



Report to Legislature on use of Federal Funds allocated to the State of Nebraska pursuant to the federal American Rescue Plan Act of 2021.

In LB1014 Sections 32 and 33, the Legislature appropriated \$23,100,000 to Dept. Prog. 314 for repair or construction of irrigation infrastructure and \$20,000,000 to Dept. Prog. 319 for public water supply projects. The Department published a Guidance Document June 13, 2022 and has identified a single eligible recipient for the Prog. 314 funds, the Gering-Ft. Laramie Irrigation District, and a single eligible recipient for the Prog. 319 funds, the City of Lincoln.

Program 314

The Department has reviewed the eligibility criteria established in LB 1014 and determined that the Gering-Fort Laramie Irrigation District (GFLID) is the only eligible applicant for these funds. The Department is currently working with GFLID to determine total project costs and those funds that are necessary to satisfy matching requirements for the repair and construction costs associated with tunnel repairs that are integral to the operations of their irrigation system. The Department will continue to work with GFLID and the United States Bureau of Reclamation to determine final matching fund requirements for the project. No further action is required by GFLID to be determined as the eligible recipient under LB1014.

The Department has reviewed the final rule published by the DEPARTMENT OF THE TREASURY [31 CFR Part 35 RIN 1505-AC77]. The Secretary of the Treasury (Treasury) adopted as final the interim final rule published on May 17, 2021, with amendments. This rule has been revised, based in part, on provisions of the Infrastructure Investment and Jobs Act in the fall of 2021 (IIJA). The provisions of the final rule reviewed by the Department are effective as of April 1, 2022. The eligibility for the expenditures of GFLID have been reviewed in the context of this rule.

The Infrastructure Investment and Jobs Act amended sections 602(c) and 603(c) of the Social Security Act to add an additional eligible use of SLFRF funds, providing that SLFRF funds “may be used for purposes of satisfying **any non-Federal matching requirement required for [an authorized Bureau of Reclamation project].**” This amendment permitted the use of SLFRF funds to meet non-federal matching requirements of any authorized Bureau of Reclamation project, regardless of whether the underlying project would be an eligible use of SLFRF funds under the water and sewer infrastructure eligible use category. These amendments are effective as of March 11, 2021, as if included in the ARPA at the time of its enactment. Treasury will provide further guidance to recipients on the scope of Bureau of Reclamation water projects and expenses covered by this provision. The provisions cited for eligibility under the final Treasury rule are contained on **page 291** of the rule.

Program 319

The Department has reviewed the eligibility criteria established in LB 1014 and determined that the City of Lincoln (Lincoln) is the only eligible applicant for these funds. The Department will be working with Lincoln to determine total project costs and the specific expenditures that will be planned for these funds within the limitations established in LB1014. No further action is required by Lincoln to be determined as the eligible recipient under LB1014.

The Department has reviewed the final rule published by the DEPARTMENT OF THE TREASURY [31 CFR Part 35 RIN 1505-AC77]. The Secretary of the Treasury (Treasury) adopted as final the interim final rule published on May 17, 2021, with amendments. This rule has been revised, based in part, on provisions of the Infrastructure Investment and Jobs Act in the fall of 2021 (IIJA). The provisions of the final rule reviewed by the Department are effective as of April 1, 2022. The eligibility for the expenditures of Lincoln have been reviewed in the context of this rule.

The final Treasury rule provides for opportunities to make necessary investments in water, sewer, or broadband infrastructure. The rule creates limitations on certain investments in water infrastructure but does provide for eligibility for drinking water projects needed to support increased population. Projects of the type that meet the eligibility requirements of 40 CFR § 35.3520 if the following conditions are met: (A) The project is needed to support increased population, with need assessed as of the time the project is undertaken; (B) The project is designed to support no more than a reasonable level of projected increased need, whether due to population growth or otherwise; (C) The project is a cost-effective means for achieving the desired level of service; and (D) The project is projected to continue to provide an adequate level of drinking water over its estimated useful life (page 427).

Drinking Water State Revolving Fund projects or activities of the type that meet the eligibility requirements of section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-

12) as implemented by the regulations adopted by the Environmental Protection Agency (EPA) under 40 CFR § 35.3520 are also eligible, provided that: (A) The recipient is not required to comply with the limitation under 40 CFR § 35.3520(c)(2) to acquisitions of land from willing sellers or the prohibition under 40 CFR § 35.3520(e)(6) on uses of funds for certain Tribal projects; and (B)) In the case of lead service line replacement projects, the recipient must replace the full length of the service line and may not replace only a partial portion of the service line. (Page 427).

Expenditures by Lincoln consistent with the limitations expressed in LB1014 and the eligibility criteria described above would be eligible uses of the funds.

