

**State Water Infrastructure Authority
July 14, 2021 Meeting**

**Agenda Item M – Approval of Timing for Reassessment of Distressed Designations & Eligibility
of Non-Distressed Systems**

Division of Water Infrastructure Staff Report

Background

General Statute 159G-45 directs the State Water Infrastructure Authority (Authority) and Local Government Commission (LGC) to utilize an assessment and review process to identify distressed units, to develop evaluation criteria for grants from the Viable Utility Reserve (VUR) and, in their discretion, impose specific performance measures or conditions on any grant awarded from the VUR.

The assessment and review process has been implemented to identify distressed units. There are 4 identification Criteria established by the Authority and LGC. Each criterion will need to be considered in establishing an assessment frequency. The four Identification Criteria are:

1. Under final control of the LGC
2. Two consecutive years of missing annual audits
3. Assessment Criteria Score
4. Other information

G.S. 159G-45(d) requires that the Authority and the LGC establish the frequency of the cycle for assessment and review of local government units (LGUs) and stipulates that the frequency shall be no less than every two years.

Assessment Frequencies

Identification Criterion 1 – LGU control

The need for the LGC to assume financial control of a LGU has been rare and does not occur on a regular or predictable frequency. The LGC considers recommendations from staff during their meetings.

It is recommended that once an LGU is taken over by the LGC, the LGU is automatically designated as distressed without the need for Authority action during a future meeting.

Identification Criterion 2 – Missing Audits

Similar to Identification Criterion 1, the determination of missing audits is made by the LGC and may not need Authority review. However, it will be beneficial to ensure that LGUs are made aware of the potential to be designated as distressed after missing their first annual audit.

It is recommended that all LGUs missing an annual audit receive a letter from the Division and LGC informing them that if a second consecutive audit is not submitted, the LGU will be designated as distressed. Once an LGU is missing two consecutive annual audits, the LGU is automatically designated Distressed without the need for Authority action during a future meeting.

Identification Criterion 3 – Assessment Criteria Score

Identification Criterion 3 includes the assessment of 18 different distressed parameters to determine each LGU’s Assessment Criteria score. System data to evaluate the different parameters come from several different sources and become available at different times during the year. It is procedurally difficult to re-calculate scores and it will be important to establish an assessment frequency that will provide predictable results for LGUs. It will also be beneficial to provide LGUs with sufficient notification prior to being designated. The different data sets and their relative availability in Table 1.

Table 1. Data Sources for Assessment Criteria		
Data Type	Source	Relative Availability
Audit Data	Local Government Commission	Typically, available Feb/March (Most audits due Oct 31st of each year)
Local Government Unit Affordability Indicator Data	American Community Survey, Employment Security Commission, Dept. of Revenue	Available in Dec (2-year data lag)
Rate Data	Environmental Finance Center	Late March (1 year data lag)
Permitting and Compliance data	Division of Water Resources	Available on demand
Unit Assistance List	LGC	Annual Available Spring based on previous fiscal year
Service Population	Environmental Finance Center, Division of Water Resources	Varies

Division staff recommend that Criterion 3 be evaluated on an annual basis at the end of April. Local government units exceeding criteria threshold scores for a single year will receive notice of pending designation and information about the Viable Utility (VU) program and the

requirements for designated LGUs. These LGUs will have one year to take actions they deem appropriate and will be reassessed at the next scheduled annual assessment. Local government units which exceed the criteria score for two consecutive years will be recommended for designation at the next Authority meeting (usually held in July).

Local government units that have been notified of pending designation may contact the Division in writing to request designation to improve their prioritization for funding without waiting until the next assessment.

It is recommended that the 18 LGUs which exceeded the criteria score based on 2019-2020 assessment data, but were not designated because of questions they raised about their assessment scores, be provided notification of their pending designation and that their assessment scores will be calculated again in April 2022. If their scores exceed the criteria thresholds for a second year, then those LGUs will be recommended for designation as distressed after that assessment. In addition, eight LGUs had not submitted their FY2019 audit data to the LGC by 12/1/2020 when the last data pull was taken for the original assessment. Division staff recommend that upon concurrence by the LGC, the assessment evaluation be done for the following eight LGUs using their FY2019 audit data: Towns of Black Creek; Castalia; Chimney Rock; Goldsboro; Jackson; Lucama; Magnolia and Newport.

Identification Criterion 4 – Other Factors

Identification Criteria 4 allows the Authority and LGC to consider more recent data or events to designate a unit strictly by the other identification criteria. It is not necessary to set a frequency schedule for Identification Criteria 4.

Staff Recommendations

Staff recommend the Authority approve the staff recommendations in Table 2 as related to assessment frequency for the four Identification Criteria.

Identification Criteria	Assessment Frequency	Designation	Notification Period
1 – LGC Control	As needed	Automatic upon LGC action	None
2 – Missing Audits	Annual	2 years missing Automatic upon LGC action	After first missing audit (1 year)
3 – Assessment Criteria Score ¹	Annual (April)	Next Authority meeting after 2 nd consecutive year of exceedance of criteria score (Likely July)	After first exceedance of criteria (1 year)

4 – Other Factors	As needed	As needed	Variable
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¹ the 18 units put on hold during 2021 assessment will be notified on pending designation during 2022 assessment and provided with option to be designated upon request.

Inclusion of Non-Designated Systems in Regional Solutions

§159-34.5(a) Grant Types Available from Viable Utility Reserve

Asset inventory and assessment (AIA) and rate study grants from the VUR will assist LGUs to better understand the infrastructure and financial aspects of their systems. Merger / regionalization feasibility (MRF) grants offer funding to determine the feasibility of consolidating the management of multiple water or wastewater systems or providing regional treatment or water supply, and the best way of carrying out the consolidation or regionalization.

Staff have discussed this topic with the Viable Utility (VU) Committee, specifically highlighting a proposal involving the Towns of Lawndale (Cleveland County) and Jamesville (Martin County), which are currently not designated as distressed for their water and wastewater utilities but have assessment scores close to the thresholds for designation (eight points and six points, respectively), and are potential regional partners to distressed LGUs currently eligible for VUR study grant funding. Additionally, the Town of Black Creek is a potential regional partner with distressed LGUs in Wilson County for water and wastewater services and has an assessment score of seven points.

Several regional partnerships involving distressed and non-distressed LGUs have begun coordinating on study grant applications, as summarized in Table 3.

Table 3. Summary of Potential Regional Partnerships and their Designation		
Regional Partnership	Distressed LGUs	Non-Distressed LGUs
Wayne County	Fremont Pikesville Eureka Mount Olive	Goldsboro Wayne County Fork Township Sanitary District Southern Wayne Sanitary District Wayne Water Districts Walnut Creek

Table 3. Summary of Potential Regional Partnerships and their Designation		
Regional Partnership	Distressed LGUs	Non-Distressed LGUs
Cleveland County	Kingstown Grover Lawndale Polkville	Fallston Cleveland Water NC
Martin County	Everetts Hamilton Martin County Parmele Robersonville Williamston	Jamesville

The VU Committee agreed that non-distressed LGUs should be considered for VUR funding, provided that they are partnering with a distressed LGU on a MRF study, and that such funding to the non-distressed unit only applies to those system attributes impacted by a potential merger or regionalization arrangement. The VU Committee requested Division staff to also establish a process where the MRF is issued to one LGU in the regional partnership to ensure there is a coordinated effort in evaluating long-term solutions.

Staff Recommendations

Note: This recommendation is also under consideration by the LGC.

Division staff propose that VUR funds be made available to non-distressed units for the purpose of AIAs, rate studies, and/or MRF studies involving solutions for designated distressed units. Proposed minimum process steps are as follows:

- Non-distressed and distressed LGUs agree in principle to work together on assessing the feasibility of a merger and/or regionalization effort.
 - Staff recommends and can help coordinate a meeting of all potential regional partners to discuss working arrangements (grant management, contractor management, etc.) and process questions with the Division.
 - Justification must be provided showing that such partnerships are reasonable. Staff have been considering that all LGUs within a single county which includes one or more designated distressed LGUs could be eligible for funding. It is also possible that non-distressed LGUs proximate to distressed LGUs, but in another county could be eligible, with justification on the potential viability of such a partnership provided as part of the application.

- All participating LGUs requesting funding must submit a binding resolution by their LGU clearly indicating their commitment to work with the specific LGUs in their partnership (the non-distressed LGUs most importantly) and indicating their commitment to fulfilling all of the VUR statute requirements for education / training and planning if study grant funding is awarded.
- All partners requesting AIA and Rate Study funding must submit a separate grant application, including a description of what utility planning and management steps have been completed and what steps are planned, including a schedule (this could be the Short-Term Action Plan).
- Although all VUR funding must be connected to a distressed LGU, any partner with sufficient management capacity can be proposed for management of the study contract(s).
- All study funding applications provided by non-distressed LGUs must include participation in an MRF study (this could include a relevant MRF that has already been conducted). The MRF study must be conducted first or simultaneously with AIA and /or rate studies specific to the impacts of the distressed LGU(s) on the non-distressed LGU applying for funding. Asset inventory and assessment and / or rate studies shall be for the specific purpose of generating data needed for the MRF. One MRF grant would be awarded to one of the LGUs in the regional partnership rather than individual grant awards to each LGU to ensure alternatives are evaluated in a coordinated manner.