

Clean Water State Revolving Fund Eligibility Guidance

Michigan Department of Environmental Quality

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General Eligibility Criteria

Introduction

To receive Clean Water State Revolving Fund (SRF) assistance, an applicant must demonstrate (a) that the project for which SRF assistance is sought is needed to assure maintenance of, or progress towards, compliance with the provisions of federal or state water pollution control laws *and* (b) that feasible alternatives to the project being proposed were properly evaluated.

To be eligible to receive SRF assistance, the project being proposed for construction must (a) be included in a project plan that meets the requirements set forth in MCL§324.5303 and its attendant rules (Mich. Admin. Code R323.952); (b) be demonstrated to be cost-effective and implementable; *and* (c) be publicly owned by virtue of fee simple title, lease, or easement for, at a minimum, its 20-year design life.

Before SRF assistance can be provided, an applicant must meet the requirements set forth in MCL§324.5308, including a demonstration that it has the legal, managerial, institutional, and financial capability to build, operate, and maintain the project.

Limitations on SRF Assistance

SRF assistance cannot be provided to fund the nonfederal share (i.e., the local match) of the cost of a sewage treatment works project for which the recipient is receiving assistance from the U.S. Environmental Protection Agency (EPA) under any other authority.

Definitions

To enhance understanding of this document, please note the following definitions:

- A. "Municipality" means a city, village, county, township, authority, or other public body authorized or created under state law; or an Indian tribe that has jurisdiction over the construction and operation of projects qualifying under Section 212 or Section 319 of the federal Clean Water Act.
- B. "Project" means construction activities on a sewage treatment works project; a storm water treatment works project, and/or a nonpoint source project.
- C. "Treatment works" means any device or system for:
 - 1. The treatment, storage, collection, conveyance, recycling, or reclamation of the sewage of a municipality, including combined sewer overflow (CSO) correction and major rehabilitation of sewers; or
 - 2. The treatment, storage, recycling, or reclamation of storm water that is conveyed by a storm sewer that is separate from a sanitary sewer.

Refinancing Project Debt through the SRF

Since **Fiscal Year 2007** (October 1, 2006), no new project plan submittals for projects that proceeded to construction with non-SRF financing will be accepted for refinancing.

Specific Eligibility Criteria

Bid Allowances

In many cases, unit price bid proposal forms contain line items designated as "allowances" for which a price has been specified by the owner. Lump sum contracts may also contain allowances but details may be found in the specifications rather than in the bid proposal form itself. Typically, an allowance is used to identify construction goods or services which are integral to the project but for which it may not be feasible to establish a cost through the competitive bidding process. For example, an allowance for electric utility relocation is commonly used because the work is performed by the electric power company serving the area and the cost should be the same for each bidder. In effect, the work (and cost) would be a "constant" in each bidder's proposal and thus would not be a factor in the outcome of the bidding competition.

A second type of allowance involves circumstances for which bidders cannot reasonably be expected to know and evaluate factors pertinent to preparation of a bid. A prime example of this situation is construction at a contaminated site where the extent of the contamination or the details of on-site operations and overall waste handling requirements cannot be fully determined during the bidding phase of a project.

A third type of allowance falls under the general description of "owner's preference" or "owner's convenience." Examples of allowances in this category may range from a relatively small allowance for several pieces of office furniture to a substantial amount covering a complete system of computer hardware and software. In the example concerning office furniture, it is possible that the owner would not yet have developed a biddable specification because the furniture was considered to be incidental to the primary objective of the contract and would not be needed until late in the project schedule. In the case of computer equipment, the owner may choose to rely on an allowance in an attempt to provide flexibility to adapt to the rapidly changing technology and pricing structure associated with the computer market.

To a certain extent, allowances circumvent the bidding process because the value of the allowance is specified by the owner (usually the SRF loan applicant). Consequently, applicants are encouraged to avoid the use of allowances and, instead, fully develop specifications to enable bidders to competitively establish the cost of goods and services. Nevertheless, all three types of allowances described above can be included in the SRF loan computation if adequate documentation is provided to support both the need for the allowance and its estimated cost.

In a variation on the "owner's convenience" type of allowance, an applicant may wish to use an allowance which basically serves as a non-specific contingency line item. Such allowances are

not linked to goods or services and are typically identified as "allowance for differing site conditions" or "project overrun allowance" in the bidding documents. The SRF loan will already include a standard 6 percent contingency based on the subtotal of eligible project costs. Therefore, since this type of allowance serves only to augment project contingency funds beyond the 6 percent already calculated, such an allowance will be excluded from the SRF loan computation.

Bonding Costs and Treasury Fee

Costs directly associated with obtaining an SRF loan are eligible for SRF reimbursement. For example, the expenses incurred in hiring a bond counsel to issue a qualified opinion or a financial advisor to assist the municipality in preparing a system of user charges may be included in the SRF loan computation.

A municipality seeking an SRF loan may be unable to obtain an investment grade rating for its bonds, as required by the Michigan Municipal Bond Authority (MMBA). In such cases, the purchase of bond insurance by the municipality to guarantee its debt service payments will be eligible for SRF assistance, as will the similar administrative charges for conduit financing from an umbrella unit of government (e.g., county or regional authority) who may help a smaller municipality obtain an SRF loan.

It should be noted that any municipality which opts to use a debt service reserve to satisfy the requirement for an investment grade rating cannot include the money deposited in the reserve as an "expense" for SRF reimbursement. Since such deposits will be returned in time, they are not true expenses eligible for SRF assistance.

The fee charged by the Local Audit and Finance Division of Treasury for a "Long Form" application filed by the applicant seeking authorization to issue SRF debt is eligible for SRF reimbursement. This authorization is necessary in cases where Treasury has denied a Qualifying Statement.

Collector Sewers

For a project proposing the construction of collector sewers in an unsewered area to be eligible for SRF assistance, the area to be sewerred must be a closely populated area with an average population density of at least one household for every two acres at the time the SRF project plan was prepared. Furthermore, the disposal of wastewater from the existing population must be demonstrated to cause a public health problem, the contamination of groundwater, or a violation of point source discharge requirements of the federal Clean Water Act.

For an individual collector sewer to be eligible for SRF assistance *either* about two-thirds of the buildable lots along the proposed sewer route must be occupied *or* about two-thirds of the design flow to the proposed sewer must be contributed by population in existence at the time the SRF project plan was prepared.

The cleaning of collector sewers is not eligible for SRF assistance unless that cleaning is an essential component of the eligible SRF project construction. For example, cleaning necessary

to identify cross-connections prior to disconnection during a sewer separation project or cleaning preparatory to sewer rehabilitation is eligible for SRF reimbursement.

Computer Hardware and Software

Computer hardware and software are not eligible for SRF assistance unless needed and used as a direct interface, process control component of the treatment works, such as a computer which automatically monitors and controls process operating cycles, chemical feed rates, or the start-up and shut-down of pumps and motors. Given the increased power of desktop computing during recent years, it is possible that personal computers can be used not only to control processes in a treatment works but also for other ancillary uses, such as on-line maintenance logging or payroll processing. Such indirect uses do not negate the eligibility of computers for SRF reimbursement; however, computer hardware or software to be used solely for administrative tasks such as billing, timekeeping, or general office work are not eligible for SRF assistance.

Construction Contract Awards

Except in the case of an approved sole source procurement or a design-build project, all construction contracts worth \$50,000 or more must be awarded through an open, competitive bidding process where a solicitation to bid is made by means of a formally advertised public notice and a public opening of the sealed bids is held.

The municipality is not required to accept the lowest bid tendered, provided construction contract language and local ordinances do not prohibit awarding the contract to a bidder other than the lowest bidder. However, unless the municipality can demonstrate that the low bidder is either nonresponsive or nonresponsible, the SRF loan computation will be limited to the amount of the low bid.

The term "nonresponsive" means the bidder has not complied with the requirements set forth in the bidding documents (e.g., the bidder did not provide a bid bond in the proper amount; the bidder did not include required documentation in its bid; and so on). The term "nonresponsible" means the bidder has not proven it has the capability to fulfill the terms of the contract (e.g., the contract requires experience that the bidder does not have).

If the municipality can demonstrate that the low bidder is nonresponsive or nonresponsible, the contract can be awarded to the next lowest bidder who has been deemed to be both responsive and responsible and the SRF loan computation will include that bidder's amount.

All of the bids received may be rejected by the municipality if it has sound, documented business reasons for doing so. The construction contract may then be rebid, which might push the SRF loan closing date back by one quarter. If this situation occurs for a 4th Quarter loan, the municipality will need to fall within the established fundable range for the next fiscal year in order to receive a 1st Quarter loan.

If the municipality receives only one bid in response to its advertised solicitation to bid, the construction contract must either be awarded to that bidder or be rebid through an open,

competitive bidding process. If no bids are received, the municipality must rebid the contract through an open, competitive bidding process.

Construction Delay Costs

Costs associated with delays in project completion, regardless of cause, are eligible for SRF reimbursement within the limits of the loan's remaining project contingency funds and the other eligibility restrictions set forth in this **Guidance**.

Construction Site Restoration

Restoration of work sites disrupted by project construction is eligible for SRF assistance, provided the restoration is limited to those areas directly affected by construction and is necessary to restore the disrupted areas to pre-construction conditions. Driveways, roadways, sidewalks, landscaping, and utilities disrupted by project construction may be restored with SRF assistance to a quality equal to, but not exceeding, original condition. For example, replacing a gravel road with a gravel road is eligible for SRF assistance but upgrading to a paved road will only receive partially reimbursement. The intent is to preclude the use of SRF funds for the general upgrade of roads or other infrastructure components that are more appropriately financed through other means.

Full bituminous overlays which are proposed as a result of sewer installation in streets are eligible to maintain structural integrity and to protect the pavement surface from premature deterioration that can result from partial width replacements over the trench/lateral cuts where joints between the old and new pavement can be a source for water to enter. These overlays are eligible only when the pre-existing road is in good condition based on supporting documentation from knowledgeable local public works/road commissions that provides information such as road age, thickness, design life, and other indexes of road quality. Overlays will not be eligible where the existing roads are not in good condition, and the full width overlay would constitute an improvement.

Contamination Discovered at the Project Site

Typically, three types of contamination can be encountered during project construction: soils contaminated by petroleum or other chemicals, discarded materials such as chemical drums, and groundwater or surface waters contaminated by chemical leachate or runoff. All cleanup activities (i.e., excavation, testing, removal, handling, transportation, and disposal of contaminated materials) may be eligible for SRF assistance, provided the cleanup is limited to those areas directly affected by SRF project construction. For example, if contamination exists on ten acres of a project site but project construction directly affects only three acres, only those costs associated with the cleanup of the affected three acres are eligible for SRF reimbursement. In a project undertaken to install collector sewers, only those costs associated with the handling and disposal of contaminated materials encountered in the trench would be eligible for SRF reimbursement.

The cleanup of contamination at an SRF project site must be factored into the assessment of project alternatives, especially in regard to cost-effectiveness. This requirement applies not only

to sites of known contamination but also in cases where the contamination is discovered only after SRF-funded project construction has begun. If analysis reveals significant new financial or environmental impacts, it may be necessary to reevaluate part or the entire selected alternative in favor of a more cost-effective or environmentally-acceptable alternative.

Activities related to the identification or investigation of contamination at an SRF project site, such as an environmental audit, a preliminary geotechnical investigation, or the installation of monitoring wells to document groundwater conditions, are planning activities which by state law are now eligible for SRF assistance.

Note: *Planning costs were not eligible as construction activities prior to December 1, 2005. Planning became eligible with the passage of Public Act 255 with an effective date of December 1, 2005. The bill is available at <http://www.legislature.mi.gov/documents/2005-2006/publicact/pdf/2005-PA-0255.pdf> and the specific reference is in section (d).*

For cleanup activities to be eligible for SRF assistance *after* an Order of Approval (OOA) has been issued, the loan recipient must provide written confirmation to the MDEQ project manager that the appropriate MDEQ staff has been notified that contamination was encountered during project construction. The loan recipient must then provide the MDEQ project manager with a description of the contamination problem, the proposed cleanup activities, and the analysis of the discovery's impact on the selected alternative in terms of its cost-effectiveness.

Flow Monitoring

Flow monitoring may be eligible for SRF assistance for project planning purposes. The purchase or rental of meters to measure and record flow data also may be eligible for SRF reimbursement with adequate demonstration that the activities and expenditures are necessary and the selected method of meter procurement is cost-effective. Post construction flow monitoring to certify project performance will not be eligible for SRF reimbursement.

Force Account Project Administration/Technical

Force account administration consists of accounting, bookkeeping, and legal project work performed by municipal employees where such work is not otherwise required in the normal conduct of their jobs. Force account technical work consists of engineering services in connection with planning, design, inspection, and construction.

Eligibility of force account services is governed by limitations which are intended to insure that the applicant consider the impacts of borrowing funds to subsidize salaries that may already be included under existing municipal budgets and will have to be paid back concurrent with funding future salaries. Eligible activities include SRF project implementation tasks that are typically contracted out but can be more economically performed by qualified municipal staff. Eligible force account costs are reserved for staff that actually perform tangible, hands-on services that have substantial and specific linkage to implementation of the project. The documentation must show that the costs are justified and appropriate based on the number of staff hours required relative to the construction implementation schedule and the complexity of the project. Additionally, the documentation must demonstrate that there is no overlap with work proposed to be contracted to other parties.

Force account costs (direct labor costs, indirect costs and other project allocable expenses, such as travel, printing or postage) incurred by an applicant for administration and technical services are eligible for reimbursement if such costs are adequately documented, as described in the “instructions for Completing the Project Cost Worksheet” (which requires detailed project time accounting) that accompanies the Part II SRF Application. In addition to specific hours worked, this documentation would include the specific staff titles/classifications, and their specific roles with respect to the proposed project. **A summary of estimated hours will not be accepted for those tasks that have been completed or partially completed. Actual hours must be accounted for by providing a ledger of dates, hours worked, employee names, rates (including indirect costs) where the source of information is time sheets, daily logs, or other records to document costs incurred by each municipal employee for which funding is being sought.** The following is a breakdown of eligible/ineligible tasks associated with force account administration and technical:

- Administration (Eligible)
 - Preparation of loan application materials
 - Preparation of disbursement requests
 - Project cost accounting (up to 2-hours/week)
 - Preparation of project closeout documentation
 - Easement/land acquisition services (appraisals, agreement preparation, relocation assistance)
 - Legal services associated with preparation and review of contracts related to project implementation, the resolution of bid protests, the resolution of contract claims, and services associated with contract enforcement
 - Financial/legal services associated with preparation of a revenue system

- Administration (Ineligible)
 - Services provided by clerical support staff such as typing and filing
 - Services provided by elected officials
 - Employee supervision
 - Wastewater program administration that is not sufficiently linked to a specific SRF project

- Technical (Eligible)
 - Procurement of engineering services required to implement the project
 - Planning, design, inspection, and construction engineering where there are no consulting engineers providing these services for project contract(s)
 - Management (limited to two positions) of technical/construction contracts which may include duties/activities in the following areas:
 - Bidding process, including addendum preparation/approval, and contract award
 - Review/approval of engineering invoices and amendments
 - Review/approval of construction contractor pay estimates and change orders
 - Attendance at progress meetings
 - Review/approval of design documents, shop drawings, as-built drawings

- Technical (Ineligible)
 - Services that are a duplication of services provided by the project consulting engineer, any other service provider or other force account staff.
 - Costs incurred by operational staff of the wastewater collection/treatment system
- Other
 - Force account costs incurred by staff of a “conduit borrower” (for example where a county applies for and receives a loan on behalf of a smaller unit of government) are eligible provided a contractual basis exists for incurring/billing those expenses based on hours/tasks.
 - Costs associated with a single-purpose millage election held to increase local property taxes in order to service the SRF debt, or a referendum on the SRF bond issue, where necessary, are eligible for reimbursement.

Force Account Project Construction

The use of municipal employees to construct an SRF project (force account labor) may be approved for SRF assistance only when all of the following conditions are met:

- A. The construction work can be effectively performed by permanent staff on the current payroll of the applicant, or the municipality or municipalities for which the SRF project is being constructed.
- B. The total labor cost (salaries, fringe benefits, travel expenses) and associated equipment/materials purchase costs are less than \$50,000.
- C. The employees involved in SRF project construction will perform the construction work concurrent with their regular duties, without the hiring of any additional staff.
- D. The applicant can demonstrate that force account labor will be cost-effective when compared with contracted labor.

Grinder Pumps/STEP Systems

Individual grinder pump units and the on-site components of a septic tank effluent pumping (STEP) system (i.e., septic tank, sewage pump, and associated service piping) are not eligible for SRF assistance unless the homes or businesses to be served were occupied and generating wastewater flows before the date on which the MDEQ’s Finding of No Significant Impact was published. Furthermore, grinder pumps and STEP system components are not eligible for SRF assistance unless the collection system is a small-diameter system (pressure, vacuum, or gravity) and the on-site units are publicly owned.

The purchase of spare grinder pumps is eligible for SRF assistance, provided the number of spare pumps is not more than 5 percent of the total number to be installed.

House Leads

House leads are small diameter pipes which connect individual residences or commercial buildings to a collector sewer. Work on house leads that connect to a conventional gravity collector sewer is not eligible for SRF assistance except for work which lies within the public right-of-way (i.e., beyond the homeowner's property line). For example, in the case of a connection between a house and the sanitary sewer running beneath a street, work on the house lead from its connection with the collector sewer to the edge of the right-of-way will be eligible for SRF reimbursement. In the case of a grinder pump or STEP system, all components within the easement secured for maintenance access will be eligible items; typically, only the pipe leading from the house to the grinder pump or septic tank will be ineligible.

The cleaning of house leads is considered to be routine maintenance work which is not eligible for SRF assistance.

Inspector Days

SRF recipients may use inspector (crew) days in construction contracts to motivate a contractor to finish on time or ahead of schedule. When called for in a bid proposal, each bidder will enter an estimated quantity of inspection (usually given as a number of days) that he will require for completion of the project. This number is then multiplied by the unit price (\$/day) supplied by the owner/engineer in the bid proposal. This unit price reflects the costs that are incurred by the owner for each day of on-site engineer representation during construction to arrive at a total inspection budget.

On construction pay requests, the actual number of inspector days used will be entered. The resulting amount will be deducted from the request. It is important to keep in mind that this is an accounting method only. A running total of inspector days used and inspector days available is tracked on each pay request. The contractor is not actually paying anything unless the inspection days are exhausted. The owner is paying the engineer directly from the inspection bills submitted each month.

If the contractor completes the work using fewer inspector days than the number stated in his proposal, his final payment will include an amount equal to the unused inspector days. This is essentially a bonus to the contractor for finishing ahead of schedule. Bonuses are not eligible in the SRF program.

If the work under the contract is incomplete when the contractor has expended the number of inspector days stated in his proposal, subsequent payments to the contractor will be "net" payments after deducting an amount for the excess inspector days used during the period covered by the payment. This is essentially a penalty to the contractor for not finishing on time.

While SRF applicants may choose to use the inspector day methodology, the costs of inspection (resident) engineering to be included in the loan will be established based upon the budget reflected within the engineering agreement. Applicants need to insure that an appropriate amount for on-site inspection has been included in the engineering agreement, as

the amount bid for inspector days will not be included in the loan. Additionally, applicants will be reimbursed from only the bills due and payable from their engineers for resident inspection.

Legal Services and Litigation Costs

Standard legal services that are necessary to implement the SRF project are eligible for SRF assistance. Examples include services associated with the acquisition of property for project construction, the preparation and review of contracts related to SRF project implementation, the resolution of bid protests, the resolution of contract claims, and services associated with contract enforcement.

Costs associated with the litigation of project-related personal injury or property damage claims, whether defending against or bringing a suit, are not eligible for SRF reimbursement because such actions are not directly necessary to implement the project.

Costs associated with the establishment of special districts, authorities, or other units of government that are necessary to implement the project are not eligible for SRF reimbursement because these costs are not considered standard legal services and are incurred prior to the existence of a legal applicant. However, costs associated with the establishment of a special assessment district (SAD) as a financial mechanism to implement the project are eligible.

Major Rehabilitation of Sewers

A project involving a major rehabilitation of sewers is eligible for SRF assistance, as set forth in MCL§324.5301(m). The term "major rehabilitation of sewers" means (a) work that is necessary because the current condition of a sewer has been demonstrated to result in a direct discharge of sanitary sewage or (b) work that is necessary to restore and maintain the structural integrity of a collection sewer, trunk sewer, or interceptor sewer. Documentation of the existence of significant longitudinal cracking, shear cracking, broken and missing pipe, major deflection, sagging and pipe misalignment, as well as severely deteriorated manholes, joints or other conditions that would place the pipe in imminent danger of failure will be considered in evaluating eligibility. Repair of structural defects by means of pipe bursting and/or pipe lining must be evaluated in a cost effectiveness analysis as compared to pipe replacement. Project planning documentation must identify age and material of pipe, and establish priorities for repair based on defect identification.

Work designed to address roots is considered to be routine maintenance work which is not eligible for SRF assistance. In general, repair of light to medium joint cracking would be considered eligible only if shown necessary for cost effective I/I removal.

Mitigation of Adverse Environmental Impacts

Costs associated with the long-term mitigation of adverse environmental impacts due to project construction may be approved for SRF reimbursement only when all of the following conditions are met:

- A. The specific mitigation measures to be utilized have been described in the project plan and included in the costs listed for the selected alternative.
- B. The specific mitigation measures to be utilized have been demonstrated to be the cost-effective means of mitigation.
- C. The specific mitigation measures to be utilized are not otherwise ineligible for the receipt of SRF assistance. For example, to mitigate a loss of wetlands, the loan recipient may be required to purchase a suitable land parcel (an ineligible item) and modify the project site to enhance wetland value by excavating pothole ponds or building a dike (an eligible item).

Costs associated with short-term mitigative measures, such as siltation barriers and dust control, are eligible for SRF reimbursement.

Multi-Purpose Projects

Some projects proposed for SRF funding include work, such as the full-width repaving of streets, which is over and above what is necessary to complete the needed wastewater system improvements. Such multi-purpose projects can be funded through the SRF but not all of the project costs will be eligible to receive SRF reimbursement. Where there is a physical overlap between eligible and ineligible project components, the DEQ will require the submittal of an analysis utilizing the Alternative Justifiable Expenditure (AJE) accounting methodology. This analysis will identify the portion of the project costs which are directly related to the needed wastewater system improvements so that they may be appropriately included in the SRF loan amount. Guidance on the preparation of an AJE analysis is available from your project manager.

Operation, Maintenance, and Replacement Costs

Goods or services that can be classified as routine operation and maintenance (O&M) or replacement items are not eligible for SRF assistance. This also includes expenses for deferred maintenance that may accrue to a larger amount if annual O&M is not performed consistently over multiple years. The purpose of an SRF loan is to assist a municipality with capital construction, not to fund current O&M costs.

Maintenance contracts, service contracts, and extended warranties beyond the scope of standard one-year product warranties are classified as O&M services which are not eligible for SRF assistance.

The replacement of treatment works equipment will not be eligible for SRF assistance unless the component being replaced is past or near the end of its useful life and the need for its replacement was established in the project plan. In addition, loan applicants who have previously received SRF funding are required to establish a replacement account and finance equipment replacement with monies set aside in that account.

Basic maintenance equipment such as lawn mowers and more specialized items such as sewage bypass pumps and standby generators are eligible for SRF assistance, provided the need for such items was established during the project planning process.

The removal of sludge from a lagoon is not eligible for SRF assistance unless the project plan specified that the lagoon is to be expanded or relined.

Professional Services

The costs of engineering, legal, and financial services related to SRF project planning, design or construction are eligible for SRF reimbursement. Eligible engineering services include facility start-up assistance and the preparation or revision of a facility's O&M manual.

Reasonable carrying charges (i.e., at the prevailing interest rate) assessed by an engineering firm that accepts deferred payment for its planning and/or design work are eligible for SRF reimbursement.

All costs associated with municipal borrowing that were necessary to complete SRF application tasks, including interest payments, are eligible for SRF reimbursement, provided the debt instrument can be retired at the time of SRF loan closing.

Interest paid on moneys transferred from one municipal account to another is not eligible for SRF reimbursement.

Project Cost Overruns

The maximum amount of the SRF loan is set at the time the OOA is issued and includes a 6 percent contingency, which is based on the subtotal of all eligible line item costs. If the project experiences cost overruns, the contingency amount may be spent up to the amount of the loan. There will be no increases in the loan amount, nor will the wastewater utility be permitted to apply for another loan covering any cost overruns.

Project Planning Costs

Costs associated with project planning are eligible for SRF reimbursement for loans with a date of March 14, 2006, or later. Examples of eligible planning costs include the costs associated with:

- Archaeological surveys
- Environmental audits of project sites (Phase I)
- Flow monitoring for planning purposes
- Geotechnical investigations for site-selection purposes
- Hydrogeological studies
- Infiltration/inflow analyses
- Project plan preparation
- Public hearing transcripts
- Public participation activities
- Sewer system evaluation surveys
- Vulnerability assessments, in conjunction with full project planning effort

If planning/design services involve pilot studies to demonstrate the effectiveness of a technology, the SRF loan can cover these costs. However, this excludes costs of any

permanent construction that is part of the pilot study and will become a tangible asset of the system.

Property (Land) Acquisitions

Land purchase refers to the acquisition by fee simple title, long-term lease, or permanent easement of a parcel of land that is necessary for the siting of wastewater treatment works facilities. The purchase cost of land can be eligible for SRF reimbursement if:

- The parcel of land physically interacts with the wastewater or pollutants received from a treatment works and is an integral part of the treatment process (e.g., land application systems); or
- The parcel of land is used for the storage of treated wastewater prior to land application (e.g., storage lagoons); or
- The parcel of land is used for the ultimate disposal of residues from the wastewater treatment process (e.g., land application of sludge); and
- The parcel of land was purchased after the municipality adopted the project plan that was the basis for the project which necessitated the purchase of the land.

Land that is merely a site for the placement of buildings or equipment is not considered to be a part of the treatment process and the cost of its purchase is not eligible for SRF reimbursement.

The SRF Program makes a distinction between the actual purchase cost of land and other costs incurred as a part of the land acquisition process.

Federal regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 are applicable to the acquisition of land necessary for an SRF project. The costs of complying with these regulations are eligible for SRF reimbursement regardless of whether the actual land acquisition is eligible for SRF funding. For example, easements purchased to provide sewer rights-of-way (e.g., railroad "crossing permits") are not eligible items but the costs associated with obtaining such easements are eligible for SRF reimbursement.

Common examples of acquisition-related costs that are eligible for SRF reimbursement include:

- The cost of an appraisal of any property to be acquired for project construction, including any studies necessary to properly value improvements, minerals, timber, or other resources on the property.
- The cost of surveys and legal boundary descriptions of any property to be acquired for project construction.
- The costs associated with relocation and moving expenses for displaced persons, businesses, and farms, including the cost of a relocation specialist to facilitate compliance with the Act.
- The cost of necessary services associated with the acquisition of property for project construction, including title searches, lease or easement agreement preparation, legal descriptions of the property, legal notices, and closing costs.

The acquisition-related costs associated with property acquired through condemnation or the exercise of the power of eminent domain are eligible for SRF reimbursement.

Save for the three exceptions discussed in the next paragraph, property to be acquired must first be appraised so that its fair market value can be established. An appraisal is a written statement independently and impartially prepared by a qualified appraiser that sets forth an opinion of the defined value of the property as of a specific date, supported by the presentation and analysis of relevant market information. Criteria that govern property appraisals appear in 49 C.F.R. §24.103.

A property appraisal is not required in the following cases:

- A. The owner is donating the property to the municipality and releases the municipality from its obligation to obtain an appraisal.
- B. The municipality determines that the valuation of the property is uncomplicated and its fair market value is estimated to be \$2,500 or less.
- C. The fair market value of the property to be acquired is estimated to be over \$2,500 but under \$10,000 *and* any remainder property is either not affected or only affected to a limited degree *and* the owner releases the municipality from its obligation to obtain an appraisal. In this case, a market study prepared by the municipality can be used in lieu of an appraisal. The market study will be an examination of the record of recent sales of comparable properties obtained from the local assessor to verify that the property to be acquired should indeed be valued under \$10,000. No review appraisal is required.

In cases where an appraisal is required, the municipality must notify the owner of its interest in acquiring the property and the obligation it has to secure an appraisal as soon as is feasible. The owner must then be given an opportunity to accompany the appraiser during the appraiser's inspection of the property.

Before the initiation of negotiations with the property owner, the municipality must establish an amount which it believes is just compensation for the property. The amount shall not be less than the approved appraisal of the fair market value of the property, taking into account the value of allowable damages or benefits to any remaining property upon the appraisal of the fair market value of the property.

In order to establish the just compensation amount, the municipality must have a qualified reviewing appraiser examine all appraisals to assure that they meet the requirements of 49 C.F.R. §24.103 and must then seek any necessary corrections or revisions before accepting the appraisals. The reviewing appraiser may either be a contracted appraiser or a qualified employee of the municipality or other public agency such as the Michigan Department of Transportation (MDOT). Listings of approved appraisers and reviewing appraisers are maintained by MDOT.

Upon reviewing appraiser's certification of the just compensation for the property, the municipality will send a written purchase offer to the property owner. The purchase offer must contain:

- A. A statement of the amount being offered as just compensation.

- B. An identification of the real property and the particular interest being acquired, including buildings, structures, and other improvements which are considered to be part of the real property for which the offer of just compensation is made.
- C. In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages (if any) to the remaining real property shall be separately stated.

When property appraisals are required, the initial offer to the property owner may not be less than the amount that is certified through the appraisal review process outlined above. The final offer to the owner may exceed the appraised amount when reasonable efforts to negotiate an agreement at that amount have failed and the municipality can justify the final purchase price as being reasonable, prudent, and in the public interest. However, since the SRF loan computation must be based on fair market value, the amount approved for inclusion in your loan may be less than the final purchase price.

Documentation of fair market value must be provided with the Part II SRF Application, including a copy of the appraisal(s) (or market study, if appropriate), the initial purchase offer, and the final purchase agreement. If an amount greater than the initial purchase offer is requested for SRF loan participation, the information which resulted in a revised appraisal and a reestablishment of the just compensation amount must also be provided. This information may include the results of a court award which resolves a dispute over the land value.

Purchasing vs. Rental

The purchase of equipment that is deemed necessary for the completion of SRF projects is eligible in any instance where purchasing is considered more cost effective than renting.

Residuals Handling Equipment

Facilities or equipment designed to handle residuals are eligible for SRF assistance.

Storm Water Collection or Conveyance

While SRF assistance may be provided for the correction of combined sewer overflows, SRF funds can not be used to pay for storm water collection or conveyance, as proscribed in MCL§324.5301(n). Thus, the construction of new storm sewers to accomplish the separation of combined sewers will only be partially eligible for SRF assistance if the new storm sewers are sized to alleviate basement and street flooding that would otherwise be addressed independent from the elimination of the combined sewer overflow. The construction of or improvements to a pumping station that handles combined sewage flows may be eligible for SRF assistance as long as that construction/improvement will not provide additional storm water conveyance capacity beyond what currently exists in the municipality's collection system.

Supplies

Costs associated with expendable supplies, such as chemicals or replacement parts in excess of supplies needed to facilitate system startup are not eligible for SRF reimbursement because these costs are considered to be routine O&M costs which are not eligible for SRF assistance.

Treatment Works Capacity Purchases

A project, particularly one that includes the construction of collector sewers with treatment to be provided at an existing treatment works in an adjoining municipality, may request SRF loan participation in the cost to purchase an available portion of existing wastewater treatment capacity. The purchase of such capacity may be approved for SRF assistance only when all of the following conditions are met

- A. The municipality can demonstrate that the purchase is the most cost-effective alternative for meeting the needs identified in the project plan.
- B. The municipality can demonstrate that the capacity to be purchased is indeed available.
- C. The municipality can demonstrate that the capacity share to be purchased will be publicly owned by fee simple title or long-term lease for the design life of the project (as opposed to a service contract or similar limited access agreement).

The eligibility of capacity purchases will also be governed by the following:

- If the treatment plant/interceptor sewer was built entirely without any federal Title II construction grant assistance, the purchase of capacity is eligible for SRF assistance.
- If the treatment plant/interceptor sewer received Title II construction grant assistance on or after October 1, 1984, and the facility included non-federally funded reserve capacity, the purchase of the reserve capacity is eligible for SRF assistance.
- If the treatment plant/interceptor sewer received Title II construction grant assistance prior to October 1, 1984, the purchase of capacity is not eligible for SRF assistance.
- The purchase of capacity in excess of the need documented in the project plan for the 20 year planning period is not eligible for SRF assistance.

In addition, the purchase of interceptor or treatment capacity in facilities where the SRF previously funded the construction of the capacity will not be eligible for SRF assistance.

Treatment Works Demolition or Decommissioning

Demolition necessary to accomplish project construction is eligible for SRF assistance. For example, SRF funds can be used for the removal of an underground tank located within the area to be occupied by a new treatment building (that is itself an eligible part of the project).

When the demolition and/or decommissioning of existing operational or abandoned components of a sewer system are not necessary to accomplish project construction, the associated costs will be eligible for SRF assistance only when *all* of the following conditions are met:

- A. The demolition/decommissioning are done in conjunction with new construction at the actual site of the system component to be demolished/decommissioned.*
- B. The demolition/decommissioning is part of the cost-effective alternative in an approved SRF project plan.
- C. The demolition/decommissioning is necessary as a direct result of the project proposed for SRF funding, even if actual demolition is not directly necessary to accomplish new project construction.

Site enhancements such as paving, additional landscaping, and playground equipment, would not be eligible.

*The exception to this is where abandonment of currently operating facilities (i.e., lagoons, etc.) are occurring in conjunction with the construction of new facilities to replace the facilities being abandoned. In this case, the construction of the new facilities do not have to occur at the same site where the existing facilities to be abandoned are located.

Treatment Works Furnishings

Desks, tables, chairs, storage cabinets, refrigerators, microwaves, stoves, floor treatments (e.g., carpets, epoxy coatings), window treatments (e.g., curtains, Venetian blinds), and other furnishings for a treatment works are eligible for SRF assistance, provided they are necessary to furnish new construction or areas where remodeling or expansion of existing facilities has occurred. In all other cases, the purchase of new desks, appliances, window treatments, or other furnishings are considered to be routine replacement costs which are not eligible for SRF assistance.

Treatment Works Security Measures

Treatment works security measures are eligible for SRF assistance; provided the need for each specific measure was established by the time draft plans and specifications are submitted for MDEQ review. Eligible security measures include:

- Facility lighting
- Perimeter fencing
- Security cameras and motion detectors
- Secured storage for chemicals or fuel
- Other measures the need for which is demonstrated to the MDEQ's satisfaction

The hiring of security personnel is not eligible for SRF assistance.

Treatment Works Supplies

Costs associated with expendable supplies, such as chemicals or replacement parts, are not eligible for SRF reimbursement because these costs are considered to be routine O&M costs. For example, if the need for a sewer cleaning (vactor) truck for the cost-effective operation and maintenance of the wastewater treatment works was established during the project planning process, SRF assistance may be provided for its purchase. However, SRF assistance cannot be provided to finance the ongoing operation and maintenance of the vactor truck. Therefore, stores of fuel to operate the truck and a replacement stock of oil, spark plugs, filters, and other expendable items necessary for maintenance of the truck are ineligible items. As another example, a ferric chloride tank is eligible for SRF assistance but the ferric chloride itself is ineligible regardless of whether the chemical is to be supplied for project start-up or for ongoing operation.

Treatment Works Vehicles

Special-purpose vehicles designed specifically for treatment works operation and maintenance, such as vactor trucks and liquid sludge spreaders, are eligible for SRF assistance, provided the need for such vehicles was established during the project planning process. Furthermore, the applicant must demonstrate that the purchase of the vehicle is more cost-effective than leasing, particularly in instances of short-term or intermittent use.

Cars, trucks, or other vehicles which are used for treatment works O&M activities are not eligible for SRF assistance.

All MDEQ eligibility determinations will be based on the central criteria of necessity and reasonableness. For further information, please contact your MDEQ project manager.