

MCWI Frequently Asked Questions

Updated May 8, 2025

(FAQs 3, 4, 12, 13, 19-21, 24-27, 31-35, 39, 43-44, 46, 48-51, 53-56 added August 17, 2022)

(FAQs 20.1, 20.2, 35.1, 35.2, 35.3, 35.4, 41, 42.1, 42.2, 42.3 added/revised August 31, 2022)

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(FAQ 58 added January 25, 2023)

(FAQs 59-63 added March 30, 2023)

(FAQs 64-65 added November 14, 2024)

(FAQs 66-67 added May 8, 2025)

Eligibility

1. **Who is eligible to receive MCWI grant funds?** To be eligible to receive MCWI grant funds, an Applicant must be a municipality, county, or public utility that is not regulated by the Public Service Commission. Additionally, Applicants must be an operator-member of Mississippi 811, Inc., and have (or will have) Coronavirus Local Fiscal Recovery Funds.
2. **Do I have to have Coronavirus Local Fiscal Recovery Funds to apply for an MCWI grant?** Yes. Each Applicant must have or will have Coronavirus Local Fiscal Recovery Funds, as authorized by Section 9901 of ARPA, to use as matching funds for an MCWI grant.
3. **For purposes of the MCWI Grant Program, what is a “public utility not regulated by the Public Service Commission (“PSC”)”?** MDEQ considers the term “public utility” to mean a non-private entity whose primary purpose is the ownership or operation of equipment or facilities for the transmission, distribution, sale or resale of water to the public for compensation, or the collection, transmission, treatment or disposal of sewage, or otherwise operating a sewage disposal service, to or for the public for compensation. Further, MDEQ construes the phrase “not regulated by the PSC,” to include all public utilities as defined above, that are not generally subject to the jurisdiction of the PSC notwithstanding the fact that the entity has voluntarily submitted itself to the rate jurisdiction of the PSC or that the PSC exerts jurisdiction over the entity for non-rate purposes.
4. **Is a utility district whose rate is set by the PSC eligible for MCWI funding?** Possibly, if the utility district is a public utility as defined in the answer to Question 3, above.
5. **May a university/college/community college with ARPA Funds apply for an MCWI grant?** To be eligible to receive funds under the MCWI Grant Program, the applying entity must be a county, municipality or public utility not regulated by the Public Service Commission and have (or will have) Coronavirus Local Fiscal Recovery Funds. While universities did receive ARPA funding under the Higher Education Emergency Relief Fund, these funds are not Local Fiscal Recovery Funds and, as such, do not qualify for MCWI matching grants. Specifically, Higher Education Emergency Relief Funds are authorized under Section 2003 of ARPA while

Coronavirus Local Fiscal Recovery Funds are authorized by Section 9901 of ARPA. In addition, entities qualifying as public utilities for purpose of the MCWI Grant Program are required to receive compensation for the utility services they provide. Further, MDEQ's understanding is that the legislative intent of Senate Bill 2822 was to limit eligible public utilities to those entities whose primary purpose is to provide utility services to the public. As the primary purpose of universities / colleges / community colleges is not to provide utility services to the public, those entities would not qualify as public utilities for purposes of the MCWI Grant Program.

6. **How much funding are Applicants eligible to receive from the MCWI Grant Program?** MCWI grants will only match Coronavirus Local Fiscal Recovery Funds. For municipalities that received less than One Million Dollars (\$1,000,000.00) in Local Fiscal Recovery Funds, MCWI grant funds are available on a two-to-one matching basis. However, the two-to-one fund match is not available for funds transferred to a municipality from another municipality or county. For all other eligible Applicants, Grant Funds are available on a one-to-one matching basis.
7. **What types of Projects are eligible?** Applicants may fund a broad range of drinking water, wastewater, and storm water infrastructure Projects, including those eligible under the EPA's Clean Water State Revolving Fund, EPA's Drinking Water State Revolving Fund, and certain additional Projects, including a wide set of lead remediation and storm water infrastructure.
8. **Can an Applicant submit a Project under construction / recently constructed?** Yes, if the Applicant and the Project meet applicable state and federal eligibility requirements such as, but not limited to, 2 CFR Part 200. In addition, the project costs must have been incurred on or after March 3, 2021, per Treasury's Final Rule on ARPA.
9. **What type of agreement or documentation is necessary to show a Coronavirus Local Fiscal Recovery funds transfer?** At the time of application, an Applicant may document the availability of Local Fiscal Recovery Funds through a board or council resolution, or similar authorization. However, prior to the MCWI grant execution, a Recipient must provide MDEQ with a legally binding document between the party transferring the funds and the party accepting the transfer.
10. **Can a county or municipality apply for MCWI funds to perform work for another entity such as a utility authority?** Yes, provided the Project is an eligible type and the county or municipality is the MCWI grant Applicant. As such, the county or municipality would be responsible for ensuring all conditions of the MCWI grant agreement are met, notwithstanding any additional agreement the county or municipality may have with the entity that proposed the Project to the county or municipality.
11. **Can I apply for an MCWI grant to repay a Drinking Water or Clean Water State Revolving Fund ("SRF") Loan?** No, these funds cannot be used to repay loans for the SRF program.
12. **Are Local Fiscal Recovery Funds eligible for a match under the MCWI Grant Program, if those same funds are used as the non-federal cost share of a federal grant awarded for a qualifying project?** No, unless there is a specific authorization in statute allowing the use of ARPA funds as the non-federal match, such as that found in Section 40909 of the Infrastructure and Jobs Act for Bureau of Reclamation projects. Because the MCWI Grant Program is funded by ARPA money under the infrastructure use category, per Treasury requirements these funds are not eligible as the non-federal matching share for a Project (unless specifically authorized by

federal statute). For a detailed discussion on this issue, see Treasury's Final Rule at 87 Fed. Reg. 4436-37 (January 27, 2022).

13. **May a Project be approved for funding if it is a joint Project funded by several MCWI eligible entities?** Yes, provided that the Project is itself an eligible use of SLFRF (State and Local Fiscal Recovery Funds) for each MCWI eligible entity that is contributing to the pool of funds. Additionally, all MCWI eligible entities must be able to track the use of funds in line with the reporting and compliance requirements applicable to SLFRF. To the extent a Recipient seeks to undertake a regional Project via SLFRF transfer from another municipality or county all MCWI eligible entities would need to comply with the rules on transfers specified in the U.S. Treasury Final Rule supplementary information. Also, note that transferred funds are only eligible for a one-to-one MCWI grant match.

Application

14. **Is the MCWI Grant Program competitive?** Yes, per Senate Bill 2822, the applications for match assistance will be verified for eligibility, and if eligible, scored and ranked against other Applicants' Projects. There will be multiple rounds for Applicants to seek funding.
15. **How do I apply for an MCWI grant?** MDEQ will launch an online application portal wherein Applicants can submit applications, upload information and documents, and answer questions. Please see the application portal questions at www.mswaterinfrastructure.com. Due to the amount of information that Applicants will be required to produce, MDEQ encourages potential Applicants to start the process of collecting the information requested in those questions as soon as reasonably possible. The online application portal will be open later in 2022. MDEQ strongly encourages the use of the online portal to submit applications.
 - 15.1 **Who qualifies as an "authorized representative" in response to application questions 3 and 5?** The Applicant's response to question 3 may be any person authorized to act on behalf of the Applicant, which may be (but is not necessarily required to be) the same person identified in the board resolution required by application question 5. The Applicant's response to application question 5 should identify the person authorized by the board resolution to act on behalf of and legally bind the Applicant.
 - 15.2 **Who qualifies as an "authorized representative" who is required to sign the certification form prior to submission of the application in the portal?** The person identified in the board resolution (application question 5) must also be the person who signs the required certification form.
16. **Can an application without plans and specifications be submitted?** Yes, an Applicant may submit an application without plans and specifications, but the application must contain a detailed description of the Project. If an Applicant is selected for the funds, the Applicant must submit plans and specifications at the time specified in the grant agreement. Please refer to the scoring system for information on how MDEQ will allocate points for Projects with plans and specifications submitted with the application.
17. **Can construction contingency be included in the MCWI grant request?** Yes, Applicants are encouraged to have contingency plans and funds available in view of present market factors.

18. **May an Applicant submit multiple Projects?** Yes. Applicants can submit multiple Projects. However, Projects will be reviewed, scored, and ranked independently from one another. Grant awards will only be awarded to Projects with Local Fiscal Recovery matching funds. While more than one Project may be submitted by a given MCWI eligible entity, and more than one Project may receive MCWI grant funding, the total amount of grant funds available to an entity is limited by the total amount of Local Fiscal Recovery matching funds provided by that entity.
19. **If collapsed sewer lines are located throughout a municipality, is each sewer line that is to be repaired considered a Project or may all the sewer lines to be repaired be presented as a single Project?** The repair of damaged sewer lines occurring throughout a municipality may be submitted as a single Project for MCWI Grant Funding purposes.
20. **What is the deadline for the application?** Currently MDEQ anticipates the application Portal to be open for the first Round of applications at some point in September and to remain open for thirty (30) days. The opening and closing dates for the application Portal will be posted on the website (www.mswaterinfrastructure.com). In addition, MDEQ will send out email and social media announcements prior to the beginning of the application period.
- 20.1 **Will Intergovernmental Review (IGR) letters and responses be required to be submitted with the application or do you expect there to be a document certifying that the appropriate IGR will be solicited but not complete in time for the application?** IGR letters and responses are not required to be submitted with the application. MDEQ may require an IGR certification document at the grant stage on a form that will be supplied by MDEQ.
- 20.2 **Must an engineering report be submitted with the application?** No, as not all Projects require an engineering services agreement or engineering reports, such documents are not required for Project eligibility purposes; however, the existence of an engineer services agreement and/or engineering reports may be considered for scoring purposes.

Ranking and Award

21. **What is an Engineer's Approved List?** This item was prescribed in Senate Bill 2822 as an item that shall receive additional consideration for grant award purposes. MDEQ will consider any document from the municipal or county engineer showing the proposed Project was included thereon.
- 21.1 **For purposes of the MCWI Program, what is considered a political subdivision?** MDEQ will use Mississippi Code Section 11-46-1 (i) as the definition for political subdivision. The statute defines "political subdivision" as any body politic or body corporate other than the state responsible for governmental activities only in geographic areas smaller than that of the state, including but not limited to, any county, municipality, school district, community hospital as defined in Mississippi Code Section 41-13-10, airport authority or other instrumentality thereof, whether or not such body or instrumentality thereof has the authority to levy taxes or to sue or be sued in its own name. Section 41-13-10 defines "community hospital" as any hospital, nursing home and/or related health facilities or programs, including without limitation, ambulatory surgical facilities, intermediate care facilities, after-hours clinics, home health agencies and rehabilitation facilities, established and acquired by boards of trustees or by one or more owners which is governed, operated and maintained by a board of trustees.

22. **How will Projects be scored?** Please refer to the scoring criteria information available on the Project website at www.mswaterinfrastructure.com.
23. **If a Project contains Drinking Water and Wastewater components, how will this Project be scored?** Applicants will be asked to identify the primary Project purpose (i.e. wastewater, drinking water or stormwater) in the application. The Project will be scored according to the primary purpose that is identified by the Applicant.
24. **How will MDEQ determine if a Project has started?** MDEQ will accept an executed contract between the Applicant and its contractor along with a notice to proceed to the contractor as evidence of the Project start date. If an Applicant has not issued a notice to proceed, MDEQ will accept documentation that shows the Applicant has authorized its contractor to begin work. In the case where an Applicant's Project includes the purchase of equipment, MDEQ will accept the purchase order.
25. **If a Project contains multiple categories (drinking water, wastewater, stormwater), are the MCWI grant funds limited to only the selected primary purpose?** No, the MCWI grant is not limited to the primary purpose selected by the Applicant; all eligible categories of the Project may be matched with MCWI grant funding. However, scoring and ranking of the project will be based upon the primary purpose designated. For example, an Applicant received \$2 million in ARPA funds and proposes a Project that is estimated to cost a total of \$1 million, with \$500,000 related to drinking water improvements, \$300,000 related to sewer work and \$200,000 for stormwater work. The Applicant lists the primary purpose of the Project as drinking water improvements. The Project will be scored and ranked based on the drinking water category selection. If approved for funding, the MCWI Grant Program will provide a 1:1 match on each category, \$250,000 for drinking water, \$150,000 for sewer and \$100,000 for stormwater, resulting in a total award of \$500,000 in MCWI matching funds.
26. **For regional projects that serve multiple communities, how is the income level for the Project determined?** MDEQ will accept the population weighted average income level for the communities included in the regional Project.
27. **Will Applicants be able to see how their Project's score and rank?** Applicants will be able to see rank and score of their Project(s) at the conclusion of each Round. If the Applicant is not awarded grant funds in the Round in which it applies, it may update its application for the opportunity to be funded in the second or subsequent Rounds.
28. **When will the first Round of MCWI awards occur?** MDEQ anticipates the first awards will be made available before the end of 2022.
29. **Will there be additional rounds of funding?** Yes, at a minimum, there will be two rounds, and perhaps additional rounds, depending on the availability of funds.
30. **What type of agreement will be required between the Recipient and MDEQ for the MCWI grant award?** MDEQ will provide each awarded Applicant with a grant agreement that will stipulate the requirements associated with receipt of funds.
31. **Are there any specific instructions to show how a Project promotes economic development?** The Applicant may provide a narrative, along with supporting documentation if available, on how it believes the Project will promote economic development.

32. **Why doesn't the MCWI Grant Program provide a greater advantage to Applicants that serve disadvantaged communities over Applicants with "shovel ready" Projects?** Senate Bill 2822 requires MDEQ to provide emphasis in the scoring process to Projects that are ready to begin construction within six (6) months. The legislation also requires MDEQ to include a specific emphasis on addressing the needs of disadvantaged communities. To address these statutory requirements, MDEQ's scoring system provides *both of these* factors with more points than any of the other factors. Because the legislation does not specify that either of these two factors should receive greater weight than the other, the scoring system provides the potential for equal points (24 point) for both.
33. **If a Project is not selected will the Applicant be made aware of why?** If an application is rejected due to incomplete information or for ineligibility reasons, Applicants will receive notice of the rejection. Incomplete applications may be resubmitted with the missing required information and, provided the Round's application deadline has not passed, will be reassessed for MCWI funding for that Round. If the resubmittal is received after the current Round's application deadline, the application will be reviewed in the next Round, provided there is such a Round. Note that if the application is carried forward to a subsequent Round, the Applicant will likely need to update other information in the application (e.g. anticipated dates for construction, etc.). An eligible Applicant that did not receive MCWI grant funding may request its scoring sheets.
34. **May an Applicant appeal its score/non-selection for MCWI grant funding?** Senate Bill 2822 provides, "[A]ll final awards shall be determined at the discretion of the Executive Director of the department." See Mississippi Municipal and County Water Infrastructure Grant Program Act of 2022, Section 1, para. 10 (April 26, 2022).
35. **When will the second Round of MCWI grant funding occur?** Senate Bill 2822 requires that the second Round shall occur no later than six (6) months after the first. Currently, MDEQ anticipates the second Round to open in the Spring of 2023. The exact date will be announced at www.mswaterinfrastructure.com.
- 35.1 **Will an Applicant whose Project consists of several components, located at multiple sites across the Applicant's jurisdiction, and who, for some components of the Project, has obtained all required permits, plans/specifications, contract documents, and agency approvals (if applicable) and has begun construction, receive the maximum amount of points available under the Scoring System if the applicant has not yet obtained required permits, plans/specifications, contract documents, and agency approvals (if applicable) or begun construction on every component of the Project?** To receive the maximum points under Paragraph 1 (c) of the Scoring System the requirements are applicable to every component of the Project.
- 35.2 **MDEQ's Scoring System references an applicant's "service area." What does the term "service area" mean in relation to an Applicant that is a county?** MDEQ considers the service area for a county to be the county as a whole.
- 35.3 **For qualifying Projects that fall within the stormwater category that are designed and implemented to address stormwater deficiencies at the watershed level, and in recognition that watersheds will likely extend beyond the boundaries of the Applicant county, does the area within the total watershed constitute the "service area," since it is that area that will primarily be benefitted by the watershed-based stormwater project?** For purposes of the

scoring the Project, MDEQ considers the service area of a stormwater project to be the lesser of the watershed area or the area of the county.

- 35.4 How much money will each Project category (i.e. drinking water, wastewater, stormwater) be allocated?** Senate Bill 2822 provides that 20% of the funds awarded “shall be allocated to the each of the three (3) categories” of Projects. As such, MDEQ will allocate \$90 million for each Project category; if during the final Round of funding, the \$90 million in funding for a specific category has not been awarded and there is insufficient demand for funds in that category, the funds may be awarded to another category of Projects.
- 35.5 My treatment system is not in compliance with the final effluent limitations found in my permit. My proposed project is to upgrade the existing facilities but does not correct the effluent limitation violations. How will my proposed project be scored for the environmental/public health impact factor?** As a clarification, MDEQ interprets the 10-point category found in our scoring system - “Existing Facilities Upgrade (Meeting Final Limits)” - to include not only any upgrades to an existing facility that is in compliance with final effluent limitations but also to include any upgrades to an existing facility that is not in compliance with final effluent limitations where the proposed project does not correct the non-compliance. In order to obtain 15 points for this category, the proposed project would need to correct the non-compliance. In addition, if an Applicant is seeking 15 points for this category, MDEQ would expect to see documentation of non-compliance uploaded in response to Application Question #39.

Bid and Construction

- 36. Does American Iron and Steel (AIS) apply to MCWI funds?** No, unless other federal funds subject to AIS requirements are also being used to pay for the Project (e.g. If the Project is partially paid for from Drinking Water or Clean Water SRF funds then AIS requirements apply to the entire Project.).
- 37. Does the National Environmental Policy Act (NEPA) apply to MCWI funds?** Per the US Treasury, NEPA is not triggered as a requirement if the Project is funded only with State and Local Fiscal Recovery Fund (SLFRF) funding; thus, the use of MCWI funds does not trigger NEPA. However, if other federal funds are utilized to fund any part of the Project, then NEPA may be applicable.
- 38. Do the Davis-Bacon labor standards apply to MCWI funds?** Dependent on the size of the Project, Davis-Bacon may apply. If the total amount of federal funds used on the Project exceed \$10M, then Recipients are required to provide documentation of wage and labor standards; these requirements can be met with certifications stating that the Project is in compliance with the Davis-Bacon Act. Recipients may be otherwise subject to the requirements of the Davis-Bacon Act when SLFRF award funds are used on the Project in conjunction with funds from another federal program that requires enforcement of the Davis-Bacon Act.
- 39. Do the Buy America preference requirements apply to awards made under the MCWI Grant Program?** The Buy America preference requirements set forth in Section 70914 of the Build America, Buy America Act are not applicable to MCWI funds or SLFRF. However, if other federal funds are utilized to fund any part of the Project, then Buy America preference requirements may be applicable.

40. **What procurement procedures does the Applicant need to follow for professional services, materials, supplies, construction, etc. to be eligible for reimbursement?** The Applicant must follow the procurement requirements as established under 2 CFR Part 200 as well as procurement rules established by the State of Mississippi. If the Applicant is not familiar with these requirements, it is recommended that the Applicant seek professional assistance. It is further recommended that the Applicant have programmatic policies on file which include federal procurement standard operating procedures.
41. **If a Project is funded with additional sources other than MCWI, are portions not funded by MCWI/Coronavirus Local Fiscal Recovery Funds required to follow the same procurement procedures?** Portions of the Project funded by MCWI/Coronavirus Local Fiscal Recovery Funds, or other applicable federal funding streams, must adhere to all state and federal procurement requirements, including 2 CFR Part 200. Other funds (i.e. funds that are not LFRF or MCWI funds) may have their own specific procurement requirements and the Applicant should ensure that the use of the those funds complies with applicable state and/or federal laws and regulations. The Applicant must be able to clearly delineate the portions of Project using LFRF and MCWI funds from other portions of the Project using other funds, relative to procurement requirements. Failure to adequately delineate the funding streams may result in the claw-back of funds.
42. **Will additional MCWI funds be available for bid overruns?** The Applicant should assume that funds will not be available for bid overruns and should be prepared to complete Projects with other funds available to them.
- 42.1 **For stormwater projects, is construction a required project element?** MDEQ believes the legislative intent of Senate Bill 2822 is to require some form of construction/infrastructure for Projects. While “watershed projects meeting the criteria set forth in the CWA” is a listed eligible Project, as well as “any eligible . . . stormwater project through ARPA guidelines, guidance, rules, regulations and other criteria” may allow a Project that is planning only, because such a planning Project would likely meet the definition of an “environmental study,” and/or engineers would develop the plan, the amount of the Project that could be paid for with MCWI funds would be subject to the 4% professional fee limitation.
- 42.2 **A municipality wants to perform a hydrology study to better understand localized flooding in areas that are not in a Flood Zone. Would the study be allowed as a stand alone project or could the study be Phase 1 of the Project, with Phase 2 being to complete the highest priority items that funding will allow?** Provided the study meets the eligibility requirements set forth in the statute and regulations it could proceed as a Project; however, for the reasons stated in FAQ 42.1 the 4% professional fee limitation would apply. MDEQ believes it is possible to structure a Project in phases as described.
- 42.3 **What are the posting and notice requirements for job sites?** There are no specific posting and/or notice requirements for Projects that are funded by LFRF and MCWI funds.

Risk Assessment

43. **Are audited financial statements required for the Applicant?** While an audit is not required for eligibility, MDEQ will consider the audit, or lack thereof, in determining the appropriate terms and conditions contained in the Applicant’s MCWI grant agreement; these terms and conditions may include an appropriate level of monitoring of the Applicant and the Project to help ensure compliance with State and Federal statutes and regulations.

44. **If a county or municipality decides to submit an audited financial statement, may the audit be limited to the county/municipality's water and/or wastewater office/department?** An audited financial statement is not required. However, if submitted, the audited financial statement should be for the entity that is the Applicant (e.g. the entire county or municipality).

Reimbursement

45. **How will Applicants receive reimbursements? What needs to be submitted to receive reimbursement?** MCWI is a reimbursement grant program. Recipients will only be reimbursed for costs after submission of detailed invoices and cost reports, including receipts, that substantiate all costs to which they seek to have reimbursed. All requests must be substantiated on the record with proper documentation. Projects must be undertaken and completed in a manner that is technically sound, meaning that they must meet design and construction methods and use materials that are approved, codified, recognized, fall under standards or acceptable levels of practice, or otherwise are determined to be acceptable by the design and construction industry. Specific standard operating procedures to be determined prior to grant award will further detail specific requirements of the grantees.
46. **How often may Recipients submit reimbursement requests?** Reimbursement requests may be submitted once per month.
47. **Can pre-construction activities be submitted for reimbursement prior to construction bids?** Yes, pre-construction costs are generally permissible expenditures as long as those costs are proper in view of federal requirements.
48. **How will the 4% professional fee limit be applied?** The dollar amount for all professional fees allowed to be matched with MCWI funds is limited to 4% of the total Project cost, as reflected in the engineer's estimate or as-bid cost if available at the time of MCWI Grant Award. For purposes of the 4% professional fee limit determination, the total Project cost includes the Local Fiscal Recovery Funds, the MCWI grant funds and any other funds that the Applicant uses to pay for the Project, provided such funds are obligated by December 31, 2024 and expended by December 31, 2026. For example, an Applicant seeks to construct a sewer line replacement Project that will cost \$7 million. The Applicant received \$2 million in Local Fiscal Recovery Funds and is awarded \$2 million in MCWI funds. The Applicant also has \$3 million in tax revenue funds that it will use to pay for the total cost of the Project (i.e. \$7 million = \$2 million LFRF + \$2 million MCWI funds + \$3 million Applicant's other funds). The 4% limit is applicable to the total Project cost of \$7 million, such that MCWI funds may be used to pay up to \$280,000 in professional fees; the MCWI Grant Funds used to pay for professional fees requires a matching amount by the Applicant, see FAQ 49 for further explanation. Note, this answer is a change from prior interpretations, as additional guidance was provided by Legislative leadership.
49. **May professional fees be paid solely with MCWI Grant Funds?** No, the Recipient must contribute the required match to receive MCWI Grant Funds for professional fees. The match amount should be included in the match funds requested for the entire Project. For example, an Applicant's total project cost (see FAQ 48) is \$7 million, with the Applicant providing \$2 million in Local Fiscal Recovery Funds (LFRF) as its match. The Applicant pays professional fees of \$700,000 for the Project. The Applicant receives \$2 million in MCWI Grant Funds (e.g. 1:1 match). The Applicant must obligate other funds for the remaining \$3 million in Project costs (e.g. \$7 million cost - \$2 million in LFRF - \$2 million in MCWI Grant Funds). Under the 4% professional fee limit, the Applicant may only submit \$280,000 in LFRF as match for professional fees to be reimbursed under the MCWI Grant Program; as such, the

Applicant may only be reimbursed a total of \$280,000 in MCWI Grant Funds for professional fees (i.e. 4% of \$7 million). This \$280,000 of MCWI Grant Funds combined with the matching \$280,000 of Applicant's LFRF leaves the Applicant owing \$140,000 in professional fees; this remaining \$140,000 in professional fees would have to be paid by the Applicant with other funds. If the Applicant is eligible for a 2:1 match (i.e. a Municipality received less than \$1 million in LFRF), the same reasoning applies, but the Applicant gets to match its professional fees at the 2:1 rate. For example, the Applicant wishes to construct an eligible Project that costs \$2 million; the Applicant received \$500,000 in LFRF; the Applicant's engineering costs are \$250,000. Because the Applicant received less than \$1 million in LFRF, it is eligible for a 2:1 match. The Applicant uses its entire \$500,000 LFRF to apply for an MCWI Grant and receives \$1 million in MCWI Grant Funds. The Applicant would have to obligate other funds for the additional \$500,000 in costs (e.g. \$2 million Project cost - \$500,000 LFRF - \$1 million in MCWI Grant Funds = \$500,000). The amount of professional fees that may be matched with MCWI Grant Funds is limited to \$80,000 (e.g. 4% of \$2 million); the Applicant supplies the \$80,000 and would then be eligible to receive up to \$160,000 in MCWI Grant Funds for professional fees (i.e. 2:1 match). This \$160,000 of MCWI Grant Funds combined with the matching \$80,000 of Applicant's LFRF leaves the Applicant owing \$10,000 in professional fees. The additional \$10,000 in professional fees must be paid for by the Applicant with other funds.

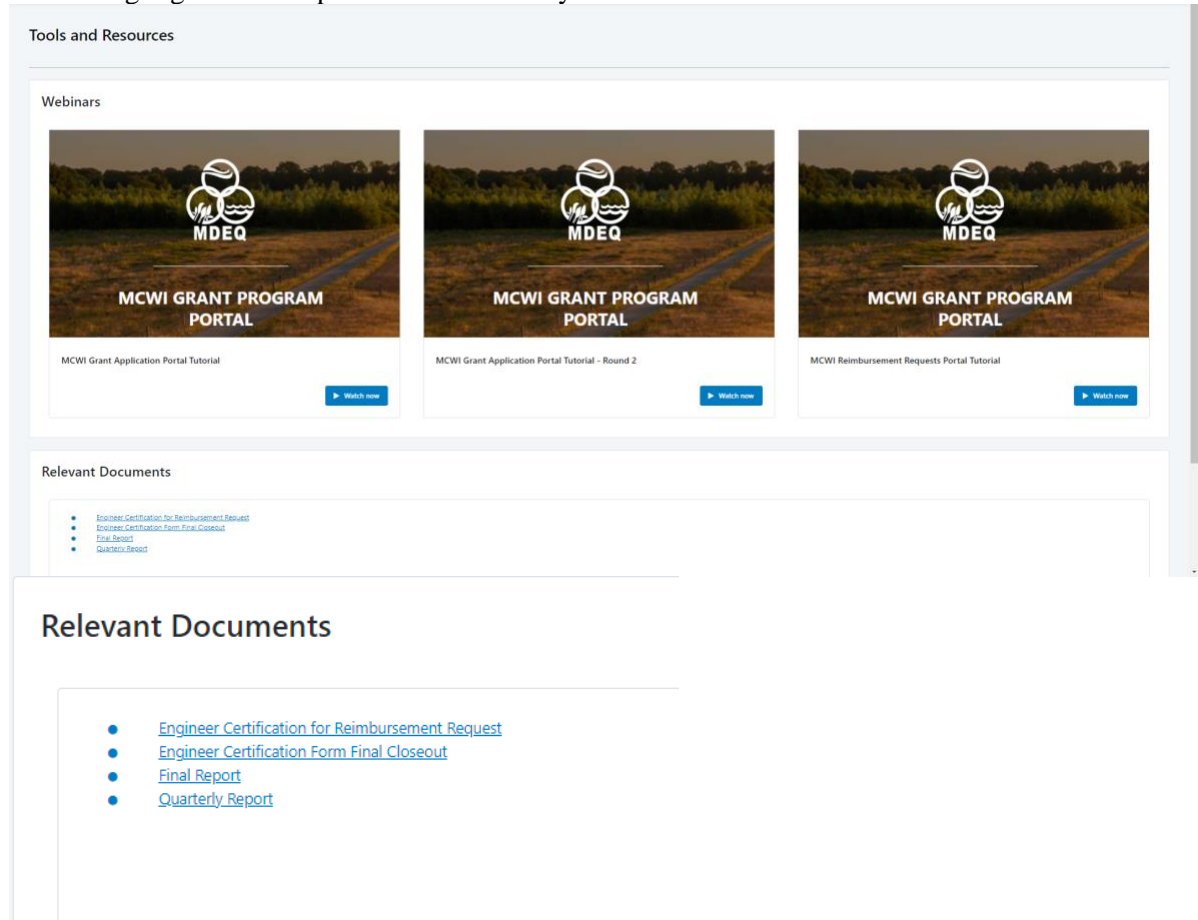
50. **May an Applicant use their original ARPA allocation to pay engineering costs that exceed the 4% professional fee limit?** MDEQ interprets the language in Senate Bill 2822 to mean the 4% professional fee limit restricts the amount of MCWI funds an Applicant may use for the payment of professional fees. If professional fees exceed the 4% limit, an Applicant may pay those additional fees from other sources, including the Applicant's Local Fiscal Recovery Funds, provided such payment complies with applicable federal and state requirements for the use of those funds.
51. **Are reimbursable professional fees limited to design and permitting?** The MCWI Grant Program Act defines "professional fees" as "the services of attorneys and engineering, surveying and environmental studies." Fees for professional services that do not fall under this definition are not considered "professional fees" for purposes of the MCWI Grant Program. However, note that MDEQ considers "environmental studies" to cover a broad range of traditional engineering activities, to include, but not limited to, any plan, study, assessment or evaluation used to determine conditions that exist prior to construction, identify potential environmental effects, propose measure that would be necessary to protect environmental concerns, or predict environmental effects of a proposed Project (i.e. sewer line assessments, Phase I and/or Phase II site assessments). While these "environmental studies" may be reimbursable with MCWI matching funds, the amount reimbursed would be limited to the 4% professional fee limit set forth in Senate Bill 2822.
52. **Are costs incurred before the MCWI grant award is made eligible for reimbursement under the MCWI Grant Program?** Yes, if the costs meet applicable state and federal requirements such as, but not limited to, 2 CFR Part 200; however, see FAQ 54 for additional information on this topic. In addition, the costs must have been incurred on or after March 3, 2021, per Treasury's Final Rule on ARPA.
53. **Is the purchase of land, easements or rights-of-way a reimbursable cost?** Provided the land, easement or right-of-way purchase is necessary for the implementation of the Project and is acquired in compliance with applicable state and federal requirements, such costs are reimbursable under the MCWI Grant Program.

54. **Are pre-Project development costs eligible for reimbursement?** Planning and design costs, such as a sewer system evaluation, that are part of an eligible infrastructure Project may qualify as a reimbursable cost, provided applicable state and federal requirements are met. Please note that such costs are potentially subject to the 4% professional fee limitation in Senate Bill 2822.
55. **Are costs incurred for preparing the MCWI application eligible for reimbursement?** No, per Treasury regulations, the costs associated with preparing an MCWI application are not reimbursable with MCWI grant funds. See 2 C.F.R. Sec. 200.458. However, costs associated with grant management after the award is made may be reimbursable provided federal and state law and regulations are met (e.g. federal procurement requirements, 4% professional fee limitation in state law).
56. **Will MDEQ charge an administrative fee?** While MDEQ will not charge an administrative fee directly to any Applicant or Recipient, the MCWI Grant Program Act authorizes the Department to retain “an amount not to exceed five percent (5%) of the total funds allocated to the program to defray administrative costs.” See Mississippi Municipality and County Water Infrastructure Grant Program Act of 2022, Section 1, para. 15 (April 26, 2022).
57. **Does the Bollinger Memo apply to Public Development Districts (PDDs) or will PDD services need to be procured in order to be reimbursed with MCWI Grant Funds?** MDEQ has reviewed the February 29, 1984 memorandum authored by HUD Assistant Secretary Stephen J. Bollinger. In summary the memo states that Planning and Development Districts are “other public agencies” which are “given special authorization in the [Housing and Community Development] Act to undertake grant activities.” Further, under the Housing and Community Development Act the “chief executive officer of a state or unit of general local government may designate a public agency to undertake activities assisted with CDBG funds.” The memo finds that “the use of other public agencies to undertake grant activities is not a procurement action.” Unfortunately, MDEQ believes the Bollinger Memo is limited to HUD actions, in particular actions taken under the Housing and Community Development Act. While MDEQ would like to afford PDDs the least burdensome way to assist municipalities and/or counties in complying with the MCWI Grant Program, we see no way that the Bollinger Memo is applicable to the American Rescue Plan Act; thus, a county or municipality would have to follow applicable procurement requirements of federal (and state) law, to specifically include Part 200 requirements, in order to retain/hire/engage a PDD for MCWI grant management assistance IF the county or municipality wishes to use MCWI grant funding to pay for those services.
58. **If a Project’s cost exceeds the “other funds” provision, as set forth in Article 7A.iv. of the Grant Agreement, will MDEQ allow the Subrecipient to amend the Agreement to account for the need for additional funds?** Yes. MDEQ anticipates that some Agreements will need to be modified to account for costs that exceed the originally anticipated cost of the Project. To that end, MDEQ is prepared to allow modification to the “other funds” provision of the Agreement found at Article 7.A.iv. MDEQ may also allow modification to other terms of Article 7 and/or other provisions of the Agreement where both the Subrecipient and MDEQ agree such amendment is warranted.

59. Where can I receive an overview of how to submit a reimbursement request?

Please visit the MDEQ Water Infrastructure website at <https://mswaterinfrastructure.com/>. There you will find a video entitled ‘Reimbursement Requests Portal Walkthrough’ that walks through the reimbursement portal and how to submit requests.

60. Where can I find the Engineer Certification of Compliance with Plans & Specifications Form for Reimbursement Request, Engineer Certification of Compliance with Plans & Specifications Form for Final Closeout, Final Report, Quarterly Report, and Intergovernmental Review forms? You can find all of these forms once you are logged into the Portal. A Tools and Resources tab is located at the top of the Task Bar. Here is what you should see, and the highlighted bullet points are the forms you will need to submit.



61. What is the difference between the Engineer Certification of Compliance with Plans & Specifications Form for Reimbursement Request and Engineer Certification of Compliance with Plans & Specifications Form for Final Closeout? The *Engineer Certification of Compliance With Plans & Specifications for Reimbursement Request* form is for construction reimbursements during the project. You do not need to include this certification if your invoice contains a similar certification signed by the engineer. The *Engineer Certification of Compliance With Plans & Specifications Form for Final Closeout* is required for the final reimbursement of any contract.

62. What documentation will I be required to submit for my procurement file?

Attachment A of your Subaward Agreement requires the submission of your complete procurement file. A procurement file should include, at a minimum, for each executed contract:

- Your entity’s procurement policies & procedures

- Solicitation documentation (Invitation to Bid/Request for Proposals/Request for Qualifications)
- Proof that your solicitation was publicized
- Affirmative MBE/WBE outreach documentation
- All received bids, quotes, proposals and/or statements of qualifications
- Bid tabulation or request for proposal/qualifications evaluation
- Executed contracts including any change orders

All of the above listed documents should be uploaded in the Document Portal found in the MCWI Grant Program Portal under the document submission type ‘Executed Contract & Procurement Documentation’.

63. What documentation will be required in order to process reimbursement requests?

The following information must be provided:

- Vendor invoices, including proof of payment (if proof of payment is not available at time of reimbursement request, proof of payment must be uploaded within 30 days of receipt of reimbursement)
- Engineer’s Certification of Compliance with Plans & Specs (if seeking reimbursement for construction)
- Complete procurement file (for construction, purchased materials, and/or services)
- Final Plans & Specifications
- Intergovernmental Review, if applicable
- Permits and Approvals, if not already uploaded.
- For Final Reimbursement Request, the following documentation will also be required:
 - Final Report
 - As-Built Plans or Record Drawings
 - Engineer Certification of Compliance with Plans & Specifications Form Final Closeout
- NOTE: You must be current on your Quarterly Progress Report submissions

Memorandum of Understanding

64. Where can I find more information on Memorandums of Understanding as an option for obligating the local fiscal recovery funds provided to my County or Municipality as part of the American Rescue Plan Act? The United States Treasury recognizes Interagency Agreements through the creation of an internal MOU as a means for LFRF Recipients to obligate funds. For more information and a template, visit the MCWI website at <https://mswaterinfrastructure.com/#mouupdate>

65. I have obligated or plan to obligate the entirety of the MCWI award funds (combined State, Local, Transferred ARPA funds) by entering into contracts with vendors prior to December 31, 2024. Should I still execute an MOU? Executing an MOU even though you have obligated those funds through contracts is recommended as an extra precaution against contractual changes or cost underruns leaving you with unobligated funds after December 31, 2024.

- Example: A county that is an MCWI subrecipient plans to perform a \$10 million water tower project. The county provides \$5 million of its own ARPA LFRF and receives \$5 million in State MCWI funds derived from the State’s ARPA SFRF funds. At the time the MCWI subaward is executed, the State has successfully obligated its portion of the funds by subawarding them to the county.

The county in turn awards contracts for the full \$10 million in funds by entering into agreements with an engineer as well as the company responsible for construction of the water tower. This action serves to obligate the county's \$5 million, which meets the federal requirements. The County declines to utilize the MOU procedure for creating an interagency agreement to obligate the funds prior to the December 31, 2024 deadline because the contracts have already satisfied the requirement.

The project progresses beyond the December 31, 2024 obligation deadline and construction is completed in 2025, still within the expenditure deadline. Due to project underruns, there is a change order reducing the original contract amount by \$200,000.00. Of that amount, the county has \$100,000.00 and the State still has a commitment of \$100,000.00. The county decides to use the extra funds to put towards a fence and some access improvements. These improvements are within the scope of the MCWI subaward, but not within the scope of the construction contract, which necessitates a new procurement. In this situation, the county must hire another contractor to carry out work that is allowable under the scope of the MCWI subaward. However, the deadline for obligating funds has passed and the \$100,000.00 can only be used towards contracts that were in place prior to the deadline. In this case the county's funds could not be used on the project and would likely have to be returned to the federal government.

Had the county instead opted to enter into an interagency agreement by executing an MOU prior to December 31, 2024, the MOU would be the obligating mechanism. This would allow the county to hire additional contractors for work that fell within the scope of the original MCWI subaward. The county would be able to expend the remainder of its own funds and retain the State match.

Contract Change Orders/Modifications

66. What principles should a Subrecipient consider when determining whether a contract change order is compliant with federal procurement requirements? MDEQ believes existing FEMA Guidance (summarized below) provides the most succinct explanation of what considerations U.S. Treasury, the federal agency responsible for determining ARPA procurement compliance, may consider. In summary, FEMA Guidance outlines two factors that should be evaluated to determine whether a change order is compliant with federal procurement:

- 1) Is the change within the scope of work of the contract, and
- 2) Is the contract work, costs, or time required by the change order so extensive, significant, or cumulative that the contractor is required to perform very different work from that described in the original contract.

In determining whether changes are beyond the scope of the contract, the total work performed by the contractor should be compared to the work called for in the original contract. This includes evaluating the nature of the work being performed, the additional amount of effort the contractor is required to perform for the work, the difference in cost, and the period of performance for the change, in order to assess the cumulative impact of the change order on the contract's quantity, quality, cost, and delivery terms.

The Subrecipient should evaluate whether there is a material difference between the modified contract and the contract that was originally competitively bid. Consideration should be given to whether the solicitation for the original contract adequately advised offerors of the potential for the type of changes at issue or whether the changes are of a nature that potential offerors may have reasonably anticipated. If the contract does not meet this requirement, the change order may be considered to be in violation of the competitive procurement requirements found in 2 C.F.R. § 200.319.

FEMA Guidance does not assign a specific percentage, dollar value, number of changes, or other objective measure that would apply to all cases to identify allowable changes, instead stating that each contract change should be considered on a case-by-case basis.

FEMA did offer the following example: A powerful storm impacts the City of Z, resulting in flooding and damaging portions of the City's sidewalk. The City of Z plans to use a preexisting contract to replace 5 miles of damaged sidewalk at an estimated expense of \$4 million. A review of the existing contract indicates that disaster related repairs were anticipated, but the contract limits repairs to 1.5 miles in the City's center and contains a not-to-exceed clause of \$750,000. Can the City of Z modify its existing contract in order to perform the anticipated repair of its sidewalks?

Answer: No. In this scenario, the new requirement for sidewalk repairs would more than double the services contemplated in the preexisting contract and increase the contract value above the "not-to-exceed amount" by over 300%. This contract modification would be viewed as a noncompetitive (sole-sourced) award to the contractor because the new contract work deviates significantly from the original requirements solicited through full and open competition.

Given the lack of definitive guidance and that the ultimate decision of what may be considered in evaluating Contract Changes/Modifications lies with the U.S. Treasury, the decision of whether a contract change/modification is compliant with federal procurement is the responsibility of the Subrecipient. Generally speaking, MDEQ will accept fully executed contract modifications that are reviewed/approved by the project engineer. As a cost or price analysis must be performed for any procurement above \$75,000.00, any change order over that value must also be analyzed and confirmed as reasonable by the Subrecipient and project engineer.

Any risk associated with the compliance of such contract changes/modifications in complying with federal procurement requirements lies with the Subrecipient.

The FEMA Guidance may be found on pages 93-94 at https://www.fema.gov/sites/default/files/documents/fema_PDAT-field-manual_102021.pdf.

67. What principles should a Subrecipient consider when determining whether a contract change order is compliant with state procurement requirements?

Subrecipients are authorized under state law to make changes or modifications to the original contract in accordance with § 31-7-13(g), which provides:

(g) Construction contract change authorization. In the event a determination is made by an agency or governing authority after a construction contract is let that changes or modifications to the original contract are necessary or would better serve the purpose of the agency or the governing authority, such agency or governing authority may, in its discretion, order such changes pertaining to the construction that are necessary under the circumstances without the necessity of further public bids; provided that such change shall be made in a commercially reasonable manner and shall not be made to circumvent the public purchasing statutes. In addition to any other authorized person, the architect or engineer hired by an agency or governing authority with respect to any public construction contract shall have the authority, when granted by an agency or governing authority, to authorize changes or modifications to the original contract without the necessity of prior approval of the agency or governing authority when any such change or modification is less than one percent (1%) of the total contract amount. The agency or governing authority may limit the number, manner or frequency of such emergency changes or modifications.