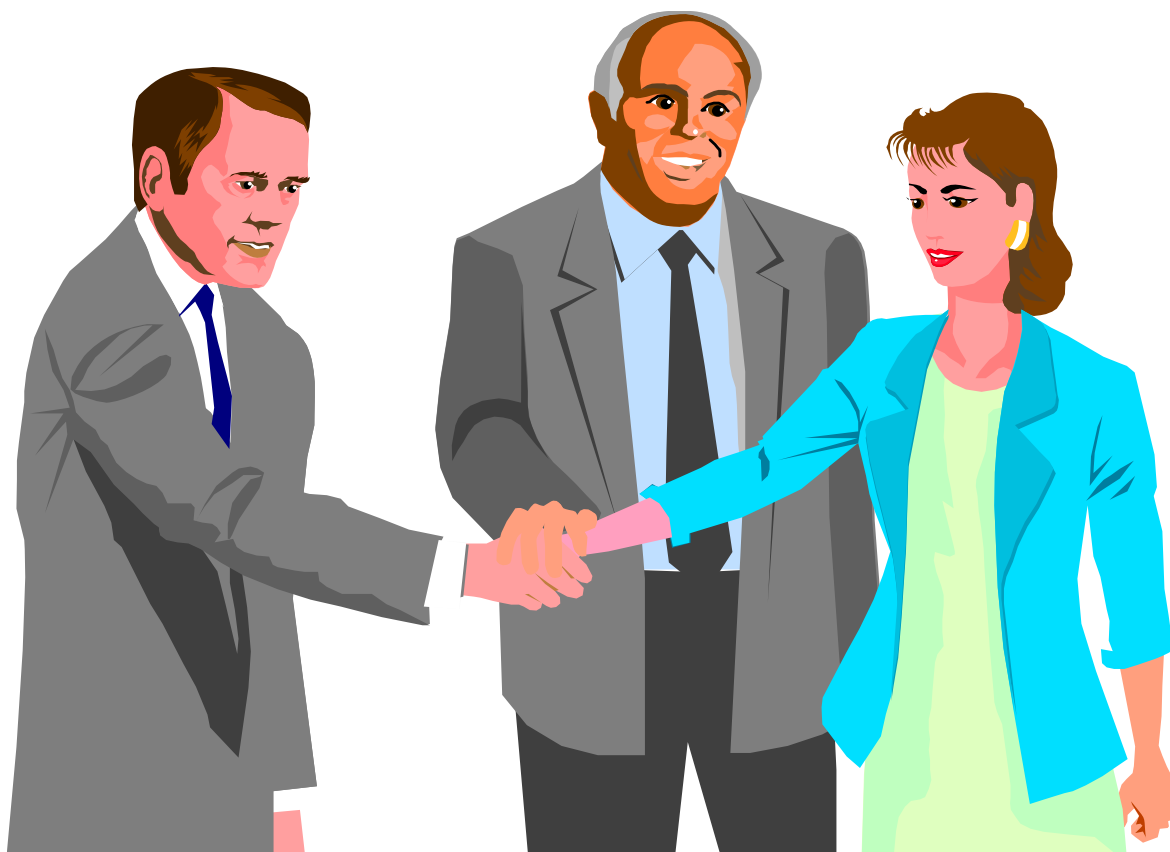


Securing Financial Assistance Through the Clean Water Revolving Loan Funds

A Guidance Document for Municipalities and Consultants



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INTRODUCTION

The Michigan Department of Environmental Quality (DEQ) has designed this guide to serve potential State Revolving Fund (SRF)/Strategic Water Quality Initiatives Fund (SWQIF) applicants and their consultants. There are three main purposes of this guide:

- *To help municipal officials and their consultants understand SRF/SWQIF planning requirements*
- *To help potential applicants understand the steps necessary to receive SRF/SWQIF loan assistance*
- *To explain the financial transactions which are necessary to close a loan and receive loan payments*

This guide can serve as a valuable resource to help qualified municipalities secure financial assistance through these two Clean Water Revolving Funds, but it cannot replace a close working relationship with DEQ staff. It will, however, lead you through the programs and identify the sequence of events that must take place. A staff person from the Revolving Loan Section of the DEQ's Resource Management Division (RMD) will be assigned as your project manager. Your DEQ project manager will assist you in taking the steps necessary for inclusion on the next Project Priority List(s).

Table of Contents

What are the Clean Water Revolving Loan Funds?	4
Who Benefits from the Clean Water Revolving Loan Funds?.....	5
Developing a Project Plan	6
The Project Priority Lists.....	11
Project Eligibility	12
Application Submittal and Review	18
The Order of Approval	21
The Loan Closing	21
Constructing the Project	23
Submitting and Receiving Loan Disbursements	24
Administrative Completion and Loan Repayments	25
How to Contact Us	26
Other Available Resources	27

WHAT IS THE STATE REVOLVING FUND?

The SRF is a result of the 1987 amendments to the Clean Water Act (P.L. 92-500). Under Title VI of the Act, Congress ordered the construction grants program, in place since 1972, phased out. To replace the grants, Congress authorized a low interest loan program that each state developed with the assistance of the United States Environmental Protection Agency (EPA). In response to this change in federal funding, Michigan enacted 1988 PA 317, "The Clean Water Assistance Act," to establish the SRF. This law is now codified as Part 53, 1994 PA 451, of the Natural Resources and Environmental Protection Act, as amended (NREPA).

The SRF is an environmental protection program that provides low interest financing to assist qualifying communities that have documented their water quality needs. The revolving nature of the fund will enable Michigan to finance water pollution control projects for years to come. The DEQ and the Michigan Finance Authority (MFA) jointly administer the SRF. Each agency lends its particular expertise for efficient operation of the program.

Each fiscal year, Congress authorizes an amount to be appropriated for the SRF which is then allocated among the states. To receive its share of federal funds, Michigan must contribute one dollar in matching funds for each five dollars given by the federal government. Michigan's 20 percent match initially came from the **Protecting Michigan's Future** environmental bond issue approved by citizens of this state in November 1988. These yearly match moneys have since been generated from a variety of sources, including general fund appropriations.

WHAT IS THE STRATEGIC WATER QUALITY INITIATIVES FUND?

The SWQIF is the result of a package of bills (Public Acts 396, 397, and 398 of 2002) that were signed into law on May 30, 2002, by Governor John Engler. This legislation created the Great Lakes Water Quality Bond Fund and placed a one billion dollar bond issue on the November 2002 ballot to finance sewage treatment works projects, storm water projects, and nonpoint source projects. This ballot proposal (Proposal 2) was supported by Michigan voters. The legislation is codified as Parts 52 and 197, of the NREPA.

The SWQIF provides low interest financing to qualifying communities for two specific kinds of projects that do not qualify for SRF assistance. These projects include improvements on private property which; 1) reduce or eliminate the amount of groundwater or storm water entering a sanitary or a combined sewer lead ; 2) upgrade, repair, or replace failing on-site systems that are adversely affecting public health or the environment, or both.

The implementation of the Great Lakes Water Quality Bond currently requires that not more than 20 percent of the bonds be sold in any one year. Bond proceeds will be transferred from the Water Quality Bond Fund with 90 percent to the SRF and 10 percent to the SWQIF.

WHO BENEFITS FROM THE CLEAN WATER REVOLVING FUNDS?

In a sense, we all benefit. Completed projects have helped make the waters of our state cleaner and safer. The SRF program has helped to ensure that treatment facilities meet their permitted discharge limitations. Combined sewer overflows (CSOs) are also being brought under strict control due to construction of SRF-assisted projects throughout Michigan. CSOs occur when pipes carrying both sanitary sewage and storm water become too full to transport their flow to a treatment plant and must be bypassed to a receiving stream. Large metropolitan areas such as Grand Rapids, Detroit, Lansing, and Saginaw, as well as many smaller communities such as Belding and Capac have had their CSO problems greatly reduced or eliminated because of projects built with SRF assistance.

Many other communities have built new sewers to alleviate septic tank failures that were contaminating, or threatening to contaminate, their water supply. Still other communities have rehabilitated their existing sewer systems by eliminating excessive infiltration and inflow (I/I). Excessive I/I can lead to overloaded treatment systems and backups of sewage into homes and businesses. Communities that experience these types of problems now have other options through the SWQIF to correct deficiencies on private property.

Additionally, communities may access both programs at the same time to maximize the financial and environmental benefits. For example, projects to correct overflows from separate sanitary sewer systems (SSOs) may require both private and public property work to eliminate the SSOs. Communities such as Clinton Township in Macomb County have used the SWQIF program to finance footing drain disconnections concurrent with the use of the SRF to finance sanitary sewer rehabilitation.

The citizens who reside in communities that have constructed water pollution control projects financed by the Clean Water Revolving Funds obviously receive the most direct benefit from those projects. However, clean water results in a healthier environment for all of us. Ultimately, all rivers and streams in Michigan empty into the Great Lakes. A healthy Great Lakes ecosystem means economic prosperity, outstanding recreational opportunities, and a safe environment for people and wildlife throughout generations to come. The SRF/SWQIF programs have helped and will continue to help make this possible.

Any municipality, county, village, township, or intermunicipal agency is eligible to borrow from the Clean Water Revolving Funds. All SRF projects are either publicly-owned treatment works or nonpoint source pollution control projects. Examples include treatment plant upgrades or expansions, interceptor sewers, collection systems, I/I correction, CSO correction, sludge management, storm water treatment, runoff control, and stream bank management. All SWQIF projects involve work on private property. Examples include replacement, repair, or upgrade of failing on-site disposal systems, and I/I correction projects such as rehabilitation/replacement of houseleads and disconnection of footing drains, yard drains, and roof drains.

If you think you may have a qualifying project, the first step is to contact program staff in the Revolving Loan Section at 517-373-2161, and consider preparing a project plan.

DEVELOPING A PROJECT PLAN

You must submit a project plan to the DEQ to be considered for funding in the SRF/SWQIF programs. If the project will encompass both SRF and SWQIF components, one project plan covering all needed improvements should be submitted. The information provided in the project plan documents the need for your project and evaluates potential alternatives for correcting the water quality problems in your community. You must submit the plan in its final form by no later than July 1 of any year. A draft plan should be submitted for DEQ review at least two to three months prior to the deadline. This will allow the DEQ to comment on your draft so that the final project plan covers all the necessary federal and state requirements.

There are seven distinct elements that must be included in a project plan:

1. Project Background
2. Need for the Project
3. Analysis of Alternatives
4. The Selected Alternative
5. Evaluation of Environmental Impacts
6. Mitigation of Environmental Impacts
7. Public Participation

You must address each of these topics in your planning efforts. Your DEQ project manager will review the project plan to ensure that a cost-effective, eligible alternative has been selected that meets state and federal requirements. If so, your DEQ project manager will propose that your project be ranked for funding on the state's Project Priority List(s) (PPL). If significant deficiencies exist, you will have to correct them before the project is ranked on the PPL. The following discussion will help to clarify the information necessary to complete each section of the plan.

1. Project Background

This part of the project plan serves as the foundation from which the community and the DEQ assess needs, evaluate alternatives and identify key environmental issues. The project background includes the following items:

- The characteristics of the study area (for example: land use, zoning, surface waters, location of key landscape features, etc.)
- A discussion of present and future economic growth in the community
- A description of existing facilities
- Population to be served by the project (including 10 and 20-year projections)
- Environmental conditions in the area (both natural and cultural)

2. Need for the Project

In this section of the plan, you will describe the water quality problem(s) that your community is experiencing. This will provide the supporting documentation necessary to justify your conclusion that the problems need to be corrected. Discussion should include the status of compliance with permits and/or environmental regulations, the existence of legal orders (if any), the water quality data that demonstrate impairment or a health concern, and the transportation and treatment capacity needs of the study area for 20 years. If your community has inadequate on-site systems and/or is proposing an extension of its collection system, or replacement/repairs of the on-site systems, you must document water quality problems by using resources such as soil maps, soil borings, local health department records, well water testing analyses, lake water sampling data, sanitary surveys, etc. You must plot locations of septic system failures and limiting site characteristics on a map that also shows existing habitation. Adequate need documentation is critical to gain the support of system users that will be required for a successful project.

3. Analysis of Alternatives

Your project plan must include a thorough analysis of the principal alternatives considered for correcting your community's water quality problems. You must do a systematic evaluation of all potential alternatives to justify the decision to proceed with the selected alternative, and you must review the reasons why all other alternatives were dropped from consideration. In addition to considering conventional transportation and treatment technologies, each SRF/SWQIF applicant must evaluate the "no action" alternative, regional alternatives, and optimal performance of existing facilities. You must evaluate and document alternate routings of sewers, interceptors, discharge pipes, etc., and alternate sites for major facilities to avoid impacting sensitive environments. Your DEQ project manager can provide you with the EPA Guidebook "It's Your Choice: A Guidebook for Local Officials on Small Community Wastewater Management Options" to help you in your search for solutions to your water quality needs.

Your analysis and selection of principal alternatives should be based on:

- The goals of the project(s)
- Wastewater treatment needs for the next 20 years
- Technical constraints and feasibility
- Discharge permit requirements
- A 20-year present worth cost-effectiveness analysis (including capital costs, operation, maintenance, and replacement costs, and salvage value)
- Potential environmental impacts
- Social acceptance

4. The Selected Alternative

Your project plan must explain the selected alternative in detail. It must include information on the technical, administrative, financial, environmental, and social aspects of the project. Creative use of maps, tables, graphs, schematic drawings, overlays, etc. will assist citizens' understanding of how the proposed facility will improve water quality in their community. The following items need to be included in this section of the plan:

- Description of the selected alternative
- Cost estimates
- Basis of design
- Authority to implement the alternative
- Proposed user charges (including operation, maintenance, replacement, debt service, and any other costs that will be incurred to construct and operate the selected alternative)
- A proposed project schedule
- Environmental impacts and mitigative measures (see discussion below)

5. Evaluation of Environmental Impacts

You must describe the direct, indirect, and cumulative environmental impacts of the selected alternative in detail. Direct impacts are caused by the construction and operation of the project. Indirect impacts are secondarily linked to, or induced by, the completion and use of the constructed facilities. Cumulative impacts are those which increase over time or result from individually minor, but collectively significant, actions taking place over time. All impacts (direct, indirect, and cumulative) need to be assessed for beneficial and adverse effects, short and long-term effects, and ability to reverse the impact (whether it is irretrievable or reversible).

A. Direct Impacts

Direct impacts to be considered include:

- Effects on historical/ archeological/cultural resources
- Effects on existing water quality (surface and groundwater)
- Effects on air quality
- Effects on sensitive features such as floodplains, wetlands, endangered species, and agricultural lands
- Effects on natural habitat (includes wetlands and sensitive ecosystems) or endangered species
- Aesthetic concerns

B. Indirect Impacts

Indirect impacts that should be considered are:

- Development (new construction) changes in the study area
- Land use changes
- Changes in air or water quality due to development
- Changes to natural habitats, sensitive ecosystems, wildlife, and/or endangered species due to secondary development
- Impacts on cultural/historical or socioeconomic resources
- Aesthetic concerns
- Resource consumption over the project's useful life

C. Cumulative Impacts

Examples of cumulative impacts that bear consideration are:

- Siltation and sedimentation
- Point or nonpoint source discharges to water bodies
- Development impacts from new interceptors, collector sewers, or storm sewers

6. Mitigation of Environmental Impacts

Your project plan must detail the structural and non-structural measures which will be undertaken to ensure that the environmental impacts from the selected alternative will not be significantly adverse in the present or future. Structural mitigation measures relate to the design and construction of the facility. Non-structural measures relate to institutional, governmental or private plans, policies or regulations, or the phasing of the facility construction over the planning period. For example, structural mitigation could involve erecting silt fences or installing rip-rap to avoid erosion into a stream. Non-structural measures could involve enacting a local ordinance to protect environmentally sensitive features in the study area.

7. Public Participation

Public participation during project plan development is vital to the successful completion of a public works project. The law requires opportunities for public input and documentation of that input in the plan. Informal methods of public involvement may include newspaper articles, notices in billing statements, and mass mailings to affected citizens. The law also encourages other methods of participation during the final project planning stages. A formal public hearing must take place prior to plan adoption. Many communities hold one or more public meetings during planning to solicit input and inform the citizenry of progress to date, and some form citizen advisory committees to steer the planning process.

A. The Public Meeting

Your community is encouraged to conduct a public meeting before selecting the final alternative. Adequate notice of the meeting should be published in a local

newspaper. Appropriate state and local agencies should also receive notification. Attendance should be encouraged by holding the meeting at a convenient time and place.

B. The Public Hearing

A public hearing must be held before adopting the proposed project plan. Publication of the hearing notice must appear in a local newspaper at least 30 days prior to the hearing (at least 45 days for controversial or complex projects). Consider running the notice more than once or using other means of communication to increase attendance. Try scheduling it during a time more convenient for the citizens, such as evenings or weekends.

C. Content of Public Notice

When published, the notice should contain:

- A description of the water quality problem(s)
- A description of the alternatives considered
- Cost of the proposed project(s)
- Estimated user charges and method of assessing charges
- Where the project plan can be viewed by the public
- Time and place of meeting

D. Public Participation Components in the Project Plan

Once the public hearing record is closed, the project plan should be bound with the following information:

- An official public hearing transcript (as recorded by a stenographer, court reporter, or transcribed from an audio recording)
- A copy of the public hearing notice and an affidavit of publication
- A legible list of attendees and their addresses
- A list of local and state agencies who received notice of the meeting
- A copy of written comments received during the public notice period
- A copy of the applicant's responses to testimony and comments
- A copy of the applicant's resolution to adopt the plan and its selected alternative

NOTE: Your DEQ project manager will provide you with the Clean Water Funds Project Plan Preparation Guidance once you have decided to proceed with a project plan. It will cover each of the above items in greater detail than can be presented here.

THE PROJECT PRIORITY LIST

To be eligible for SRF/SWQIF loan assistance, a project must appear on the appropriate PPL. The PPL is a list of water pollution control projects ranked in descending order of total points assigned by the state's project priority system set forth in Michigan law and administrative rule. DEQ staff evaluate whether a plan is sufficiently complete to permit inclusion on the PPL that takes effect at the start of the next fiscal year. DEQ staff rank projects for each upcoming fiscal year based on the information provided in project plans.

Project ranking is based on the following criteria established by the DEQ to assess the relative severity of each water quality problem:

- A. Existing residential population to be served by the project (SRF only)
- B. Enforcement action in progress, e.g., a court order, administrative consent decree, or enforceable permit schedule requiring construction
- C. Water pollution severity data, as measured by:
 - Dissolved oxygen
 - Toxic chemicals (ammonia and chlorine)
 - Nutrients (phosphorus)
 - Microorganisms (fecal coliform bacteria)
 - Groundwater supply impacts
- D. Dilution ratio, calculated by dividing the existing discharge (million gallons per day) by the expected flow of the receiving waters (in cubic feet per second)
- E. Correction of failing on-site septic systems located on sites unsuitable for replacement (SRF only)
- F. Addition of septage receiving/treatment facilities (SRF only)

Each year, DEQ prepares a draft of the PPLs and an Intended Use Plan (IUP). Separate priority lists are developed for the two programs. A public hearing notice is published in the DEQ calendar and selected newspapers throughout the state, to invite public input. In September, the DEQ conducts a public hearing on the draft PPLs and IUP. Hearing comments are received and recorded and, when appropriate, changes are made. On October 1, the DEQ completes the final PPLs and IUP. Upon notification of the federal appropriation, the DEQ sends a letter to affected municipalities and their representatives for the purpose of announcing the proposed "fundable range," establishing requirements for assistance, setting quarterly milestone schedule deadlines, and informing the loan interest rate.

Projects listed in the "fundable range" are those which could be funded with SRF/SWQIF moneys available during the fiscal year. Projects not in the fundable range are given contingency status. Actual funding of projects depends on a number of factors, including a municipality's willingness and ability to proceed with its project in a timely manner. A municipality that cannot

proceed with its project, does not wish to do so, and/or fails to meet program requirements (including adherence to a milestone schedule), will be subject to bypass. Moneys previously targeted for a project that gets bypassed will be released to lower priority projects according to rank order on the PPL. Many contingency projects ultimately get funded in this way.

Please note that particularly large, expensive and/or complex projects may be divided into segments and funded over multiple years to facilitate efficient project management and allow a more balanced allocation of loan funds.

PROJECT ELIGIBILITY

The SRF/SWQIF programs provide 100 percent of the financing needed for a project's **eligible** costs. Eligibility criteria are summarized below. New eligibility issues may arise occasionally. You can obtain additional information about specific eligibility items from your DEQ project manager.

1. General Eligibility Criteria

To receive SRF assistance, you must demonstrate: (1) that the project is needed to assure maintenance of, or progress towards, compliance with the provisions of federal or state pollution control laws, and (2) that feasible alternatives to the project were evaluated, taking into consideration the demographic, topographic, hydrologic, and institutional characteristics of the area. The selected alternative proposed for construction must be: (1) cost-effective and achievable; (2) included in a project plan that meets the requirements of Part 53 of the NREPA, and its rules and procedures; (3) a nonpoint source project, a sewage treatments works project, or both; and (4) publicly owned by virtue of fee simple title, lease, or easement for, at a minimum, its 20-year design life.

The term "nonpoint source project" means construction activities designed to reduce nonpoint source pollution consistent with Michigan's nonpoint source management program developed pursuant to Section 319 of the federal Clean Water Act. The term "sewage treatment works project" means construction activities on any device or system for the treatment, storage, collection, conveyance, recycling, or reclamation of the sewage of a municipality, including combined sewer overflow corrections and major rehabilitation of sewers.

For the SWQIF program, the same general eligibility criteria apply with the exception of public ownership. SWQIF projects involve improvements to facilities in private ownership. Any necessary public components (storm sewers or other storm water conveyance components) can be considered for funding under the SRF only.

2. Specific Eligibility Criteria

A. SRF/SWQIF Ineligible Items

The following items are ineligible for inclusion in an SRF/SWQIF loan:

Planning-Related Costs

Examples of such activities are archeological surveys, sanitary surveys, environmental audits, hydrogeological studies, I/I analyses, sewer system evaluation surveys, project plan preparation, pre-project flow monitoring, water quality sampling, and all gathering of information required to establish a Finding of No Significant Impact (FNSI).

Note: At the time of this publication, efforts are underway to revise the rules to make planning-related costs eligible.

Flood Control Benefits

State and federal law precludes the use of SRF/SWQIF moneys for storm water collection or transportation facilities such as new storm sewers to alleviate basement and/or street flooding from storm water.

Operation, Maintenance and Replacement Costs

Work considered to be part of a normal operation, maintenance, and replacement of a sewer system, such as routine sewer cleaning, is not eligible. Expendable supplies associated with operation and maintenance are not eligible. Maintenance contracts, service contracts, and extended warranties are also not eligible.

Litigation

Costs associated with project-related personal injury or property damage claims, either as defendant or plaintiff, are not eligible.

B. SRF/SWQIF Eligible Items

Design Engineering Costs

Legal Fees

Standard legal services necessary to implement the project such as preparation and review of contracts, resolution of bid protests, enforcement of contracts, and litigation associated with eligible land acquisition are eligible.

Purchase of Bond Insurance

Bond Counsel Fees

Bid Advertisement Costs

Capitalized Interest

Interest payments up to six months prior to the first principal payment may be included in the loan if a new system is being constructed and capitalization of interest is necessary to enable the project to proceed. These are estimated when the loan documents are signed, but only actual interest payments can be approved for disbursement.

Construction Costs

Note: Eligibility of construction contracts is limited to the amount of the low responsive, responsible bidder.

Delay Costs

Furnishings

Necessary items to furnish a treatment works, such as desks, tables, chairs, storage cabinets, refrigerators, microwaves, stoves, floor treatments, window treatments, etc., are eligible if documented in the project plan.

Demolition

Cost-effective demolition and/or decommissioning of existing operational or abandoned wastewater facilities is eligible in conjunction with new construction at a treatment works site. Examples of eligible work include the provision of safety measures such as fencing, the dewatering of open treatment tanks, the bulkheading of sewers, and the complete demolition of buildings.

Grinder Pumps/S.T.E.P. systems

Individual grinder pump units and the on-site components of a septic tank effluent pump (S.T.E.P.) system are eligible if the homes or businesses to be served were in existence prior to the date of DEQ's issuance of a FNSI, and the units are part of a small diameter collection system to be publicly owned.

Mitigation of Adverse Environmental Impacts

Mitigation of adverse construction or operational impacts is eligible if included in the project plan and FNSI and required by permit or order.

Project Administration (Force Account)

Includes costs incurred by a municipality to administer the SRF/SWQIF loan.

Excludes salaries, fringe benefits, or travel expenses of elected officials.

Special Purpose Vehicles

For example, sewer cleaning trucks or sludge application vehicles. *Excludes* general purpose vehicles such as pickup trucks, cars, etc. to transport personnel.

Operation and Maintenance (O&M) Manuals

O&M Manuals are usually required by permit for construction of a public works project. Preparation of one, whether required or not, is eligible.

C. Items Which May Be Eligible If Special Conditions Are Met

Bid Allowances

Some types of bid allowances in a unit price bid proposal may be eligible if properly documented. Consult with your DEQ project manager for further guidance.

Sewer Rehabilitation/Replacement

Collector sewer rehabilitation/replacement is eligible if I/I can cost-effectively be eliminated. This demonstration will require preparation of an I/I analysis and sewer system evaluation study (SSES) to quantify flows, identify sources of flows, and provide a comparison of costs to remove the sources versus transporting and treating the excessive water. Both public and private sources, including footing drain contributions, must be considered during preparation of the SSES.

It should be noted that where a portion of the I/I is determined to be excessive, and the project provides for increased pumping, conveyance, storage and/or treatment capacities, the recommended alternative must include a sewer system rehabilitation component.

Another category of eligibility for sewer rehabilitation/replacement includes those sewers that have poor structural integrity. Sewer inspections (televising, physical inspections) are required to substantiate problems.

Collector Sewers in Areas Currently without Sewers

If an area currently without sewers is predominantly developed and has an average population density of at least one household per two acres, and there is a documented water quality or public health problem, new sewers can be eligible. *Sewers being constructed primarily to serve new development would not qualify for SRF assistance.*

Computer Hardware and Software

These items are eligible only if necessary as a direct interface or process component of a wastewater treatment, storage or transport system. For all other uses, this equipment is ineligible.

Construction Site Restoration

Restoration of work sites disrupted by construction is eligible only within the limits of the construction zone and only when restored to a quality equal to, but not exceeding, the present conditions.

Contaminated Site Accommodation

SRF/SWQIF assistance may be provided for cleanup activities necessary at a contaminated site directly affected by project construction except in cases where a responsible party can be positively identified. Consult your DEQ project manager for further guidance.

Force Account Construction

Force account labor may be approved for SRF/SWQIF assistance if the construction can be effectively performed by municipal employees, is cost-effective, and the total cost is less than \$50,000.

House Leads

Only the portions of sewer laterals (house leads) within the public right-of-way are SRF eligible. House leads on private property may be eligible for replacement/rehabilitation as part of the SWQIF. *Exception:* Grinder pump/S.T.E.P. systems (only the portion of pipe between the tank or pump and the house is ineligible).

Land Acquisition/Easements/Relocation Costs, etc.

The purchase cost of land is eligible if:

- *The parcel of land physically interacts with wastewater from a treatment facility and is an integral part of treatment.*
- OR
- *The parcel of land is used for storage of treated wastewater prior to land application.*
- OR
- *The parcel of land is used for the ultimate disposal of sludge.*
- AND
- *The parcel of land is purchased after a municipality adopts the project plan.*

Other land-related costs may be eligible, e.g., costs of surveys, appraisals, title searches, litigation, or relocation of displaced persons. Federal regulations (49 CFR Part 24) implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 must be followed. Consult your DEQ project manager for further details.

Project Refinancing

A municipality wishing to refinance a debt obligation for eligible construction activities may be able to do so in the Clean Water Revolving Fund loan programs. Certain requirements must be met, including completion of the State Environmental Review Process, prior to incurring debt for any construction activities. There are also restrictions on how that debt is structured. The key to successful refinancing is early involvement of your local bond counsel, financial advisors, MFA, and the DEQ project manager.

Purchase of Treatment Plant Capacity

In some cases, costs incurred to “buy” capacity at an existing treatment plant or interceptor sewer can be an eligible item, depending on how the original facilities were funded. Public ownership of the buy-in must be demonstrated for eligible facilities.

Footing Drain Disconnects

Private property I/I removal in the SWQIF is limited to cost-effective methods of eliminating excessive infiltration and inflow. Clear-water removal projects which are based upon O&M savings alone are not eligible for funding. Eligible costs to disconnect footing drains include installation of sumps, sump pumps, drainage lines on private property, installation of check valves, and restoration of basements to pre-existing conditions.

Septic Tank/Tilefield Replacement/Upgrade

Eligible costs under the SWQIF include not only the installation of the new on-site system, but also fees for health department permits /inspections, in-kind site restoration, and abandonment of existing systems being replaced.

D. Eligibility of Multi-Purpose Projects

Some projects may have overlapping eligible and ineligible components with joint cost items that serve both eligible and ineligible functions. A good example is a sewer separation project with storm sewers that are built to a capacity greater than the old combined sewer system. These types of projects are subject to an Alternative Justifiable Expenditure (AJE) analysis to identify the total amount of

eligible cost attributable to the pollution control component of the multi-purpose project. Typically, the design engineer prepares the AJE during design of plans and specifications. It is then reviewed by the DEQ for approval. An AJE Guidance Document is available from the DEQ upon request.

3. When Is Eligibility Determined?

Your DEQ project manager can assist you with a preliminary eligibility determination during project planning to enable accurate project cost disclosure. A second eligibility review is made when bidding documents are submitted to the DEQ. Information included with your Clean Water Revolving Fund application forms is also reviewed for eligibility. After the SRF/SWQIF loan is approved, eligibility reviews of construction change orders and final costs are made before the project is administratively complete.

Any questions concerning SRF/SWQIF eligibility should be directed to your DEQ project manager. If no project manager has yet been designated, you may call the Revolving Loan and Operator Certification Section at 517-373-2161.

APPLICATION SUBMITTAL AND REVIEW

After a complete project plan has been submitted to the DEQ and your project has been included on the PPL(s), you will need to submit an application in accordance with a milestone schedule negotiated with your DEQ project manager.

1. Investment Grade Credit Rating

The MFA requires that each Clean Water Revolving Fund loan be rated, at a minimum, as an investment grade issue. If the municipality's credit rating is below investment grade, or is not rated at all, additional steps will be necessary to complete the application. These additional steps may include:

- Obtaining a favorable rating, if one does not already exist
- Purchasing credit enhancements to guard against disruption of repayments
- Financing through another governmental entity, such as a county, to gain the strength of its rating
- State revenue share or general obligation pledge
- Debt service reserve

2. Clean Water Revolving Fund Application Form

The Clean Water Revolving Fund Application for Financial Assistance consists of three parts. Part I provides detailed information regarding the financial capability of the applicant as well as a list of the various advisors who will assist the applicant. The MFA is responsible for reviewing and evaluating Part I of your application. You may be asked to provide additional information to support your application. The MFA notifies the DEQ when Part I is approved.

Part II addresses SRF program requirements, including the covenants, assurances, and certifications that the applicant must attest to in order to comply with federal and state statutes and regulations. Part III requires the applicant to provide bid information and an estimated loan disbursement schedule. Both Part II and III contain project cost information and supporting documentation. Your DEQ project manager will review Parts II and III of the application. You will need to correct any deficiency or omission as quickly as possible.

Your project manager will provide you with a blank application form after a milestone schedule has been signed. Be sure to read the application instructions carefully before filling it out. Contact your DEQ project manager if you have questions about Parts II and III, or the MFA if you have questions about Part I.

3. Review and Approval of Plans and Specifications

Section 11(1)(e) of the Clean Water Assistance Act requires a municipality applying for SRF loan assistance to prepare and submit “a set of plans and specifications suitable for bidding.” The bidding documents must be consistent with the contents of the state-approved project plan and meet all of the applicable federal and state requirements. Bidding documents must be prepared by a professional engineer registered in Michigan. The design engineer may either be a qualified employee of the municipality that is applying for SRF loan assistance, or a consulting engineer hired by the municipality on a contractual basis. The design engineer must follow SRF program requirements and the design standards guidance provided in the Recommended Standards for Sewage Works published by the Great Lakes-Upper Mississippi River Board of State Sanitary Engineers (commonly known as the Ten State Standards).

Generally, two sets of draft bidding documents should be mailed to the DEQ project manager for review. You will need to revise the draft documents to address all the DEQ comments. You will then submit three sets of final bidding documents, along with a construction permit application to your project manager in accordance with the milestone schedule.

A construction permit issued by the DEQ pursuant to Part 41 of the NREPA is required for most SRF projects. However, some projects may not require a permit. After all technical deficiencies found in the plans and specifications have been rectified, the DEQ District Office will issue the construction permit and you will receive a stamped, approved set of plans along with an approval letter.

The Part 41 authority does not cover work under SWQIF. Alternative design document submittal procedures will be followed. Local building codes and inspections will cover work on private property needed for I/I removal. Generic plans and specifications will suffice for these types of projects. Site-specific permits from the local health department will be needed for on-site septic system upgrades or replacements that will also suffice as plans and specifications.

For SWQIF projects, competitive bidding requirements can be waived when the municipality chooses to use a Request for Quotes/Qualifications (RFQ) process to accomplish project construction. Under the RFQ process, the municipality would establish a list of pre-qualified contractors for its SWQIF project construction. Each homeowner targeted for project construction, or the municipality, would then enter into an agreement with one of the pre-qualified contractors to perform the private property work.

4. Addenda to the Approved Bidding Documents

After the issuance of the construction permit and publication of the bid advertisement, you may discover that modifications of the approved final bidding documents are necessary. In such cases, your design engineer will prepare an addendum to the approved final bidding documents for issuance to all prospective bidders with a concurrent submittal to your DEQ project manager.

Your project manager will require three sets of each addendum for review and approval. When the addendum is approved, a stamped copy will be returned to you. If the addendum cannot be approved, either a revised addendum or a change order must be issued to correct the problem.

5. The User Charge System

Sound financial management is important to the success of any water pollution control project. The municipality must show that it will collect sufficient revenue to operate and maintain the facility, as well as retire the debt. Part 53, of the NREPA (Section 5308) requires that a municipality applying for assistance shall:

- Demonstrate that it has the legal, institutional and managerial capability to guarantee adequate construction, operation and maintenance of the facility.
- Demonstrate financial capability by adopting a user-based revenue system sufficient to fund the operation, maintenance, and replacement costs of the facility.
- If applicable, execute intermunicipal service agreements.

For SWQIF projects, in the case of a project involving the disconnection of footing drains, an ordinance or similar legal instrument will be needed as an assurance that the municipality has the authority to require the disconnects. In the case of a new conventional on-site septic system, at a minimum, the municipality will need to adopt an ordinance requiring homeowners to properly maintain the system (e.g. the homeowner must certify to the municipality that the tank is being pumped periodically). For non-conventional on-site systems that have higher maintenance demands, consideration should be given to establishing a management district and collecting user charges to fund management and maintenance program services.

User Charge Systems (UCS) must be drafted and submitted to staff of the Technical Support Unit (TSU) of the Revolving Loan and Operator Certification Section of the DEQ's Water Bureau in accordance with the project milestone schedule. TSU staff will review and comment on the draft UCS. You must revise the UCS by incorporating their comments, and then submit a final version to the TSU for approval.

Once you have successfully completed the application form and received project plan approval, user charge system approval, and a construction permit, the DEQ will issue an Order of Approval to the MFA.

THE ORDER OF APPROVAL

The Director of the DEQ, as authorized by Part 52, Strategic Water Quality Initiatives, and Part 53, Clean Water Assistance, of the NREPA, may issue an "Order of Approval" after you have completed all the requirements for receiving assistance from the SRF/SWQIF Clean Water Revolving Loan Funds. This Order serves as legal notification to the MFA that it may proceed with the final steps of purchasing the municipal bonds by using funds from the SRF accounts.

The Order of Approval specifically references the dollar amount (rounded to the nearest \$5,000), term, and interest rate for the loan. It also specifies the date when principal repayments will start. The following attachments are completed as part of the order:

- A cost summary identifying eligible amounts for each line item (e.g. design engineering, construction, bid advertisement, etc.), including a 6 percent loan contingency
- A description of the project, referencing the required construction permit(s)
- If applicable, special conditions placed upon the applicant

The DEQ's Order of Approval represents a binding commitment of loan funds to the municipality. The Order is not a loan nor does it guarantee receipt of a loan. Final loan approval will depend on completion of typical municipal finance requirements and activities under the purview of your bond counsel and the MFA. You will receive a copy of the Order at or before loan closing.

THE LOAN CLOSING

After the DEQ issues the Order of Approval, the MFA will contact you to close the loan and purchase the debt. This part of the SRF/SWQIF may seem almost anti-climactic to the applicant. Nevertheless, as the loan closing is extremely important and complex, it demands careful attention from municipal officials and their representatives.

Various legal documents are necessary to purchase the debt instrument of the municipality. In exchange for the bonds, the MFA establishes an account from which funds can be drawn as the project proceeds. You must deliver, in acceptable form, the following documents to the MFA to close on the loan:

- A supplemental agreement
- A bond resolution or authorizing ordinance
- A purchase contract
- An issuer's certificate
- An approving Opinion of Bond Counsel addressed to the MFA
- The bond
- Approval or exception from prior approval from the Department of Treasury's Local Finance Division with respect to the issuance of the bond

Under normal circumstances, the financing schedule permits a reasonable length of time to final all of the loan closing documents. Up to two weeks is often available to allow adequate time for pre-closing conferences and telephone calls. Final closing requires submission of the signed documents and delivery of the bonds.

1. The Supplemental Agreement

The supplemental agreement contains all representations, covenants, and agreements between the municipality, the MFA, and the DEQ. It includes assurances of compliance with all federal and state laws and contains exhibits to reflect project costs, an estimated repayment schedule, and any additional special conditions imposed upon the municipality.

2. The Bond Resolution or Ordinance

Adoption of the bond resolution or ordinance constitutes the official legal action taken by a municipality which authorizes the issuance of the bonds to finance the project.

3. The Purchase Contract

The purchase contract is executed between the MFA and the municipality to set forth the terms and conditions of the bond purchase. The MFA offers to purchase the bonds contingent upon the terms, conditions, representations, warranties, and agreements made. The purchase is subject to the MFA's ability to disburse funds from the Clean Water Revolving Funds.

The Issuer (municipality) must agree that it has the full legal right, power, and authority to enter into the purchase contract and to sell and deliver the bonds.

The purchase contract sets forth the time and location for the delivery of the bond and the accompanying documents.

4. The Bond Counsel's Opinion

Before the MFA can purchase the bonds, your bond counsel must deliver an opinion that the bond has been duly authorized, executed, and delivered in accordance with applicable laws, and constitutes the valid and binding obligation of the municipality.

5. The Bond

The bond certificate is the legal instrument of debt and is printed in a form acceptable to the MFA. Further explanations and the specific time frame for delivery of all documents may be addressed by the MFA in preparation for closing the loan.

Once again, the loan closing is critical. You are advised to carefully select knowledgeable bond counsel and work closely together to prepare and deliver the loan documents.

CONSTRUCTING THE PROJECT

Several activities occur before and during construction of a Clean Water Revolving Fund project. Some of these activities are described below.

1. Contract Award and Signing

The MFA cannot issue loan disbursements for construction costs until all contracts necessary to proceed with construction of the project have been signed and submitted to the DEQ. Signed contract documents must include the following:

- Agreement
- Addenda
- Notice of Award
- Notice to Proceed
- Payment Bond
- Performance Bond

Your DEQ project manager will review the signed contract documents to ensure they are complete before giving approval to process the first loan disbursement request containing construction costs.

2. Pre-construction Conference

All parties directly involved with the project should attend a pre-construction meeting. This meeting is normally arranged and scheduled by the consulting engineer. It provides an excellent opportunity to discuss details of the project, the proposed schedule, and all procedural considerations. Effective communication among the state and local officials, the hired consultants, and contractors will help reduce delays caused by oversights.

3. Project Inspections

The DEQ may perform inspections of the project during construction. The initial visit will take place shortly after start of construction. Thereafter, additional inspections may occur at any time, or at the request of an affected party. The DEQ may conduct a final

inspection before start-up of the facility. All information collected at the inspections will be shared among DEQ staff as appropriate.

4. Change Orders

All change orders must be submitted to the DEQ for review and approval. Each change order should identify the change(s) made and provide an explanation of necessity for the change(s). The DEQ project manager will review the change orders for SRF/SWQIF eligibility and consistency with the project plan. In addition, a DEQ district engineer will review technical changes for permit requirements.

Contract time extensions can only be approved by change order. They are acceptable provided there is a legitimate reason for the extension. Approval of a time extension change order does not relieve the community from complying with an enforcement schedule.

All unit price contracts should have final balancing change orders completed. This will result in a tally of the final as-built quantities for project cost adjustment.

5. Minimal Cost Items

Services or equipment that cost less than \$50,000, and are procured without a formal competitive process, are defined as “minimal cost items.” Each request must be accompanied by an explanation of the purchase and the reasons for including it in the scope of the project. At least two sources must be contacted and the cost of the item must not be divided up to avoid the bidding process.

6. Initiation of Operation

You must provide a written notice of the initiation of operation date for the constructed facility to your DEQ project manager within 30 days of its occurrence.

The process of administrative completion may begin any time after the project initiates operation and final costs are established.

SUBMITTING AND RECEIVING LOAN DISBURSEMENTS

As construction of the project moves forward, draws on the SRF/SWQIF will be needed to reimburse costs for contracted services. You may request your first disbursement immediately after loan closing to cover expenses incurred in the pre-construction phase. You should include the following costs in this first draw request, when applicable:

- Project Planning services (eligibility pending rule change)
- User Charge System development

- Legal services
- Bond consultant services
- Design engineering services
- Other miscellaneous expenses

The DEQ will process subsequent requests for disbursement on a monthly cycle. A given disbursement request may occur any time during the month, but only one request per month will be processed. You are advised to work closely with all contractors to ensure that their monthly invoices are delivered to you in time for inclusion in your next request for disbursement.

Generally, loan funds will be transferred to your bank by the MFA within ten working days of the DEQ's receipt of the disbursement request. This means faster payment of contractor invoices and should ensure a steady flow of funds throughout the project construction period.

The DEQ will accept disbursement request forms submitted by fax (with the exception of the first and last requests) provided they are completed and signed by the project's authorized representative. Supporting cost documentation should be included with each disbursement request.

ADMINISTRATIVE COMPLETION AND LOAN REPAYMENTS

Your DEQ project manager will review the final project cost documentation to determine the final loan amount and ensure program compliance. Approval of final costs will prompt final disbursement of loan funds, or repayment of any overdrawn funds. A final letter of notification indicating that the project has reached administrative completion will be sent to you. This will trigger a downward adjustment of the loan repayment schedule by the MFA, if applicable.

1. Records Retention

You must retain pertinent project files and/or records for a period of three years from the date of administrative completion. The required period lengthens if an audit or review is undertaken during the initial three years. You may opt to keep your records longer.

2. Loan Repayments

The MFA will send you a statement in advance of the due date for each semi-annual interest payment and annual principal payment, as outlined in the closing documents. This statement will include any instructions necessary for properly crediting the amount to your account.

Principal payments begin within one year of project operation . Loan repayments are due annually either on April 1 or October 1. Interest payments are determined by the MFA based on the amount of funds drawn, and are billed semiannually on April 1 and October 1.

Failure to make timely repayment constitutes default. The MFA will address remedy with you and your bond counsel. The SRF/SWQIF does have the legal authority to intercept other state aid payments to satisfy the repayment obligation of the municipality.

Since the MFA is directly responsible as the servicing agent for the bonds, questions regarding loan repayment should be directed to their office.

HOW TO CONTACT US

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OTHER AVAILABLE RESOURCES

Clean Water Revolving Funds Project Plan Preparation Guidance

Clean Water Revolving Funds Design Phase Guidance

Guidance to Municipalities and Consultants Regarding Alternative Justifiable Expenditures (AJE)

Guidance to Municipalities and Consultants Regarding the Construction Phase

Municipal Guidance on Revenue Systems for SRF Projects

The Loan Arranger--a newsletter of the SRF/SWQIF and Drinking Water Revolving Fund (DWRF) Programs

SRF/SWQIF Brochure

It's Your Choice: A Guidebook for Local Officials on Small Community Wastewater Management Options (EPA publication)

DWRF Brochure

DWRF Project Planning Guidance

PLEASE NOTE: The above materials are available upon request from the DEQ's Resource Management Division, Revolving Loan Section. Small orders are free; however, the state of Michigan may charge for photocopying if you are requesting a large order.



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Michigan Department of Environmental Quality
Dan Wyant, Director
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