



January 11, 2023

Re: EPA Grants

- Basin Engineering has been working with the City of Ely, the Porter Group and the EPA on procuring Community Grants for water infrastructure projects identified as Congressionally Directed Spending (CDS) and Community Project Funding (CPF) item in Appropriations Acts via the U.S. Environmental Protection Agency (EPA).
- **For the Fiscal Year (FY) 2022 and 2023 there are 1,198 CDS/CPF drinking water, wastewater, stormwater infrastructure, and water quality protection projects nationwide.**
Of these projects **23 are in the State of Nevada.**
Of those **the City of Ely has 2 projects** eligible for funding:
- **2022 Central Ely Sewer Upgrade (FY 2022) became a federal law 3/15/22: appropriation amount is \$3,300,000**
- **October 2022: Community Grants 2022 Implementation Guidance Released (Central Ely Sewer Upgrade Project)**
 - **Pre-Award Cost Reimbursement for FY 2022 Projects are addressed in this document. Pre-award costs incurred on or after October 1, 2021 would be considered eligible for Reimbursement.**
- **December 2022: A form was provided for CATEX application with some initial guidance but final determination guidelines had not been determined as the EPA was negotiating with NEPA over guidelines for utility projects.** We were directed to apply however determination guidelines for the EPA were going to be a work in progress and final CATEX decisions would not be made until they had clear cut guidelines in place. This could take some significant time as they worked with NEPA to establish these guidelines.
- **December 19, 2022: A CATEX (Categorical Exclusion) form was completed for the Central Ely Sewer Upgrade and submitted to the EPA, along with relevant supporting project documents.** If the proposed project is eligible for this determination an Environmental Impact Statement or an Environmental Assessment would not be necessary.

- **Lower East Ely Water Mains Upgrade (FY 2023) became a federal law 12/29/22: appropriation amount is \$2,430,000**
- **March 2023: Decision was made to hold off on Lower East Ely CATEX until further information regarding CATEX determinations was established and Central Ely project CATEX determination was made.**
- **March 29, 2023: BE staff began the first of EPA Grants Training Webinar Series. (What to Expect When You're Expecting a Grant)**
- **April 2023: Official Community Grants Program Final Implementation Guidance 2023 is released. (Lower East Ely Water Mains Upgrade)**
 - **Pre-Award Cost Reimbursement for FY 2023 Projects are addressed in this document. Pre-award costs incurred on or after October 1, 2022 would be considered eligible for Reimbursement.**
- **May 11, 2023: City of Ely submitted a request that the EPA waive the non-federal cost share for the City's FY 2022 CDS/CPF for the Central Sewer Upgrade. Based on review of Cost Share Waiver Criteria A-1 from the FY Community Grants Program Final Implementation Guidance.**
- **July 31, 2023: Notified that the EPA had assigned a Program Officer (Jessica Durst) to our grants. She reviewed the previous environmental documentation that the City of Ely had provided and stated that we were well on our way to a CATEX approval.**
- **August 29, 2023: City of Ely receives official notification from the EPA that they are granting a waiver to the cost sharing requirement to provide non-federal funds for both the Central Ely Sewer Upgrade Project and the Lower East Ely water Mains Upgrade Project.**
 - The dollar amount waived for the Central Ely Sewer Upgrade Project is \$825,000.
 - The dollar amount waived for the Lower East Ely Water Mains Upgrade Project is \$607,500.

- **September 5, 2023: Project Officer (Jessica Durst) and Steven Smith (EPA) confirmed in an email that while there is not a rule that the EA/CATEX be completed prior to submitting the applications the EPA strongly requests that the EA/CATEX be completed prior to submitting the application packages.**

The reasons given for this are as follows: First being the fact that it can take a great deal of time to complete this process and we cannot award funds before its complete. The application package is a much less weighty and time-consuming process by comparison. Second, if you were to submit the application package before all of your NEPA/CATEX is complete and there was a departure from your estimate, requiring additional survey or NEPA work, this would affect your budget and in turn would require a lengthy correction process.

Steve Smith reiterated both points and referred to both the **FY 22 and FY 23 Community Grants Program Final Implementation Guidance, bottom of numbered p. 9 under item #3** indicating **a complete application should be submitted “Upon completion of an environmental review under NEPA...”**.

While not a requirement, following this guidance is both logical and efficient, for the reasons Jessica stated.

- **October 5, 2023: Responses to 4 additional questions from the EPA consultant were provided to the EPA Project Officer, Jessica Durst.**
(Note: that these responses/answers were repeating information that was provided in the project description and the CATEX forms previously completed.)
- **October 13, 2023: the EPA Program Officer informed the City of Ely and Basin Engineering that a minimum section 106/SHPO consultation will be a requirement even with a CATEX decision** that would result in other NEPA EA requirements being waived. This information was attained after Basin Engineering provided responses (October 5th, 2023) to a request for further information needed to move the NEPA CatEx process forward.
- **October 19, 2023: the completed SHPO / 106 documentation for Central Ely Sewer was sent to the EPA in support of a CATEX (Categorical Exclusion) decision regarding an EA (Environmental Assessment) for this project.**
- **November 1, 2023: A response from the EPA Project Officer was received regarding SHPO documentation provided. The documentation was forwarded to their Environmental consultant ERG for review. (ERG is the EPA’s NEPA consultant, they review SHPO/106 documentation as well as EA’s for the grant projects**

- **November 2023: SHPO/Sect. 106 application process for the Lower East Ely Water Mains Upgrade was started** after the EPA determination was made that SHPO/Sect. 106 would be a minimum requirement for Community Grants programs even with a successful CATEX decision.
- **January 10, 2023: Program Officer responded to an email sent on 1/09/2024 enquiring about the status of the SHPO / 106 review the City of Ely had submitted. She stated that she had not heard back from ERG (consultant) as of yet, but she would reach out to see if she can engage them directly. Previously on November 28th, 2023 she stated in an email that ERG had developed a backlog of work during the time in the fall when their contract lapsed.**
- **Next Steps: Upon approval of CATEX / SHPO-Tribal status apply for award through Grants.gov, Design Project, Prepare and Release Construction Bid documents and Construct.**

Sincerely,
BASIN ENGINEERING CORPORATION

Emil Almberg

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