Environmental Protection Agency

§ 35.3560 General payment and cash draw rules.

(a) Payment schedule. A State will receive each capitalization grant payment in the form of an increase to the ceiling of funds available through the ACH, made in accordance with a payment schedule negotiated between EPA and the State. A payment schedule that is based on a State's projection of binding commitments and use of set-aside funds as stated in the IUP must be included in the capitalization grant agreement. Changes to the payment schedule must be made through an amendment to the grant agreement.

(b) Timing of payments. All payments to a State will be made by the earlier of 8 quarters after the capitalization grant is awarded or 12 quarters after funds are allotted to a State.

(c) Funds available for cash draw. Cash draws will be available only up to the amount of payments that have been made to a State.

(d) Amending the IUP. The priority lists of projects may be amended during the year under provisions established in the IUP as long as additions or other substantive changes to the lists, except projects funded on an emergency basis, go through a public review process. A State may change the use of funds from what was originally described in the IUP as long as substantive changes go through a public review process.

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§ 35.3565 Specific cash draw rules for authorized types of assistance from the Fund.

A State may draw cash for the authorized types of assistance from the Fund described in § 35.3525 according to the following rules:

(a) Loans—(1) Eligible project costs. A State may draw cash based on the proportionate Federal share of incurred project costs. In the case of incurred planning and design and associated pre-project costs, cash may be drawn immediately upon execution of the loan agreement.

(2) Eligible project reimbursement costs. A State may draw cash to reimburse assistance recipients for eligible project costs at a rate no greater than equal amounts over the maximum number of quarters that capitalization grant payments are made. A State may immediately draw cash for up to 5 percent of each fiscal year’s capitalization grant or 2 million dollars, whichever is greater, to reimburse project costs.

(b) Refinance or purchase of local debt obligations—(1) Completed projects. A State may draw cash up to the portion of the capitalization grant committed to the refinancing or purchase of local debt obligations of municipal, intermunicipal, or interstate agencies at a rate no greater than equal amounts over the maximum number of quarters that capitalization grant payments are made. A State may immediately draw cash for up to 5 percent of each fiscal year’s capitalization grant or 2 million dollars, whichever is greater, to refinance or purchase local debt.

(2) Portions of projects not completed. A State may draw cash based on the proportionate Federal share of incurred project costs according to the rule for loans in paragraph (a)(1) of this section.

(3) Purchase of incremental disbursement bonds from local governments. A State may draw cash based on a schedule that coincides with the rate at which costs are expected to be incurred for the project.

(c) Purchase insurance for local debt obligations. A State may draw cash for the proportionate Federal share of insurance premiums as they are due.

(d) Guarantee for local debt obligations—(1) In the event of default. In the event of imminent default in debt service payments on a guaranteed local debt, a State may draw cash immediately up to the total amount of the capitalization grant that is dedicated for the guarantee. If a balance remains after the default is satisfied, the State must negotiate a revised cash draw schedule for the remaining amount dedicated for the guarantee.

(2) In the absence of default. A State may draw cash up to the amount of the capitalization grant dedicated for the guarantee based on actual incurred project costs. The amount of the cash draw would be based on the proportionate Federal share of incurred project costs multiplied by the ratio of the guarantee reserve to the amount guaranteed.

(e) Revenue or security for Fund debt obligations (leveraging)—(1) In the event of default. In the event of imminent default in debt service payments on a secured debt, a State may draw cash immediately up to the total amount of the capitalization grant that is dedicated for the security. If a balance remains after the default is satisfied, the State must negotiate a revised schedule for the remaining amount dedicated for the security.

(2) In the absence of default. A State may draw cash up to the amount of the capitalization grant dedicated for the security using either of the following methods:

§ 35.3565 Specific cash draw rules for authorized types of assistance from the Fund.