

TITLE 830 – INFRASTRUCTURE BANK

CHAPTER 10 – PROGRAMS

SUBCHAPTER 10 – WATER

PART 1 – Drinking Water State Revolving Fund Loan Policies and Procedures

1.1 Purpose:

The within Loan Policies and Procedures of ~~the~~ Rhode Island ~~Clean Water Finance Agency~~ Infrastructure Bank (~~Agency~~the "Bank") have been established to govern the lending activities of the Drinking Water State Revolving Fund (DWSRF) in accordance with R.I. Gen. Laws Chapters 46-12.8 and 46-12.2 of the General Laws of Rhode Island, and the Safe Drinking Water Act Amendments of 1996 Title XIV of the Public Health Service Act (42 U.S.C. § 300 et. seq.).

1.2 Definitions:

Except as otherwise defined herein, the words and phrases used within this Part ~~these Loan Policies and Procedures~~ have the same meaning as the words and phrases have in R.I. Gen. Laws Chapters 46-12.8 and 46-12.2 of the General Laws of Rhode Island and the Safe Drinking Water Act Amendments of 1996 and Title XIV of the Public Health Service Act (42 U.S.C. § 300 et seq.).

1.3 Financial Assistance:

- A. ~~The objective of t~~These Policies and Procedures govern~~These Policies and Procedures govern~~ This Part governs the provision of ~~is to provide~~ financial assistance to local governmental units, and privately organized water suppliers (collectively "Borrowers") to finance costs of approved drinking water projects in the form of loans with below market interest rates or interest rate subsidies which reduce the cost of financing these projects by at least twenty-five percent (25%). Financially distressed Borrowers may receive financial assistance greater than twenty-five percent (25%) as long as these loans do not have an adverse effect on other participants in the loan programs of the Bank; bond holders; other creditors of the Bank, or the finances of the Bank. In determining those Borrowers that qualify as "financially distressed" the Bank may consider the criteria set forth in R.I. Gen. Laws § 45-13-12(b)(1)-(4) of the Rhode Island General Laws as amended. ~~from the DWSRF~~

~~to those borrowers certified as eligible participants by the Rhode Island Department of Health, Drinking Water Quality Division (DOH).~~

~~Application for debt refinancing, guarantee or purchase of insurance for local debt obligations or for other non-construction activities such as planning and design will be considered by the Agency based on the projects' rank on DOH's Project Priority List. DOH's rank will be based on the original purpose of the project for which the funding is being requested. Refinancing of privately-organized water suppliers is not allowed under the DWSRF program.~~

~~In the event that the Agency receives more requests for loans than it has funds available in federal fiscal year, it will award loans first to those eligible applicants who rank highest in chronological order on the Project Priority List.~~

B. Small Water Systems: Small Water Systems, as defined by the Environmental Protection Agency (EPA) may be awarded financial assistance in accordance with the Small Water System Guidance Document that shall be issued by the Bank. See www.RIIB.org for the Small Water System Guidance Document.

1.4 Loan Application:

A. Requests for financing should be submitted in writing by the Chief Executive Officer ~~or other authorized officer~~ of the ~~Borrower~~~~water supplier~~ to the Executive Director of the ~~Bank~~~~Agency~~. The written request ~~shall~~~~must~~ include:

1. A description of the project to be financed with the projected construction and completion schedule. In the case of a refinancing, a description of the completed project and the terms and sources of previous financing.
2. A description of the dedicated source of loan repayment, i.e., general revenues; ~~or drinking water revenues from property taxes or water system revenues from user fees.~~
3. A description of the overall operations of the Borrower, including but not limited to the most recent annual report or audited financials, with an emphasis on:
 - a. legal structure;
 - b. management;
 - c. sources of revenues;
 - d. operating expenses;

- e. operating surpluses or deficits;
 - f. actual results versus budget; and
 - g. sources of financial liquidity.
4. Legal authority or authorities to construct, finance and operate the project, ~~if applicable.~~
54. The past five years Audited Financial Statements in accordance with Generally Accepted Government Accounting Standards or Generally Accepted Accounting Principals; or ~~some other source of~~ historical financial information that the BankAgency, as a lender, deems appropriate.
65. Financial and demographic information.
7. For revenue bonds, financial projections over the life of the ~~financi~~ng financing showing sources of revenues, operating expenses, capital replacement reserves, user fee impact analysis, and cash available for debt service.
8. A copy of the Infrastructure Replacement Plan component of the Water Supply Management Plan if applicable.
96. An application that proposes to purchase an existing water system must be accompanied by a certification of the water system's integrity by a registered professional engineer. A certification as to the appraised value of the system must also be provided. The BankAgency reserves the right to review this certification and request further data for analysis.
10. Such other information as the Bank may reasonably require.

1.5 Loan Approval Process:

- A. ~~Project approvals are subject to the issuance and terms of Certificate of Approval by the DOH. Prior to loan approval, the Agency will conduct a financial capability analysis based primarily on the soundness of the operating and coverage ratios of the water system.~~ Loan approvals are subject to the following terms:
- ~~The following basic criteria shall be applied by the Agency during the loan approval process:~~

1. ~~availability of DWSRF funds;~~ That all projects to be funded appear on the Rhode Island Department of Health ("RIDOH") Project Priority List and have Certificates of Approval issued;
2. ~~completeness of application including required documents;~~ That the loan complies with all federal, state and Bank laws, rules and regulations;
3. ~~accuracy of information, and;~~ That the loan and debt service requirements be approved by any applicable regulatory Agency;
4. ~~creditworthiness of applicant pursuant to these regulations.~~ That a satisfactory loan agreement be signed by all parties to the transaction;
5. ~~That the loan will be made subject to availability of funds as related to the Bank's capacity; and that the loan will be made subject to ranking on RIDOH's Project Priority List.~~
6. The Bank will conduct a financial analysis for each loan application which may include, but not be limited to:

~~B. For the determination of creditworthiness, the Agency will require the following information to make its financial capability assessment:~~

- ~~a1.~~ sources of revenue and financial liquidity;
- ~~b2.~~ historical and projected financial operating results;
- ~~c3.~~ present and future debt service requirements;
- ~~d4.~~ current assignment of water rates and other revenues generated from user fees;
- ~~e5.~~ ability to increase water rates and/or secure alternative revenue sources;
- ~~f6.~~ cost of the project and estimated completion schedule;
- ~~g7.~~ long term capital replacement planning ~~for entire system;~~
- ~~h8.~~ socioeconomic conditions and trends;
- ~~i9.~~ ~~board, management and ownership structure,~~ qualifications and experience;
- ~~j10.~~ effects of legal structure and any ~~presence of~~ regulator control;

- ~~k11.~~ a Consulting Engineer's Water Facility and Financial Feasibility Report, if applicable;
- ~~l12.~~ history of applicant/system;
- ~~m13.~~ any other information that the BankAgency or its Board of Directors may require.

BG. If the Board approves the application, a Commitment Letter will be issued to the Borrower for their acceptance, outlining the terms and conditions of the loan. Refer to Attachment A for more information regarding the financial capability analysis to be performed by this Agency prior to DWSRF loan approval.

~~Those publicly owned community water systems that have market experience will provide to the Agency the same information as asked for above, and their most recent Official Statement. The minimum requirement for satisfaction of the financial capacity threshold is a proforma coverage ratio of at least 125%. The Agency will also examine historical debt service coverage ratios.~~

~~The Agency will individually assess the ability of Privately Organized Community Water Suppliers to provide loan security and meet debt service requirements of a DWSRF loan. The Agency reserves the right to limit the amount of financings to Privately Organized Community Water Systems to 5% of the total loans outstanding in the DWSRF.~~

~~If the financial capability analysis indicates that the applicant has the capacity to meet its obligations over the loan term, the Board of Directors of the Agency will vote to approve the application identifying the Name of Borrower, Project Description(s), Project Cost(s), the final maturity of the Loan and any other Conditions of the Loan. The borrowers will have the opportunity to identify potential issues with initial loan terms at this point. Based on borrowers' concession of initial loan terms and the Agency's Board of Directors' approval, a Commitment Letter will be issued to the Applicant for its acceptance. Once the Commitment Letter has been executed, the Agency will meet with the applicant to structure the Loan Agreement as to interest rate, amortization schedule, source of repayment, security/credit enhancements, and loan covenants.~~

1.6 Terms and Conditions:

- A. Borrowing Interest Rate - The interest rate for borrowers will be 25% off their market rate of borrowing. The Agency, in cooperation with its advisors, will determine the borrower's current market rate of borrowing. The stated interest rate on the Borrower bond, which is the Borrower's market rate (the "Market Rate"), is the prevailing market taxable or tax-exempt interest rate for issuers of

comparable creditworthiness to the Borrower, as determined by the Bank on the advice of the Financial Advisor after consultation with the Borrower. Subject to adjustment by the Bank from time to time, the subsidized interest rate for the Loan is **seventy-five percent (75%)** of the Market Rate (the "Subsidized Interest Rate"). The Borrower will be obligated by the Borrower bond to pay the Market Rate, but will be billed only for the Subsidized Interest Rate. If the Borrower or other borrowers of the Bank should default in timely payment of debt service on the Loan or on the loans made to such other borrowers of the Bank, the Bank may require the Borrower to pay up to the Market Rate on the Borrower Bond. However, the interest rate for small publicly owned community water systems and small privately organized community water suppliers, those serving fewer than 10,000 persons, (a "Small Borrower") may be set by the Agency at 3.0% for Loans up to \$300,000.

B. Interest is to be calculated based on a 360-day year and twelve thirty-day months, and may be capitalized during construction. Interest payments are semi-annually on March 1 and September 1.

~~B. Interest Interest will be fixed over the life of the loan; will be calculated on the basis of a 360 day year (twelve thirty day months) on the outstanding loan balance; will be paid on a schedule to be determined by the Agency (monthly/semi-annually) and may be capitalized during construction.~~

CbG. Loan Fees - The Agency will charge an Origination Fee of 1.0% (one percent) of the face amount of the loan at closing with a minimum of \$1,000. All out of pocket closing costs will be paid by the borrower and may be capitalized as part of the loan as permitted by the Environmental Protection Agency (EPA). These costs included but are not limited to:

- ~~1. Borrower's Cost of Issuance including Borrower Counsel and Borrower Financial Advisor;~~
- ~~2. Agency Costs of Issuance including Agency Counsel, Agency Bond Counsel, and Agency Financial Advisor;~~
- ~~3. Agency Underwriting cost and bond insurance costs; and~~
- ~~4. other closing costs including document printing and binding.~~

~~The Agency will also charge an annual Service Fee of .5% (one half of one percent) of the outstanding principal payable semi-annually at each interest payment date. A late payment fee of 5.0% of the amount of the payment will be charged for every 15 days that a payment is late.~~An origination fee of the greater of **one thousand dollars (\$1,000)** or one percent (1%) of the principal amount of the Loan will be payable to the Bank by the Borrower at the time of the Loan's

closing. All other costs incidental to the Borrower's role in their transaction, - i.e., such as, legal fees, financial advisory fees, bond insurance premiums and the like, will be paid by the Borrower. The Bank will charge an annual service fee of one-half of one percent (0.5%) of the Loan's outstanding principal, payable semi-annually at each interest payment date. A late payment of five percent (5%) of the amount of the late payment will be charged for every fifteen (15) days that a payment is late.

D. Amortization - Amortization will begin ~~within one year after completion of construction.~~ At a mutually agreed upon date, but in no case later than the earlier of three (3) years after loan closing or September 1st after completion of the construction of the projects. Principal payments will be made annually on September 1st and the schedule of payments will be structured to meet the debt service and financial assistance needs of the ~~b~~Borrower.

E. Final Maturity - ~~Loans may mature up to twenty years after the completion of a project. The final maturity of a loan will be a factor in determining the level of financial assistance to a borrower.~~ Loans shall mature no later than twenty (20) years after the completion of the funded projects

F. Prepayments - ~~A~~The loan may be prepaid by the ~~B~~Borrower at any time but may be subject to a prepayment penalty based on the cost of reinvesting the prepayment, the cost of prepaying outstanding bonds of the ~~Bank~~Agency or any other negative financial impact to the ~~Bank~~Agency.

G. Security/~~Credit Enhancement~~ - Loans will have a ~~general~~ pledge of:

1. general revenues and/or water system user fee revenues; and/or

2. ~~(a) general revenues and/or water system user fee revenues; and (b) may be secured by any other assets and upon such other terms and conditions as/or credit enhancements which~~ the ~~Bank~~Agency deems appropriate to protect the interest of the other participants in the loan programs of the ~~Bank~~Agency; bond holders; other creditors of the ~~Bank~~Agency; ~~bondholders;~~ or the finances of the ~~Bank~~Agency.

H. Construction Progress Payments - Progress payments for each construction project will be made through an account established by the Borrower~~a Construction Proceeds Fund (CPF).~~ Loan proceeds will be transferred monthly from the CPF~~Borrower account~~ for each borrower based upon approved Requisition Forms submitted to the ~~Agency~~Bank, ~~(Attachment B).~~ Upon receipt of the Requisition Form, the ~~Agency~~Bank will verify ~~a)~~ that a Certificate of Approval has been issued by ~~R~~IDOH; ~~b)~~ the vendor is identified in the contract; and ~~c)~~ there is sufficient availability in the CPF~~Borrower account~~ to make the payment.

Payments will be made directly to the vendor and/or the Borrower for reimbursements by the AgencyBank, and a "paid" stamped copy of the Requisition Form will be send-sent to the Borrower and RIDOH. The RIDOH will perform periodic project inspections to a) monitor construction progress; b) verify eligibility of construction costs under the program; and e) insure construction is in conformity with Plans and Specifications. ~~The~~ RIDOH will provide a copy of the inspection report to the AgencyBank. Any adverse conditions will be reported to the AgencyBank who will suspend further payments until the adverse conditions have been rectified. ~~The~~ RIDOH will perform a final project inspection before the final payment is made by the AgencyBank.

1.7 Reporting Requirements:

- A. Borrowers will be required to provide information to the BankAgency during the life of the loan, including, but not limited to: ~~The Agency may ask for information from the Borrower during the term of indebtedness that is not listed here:~~
1. A copy of its Annual Audited Financial Statements in accordance with Generally Accepted Government Accounting Standards ~~_or Generally Accepted Accounting Principals~~, annually within nine (9) months ~~180 days~~ of end of fiscal year.
 2. An annual analysis of oOperating rRevenues and eExpenses, including without limitation, a description of ~~with an emphasis on~~ the status of the water system user fee revenues and/or general revenues and operating expenses in excess of budget and a schedule of current and projected user rates ~~securing the loans and operating expenses in excess of budget, annually within 180 days of the end of fiscal year.~~
 3. A copy of the annual budget of the Borrower, within fifteen (15) days of its adoption.
 4. Annual schedule of current and projected short term and long term debt service.
 5. An annual schedule of Infrastructure Replacement Reserves, ~~if applicable~~.
 6. Copies of reports submitted to RIDOH, Rhode Island Department of Environmental Management-DEM, the US Environmental Protection Agency-EPA, the Rhode Island Public Utilities Commission and any other regulatory agency relating to the projects financed and the operation of the water supply facility.
 7. Other information or reports that the Bank deems appropriate.

1.8 Loan Agreements:

- A. There will be a Loan Agreement with the Borrower for each application outlining the terms and conditions of the Bank's Loan. The Loan will be evidenced by a general obligation pledge, pledge of water system revenues, note(s) and/or bond(s) in "fully marketable form" or some other source of security deemed appropriate by the Agency. The Borrower's repayment obligation to the Bank under the agreement will be evidenced by a bond(s) of the Borrower outlining the loan's specific terms and conditions. The bonds shall be in fully marketable form, accompanied by documentation, in form and substance satisfactory to the Bank and an opinion, in form and substance satisfactory to the Bank, of nationally recognized bond counsel as to its valid authorization, execution, delivery and enforceability, as well as its federal and state tax consequences, and may include an opinion that the bonds are not private activity bonds within the meaning of Section 141 of the Internal Revenue Code of 1986 (26 U.S.C. § 141), as amended (the "Internal Revenue Code").

1.9 Compliance with State and Federal Law:

- A. Recipients of loans must comply with all applicable state and federal laws and regulations. The Borrower must comply with all applicable state laws and regulations. Recipients of loans must also comply with all requirements of the Safe Drinking Water Act Amendments of 1996 42 U.S.C. § 300 et seq. and regulations and guidance issued thereunder in addition to any other applicable federal laws and regulations.

1.10 Modifications:

- A. Where deemed appropriate by the BankAgency, waiver or variation of any provisions herein may be made or additional requirements may be added.

1.11 Loan Portfolio Management and ServicingSeverability:

- A. The Agency will manage and service its loan portfolio to insure there will be no substantial adverse effect on other participants in the loan programs of the Agency; bond holders; or other creditors of the Agency; or the finances of the Agency. In this regard, the Agency will: If any provision of these rules and regulations this Part or the application thereof to any local government unit, or privately organized water supplier is held invalid by a court of competent jurisdiction, the remainder of the rules and regulations shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections shall not affect the validity of the remainder of this Partthese rules and regulations.

1. ~~Maintain its books and records to comply with Federal and State laws and regulations.~~
2. ~~Manage its credit reviews, loan approvals, loan documentation, and loan collection to meet standards established by the Agency Board of Directors, Rating Agencies and Bond Insurers.~~
3. ~~Limit the loans to privately organized borrowers to a level which is covered by adequate Debt Service Reserves, Credit Insurance or other forms of Credit Enhancements. The Agency has determined this level to be 5% of the total loans outstanding.~~
4. ~~Utilized an accounting system which is in compliance with Section VIII of the Agency's Accounting Policies and Procedures.~~
5. ~~Prepare annual Credit Reviews for each borrower to insure compliance with the financial covenants of the Loan Agreement and to insure there are no adverse changes in a borrower's financial condition and/or capacity to repay a loan.~~