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## **TITLE 85 BUDGET AGENCY**

LSA Document #02-192(E)

### **DIGEST**

Temporarily adds provisions to allow for the use of the State Revolving Fund to refund outstanding indebtedness of political subdivisions eligible for refinancing under the Clean Water Act. *NOTE: Under IC 13-18-13-18, this document is jointly promulgated with the water pollution control board.* Authority: IC 4-22-2-37.1(a)(8). Effective June 19, 2002.

**SECTION 1. A political subdivision may seek a financial assistance loan under IC 13-18-13 to refinance outstanding indebtedness that was previously incurred to finance construction costs of an eligible project by meeting the requirements of this document and the Clean Water Act.**

**SECTION 2. To be eligible for refinancing, a political subdivision must submit to the agency and the department of environmental management (department) a notice of intent to request refinancing. The notice of intent shall also include a list of all potentially affected parties. The following information shall also be submitted to the agency and the department:**

- (1) A brief summary of the project proposed for refinancing.**
- (2) A cost breakdown of all eligible items requested for refinancing.**
- (3) A legal description of the project area.**
- (4) Construction specifications of the project.**
- (5) Maps showing all project elements, including lines, pump stations, tanks, and treatment plants, in relation to:**
  - (A) mapped wetlands;**
  - (B) wellhead protection areas;**
  - (C) surface waters;**
  - (D) surface water intakes;**
  - (E) one hundred (100) year floodplains;**
  - (F) areas where trees and brush were removed; and**
  - (G) nature preserves.**
- (6) Preconstruction descriptions of all off-road sites and routes, including construction corridor widths.**
- (7) An assessment of the environmental impacts of the project, including:**
  - (A) farmland;**
  - (B) air quality;**
  - (C) groundwater, drinking water, and sole source aquifers;**
  - (D) floodplains, wetlands, waterways, and other surface waters;**
  - (E) biota;**
  - (F) nature preserves;**
  - (G) archaeological resources; and**
- (8) Mitigation measures taken to eliminate, minimize, or compensate for environmental impacts.**
- (9) A due diligence submission required under 327 IAC 13-7-1.**
- (10) A list of potentially affected parties.**
- (11) A notice of intent pursuant to SECTION 4 of this document.**
- (12) Any additional information the agency and department deem necessary to complete the refinancing assessment.**

**SECTION 3. (a) Eligible costs include the following:**

- (1) Preparation of construction drawings, specifications, estimates, and construction contract documents.**

- (2) Materials acquired, consumed, or expended specifically for the project.
- (3) Labor costs directly associated with construction of the project.
- (4) Development and preparation of an operation and maintenance plan and manual.
- (5) Safety equipment.
- (6) Costs of public notices and hearings.
- (7) Inspection fees related to construction.
- (8) Legal fees associated with acquisition of easements and rights-of-way directly related to the project.
- (9) Costs necessary to mitigate demonstrated direct, adverse impacts resulting from the project.
- (10) Costs of undertaking actions required by the program in connection with its making financial assistance available.
- (11) Other reasonable direct or indirect costs associated with the project as demonstrated to the satisfaction of the agency and the department.

(b) Ineligible costs include:

- (1) fines and penalties due to violations of, or failure to comply with, federal, state, or local law;
- (2) purchase of land;
- (3) legal fees incurred beyond those directly related to:
  - (A) construction activities;
  - (B) costs of undertaking actions required by the program in connection with its making financial assistance available; or
  - (C) preparation of public notices;
- (4) costs outside the scope of the approved project;
- (5) bonus payments not legally required for completion of construction before a contractual completion date;
- (6) basin or area-wide planning not directly related to the project;
- (7) ordinary operating expenses of the political subdivision;
- (8) costs of claims resulting from mismanagement or caused by the recipient's vicarious liability for the improper action of others; and
- (9) costs incurred in a contract that creates a real or apparent conflict of interest.

SECTION 4. A political subdivision shall publish the notice of intent to request refinancing in the manner called for by IC 5-1-3-4. The notice of intent shall generally describe the political subdivision's existing indebtedness and the indebtedness it expects to undertake to effectuate the refinancing under the program and how potentially affected parties may receive notice of, and provide comment on, the draft refinancing assessment.

SECTION 5. The agency and the department shall evaluate all information, including environmental impacts of the project for which refinancing is requested and issue a draft refinancing assessment. The draft refinancing assessment shall be sent to the political subdivision, all potentially affected parties listed in the notice of intent, and the county commissioners of the county where the project is located. All persons provided notice shall have fifteen (15) days to provide written comment to the department on the draft refinancing assessment. If the department determines that the requested refinancing meets all requirements of this document and 40 CFR 35, Subpart K, the department shall inform the agency that it may, subject to the financial policies and requirements of the program, notwithstanding any requirements of 327 IAC 13 and 85 IAC 2, provide financial assistance to the political subdivision.

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