

# 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 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* 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. The **entire** project being proposed for construction must be the cost-effective solution to the problem(s) documented in the project plan; SRF assistance cannot pay up to the cost-effective amount, with the applicant to fund the non-cost-effective remainder of the work.

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. SRF assistance cannot be provided to fund the local share of an SRF/Strategic Water Quality Initiatives Fund (S2) or Stormwater, Asset Management or Wastewater grant project.

## *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 stormwater 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 stormwater 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. An allowance is used to identify construction goods or services that 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. An 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 that 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 the rate methodology 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 Finance Authority (MFA). 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 that 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, the area must be closely populated with an average population density of at least one household for every two acres at the time the SRF project plan was prepared to be eligible. 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 that will be used as a direct interface, process control component of the treatment works, such as a computer that automatically monitors and controls process operating cycles, chemical feed rates, or the start-up and shut-down of pumps and motors are eligible. Computer hardware or software that will 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, 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 is 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 4<sup>th</sup> quarter loan, the municipality will need to fall within the established fundable range for the next fiscal year in order to receive a 1<sup>st</sup> 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 that 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, which 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. 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 re-evaluate part of 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 that by state law are eligible for SRF assistance.

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 DEQ project manager that the appropriate DEQ staff has been notified that contamination was encountered during

project construction. The loan recipient must then provide the DEQ project manager with a description of the contamination problem, the proposed cleanup activities, the analysis of the discovery's impact on the selected alternative in terms of its cost-effectiveness, and the appropriate DEQ staff's concurrence with the proposed clean-up activities.

## **Energy and Water Conservation**

Energy and water assessments and audits are eligible activities when conducted in conjunction with an eligible SRF construction project.

## **Fiscal Sustainability Plan**

An applicant can request up to \$2 million in loan funds to complete a fiscal sustainability plan (FSP) or asset management plan (AMP), provided that the need was identified and discussed in the project plan. The FSP/AMP cannot be a stand-alone project; it must be developed in conjunction with an SRF-funded construction project. If an applicant is receiving SAW funds for AMP development, SRF funds cannot be used for the same activities included in the scope of the SAW grant. An FSP should include, at a minimum:

- Inventory of critical assets that are a part of the treatment works;
- Evaluation of the condition and performance of inventoried assets or asset groupings;
- Certification that the applicant has evaluated and will be implementing water and energy conservation efforts as part of the plan; and
- A plan for maintaining, repairing, funding, and as necessary, replacing the treatment works.

Refer to *FSP Guidance and Frequently Asked Questions* for additional information.

## **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 that are intended to insure that the applicant consider the impacts of borrowing funds to subsidize salaries, which 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 may be more economically performed by qualified municipal staff. Eligible force account costs are reserved for staff who 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" (requires detailed project time accounting), which 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 timesheets, 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
- Overtime/holiday pay for eligible technical staff for project-related work
- Vehicle charges and mileage for eligible staff for project-related work
- 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
  - Cell phone usage charges for project-related work
- Other (Eligible)
  - 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) 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

## 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 DEQ's Finding of No Significant Impact was published. Furthermore, grinder pumps and STEP system components are **not** eligible **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 that 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 that 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.

## Industrial Waste Eligibility

A sewer proposed solely to serve an industry is ineligible for funding since SRF bonds cannot be issued as private activity bonds (i.e., the bond attorney cannot write a tax exempt opinion for a project that will handle solely or predominately industrial waste). For a treatment project that handles industrial waste, the solution has to be cost-effective (i.e., pretreatment by the industry has to be considered versus building a special treatment process at the WWTP for the industry).

## Inspector Days

Inspector (crew) days can be used 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 will be required 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. 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 the proposal, 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, any inspector day costs included in the construction contract bid amount will not be included in the loan award.

The costs for inspection (resident) engineering included in the loan will be established based upon the budget reflected in the engineering agreement. Therefore, applicants need to insure that an appropriate amount for on-site inspection has been included in the engineering agreement. 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. 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, 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, interceptor sewer, or a force main 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.

Eligibility of sewer rehabilitation must be assessed using the National Association of Sewer Service Companies (NASSCO) Pipe Assessment Certification Program (PACP). The PACP assigns pipe defects a condition grade ranging from 1 to 5. Grades are assigned based on the significance of the defect, extent of damage, percentage of restriction to flow capacity, or the amount of wall loss due to deterioration. The SRF program designates segments with a structural rating 4-significant defect grade and a structural rating 5-most significant grade, as eligible for loan participation. Segments with only operation and maintenance defects are ineligible for SRF participation. Once the eligible segments are identified, the applicant should then evaluate all reasonable rehabilitation alternatives including, but not limited to, replacement, full length lining, sectional lining, or grouting before choosing a selected alternative. A case can also be made for segments with structural defects below a Grade 4 if it is found that the location or other factors associated with the pipe segment could lead to imminent pipe failure. Project managers will determine eligibility for these defects on a case-by-case basis.

Most Significant Grade 5 - Examples of a PACP structural Grade 5 defect include:

- Broken pipe with soil or a void visible
- Hole with soil or a void visible
- Collapsed pipe
- Deformed flexible pipe with creasing
- Surface damage with the reinforcement projecting or corroded and pipe with a missing wall
- Brickwork with a dropped invert

Significant Defect Grade 4 - Examples of a PACP structural Grade 4 defect include:

- Hinge crack 4
- Multiple fractures, hinge 3, and hinge 4
- Broken pipe
- Less than 5 percent of a rigid pipe is deformed
- Large separated joint
- Surface damage with aggregate missing or reinforcement visible

The NASSCO Manhole Assessment Certification Program (MACP) eligibility and scoring are the same as described in the PACP section above. In addition, in order for a manhole to be eligible for SRF assistance, a Level 2 MACP inspection is required. Level 2 inspections are performed via man-entry, camera, measurement tools, and/or specialized tools. A Level 1 general inspection is not sufficient to identify defects for SRF eligibility.

Most Significant Grade 5 - Examples of a MACP structural Grade 5 defect include:

- Broken manhole with soil visible in the chimney, cone and wall, bench, or channel
- Collapsed manhole
- Joint defects

Significant Defect Grade 4 - Examples of a MACP structural Grade 4 defect include:

- Multiple fractures in the chimney, cone and wall, bench, or channel
- Hole in the channel where the hole extends  $\frac{1}{4}$  of the channel circumference
- Missing brickwork

Eligibility of force main sewer rehabilitation or replacement, to restore or maintain structural integrity, will be assessed based upon a review of specific information provided by the applicant about the force main such as: its age and remaining useful life, the number of previous breaks (recorded failures), the cause of breaks (if known), the number of connections, the likelihood of a failure, the type of material, its current condition (if known), its location (within or near a water body), and the potential consequences (impacts to water quality and/or public health) if a failure were to occur. Applicants are encouraged to submit any other specific information (qualitative and/or quantitative) to demonstrate the likelihood of a failure and/or the potential consequences if a failure were to occur. The Water Resources Division (WRD) district engineer will provide a technical opinion of the specific information provided by the applicant. The RLS will determine force main SRF eligibility through consideration of both the specific information provided by the applicant and the technical opinion of the WRD district engineer.

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. For further information regarding planning level documentation to substantiate

sewer and manhole rehabilitation, refer to the *SRF Project Planning Preparation Guidance* (Technical and Other Considerations section).

Work designed to address roots or deposits is considered 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 inflow/infiltration (I/I) removal. Further information regarding I/I removal requirements can also be found in the *SRF Project Planning Preparation Guidance* (Technical and Other Considerations section). Surface damage involving roughness, surface spalling, or visible aggregate do not meet the severe structural criteria.

## 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 are not otherwise ineligible for 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).
- D. The eligibility for mitigative measures for **unforeseen** impacts will be evaluated on a case-by-case basis.

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 that 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 or on the RLS Web site. When projects do not have physical overlap between the eligible and ineligible components, an eligibility ratio based on the eligible and ineligible bid costs will be calculated. This ratio will be used to adjust the engineering costs.

## Nonpoint Source Pollution Control Practices

Nonpoint source pollution control practices must first meet the basic eligibility requirement. The proposed practice must address a water quality problem identified in an approved watershed management plan.

Infiltration practices are eligible for SRF assistance as part of a NPS project. These practices include, but are not limited to, infiltration trenches, infiltration basins, sand filters, flow-through planter boxes, level spreaders, leaching catch basins and porous pavers. Porous asphalt or concrete pavement is discouraged due to the reduced functionality due to clogging.\*\* Vegetative infiltration practices such as rain gardens and bioswales are eligible.

Streambank stabilization practices may be eligible for SRF funding, provided that bioengineering practices are used. These practices include, but are not limited to, live stakes, coir logs, two-stage channel construction, cross vanes, grade stabilization structures, and other “soft” engineering practices that help reduce erosion and restore the stream’s natural hydrology. In some situations, structures such as gabions may be eligible as long as vegetation is incorporated and the structures will not negatively impact the stream hydrology.

Other best management practices that are eligible for SRF funding include detention or retention basins that provide a water treatment function, cisterns, hydrodynamic separators, green roofs, and tree planting. Infiltration storm sewers and oversized storm sewers with weirs that provide a detention or flow attenuation function are eligible.

\*\* Or another option: Eligibility of porous asphalt or concrete pavement is dependent on an approvable maintenance schedule.

## 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.

Architectural and engineering services must be selected based on a Qualification-Based selection (QBS) process to be eligible for SRF funding. The QBS process involves the selection of the consultant and the negotiation of the contract price. The steps are:

1. The applicant issues a request for qualifications based on a scope of work and specific, established criteria.
2. Statements of qualification based on the established, publicly available criteria are evaluated.
3. A short list of qualified firms to be interviewed is developed based on the criteria.
4. Interviews are conducted with no fewer than three firms, and the firms are ranked according to qualifications.
5. The applicant selects the most-qualified (highest ranked) firm and contract negotiations begin.
6. If the proposal fee is acceptable, the contract is awarded.
7. If an agreement cannot be reached with the top-ranked firm, negotiation will begin with the next firm on the list.

This process must occur prior to any engineering service being provided to the applicant. The request for qualifications can include all phases of the project (planning, design, and construction engineering) or it can be for only one phase at a time. The cost of the services cannot be included in the selection criteria; cost negotiations are not discussed until after the most qualified firms are selected.

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 Plan Amendments**

When the selected alternative contained in a project plan has been significantly changed, a project plan amendment will need to be submitted. Significant changes are those that:

- Substantially alter the design, scope (the problem or issues to be resolved), or the cost of the project
- Alter the type of treatment to be provided
- Substantially alter the location, size, capacity, or quality of any major equipment item
- May be controversial

These types of changes will require the preparation of a formal project plan amendment, subject to all the public participation requirements. Significant increases in project costs and user rates as a result of the change must be addressed as part of this process. Any significant inflationary cost increases that may occur during a prolonged period between project plan submittal and Environmental Assessment publication should at least be public-noticed or handled through a public meeting process.

The optimal time to submit a project plan amendment is July 1 so that the revised project can be appropriately ranked on the Project Priority List; however, amendments can be submitted at any time. Contact your RLS project manager for guidance on your specific situation.

## **Project Planning Costs**

Costs associated with project planning are eligible for SRF reimbursement for loans. Examples of eligible planning costs include the costs associated with:

- Archaeological surveys
- Biological surveys
- Environmental audits of project sites (Phase I)
- Fiscal sustainability plans
- 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
- Water and energy audits

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.

The property to be acquired must be appraised to establish its fair market value. 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 that 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 that 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 that resulted in a revised appraisal and a re-establishment of the just compensation amount must also be provided. This information may include the results of a court award that resolves a dispute over the land value.

## **Purchasing vs. Rental**

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

## **Residuals Handling Equipment**

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

## **Single Audit Compliance**

The Single Audit Act of 1984 (with amendment in 1996) and OMB Circular A-133 ("Audits of State, Local Governments, and Non-Profit Organizations") provide audit requirements for ensuring that federal funds provided to non-federal agencies such as cities, townships, and tribal governments are expended properly. The costs associated with the single audit are eligible for SRF assistance provided that the SRF is the only source of federal funding related to the project. Only costs directly associated with single audit compliance (per 2 CFR 200, the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards) for the SRF project are eligible for loan reimbursement.

## **Stormwater Collection or Conveyance**

While SRF assistance may be provided for the correction of combined sewer overflows, SRF funds **cannot** be used to pay for stormwater collection or conveyance, as prescribed 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 provide additional capacity to alleviate basement and street flooding. 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

stormwater conveyance capacity beyond what currently exists in the municipality's collection system.

Stormwater collection or conveyance can be an eligible component of a NPS project, provided that it performs a pollution control or treatment function. Examples include infiltration sewers and oversized sewers with weirs. Stormwater collection or conveyance for flood control or to provide increased capacity to transport stormwater is not eligible for SRF assistance.

Similarly, while the Strategic Water Quality Initiative Fund (SWQIF) assistance may be provided for the removal of clear water from house leads and the disconnection of footing drains, companion SRF projects involving the construction of new stormwater collection or conveyance must meet the same criteria. Only the capacity necessary to collect and convey the footing drain flows will be eligible for SRF assistance.

Refer to the *SRF AJE Guidance* for procedures regarding the determination of storm sewer eligibility. Additionally, the SRF cannot fund replacements of structurally deficient storm sewers as part of an eligible SWQIF project or sewer separation project.

## 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.) is 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 DEQ review. Eligible security measures include:

- Facility lighting
- Perimeter fencing
- Security cameras and motion detectors
- Secured storage for chemicals or fuel
- Other measures based on demonstrated need

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 that are used for treatment works O&M activities are not eligible for SRF assistance.

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