

**State Water Infrastructure Authority  
Viable Utility Reserve Committee  
June 23, 2021 Meeting  
Agenda Item D – Timing of Distressed Assessment Criteria Reviews**

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**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

§ 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.

**Identification Criteria 1 – LGU control**

The need for the LGC to assume financial control of a local government 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 SWIA action during a future meeting.

**Identification Criteria 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 SWIA action during a future meeting.

**Identification Criteria 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.

<b>Table 1. Data Sources for Assessment Criteria</b>		
<b>Data Type</b>	<b>Source</b>	<b>Relative Availability</b>
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

It is recommended 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.

**Identification Criteria 4 – Other Factors**

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

**Recommendations**

Staff recommend the following assessment frequency for the four Identification Criteria be taken to the full Authority for consideration as shown in Table 2 below.

<b>Table 2. Summary of Staff Recommendations</b>			
<b>Identification Criteria</b>	<b>Assessment Frequency</b>	<b>Designation</b>	<b>Notification Period</b>
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 <sup>1</sup>	Annual (April)	Next Authority meeting after 2 <sup>nd</sup> consecutive year of exceedance of criteria score (Likely July)	After first exceedance of criteria (1 year)
4 – Other Factors	As needed	As needed	Variable

<sup>1</sup> 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.