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On September 17, the Contractors Council and the Utility Council held a joint meeting. Guest speakers were sponsored by both councils. The guest speaker sponsored by the Contractors Council was Don Berryhill, P.E., of Angie Brewer & Associates LC.

Berryhill gained his expertise in state funding for water and wastewater projects during 20 years as a bureau chief at the Florida Department of Environmental Protection. While there, he implemented and managed the State Revolving Fund programs.

Berryhill discussed the American Recovery and Reinvestment Act of 2009 (ARRA). This act was approved on February 17, 2009, and appropriated $6 billion to the U.S. Environmental Protection Agency (EPA) for capitalization grants. Florida was awarded $217 million of that amount, with $85 million going to the Drinking Water State Revolving Fund (DWSRF), and $132 million going to the Clean Water State Revolving Fund (CWSRF).

These funds are to remain available for obligation through September 2010.

In addition to ARRA funds, Congress also appropriates money annually to the EPA for State Revolving Fund programs. In 2009, the EPA received $829 million for the DWSRF program and $689 million for the CWSRF program. Although not final, the 2010 appropriation is expected to be significantly larger, with $1.387 billion going to the DWSRF program, and $2.1 billion to the CWSRF program.

DWSRF funds are distributed to the individual states based on a “needs driven” formula. CWSRF funds are distributed based on a Clean Water Act formula that is scheduled to change soon with reauthorization of the act. Florida is currently ranked ninth in the country, but potentially may move up.

The Florida State Revolving Fund programs are administered by the Florida Department of Environmental Protection (FDEP). The Florida CWSRF was started in 1988 after a 1987 amendment to the federal Clean Water Act that established the CWSRF program. The Florida DWSRF was started in 1997 with an amendment of the federal Safe Drinking Water Act.

States must provide a 20-percent match to the money provided by the EPA for the revolving fund programs. The state legislatures must appropriate this money. The loan terms are 20 years—or 30 years for disadvantaged communities. Interest rates are typically 60 to 80 percent of a specified market rate, or lower, depending on such factors as median income in the project area.

FDEP Rule 62-503 describes the Florida CWSRF program, and FDEP Rule 62-552 describes the Florida DWSRF program. The rules can be found online at [http://www.dep.state.fl.us.legal.Rules/mainrulelist.htm](http://www.dep.state.fl.us.legal.Rules/mainrulelist.htm). Both programs provide low-interest loans to eligible entities for planning, design, and construction of public water supply and water pollution control facilities.

These rules are expected to change in the near future, partly to reflect changes in the Clean Water Act, which is being reauthorized. Some of these changes will impact project eligibility and the prioritization process.

A requirement for use of ARRA funds through the revolving fund programs is that 50 percent of the funds must be used to subsidize projects more than the low-interest rates typical of the programs. The goal is to target small and disadvantaged communities.

To accomplish this, the FDEP is awarding “principal forgiveness loans” to qualifying projects. Forgiving the repayment of a portion of the principal amount of the loan decreases the amount of federal requirements that would be imposed if the money had been provided as a grant. Even so, use of ARRA funds carries the following requirements:

- **Disadvantaged Business Enterprise** – Florida’s participation goals are 9 percent for minority-owned businesses and 3 percent for women-owned businesses. A six-step “good-faith” effort to include these businesses in implementation of the project must be documented.
- **Davis Bacon Wage Rate Provision** – This...
condition requires the submission of certified payroll documents that meet specific prevailing wage rates.

- **Buy American Provision** – This condition requires the use of domestic iron, steel, and manufactured goods, unless such materials are unavailable or their use is contrary to the “public interest” or will substantially increase project costs. The EPA will be responsible for issuing any waivers of this condition.

- **Audits at Project Conclusion by EPA** – All ARRA funded projects are subject to EPA audit for compliance with the above conditions at project completion. The EPA received $20 million in ARRA funding for accountability.

   To comply with these requirements, additional supplementary conditions must be included in project contract documents. This can cause delays in bidding. In addition, the specific terms of these requirements change frequently, so project administrators must be well informed.

   The federal act requires that for projects to be eligible for use of ARRA funds, they must be under contract by February 17, 2010. The annual prioritized list of CWSRF and DWSRF projects was recently approved by the FDEP and indicates the disbursement of ARRA funds. This list can be found online at [www.dep.state.fl.us/water/wff](http://www.dep.state.fl.us/water/wff).

   The list includes the “fundable portion,” or those projects that will receive funding, and the “contingency portion,” or those projects found to be qualified but funding was insufficient. It is expected that some of the “contingency portion” of the list may become funded because costs of authorized projects are going down with the completion of bidding.

   The FDEP established a deadline of October 1, 2009, for fundable projects to be under contract or lose the funding commitment. In these cases, funds will be reallocated to projects on the contingency portion of the project list. There is also a chance that states having uncommitted funds on February 17, 2010, will lose the funds, and the funds will be redistributed to states that did meet the deadline. Florida is doing a good job of getting the funds under contract, so the state could be in a position to capture these additional funds if they become available.

   At this time, 58 projects in Florida are scheduled to receive ARRA funding. Implementing those projects under the required timeline should have a beneficial impact on our state’s economy.