewater management, storm water management and nonpoint source pollution control projects, landfill closures, open space land acquisition, brownfield remediation and well sealing. Project rankings have been calculated pursuant to the NJEIFP's traditional ranking methodology (See "Availability of State/ARRA Funds" herein).

The ARRA Financing Program clean water projects satisfy ARRA Financing Program clean water eligibility criteria as follows: (1) satisfaction of the March 16, 2009 document submission requirements set forth above; (2) readiness to proceed (early construction schedule relative to other projects, greatest likelihood that permitting obligations can be satisfied in the shortest time period relative to other projects, and greatest likelihood that environmental review can be completed in the least amount of time relative to other projects); (3) engagement in any of the following eligible activities: wastewater management, storm water management and certain nonpoint source pollution control projects, and well sealing, but excluding

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<sup>5</sup> The source of funds for such loans is the ARRA and no borrower may receive ARRA funds in excess of \$7.5 million regardless of the number of projects it is sponsoring on the ARRA Financing Program Project list. However, a borrower sponsoring multiple projects on the ARRA Financing Program project list may combine the projects to reach the \$7.5 million ARRA cap provided each project individually satisfies the ARRA Financing Program requirements set forth herein.

all emergency projects, conduit loans,<sup>6</sup> mobile storm water/sanitary sewer maintenance equipment, septic system repair or replacement, new systems, storm water/non-point source activities, land preservation, landfill projects (closure, construction, site remediation), Sanitary Sewer/Pump Station Rehabilitation projects, projects receiving federal stimulus funding from other sources, State agency sponsored projects, and supplemental loans; and (4) traditional clean water ranking. In identifying green infrastructure projects, the above eligibility criteria have been utilized, provided, however, that such green infrastructure projects additionally require a Level II environmental planning review as part of the “readiness to proceed” criterion. Note however, in the event the green infrastructure projects utilizing the above criteria are insufficient to exhaust all available funds, the Department may consider the inclusion of some of the otherwise excluded project activities set forth above.

Due to the ARRA requirement that unexpended funds be returned to the federal government, in conjunction with the fact that certain ARRA eligible projects may elect to have their projects bypassed or their projects are bypassed for other reasons by the program, Clean Water projects ranked between 6 and 94 will be given funding priority (fundable range) and projects ranked between 94 through 232 (contingent projects) will be eligible to seek ARRA funding in ranked order only if one or more projects in the fundable range fails to satisfy ARRA funding requirements. A fundable line will be determined for Drinking Water projects after the potential 2009 applications have reaffirmed their commitment for the possible ARRA monies or the traditional program monies by June 1, 2009.

Moreover, the project lists accompanying the Department’s Clean Water and Drinking Water Intended Use Plans, reflect the estimated allowable project costs and the Clean Water and Drinking Water Project lists set forth on the njeit.org website reflect fundable amounts developed in anticipation of legislative appropriation. The legislative appropriation amounts exceed the IUP amount to ensure projects are fully funded in the event of unanticipated events such as cost overruns. The Department’s project lists should be utilized for an identification of project cost estimates.

b. **Traditional Financing and ARRA Financing Program Drinking Water Project List.** The Traditional / ARRA Financing Program drinking water project list sets forth all drinking water projects eligible to seek financing in the 2009 Traditional Financing and ARRA Financing Programs. Eligible Traditional Financing drinking water projects are those that have satisfied the March 16, 2009 document submission requirements referenced above, and have been determined by the Department to be engaged in one or more of the following eligible activities: rehabilitation or development of sources to replace contaminated water sources, treatment and storage facilities, transmission/distribution pipes and appurtenances to prevent contamination or improve water pressure to safe levels, and upgrades to security measures.

The ARRA Financing Program drinking water projects satisfy ARRA Financing Program drinking water eligibility criteria as follows: (1) satisfaction of the March 16, 2009 document submission requirements set forth above; (2) readiness to proceed (relative to other projects, greatest likelihood that permitting obligations can be satisfied in the shortest time period relative to other projects, and greatest likelihood that environmental review can be completed in the least amount of time relative to other projects);<sup>7</sup> (3) engagement in any of the following eligible activities: rehabilitation or development of sources to replace contaminated water sources, treatment and storage facilities and transmission/distribution pipes and appurtenances to prevent contamination or improve water pressure to safe levels, and upgrades to security measures, but excluding projects receiving federal stimulus funding from other sources, State agency sponsored projects, and supplemental loans; and (4) traditional drinking water ranking.

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<sup>6</sup> A “conduit loan”: is defined as any project in which a governmental entity is acting as a project sponsor on behalf of a private entity and such private entity is pursuing the project as a commercial enterprise for profit.

<sup>7</sup> Projects receiving more than 250 water quality priority points and that applied for the necessary permits have been deemed ready to proceed and have been given an opportunity to participate in the ARRA Financing Program subject to the other provisions herein.

2. **Project Certification.** Project certification is issued by the Commissioner of the Department and the Trust upon a project's receipt of all permits and compliance with environmental planning, design, and construction contract document requirements.

3. **Borrower Certification (ARRA Financing Program Only).** A borrower's eligibility to receive a ARRA Financing Program loan with respect to a given project is contingent upon the Department's receipt of a borrower's certification that one hundred percent of the construction contracts with respect to such project have been awarded. As discussed below, the date of receipt of borrower certifications is also utilized to determine funding priority.

4. **Availability of State / ARRA Funds.**

a. **Project Prioritization.** The NJEIFP's project prioritization methodology is the means by which limited funds are distributed among eligible projects. In prior years, the NJEIFP was able to finance all projects that fulfilled Financing Program requirements, regardless of their project ranking, due to the sufficiency of State and federal funds. A project's priority will play a greater role in determining the actual interest rate in the event funding demands exceed supply.

i. **Traditional Financing Program Project Prioritization.** The 2009 Clean Water Traditional Financing Program gives first funding priority to projects that are ready to proceed, then to supplemental projects, then to emergency projects, then to new projects that meet program deadlines in accordance with their rank on the State's Clean Water Project Priority List. Clean Water project ranks are based on the total number of ranking points each project receives under five categories: (1) Local Environmental Enhancement Planning Activities, (2) Project Discharge Categories, (3) Water Use/Water Quality, (4) Smart Growth, and (5) Population.<sup>8</sup> The Drinking Water Traditional Financing Program gives first priority to emergency projects followed by supplemental projects, then to the first 15% of small systems for Drinking Water projects, then to new projects that meet program deadlines in accordance with their rank on the State's Drinking Water Project Priority List. Drinking Water projects are ranked in accordance with criteria associated with public health, compliance, affordability, approved drinking water plans and State planning area designations.<sup>9</sup>

ii. **ARRA Financing Program Project Prioritization.** The NJEIFP will offer ARRA Financing Program loans until all applicable ARRA funds have been depleted. The ARRA requires that preference be given to projects that can be commenced expeditiously and that ARRA funds may be deobligated if the State fails to meet requirements on the use of funds. To avoid potential deobligation, the following funding priority has been adopted for both clean water and drinking water projects: ARRA Financing Program loans are prioritized among eligible projects that have received project certification, based upon the order of the Department's receipt of borrower construction contract certifications. The earlier the Department receives a borrower's construction contract certification, the higher the project's funding priority and the greater the likelihood the project will receive ARRA Financing Program loans.

b. **ARRA Funding Cap.** A maximum of \$7.5 million in ARRA funds may be utilized for ARRA Financing Program project loans for any one borrower, of which up to \$5 million of principal may be forgiven per borrower. No borrower may receive ARRA funds in excess of \$7.5 million regardless of the number of projects identified as eligible to seek ARRA financing on the Project list that a borrower is undertaking. Such maximum ARRA funding will be accompanied by a Trust Loan in the maximum amount of \$2.5 million. The portion of an ARRA Financing Program clean water project's eligible costs in excess of \$10 million will be fundable under the Traditional Financing Program based on its readiness

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<sup>8</sup> A discussion of the methodology and criteria are set forth in the Department's amended FFY2009 Clean Water State Revolving Fund Priority System, Intended Use Plan, and Project Priority System.

<sup>9</sup> A discussion of the methodology and criteria set forth in the Department's amended FFY2009 Drinking Water State Revolving Fund Priority System, Intended Use Plan, and Project Priority System.

to proceed.<sup>10</sup> The portion of an ARRA Financing program drinking water project's eligible costs in excess of \$10 million will be fundable under the Traditional Financing Program based on its water quality ranking.

c. **ARRA / State Funding Shortfall.** Four scenarios have been identified in which shortfalls in State or ARRA funds will require deviation from the 2009 Traditional Financing Program or ARRA Financing Program loan structures as described above: (1) if all available State funds have been exhausted under the Traditional Financing Program, (2) if available State funds have been exhausted in the Traditional Financing Program's fund established to finance redevelopment conduit projects (Redevelopment Fund), (3) if the eligible costs of one or more ARRA Financing Program projects for any one borrower exceed \$10 million, and (4) when all available ARRA funds have been exhausted under the ARRA Financing Program.

i. If a project has been certified but there are insufficient State Fund loan resources to finance the project under the Traditional Financing Program, the Trust loan component can be increased (thereby increasing the interest rate) to fund all eligible costs.

ii. The Redevelopment Fund established in 2007 provides Traditional Financing Program Fund loans to redevelopment projects which are not secured by a municipal general obligation guarantee. The Redevelopment Fund provides \$25 million per year for such Fund loans. If such a redevelopment project is certified and there are insufficient funds in the Redevelopment Fund to finance eligible costs, the Trust loan component will be increased (thereby increasing the interest rate) to fund all eligible costs. There is a \$15 million cap on total Fund loan funding that may be provided to any one borrower for any such redevelopment project.

iii. A borrower whose ARRA Financing Program eligible project costs exceed \$10 million may seek funding under the Traditional Financing Clean Water Program or Traditional Financing Drinking Water Program based on readiness to proceed and traditional project ranking, respectively.

iv. If all ARRA funds have been exhausted, a certified project will be financed under the Clean Water or Drinking Water Traditional Financing Program on the basis of readiness to proceed and traditional project, rankings respectively. Regardless of funding priority, if there are insufficient State funds to finance the excess eligible project costs under the Clean Water or Drinking Water Traditional Financing Program, the loan structure can be modified to increase the Trust loan component to fund all eligible costs.

Clean Water projects that are competing for ARRA Financing Program funding that fail to secure same due to the insufficiency of ARRA funding or project costs in excess of \$10 million for any one borrower, and subsequently are placed in the Traditional Financing Program, have a high degree of certainty as to the operative loan structure due to the Clean Water Program's adoption of "readiness to proceed" as the highest ranking criteria for all projects participating in the 2009 Traditional Financing Program.

Drinking Water projects that are competing for ARRA Financing Program funding that fail to secure same due to the insufficiency of ARRA funding or project costs in excess of \$10 million for any one borrower, and subsequently are placed in the Traditional Financing Program, have a lower degree of certainty as to the ultimate loan structure due to the Drinking Water Program's application of traditional project ranking methodology for all projects participating in the 2009 Traditional Financing Program.

5. **Satisfaction of Loan Closing Requirements.** The final prerequisite to loan eligibility is a project's compliance with the loan closing requirements. Although the actual requirements typically vary by type of applicant (municipal, authority or public/private water utility), applicant obligations

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<sup>10</sup> As a result, such projects will receive a blended ARRA Financing Program and Traditional Financing Program loan rate.

generally include but are not limited to completion of a financial addendum form, passage of an authorizing resolution, reimbursement resolution and bond resolution, securing Local Finance Board or Board of Public Utilities approval (as applicable), and agreement to the terms of the NJEIFP's loan closing documents, including bond covenants, project drawdown, continuing disclosure and numerous other document provisions to demonstrate the borrower's ability to repay the loan and satisfy the Financing Program's credit worthiness standards.

**E. FINANCING PROGRAM**

**1. Loan Structure / Sources of Funds.**

a. **Traditional Financing Program.** The interest rate charged on a loan from the Traditional Financing Program in 2009 is a blended rate from two funding components. For Traditional Financing Program projects, other than land preservation and supplemental loans, the structure is as follows: (i) three quarters of each project financing is an interest-free Fund loan administered by the Department; and (ii) one-quarter of each project financing is a market-rate loan from the Trust, which will sell its AAA-rated tax exempt bonds for the purpose of funding such Trust loans. For Traditional Financing Program land preservation projects, the structure is as follows: (i) one-half of each project financing is an interest-free Fund loan and (ii) one-half of each project financing is a market-rate loan from the Trust. For Traditional Financing Program supplemental loan projects, the loan structure mirrors that of the project's original NJEIFP loan.

i. **Sources of Funds - Traditional Financing Program.** Funding for a participant's environmental infrastructure project, with the exception of land preservation and supplemental loans, within the 2009 Traditional Financing Program may be a combination of the following four sources: (i) a Trust loan at market rate to finance approximately 25% of the allowable cost of the project; (ii) Fund loan at zero-interest for approximately 75% of the allowable cost of a project; (iii) an equity contribution and/or financing (outside NJEIFP financing sources) by the borrowers for the unallowable costs of the project and for allowable costs which exceed the financial assistance provided by the Traditional Financing Program; and (iv) other State and Federal grant programs.

ii. **Sources of Funds - Traditional Financing Program – Land Preservation and Supplemental Loans.** Funding for land preservation and supplemental loans within the 2009 Traditional Financing Program may be a combination of the following sources: (i) a Trust loan at market rates to finance approximately 50% of the allowable cost of the project (or with respect to Supplemental Loans for which the original loan was financed through the State's Smart Growth Program, 25%); (ii) a Fund loan at zero-interest for approximately 50% of the allowable cost of the project (or with regard to Supplemental Loans for which the original loan was financed through the State's Smart Growth Program, 75%); (iii) an equity contribution and/or financing (outside the NJEIFP financing sources) by the borrowers for the unallowable costs of the project and for allowable costs which exceed the financial assistance provided by the Traditional Financing Program; (iv) Green Acres Program grants and/or loans for land acquisition projects; and (v) other State and Federal grant programs.

b. **ARRA Financing Program.** ARRA Financing Program loans are structured as follows: Three quarters of the financing consists of an interest-free, Department administered, ARRA Fund loan. One-quarter of the financing is a market-rate loan from the Trust at its AAA-rated tax exempt rate. Within the first year of the making of the Fund loan and upon satisfaction of certain conditions precedent, the Department will forgive the principal repayment obligation with respect to a portion of the Fund loan representing 50% of the overall ARRA Financing Program funding package (exclusive of fees). As previously discussed, there is a \$7.5 million cap on ARRA Fund loan funding for each borrower and, therefore, a cap of \$2.5 million on ARRA Financing Program Trust loan funding for each Borrower, with a limit of \$5 million on Fund loan principal forgiveness.

i. **Sources of Funds – ARRA Financing Program.** Funding for a participant's environmental infrastructure project within the ARRA Financing Program in 2009 may be a combination of the following sources: (i) a Trust loan at market rates to finance approximately 25% of the allowable cost of the project; (ii) a Fund loan at zero-interest for approximately 75% of the allowable cost, subject to forgiveness by the Department of the principal repayment obligation with respect to a portion of the Fund loan representing 50% of the overall ARRA Financing Program funding package

(exclusive of fees), such forgiveness being expected to occur within the first year of the making of the Fund loan and upon satisfaction of certain conditions precedent; (iii) an equity contribution and/or financing (outside NJEIFP financing sources) by the borrowers for the unallowable costs of the project and for allowable costs which exceed the financial assistance provided by the ARRA Financing Program and the Traditional Financing Program; and (iv) other Federal and State grant programs with the exception of the ARRA.

2. **Financing Schedule.** Formal loan applications were required to be received on March 16, 2009 and the submission deadline for Financial Addenda for ARRA Financing Program projects and supplemental loans is May 29, 2009 and for Traditional Financing Program projects is August 17, 2009. The structure of the 2009 financing schedule has been modified to expedite the approval of ARRA Financing Program projects and ensure the timely financing of projects within the Traditional Financing Program. A detailed financing schedule will be published in the near future.

a. **Traditional Financing Program.** The following projects will be considered for financing under the Traditional Financing Program: (1) projects on the project list for which there are no ARRA funds identified; (2) those portions of a project of a given borrower for which ARRA funds are identified that receive NJEIFP certification in excess of \$10 million; and (3) projects for which ARRA funds are identified that receive NJEIFP certification but for which there are insufficient ARRA funds to finance such projects.

The Department will finalize its certification of Traditional Financing Program projects (conditional or final) by October 15 and submit such certifications to the Trust. (Note: Failure of the project sponsor to satisfy any conditions of the certification prior to escrow closing will result in the project sponsor being ineligible for loan award in the financing cycle.) It is further expected that the Trust will approve these certified projects for funding through the Traditional Financing Program in the fall of 2009. The financing schedule calls for Traditional Financing Program participants to close in escrow their loan agreements, and deliver in escrow their bonds or collateral evidencing the loans, during the last two weeks of October and first week of November, 2009. The Trust will then sell its bonds to finance the Trust loans. It is anticipated that the Trust bond sale will occur in late-fall of 2009. The Trust may establish an alternate financing schedule for Traditional Financing Program projects and/or private solid waste/ brownfield remediation projects if deemed necessary.

b. **ARRA Financing Program.** The Department is focusing its resources on the review and approval of projects on the project lists for which ARRA funds are identified to ensure that the project reviews can be expedited to spur construction and economic activity. The Department will certify projects (conditional or final) beginning in May and submit such certifications to the Trust. The Trust anticipates approving these certified projects for funding in the summer of 2009. Upon receipt of certification, projects may obtain interim financing upon compliance with NJEIFP loan requirements.

A certified project will proceed to procure construction bids and award the construction contracts prior to the receipt of funds from the ARRA Financing Program. Upon the Department's receipt of a borrower's construction contract award certification, the project will be eligible to receive an ARRA Financing Program Fund loan (subject to the restrictions set forth in the Availability of Funds discussion above), and thereafter a Trust loan. Any ARRA Financing Program borrower having project costs less than \$10 million is eligible to seek ARRA Financing Program loan and borrowers that have exhausted their \$7.5 million ARRA allotment but have additional ARRA Financing Program project costs are eligible to seek financing pursuant to the terms of the Clean Water or Drinking Water Traditional Financing Program. The NJEIFP will cease making ARRA Financing Program loans upon the exhaustion of all available ARRA funds. Eligible borrowers providing construction award certification after exhaustion of ARRA funds may seek financing pursuant to the terms of the Clean Water or Drinking Water Traditional Financing Program.

ARRA Financing Program participants are anticipated to receive permanent ARRA Fund loan financing prior to the first construction loan disbursement set forth in the borrower's project drawdown schedule or February 1 whichever is sooner. In the event the project drawdown schedule requires disbursement of funds in excess of the Fund loan and prior to the closing with respect to the Trust loan, interim financing from the Trust will close separately from or simultaneous with the ARRA Fund loan financing. Permanent financing of the Trust loan is expected to occur in the fall of 2009.

3. **Interim Financing Program.** The Interim Financing Program was introduced in 2004 to provide financing for projects satisfying the NJEIFP's administrative, technical, environmental and permitting requirements. Only projects eligible to receive funding in the current Financing Program year and that have received pre-award approval and project certification are eligible for Interim Loans. Projects receiving Interim Loans receive loan disbursements consistent with the project's draw down schedule until long-term loan closing. Monies provided by the Trust come from the Interim finance account, and other Trust sources such as interest earnings.

a. **Pre-Award Approval Pre-Requisite.** Projects having satisfied all Financing Program and permitting requirements may receive pre-award approval, which enables a project to commence construction activities for which it will be eligible for reimbursement from Financing Program sources. Conversely, any construction activities (including procurement) commenced prior to pre-award approval are ineligible for funding. To maintain the eligibility of such costs, project planning (including the issuance and expiration of an Environmental Assessment prepared by the Department) and design and contract documents (including issuance of authorization to advertise and award contracts for which reimbursement is sought) must be reviewed and approved by the Municipal Finance and Construction Element. Further, all permits and approvals for the construction of the project must be secured. No more than one-half of soft costs may be disbursed in an Interim Financing Loan.

b. **Pre-award Approval Through Emergency Declaration.** The NJEIFP recognizes that environmental infrastructure emergencies may occur that endanger public health and welfare, and can result in substantial environmental damage. Such circumstances require an immediate response for which a complete technical and environmental review in advance of construction is not possible. The Department has developed a process to respond rapidly to emergencies by obtaining basic project information, making an eligibility determination and issuing a pre-award approval so that owners/operators can undertake the needed repairs and maintain eligibility for those expenditures through the NJEIFP.

Qualifying emergency conditions are limited to those where failure has occurred or where failure is imminent and, unless corrected, will result in substantial pollution of the environment (such as collapse of a wastewater line) and/or substantial curtailment of the functions of the infrastructure.

4. **Additional Structural Considerations.** With respect to its bonds to be issued for the purpose of funding Trust loans for borrowers participating in the Traditional Financing Program and the ARRA Financing Program, the Trust will consider various structural features to the extent such structural features will serve the best interests of the NJEIFP and will provide additional savings for borrowers. For example, ARRA provides various structural opportunities, including Build America Bonds that provide a taxable credit bond alternative to traditional tax-exempt bonds.