American Recovery & Reinvestment Act

The Green Project Reserve

June 22, 2009

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The information included in this document serves to restate and correct guidance provided by the SRFs on March 2, 2009. This document contains two sections (I.) guiding principles for developing a business case in order to assert that a project is eligible for the 20% Green Project Reserve (GPR), and (II.) questions and answers on whether or not projects are eligible for the 20% GPR.

I. Principles and approach to developing a Business Case for water and energy efficiency projects

A. Energy and water efficiency projects should demonstrate substantial benefits/savings compared to the existing equipment

B. Water and energy efficiency benefits/savings must be a substantial part of the rationale or justification for the project, and cannot simply be incidental water and/or energy efficiency benefits

C. Technical component of a business case: Using information from maintenance or operations records, engineering studies, project plans, etc.

1. that identify problems (including any data on water and/or energy inefficiencies) in the existing facility
2. that clarify the technical benefits from the project in water and/or energy efficiency terms

D. Financial component of a business case:

1. Estimate cost and water savings from the project based on the technical analysis of benefits.
2. Determine, within total project costs, that savings associated with energy and water efficiency improvements comprise a substantial part of financial justification for project.

II. Questions & Answers on ARRA GPR (GPR)

Some Questions and Answers (Q&A) are applicable to only one of the State Revolving Fund Programs (SRFs). These Q&As will be indicated by the use of CWSRF for the Clean Water program and DWSRF for the Drinking Water program. If one is not specified, then the Q&A applies to both SRFs.

A. Water Efficiency

1. [CWSRF] Does "hydromodification for riparian buffers" described in the CWSRF ARRA guidance include the establishment of riparian buffers and bioengineered streambank protection practices?
Yes. Vegetated riparian buffers or soft bioengineered streambanks are eligible, but hardening of streambanks to prevent erosion is not eligible for GPR.

2. [CWSRF] Can the CWSRF fund water efficiency retrofits on private property?
Water efficient fixtures for use on private property can be funded by the CWSRF in certain circumstances. The fixtures can be privately owned if the project is implementing a Comprehensive Conservation Management Plan for one of the National Estuaries. Additionally, the fixtures can be purchased for use on private property if the ownership of the fixtures remains with a public entity.

3. [DWSRF] Can the DWSRF fund water efficient fixtures?
Yes. Many water efficient projects identified in Tracy Mehan's memo (at http://www.epa.gov/safewater/dwsrf/policymemos.html, DWSRF 03-03, issued 7/25/03), such as the installation or retrofit of water efficient devices, are eligible for DWSRF loan assistance. Specific examples mentioned include plumbing fixtures and appliances.

4. What are examples of water efficient fixtures?
Water efficient fixtures include low flow shower heads, toilets, and other plumbing devices designed to use less water.

5. Does leak detection equipment qualify for the GPR?
Yes, in general. Leak detection equipment is categorically eligible for the GPR of both the CW and DW SRFs, unless it is associated primarily with a project that is ineligible under ARRA section 1604. See IV.A. 2. k. of ARRA SRF Guidance of March 2, 2009, and Q&A 8 below in this section.

6. [CWSRF] Are the extra treatment costs and effluent distribution pipes associated with effluent reuse project eligible for the CWSRF GPR?
Yes. Extra treatment costs and distribution pipes associated with water reuse are categorically eligible for the GPR.

7. [DWSRF] Are water line replacement projects (i.e. replacing leaking pipes) eligible for the GPR?
Some water line replacement projects may be considered eligible under the GPR if they make a sufficient business case for their efficiency benefits. This business case should provide specific data documenting water loss (at minimum, system-wide, or more localized data if available), should identify the length, C-values, pipe material, diameter, and provide a general description of position within system, of pipes being rehabilitated/replaced, and should document that the pipes to be replaced are the primary source of water loss (if such data is available). At

minimum, the business case should provide specific information on the basis for rehabilitation/replacement of the pipes covered in the project, such as pipe age and type, and any relevant break repair or other maintenance records. This information should give a reasonable basis to expect that the pipes proposed for replacement are likely to generate the largest return in leak reduction for the size of the project. Thus, a pipe replacement project based essentially on useful life assessments, without more, would not be eligible. Finally, if energy efficiency is relevant to project qualification as "green", the business case should provide any available documentation regarding expected increases in energy efficiency As explained in Attachments to EPA's ARRA Guidance, for such traditional projects as pipe replacement, the state will have to document the business case in the project file to demonstrate the substantial (not incidental) water or energy efficiency benefits of the project in order to qualify the project or eligible portion to use GPR funding.

8. Is water sensing technology or a grey water distribution system for a golf course eligible for ARRA funding as a qualified green, water efficiency project?

If the entirety of the project is the water sensing technology for the golf course then it is clearly ineligible under ARRA section 1604, apart from any question of whether or not it qualifies as green. A project that includes a purpose that is ineligible under ARRA Section 1604 may nonetheless be funded by ARRA if the project serves all or a part of a water infrastructure system (Drinking or Clean Water) that is not largely composed of the ineligible purpose (a casino, golf course, swimming pool, etc. under 1604). In such a case, the project would not be considered "for" the ineligible purpose but is serving that purpose along with numerous other ARRA-eligible customers of the system. The project would be ineligible under section 1604 if an ineligible purpose was the principal user of the project. (There may be a limited exception for a tribal project that provides new access to water or wastewater services to a significant and identifiable portion of a tribal community, even if the project that serves, e.g., a tribal casino).

If the entire project is for the golf course, that is ineligible for ARRA assistance under section 1604, and would be ineligible even if the golf course were to be one of several otherwise-eligible facilities getting this technology from the CWS, because the benefit from each facility served is independently effective.

However, a project to install a grey water distribution system that serves one golf course among numerous large, eligible facilities would be eligible for ARRA funding under the CWSRF and would qualify for the Green Reserve, where most of the length of the system installed is needed to serve all the customers. The reason this project would be eligible but the sensing technology would not be is that a project to install separately functional equipment at each facility could omit the golf course and the remaining project would not change the effectiveness of the project as installed on eligible facilities.

The underlying premise of the green reserve is that projects need to be eligible under the respective SRF as a precondition to deciding whether you can count them towards the GPR 20%, and section 1604 adds new eligibility limitations for purposes of ARRA.

9. [DWSRF] Are all projects to install water meters categorically green?
A project for the installation of water meters in an area with previously unmetered connections in a water system is categorically green, with the simple caveat that such projects would also need to include a commitment by the PWS to bill a metered rate based on consumption. This may appear to be unnecessary to specify, as ordinarily utilities would have little incentive to pay for meters and then obtain no water conservation or revenue benefits from them. It is restated here because EPA has received inquiries on this question, and as it is in fact an operating precondition to obtaining water supply benefits from meters, 100% grant funding of projects is permitted in ARRA, and because the green reserve and the 12 month contract deadlines are new requirements in the SRF programs.

A project that proposes to replace existing water meters with newer water meters is not categorically green, and a business case is required to identify and document briefly any water and/or energy efficiency improvements from such replacement. Because a metered system would have already seen its water conservation benefits, installing new water meters would not affect the water efficiency of the system, unless the system can demonstrate that the existing water meters are substantially malfunctioning as part of a business case. Projects to replace existing water meters with automated meter reading systems also require a business case, and such business cases can be based on water conservation benefits of replacing substantially malfunctioning existing meters and or energy savings associated with reduced energy use for transportation of employees to manually read meters.

B. <u>Energy Efficiency</u>

1. [CWSRF] What energy efficient wastewater treatment process projects qualify for the GPR?
We expect communities to select the most cost effective wastewater treatment projects when pursuing centralized wastewater management. Often, the most cost effective project is also the most energy efficient project. Consequently, new centralized wastewater treatment processes are not eligible for the GPR. If a community is changing its current wastewater treatment process to something significantly more energy efficient, they may justify the project for the GPR based upon a business case that identifies substantial energy savings.

2. [CWSRF] Do wastewater pump system improvements or replacements count towards the CWSRF GPR?
Yes. Wastewater pump system improvements or replacements are categorically eligible for the GPR if these changes achieve a 20% net energy reduction. If the project does not achieve the 20% net energy reduction, then a business case must show substantial energy savings. See the sample business case on wastewater pumping projects available at www.epa.gov/water/eparecovery.

3. [DWSRF] What pumping system efficiency is required for a project to qualify for the DWSRF Green Project Reserve?
A: An energy efficiency savings of 20% or greater will be considered categorically green. Any energy efficiency savings below 20% could still count toward the GPR; however, a business case would be required. To view example business cases, see the EPA recovery website (http://www.epa.gov/water/eparecovery/docs/2009_09_25_DWSRF_GPR_Business_Case_Examples.pdf). At minimum, the business case should provide specific information for the pumps and equipment selected, including manufacturer, make, and model of key components, and documentation of the energy efficiency specifications for proposed equipment.

Energy efficiency can be calculated by comparing the proposed new pump and motor efficiency to the existing equipment. However, the value used for the existing equipment should be a measured or estimated value based on how the pumping system is currently operating, not on the rated efficiency from when the pump was first installed.

Business cases for projects specifically designed to improve the operational efficiency of a pump station to improve overall hydraulic conditions in the distribution system will also be considered. For example, if a pump station is no longer operating at the same hydraulic grade line as the rest of the pump stations in that same pressure zone, then energy savings can be achieved by replacing those pumps with ones properly designed for the existing conditions. The business case must include adequate documentation, such as direct reference to a preliminary engineering report or other planning document, of the reasons for upgrading the pump station, as well as what the estimated energy savings are from doing so.

4. Do Variable Frequency Drives (VFDs) qualify under the DWSRF GPR?
Yes, under certain conditions of use. Many water system motors, especially older ones, turn at nearly constant speed. However, much of the time pumps operate at less than maximum design speed. Installing a VFD will generally increase/reduce pump activity proportionally to increased/reduced flows. Such an upgrade could generate significant energy savings, especially for utilities that experience great changes in flow.

VFDs will be considered categorically green provided that certain conditions of installation and use, needed to ensure that they are always efficient, are met. Note that this means that the project must provide adequate assurances or commitment to meet those conditions for the project to be green, but that a business case is not required. Some VFDs can be manually bypassed, such as in an emergency situation, making it possible to operate the pump without realizing the energy savings made possible by the VFD. This is appropriate for temporary situations, but energy savings are not realized if the VFD is left in bypass mode. Because VFDs must be operated properly in order to achieve "green" savings, GPR qualification must include (1) adequate training for the utility's staff which operates this equipment (consistent with current operator certification requirements), and (2) integration of current limiting and auto restart features into VFDs and ensuring the controls are intuitive.

5. [CWSRF] Do projects that improve the energy efficiency of wastewater aeration systems count towards the CWSRF GPR?
Yes. Aeration system improvements or replacements are categorically eligible for the GPR if these changes achieve a 20% net energy reduction. If the project does not achieve the 20% net energy reduction, then a business case must show substantial energy savings

6. [CWSRF] Are projects that improve the energy efficiency of solids treatment (i.e. sludge dryers and incinerators, improved anaerobic digestion systems) and handling (i.e. chemicals like lime, fly ash, and other alkaline materials) eligible for the GPR?
Yes. Solids treatment improvements are categorically eligible for the GPR if these changes achieve a 20% net energy reduction. If the project does not achieve the 20% net energy reduction, then a business case must show substantial energy savings.

7. [CWSRF] Will sewer collection infiltration and inflow pipe repair and replacement projects qualify for the GPR?
No. Most sewer infiltration and inflow pipe repair and replacement projects do not qualify for the GPR. Extreme examples, such as where the pipe is under water, may be justified based upon a business case that identifies substantial energy savings.

8. [CWSRF] Does the repair or replacement of leaky wastewater effluent reuse distribution pipes count towards the CWSRF GPR?
Yes. Based upon a business case that identifies substantial energy savings from the repair of effluent reuse distribution pipes.

9. [CWSRF] Do energy audits qualify for the CWSRF GPR?
Yes. Energy audits for a POTW are categorically eligible for the CWSRF GPR. Visit www.doe.gov for more information on energy audits.

10. [DWSRF] Do energy audits qualify for the DWSRF GPR?
Yes. Under the DWSRF, energy audits are categorically eligible if they are required as a condition of assistance or if they are reasonably likely to result in a capital project (see EPA March 3 SRF ARRA Guidance, Attachment 8). An energy audit is performed with the expectation that it will reveal ways to reduce energy use at water utilities. "[P]lanning and design activities for energy efficiency projects that are reasonably expected to result in a capital project" qualify for the GPR. Such audits may be funded as projects for planning and design under the Fund, or from those set-asides for technical assistance that are authorized under ARRA

11. [DWSRF] Do water audits qualify for the DWSRF GPR?
Yes. Under the DWSRF, water conservation plans or water audits are categorically eligible if they are required as a condition of assistance or if they are reasonably likely to result in a capital project (see EPA March 3 SRF ARRA Guidance, Attachment 8). A water audit is performed with the expectation that it will reveal leaks, malfunctioning valves, or other unaccounted water losses. Considering the widespread need to rehabilitate or replace aging and often leaky transmission and distribution pipes across the US, water audits can be expected to demonstrate ways to improve the 'water efficiency' objectives of ARRA SRF funding. "[P]lanning and design activities for water efficiency projects that are reasonably expected to result in a capital project" qualify for the GPR. Such audits may be funded as projects for planning and design under the Fund, or from those set-asides for technical assistance that are authorized under ARRA

12. Would Supervisory Control and Data Acquisition (SCADA) be eligible for the GPR?
Yes. If a business case for the system identifies substantial energy efficiency improvements.

13. [CWSRF] Do projects that generate energy from biosolids count towards the GPR?
Yes. Projects that generate energy from biosolids are categorically eligible.

[Q&A moved to Q5, "Environmentally Innovative Projects"]

14. Would the purchase of hybrid vehicles for water and sewer fleets be eligible for the GPR?
If these vehicles are necessary to the treatment system, then they may qualify for the GPR based upon a business case that identifies significant energy efficiency improvements for the activities of the system served by the fleet vehicles.

15. Can we use the funding to support the government power utility's renewable energy projects in return for energy credits for our facilities?

A treatment plant can receive SRF assistance for clean energy projects that generate power for the plant. If a publicly owned clean energy facility provides a portion of its energy to the plant, then that portion of the capital costs can be funded by the SRF. There is not enough information on the nature of the energy credits to determine specifically how the credit works into the scenario described above.

16. [CWSRF] Would a land application system with discharge to the groundwater be considered a green technology based on recycling wastewater and groundwater recharge?
Yes. Wastewater recycling and groundwater recharge projects are categorically eligible.

17. [DWSRF] Are projects that propose to install turbines/hydrogenerators in pipelines in order to produce clean energy categorically green if the treatment works will directly use the clean energy to power various components of their plants? Are they green if the clean energy will all go back on the grid?
All of these projects are categorically green. Because the turbines are within the transmission system of the system, that should be sufficient also to ensure the basic eligibility of the project for SRF funding, regardless of the end use of the energy.

There is increasing potential to have other renewable energy generation (solar and wind) associated with water infrastructure facilities. In the DWSRF, such projects are eligible if their power goes in whole or part into the water system, at least with a connection for backup power. However, DWSRF eligibility of such other renewable projects may be questionable if all the power goes into the grid and there is no potential to use it as backup power, because unlike turbines within the system's pipes, detached wind or solar generation isn't part of the system proper. In such cases, it would be important to have electrical transmission available to enable the system to use at least some of the power as backup power if necessary. This may over time enable a system with traditional carbon-fueled backup generators to phase them out with renewable backup power.

C. Green Infrastructure

1. [CWSRF] Are street sweepers and sewer cleaners eligible for the CWSRF GPR?
No. However it is possible that a business case can be made for vacuum trucks used to remove sediment or other debris from green stormwater BMPs.

2. [CWSRF] Does hydromodification to establish or restore riparian buffers, floodplains, wetlands and other natural features include the establishment of

riparian buffers, bioengineered stream bank protection, wetlands, and floodplain restoration practices, as defined by the GPR?
Yes. However ARRA prohibits the use of ARRA funds for land purchase and easements.

3. Are green roofs eligible for the CW and DW SRF GPRs?
Yes. Green roofs are categorically eligible.

4. Can the entire cost of constructing or replacing a roof with a green roof be considered eligible for the GPR, or are only the incremental costs (i.e. difference between a green roof versus a conventional roof) eligible for funding?
The entire cost of the green roof is eligible, not just the incremental costs. This includes the roof as well as structural changes necessary to support the additional weight of the green roof.

5. [CWSRF] Does downspout disconnection qualify for the GPR, or must it be coupled with rain gardens or other methods to exclude runoff to storm sewers?
To qualify for the GPR, rainwater from downspout disconnection projects must be managed onsite so that it does not enter storm, combined or sanitary sewers.

6. [CWSRF] Is the repair of cisterns eligible for the GPR?
Minor operations and maintenance activities are not eligible for CWSRF funding. However, major repair of a stormwater cistern is categorically eligible for the GPR.

7. [CWSRF] Is a source water protection project categorically eligible for the GPR?
No. Not all source water protection projects qualify for the CWSRF Green Project Reserve. Green infrastructure projects defined in Appendix 7 of the SRF ARRA Guidance issued on March 9, 2009 and subsequent policy and Q&A documents are eligible for the GPR, some of which will protect sources of drinking water.

8. Do stormwater ponds count as green infrastructure under the GPR?
No. Green infrastructure practices for wet weather management are those that infiltrate, evapotranspirate, and/or harvest and use all stormwater from small storms, and a notable portion of stormwater from larger storms as well. Practices that use these mechanisms help to restore and maintain predevelopment hydrology for not only discharge rates, but also discharge frequencies, durations, and temperatures. Stormwater ponds typically have an extended detention function, and do nothing to mimic stable and natural hydrology for most of these mechanisms. This answer applies to the DWSRF where public water system facilities include stormwater ponds.

9. [CWSRF] Can green stormwater infrastructure be sized to handle large storm events, not just the first flush?
Yes. Water quality includes the physical, chemical and biological integrity of water bodies. Consequently green stormwater projects can be oversized to accommodate larger storm events that impact the physical integrity of water bodies.

10. [CWSRF] Does piping to convey stormwater to green infrastructure practices count towards the GPR?
Green reserve projects need to be considered holistically and in context. If the project meets the criterion for green stormwater described in Question III.C.7 above, and if conveyance structures, like pipes, are needed, then funding is appropriate. In many cases pipes will not be needed, and/or more appropriate conveyance may include swales or more natural flow pathways.

11. [CWSRF] Are agricultural BMPs, such as cattle fencing around streams, eligible for the GPR?
No. Cattle fencing is not eligible for the CWSRF GPR because it does not meet the definition of green infrastructure, nor is it considered an environmentally innovative project.

D. Environmentally Innovative

1. [CWSRF] Does stream day-lighting count towards the GPR?
Yes, stream day-lighting that removes natural streams from man made pipes and restores a water body to its natural condition counts towards the CWSRF GPR.

2. [CWSRF] Are publicly and privately owned decentralized systems eligible for the GPR?
Decentralized systems are categorically eligible for the CWSRF GPR. Publicly owned decentralized systems are eligible for CWSRF assistance. For privately owned decentralized systems, CWSRF Q&A II.A. 27 (located http://www.epa.gov/owm/cwfinance/cwsrf/enhance/DocFiles/q&a123.pdf), says that "…certain privately owned systems may also be funded if they can be classified as NPS at their option, States may deem the public ownership requirements (for projects with treatment works characteristics) adequate inspections and operations are assured through the establishment of a management district or use of service easements or agreements."

3. [CWSRF] What is the definition of a decentralized wastewater system?
The following is the generally accepted EPA definition of a decentralized wastewater treatment system (based on definitions in the ***EPA Voluntary Management Guidelines***) which may be used when responding to various inquiries related to the Green Reserve under ARRA:

Decentralized wastewater systems include individual onsite and/or cluster wastewater systems used to collect, treat and disperse relatively small volumes of wastewater. An individual onsite wastewater treatment system is a system relying on natural processes and/or mechanical components, that is used to collect, treat and disperse or reclaim wastewater from a single dwelling or building. A cluster system is a wastewater collection and treatment system under some form of common ownership that collects wastewater from two or more dwellings or buildings and conveys it to a treatment and dispersal system located on a suitable site near the dwellings or buildings. Decentralized projects may include a combination of these systems.

EPA recommends that decentralized systems be managed under a central management entity with enforceable program requirements, as stated in the *EPA Voluntary Management Guidelines.*

Treatment and Collection Options: A variety of treatment and collection options are available when implementing decentralized wastewater systems. They typically include a septic tank, although many configurations include additional treatment components following or in place of the septic tank, which provide for advanced treatment solutions. Most disperse treated effluent to the soil where further treatment occurs, utilizing either conventional soil absorption fields or alternative soil dispersal methods which provide advanced treatment. Those that discharge to ditches, streams, lakes, and other water bodies require federal or state discharge permits (see below). Some systems promote water reuse/recycling, evaporation or wastewater uptake by plants.

Some decentralized systems, particularly cluster or community systems, often utilize alternative methods of collection with small diameter pipes which can flow via gravity, pump, or siphon, including pressure sewers, vacuum sewers and small diameter gravity sewers. Alternative collection systems generally utilize piping that is less than 8 inches in diameter with shallow burial and do not require manholes or lift stations. Septic tanks are typically installed at each building served or another location upstream of the final treatment and dispersal site. Collection systems can transport raw sewage or septic tank effluent. Another popular dispersal option used today is subsurface drip infiltration. Package plants that discharge to the soil are generally considered decentralized, depending on the situation in which they are used.

While not entirely inclusive, information on treatment and collection processes are described, in detail, in the "*Onsite Wastewater Treatment Technology Fact Sheets*" section of the EPA Onsite Manual and on EPA's septic system website under Technology Fact Sheets.

Surface Discharges: Regarding decentralized systems, discharges directly (via pipe) or indirectly (via ditches, swales, curb sides, tiles, etc.) to waters of the U.S. require a permit issued under the National Pollutant Discharge Elimination

System (NPDES) of the Clean Water Act. Surface discharging decentralized wastewater systems are prohibited in cases where there are affordable soil-based alternatives, therefore, surface water discharges are often **discouraged** for individual onsite systems; although where allowed, states typically implement general NPDES permits to regulate these discharges. Surface water discharges for cluster systems, which are usually professionally operated, are more common. USEPA and states have the latitude to evaluate proposed surface water discharge systems for cluster systems on a case by case basis to determine whether they should be considered a decentralized system.

4. Are green practices used by contractors building ARRA funded projects, such as paperless offices and recycling, qualify for the GPR?
No. While using such materials is certainly worthy and to be encouraged, the statutory requirement states that, "not less than 20 percent of the funds shall be for projects, or portions of projects, that include green infrastructure, water or energy efficiency improvements or other environmentally innovative activities." The use of green practices by contractors does not fall under any of the required categories.

5. Do industrial/municipal recycled materials (i.e. recycled bricks, melted down iron, etc.) used in construction count under the GPR?

As a general rule, the simple use of recycled materials in an ARRA project, while worthy of encouragement, is not "environmentally innovative" within the meaning of the ARRA term, and thus generally does not qualify for the GPR. The use of recycled materials may be considered an "environmentally innovative activity" only under limited and specific circumstances, and requires a business case. The GPR appendices for both SRFs include as "environmentally innovative projects" those that "manag[e] water resources in a more sustainable way." The DWSRF Appendix 8 speaks of "delivering services… in a more sustainable way, including projects that achieve public health protection and environmental protection objectives at the least life-cycle costs". These formulations are consistent and apply the same underlying test, that projects (or portions) must produce more sustainable management of water resources. Therefore, the business case must demonstrate substantial life cycle cost, energy, or water savings in the operation of the facility, as such savings would enable services to be provided more efficiently and thus sustainably. This information must be clearly demonstrated in the business case to show the benefits were substantial, understood, and intended, and GPR qualification applies only to the portion(s) of a project supported by such a business case.

E. Miscellaneous

1. Can States combine the 20% green project requirement from both the Clean Water and Drinking Water IUPs? For example, if I have 30% green

infrastructure in my Clean Water IUP and 5% in my Drinking Water IUP, would the total meet the requirement?
No. The 20% minimum for the GPR is tied to the individual State grant for each program. It may be met in the other SRF only if and to the extent that funds are transferred between the SRFs, and the State commits in its IUP (or an amendment to the IUP) that the portion of the 20% requirement attributable to the funds transferred will be met in the SRF that receives the transferred funds.

2. How long will it take EPA to accept the lack of projects for GPR certification?
States can certify that they do not have sufficient eligible applications to make use of any or part of the GPR only after August 17, 2009. States are provided with 180 days from enactment of the ARRA in order to properly solicit for qualifying projects. If the State can demonstrate that it has made the "timely and concerted solicitation" for additional GPR projects identified in the ARRA Guidance as well as in subsequent policy memos and Q&A documents, EPA will be able to approve such certification in a timely manner.

3. Will EPA have a grant condition that requires States to make a timely and concerted solicitation for GPR projects prior to 8/17/09?
Yes. The grant condition is as follows:

> 9. The recipient agrees to make a timely and concerted solicitation for projects that address green infrastructure, water or energy efficiency improvements or other environmentally innovative activities if there are not such projects, or qualifying components of such projects, in its IUP that total at least 20% of the funds available for projects in the State under this grant; to amend its IUP to include any such eligible projects thus identified; and if there are sufficient, eligible applications for these types of projects, to provide not less than 20% of such funds in assistance to such projects. The recipient further agrees that if, after 120 days, any portion of the 20% reserve remains unaccounted for in the IUP, the recipient shall certify in writing to EPA that the State lacks sufficient, eligible applications for these types of projects, and receive approval from EPA, prior to using any portion of the 20% reserve for conventional projects. Such funds unaccounted for by the IUP will not be available for draw until an amended IUP with sufficient projects is submitted to EPA or EPA reviews and accepts a certification of insufficient applications for the GPR. Documentation that the clear business case for the project (or portion of a project) investment includes achievement of identifiable and substantial benefits that qualify towards meeting the goal of the GPR must be kept in the State's project files. Such documentation could be a simple memo but must indicate the basis on which the project was judged to qualify to be counted toward the 20% requirement. Such a memo would typically include direct reference to a preliminary engineering or other planning document that makes clear that the basis upon which the project

(or portion) was undertaken included identifiable and substantial benefits qualifying for the GPR.

4. What constitutes a "timely" consideration of green projects before a State can use all or part of the 20% minimum for non-green projects?
A State must make a good faith effort to meet the 20% minimum, including a timely and concerted solicitation for qualifying projects, and must certify as to how this solicitation was made and its results before asking EPA for approval to direct funds to "non-green" projects. If the State cannot meet the 20% minimum through an appropriate solicitation and associated efforts through 180 days after enactment, it may then seek EPA approval of the State's certification. This is to ensure the State takes that time to actively solicit projects and properly consider their eligibility. For more information see the GPR project solicitation policy memo at www.epa.gov/water/eparecovery.

5. Must EPA concur with a State determination that it does not have 20% qualifying green projects? If so, at what level?
The Regional office will need to approve the State's certification that it does not have sufficient qualifying green projects before a State can use any part of the 20% on non-green projects. EPA Headquarters will work with regional staff to ensure that consistent standards and practices are used in making that assessment.

6. How is attainment of the 20% Green Reserve counted? Is it by actual dollar amount or estimated amount?
The final amount will be based on dollars in assistance agreements. States should consider that some projects they select for funding may not ultimately conclude timely assistance agreements, and plan accordingly. Remember that the provision requires that a minimum of 20% of ARRA funds go for green projects.

7. If EPA approves a certification, what does that allow a State to do with respect to the Green Reserve requirement?
An EPA-approved certification allows a State to fall short of the 20% by the amount it identifies and documents in its approved certification, and to use the ARRA funds in the certified amount of the shortfall.
The certification does not allow a State to ignore the GPR requirement, but only to fund qualified green projects up to the amount less than 20% for which the State has identified eligible projects.

8. What happens when funds are moved between the DWSRF and CWSRF?
If a State proposes to transfer funds, the State is obligated to declare in the IUP (as originally submitted or later amended, as appropriate) how much it's transferring, and in which Fund compliance with the share of the 20% requirement attributable to the transferred money is going to occur, or if it has already occurred in whole or part (as to the transferred money) in the donor Fund. Any portion of the 20% obligation attributable to the transferred money that has not been met in the donor Fund may but is not required to be assigned to the

receiving Fund with the money. But in either case, in declaring the transfer, the IUP needs to include a commitment that the appropriate portion of the obligation will be met and that clearly identifies the Fund in which that portion of the obligation will be met. Any shortfall requiring certification or any other consequence would occur in the Fund to which the State had assigned the appropriate portion of the 20% obligation. If, for example, a state DWSRF fails to meet any or some portion of the 20% before the transfer, then the CWSRF would have to meet all or that portion of the 20% associated with those funds. If the DWSRF met the 20% prior to the transfer, then the CWSRF would not have to direct 20% of the transferred amount for green projects (although it is free to do so if it wants to because the reserve is a floor, not a ceiling).

9. [DWSRF] Can activities funded through DWSRF set-asides count toward the 20% green infrastructure requirement? For example, can water and energy efficiency grant projects funded under the set-asides be considered GPR projects?
The 20% is based on the amount of the grant, so non-capital activities funded through set-asides could count towards the total as long as they qualify to be included under the GPR. Activities which qualify could include energy/water loss audits, or planning and design activities for water or energy efficiency if they are reasonably expected to result in a capital project or are required as a condition of assistance.

10. If 20% green projects are shown on both IUPs and some of the projects do not proceed to construction, can the money be reallotted to other non-green projects?
If the State cannot identify other green projects for funding, then after 180 days it may certify to EPA that there are no eligible applications available for funding. If other applications for funding for green projects have been submitted that are able to meet the contracting deadline, those projects must be funded in order to reach the 20% threshold.

11. If a State combines ARRA funding with SRF funding in an agreement, would the whole funding amount count towards the 20% green project minimum, or only the amount that was funded from ARRA monies?
The State would only count the amount that was funded with ARRA monies, because the statutory requirement is to use at least 20% of the State's ARRA capitalization grant. For example, if a State finances a project for water efficiency that uses $500k of SRF and $500k of ARRA funding, it would only count the $500k that was derived from the ARRA capitalization grant. A State is free to use base SRF program funding on green projects as long as the State has met the 20% ARRA requirement using ARRA funds.

12. Is the 20% minimum for green projects based on the amount of the grant or the amount of the amount of the grant deposited into the Fund?
It is based on the amount of the capitalization grant made to the State.

13. If a larger project which may not be entirely green includes a green component, does the entire amount of funding directed to the project count against the GPR, or only the amount associated with the green component?
The State would only count the dollar amount associated with the green component towards the 20% minimum. For example, if a project was constructing a treatment facility with a green roof, only the project costs associated with the green roof would count towards the 20%.

14. If one or all of your green projects are awards as 'grants' (under the 50%), must they also meet the disadvantaged community goal? (not a requirement but some think it applies to all grant monies)
There is no disadvantaged community goal or reference of any kind in ARRA. There are no requirements in the ARRA statute regarding how the States are to attain or allocate the additional subsidization funding. The Joint Explanatory Statement of the Conference Committee contained the following discussion regarding the additional subsidization requirement:

> "The bill does not include language proposed by the House that would require a specific amount for communities that meet affordability criteria set by the Governor. However, the Conferees expect the States to target, as much as possible, the additional subsidized monies to communities that could not otherwise afford an SRF loan." (H. Rpt. 111-16, p. 443)

Thus, while the statute does not obligate States to target the additional subsidies, in respect to the intent of the Joint Explanatory Statement, States have great discretion to determine what "could not otherwise afford" means in the context of ARRA's purposes (see ARRA section 3(a)). Affordability can be as broad or as narrow as a State deems necessary to meet or exceed the 50% minimum, and appropriate to the economic conditions that are the foundation for the intent and purpose of ARRA.

15. [DWSRF] For the DWSRF, is there a contradiction between the meaning of "infrastructure" and the funding of fixture retrofit?
In the DWSRF, fund eligibilities for projects are not limited to the infrastructure of an eligible public water system in the context of water efficiencies. Tracy Mehan's memo (at http://www.epa.gov/safewater/dwsrf/policymemos.html, DWSRF 03-03, issued 7/25/03) identifies many water efficiency projects that are eligible for DWSRF loan assistance that include fixture retrofits. It also identifies many water efficiency activities that may be funded under the DWSRF set-asides that need not include tangible assets at all

16. If you already have greater than 20% green infrastructure projects in project priority list, can you still do a second solicitation?
The 20% requirement is a floor, not a ceiling, and thus is not a limit on the value of Green Projects that can be funded under ARRA or the base SRF programs.

Given the strong interest in the GPR in both Congress and the Administration, and safety margin in having additional qualifying projects should some expected within the 20% fail to obtain assistance agreements, EPA encourages any State that wishes to use more than 20% of their ARRA funding on eligible, appropriate Green projects to do so.

17. What about if the state says that there is no money left, that all money has been appropriated to other projects?
ARRA does not permit that result to occur. Under the 20% Green Projects Reserve, States are not authorized to commit any ARRA funds in the 20% Reserve to any projects that do not qualify as "Green" before August 17, 2009, unless they (1) make a "timely and concerted solicitation" for such projects, (2) do not receive applications for eligible projects that qualify as Green and are of a value of at least 20% of their ARRA capitalization grant, (3) certify to EPA as to (1) and (2), and (4) EPA approves their certification. Thus, States are required to leave 20% of their ARRA funds available for Green Projects until the four conditions listed above are met.

18. Can a 20% Green Project receive SRF funds (not ARRA funds) since the requirement is based on a dollar amount (20% of ARRA cap grant)?
While the extent of a State's GPR requirement is calculated at 20% of the State's capitalization grant, compliance with the requirement is not based on providing a certain dollar amount of assistance from any SRF funds. Rather, the ARRA specifies that "not less than 20% *of the funds appropriated herein* for the Revolving Funds shall be for projects to address green infrastructure," etc. (emphasis added). Thus, 20% of the specific dollars that the State receives in ARRA capitalization grants must be provided in assistance agreements "for [qualifying green] projects." If States have qualifying projects above the 20% they may choose to fund them from ARRA or the base SRF program, but under ARRA, States may not count base SRF program-funded green projects towards the 20% requirement.

Note that in the GPR requirement as in all ARRA transactions, ARRA funds are not fungible with base SRF program funds, and must not be commingled with any other funds. While a State may choose to provide ARRA and base SRF program funding to a single project or related but functionally distinct projects, the funding from each source must be separately tracked and reported according to the requirements applicable to each source. This is consistent with OMB's February 18, 2009 guidance, which states that "Federal agencies must instruct recipients covered by these reporting requirements that Recovery Act funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of the Recovery Act and this Guidance. "

19. If 20% Green Projects have to receive the ARRA funds, then what is a priority: a project ready to go (not green) or a not ready green project?

The solicitation should maximize Green projects' readiness. As to the priority to be given to green projects, part of the function of the "timely and concerted solicitation" required by States that do not have 20% of the value of qualifying green projects in their submitted IUP is to maximize the likelihood that they will have an ample supply of projects that can both qualify for the 20% and are ready to proceed. Given the need to identify an appropriate set of qualifying projects through the solicitation, if a lack of readiness by qualifying projects would cause a State to fall short of the 20%, it is the State's obligation under this ARRA provision to give the attention and resources to those qualifying projects to enable projects of a sufficient value to be ready and have signed contracts by the 12 month deadline.