

490-RICR-00-00-3

TITLE 490 – WATER RESOURCES BOARD

CHAPTER 00 – N/A

SUBCHAPTER 00 – N/A

PART 3 – Emergency Water Systems Interconnections

3.1 General Provisions

3.1.1 Scope and Construction

- A. This program shall provide twenty-five percent (25%) of the cost of approved emergency interconnections designed and constructed to serve a single water system and shall provide fifty percent (50%) of the cost of approved interconnections between two or more systems. Only the construction of water interconnections and the acquisition of land or rights-of-way, together with necessary engineering and design, are eligible for assistance under this program. Costs of borrowing, amortization costs, legal, and all other costs attendant to the funding of water interconnections are not eligible for financial assistance under this program and must be fully borne by the project applicant. Final determinations of project eligibility shall be made by the Water Resources Board.
- B. The following shall constitute the regulations governing the disposition of appropriations for the purpose of providing twenty-five (25) percent and/or fifty (50) percent of the cost of approved emergency interconnections between municipal, quasi-municipal or privately-owned water supply systems pursuant to R.I. Gen. Laws Chapter 46-15, as amended. These regulations prescribe procedures for application, minimum standards of conduct for Grantees, and performance standards for the development of emergency interconnections of municipal, quasi-municipal or privately owned, potable water distribution systems. An emergency shall be defined as any potential or existing crisis and/or situation wherein a system could be temporarily unable to provide sufficient potable water to meet minimum health and/or fire protection needs as determined by the applicant.

3.1.2 Purpose

- A. These regulations are promulgated for the following purposes:
 - 1. To implement the purposes and objectives of the Rhode Island Water System Emergency Interconnection program, R.I. Gen. Laws Chapter 46-15, as amended;

2. To protect the public and the State of Rhode Island by insuring that funds appropriated are spent in a proper manner and for the intended purpose;
3. To ensure that the distribution and use of appropriate funds are consistent with the Rhode Island State Guide Plan;
4. To establish minimum standards of conduct to prevent conflicts of interest and insure proper administration of grants;
5. To establish accounting procedures for administration of grants.

3.1.3 Procedure for Obtaining a Water System Emergency Interconnection Grant

- A. Each potential applicant for an Emergency Interconnection grant shall:
1. Determine if it meets the eligibility criteria of § 3.2.4 of this Part;
 2. Arrange for a preapplication conference as required in § 3.2.2 of this Part;
 3. Complete the application procedures required by § 3.2.3 of this Part.

3.1.4 Definitions

- A. The following words and terms, when used in this section shall have the following meaning unless context clearly indicates otherwise:
1. "Act" means the Rhode Island Water System Emergency Interconnection Program, R.I. Gen. Laws Chapter 46-15.2, as amended.
 2. "Applicant" means municipal, quasi-municipal or private potable water supply agency that applies for a grant pursuant to the provisions of these rules and regulations.
 3. "Board" means the Rhode Island Water Resources Board as established by R.I. Gen. Laws Chapter 46-25, as amended.
 4. "Construct" and "Construction" means to build or rebuild in a systematic manner utilizing outside contractors and/or direct personnel, materials and equipment.
 5. "Council" means the State Planning Council as established by R.I. Gen. Laws Chapter 42-11, as amended.
 6. "Design life" means the given time period of project usefulness as determined by a systematic program of engineering.
 7. "Distribution facilities" means the pipes and appurtenant facilities employed specifically to deliver, to dispense, to render, or to circulate

potable water directly for the benefit of a consumer or a community of consumers.

8. "Grantee" means the successful applicant that applied for the grant pursuant to the provisions of these rules and regulations.
9. "Consultant" means the engineer hired by the Water Resources Board to establish eligible emergency water system interconnections.

3.2 Grant Procedures and Requirements

3.2.1 Scope

This section prescribes procedures and requirements for the award of state grants of twenty-five (25) percent and/or fifty (50) percent of the cost of approved water system interconnections pursuant to R.I. Gen. Laws Chapter 46-15.2, as amended.

3.2.2 Preapplication Procedures

Every applicant shall request an informal conference prior to making a formal application for a grant. During the conference, the Board shall identify and explain all grant application documents. The Board shall identify and answer questions concerning other approvals the applicant must obtain prior to awarding a grant. This preapplication conference is not a part of the formal application procedure.

3.2.3 Application Procedure

- A. To apply for a Rhode Island Emergency Water Systems Interconnection Grant, an applicant shall comply with these procedures. The application shall be submitted to the Board on a form provided for that purpose.
- B. An applicant for a Rhode Island Emergency Water Systems Interconnection grant shall submit:
 1. A completed Grant Application;
 2. A demonstration that its seventy-five (75) percent or its fifty (50) percent share, as the case may be, of the eligible project costs is available and obligated to the project;
 3. A description of how it plans to repay any loans and pay any other expenses necessary to fully complete and implement the project, the steps it plans to take before receiving the grant that will guarantee that at the time of the award document, it will be irrevocably committed to complete the eligible project scope and pay any other expenses necessary to fully complete, implement, operate and maintain the project;

4. A written explanation of the need for the project;
5. Evidence that any water supply system that may be affected by either existing or new interconnections have an interconnection agreement;
6. A proposed construction schedule for the project;
7. All agreements, and or subagreements that the Board may require.

3.2.4 Board Approval

- A. The Board shall determine that sufficient state funds are available to provide either twenty-five percent (25%) or fifty percent (50%) of the eligible project costs.
- B. The Board shall weigh the proposed project impact on achieving the overall goals of the program. Providing sufficient potable water to meet health and fire protection needs as determined by the applicant through the reinforcement of emergency supply is the major goal of the program.
- C. The Board shall weigh the proposed project capacity to ensure an adequate supply of water during emergencies and to ensure present and future domestic, industrial and recreational use.
- D. The Board shall give specific weight to potable water availability in a region or area, and the degree to which support of acceptable standards for human habitation can be satisfied by implementation of an emergency water connection.
- E. The Board shall consider the present availability of water when prioritizing the funding of new interconnections.
- F. The Board may consider the proposed project's impact on retaining and encouraging the expansion of the state's present industries, the attraction of new industries, and the promotion of the desirable economic growth of the entire state.
- G. The Board shall review annually its priority rankings. If sufficient changes in a proposed project are evident, the Board may adjust its priority rankings accordingly.
- H. In cases or circumstances involving a threat to the health and safety of the inhabitants of a region or area, the Board may suspend the requirement for the approved project to achieve a fundable priority ranking and accordingly permit said project to supersede all other projects in priority of award for a grant.

3.2.5 Project Development Plans – Grantee

- A. Upon approval of a grant, each Grantee shall arrange a conference with Board staff within thirty (30) days after receipt of notice of a grant award. A tentative list of all materials to be utilized in constructing the interconnection shall be discussed. The Grantee shall initiate the project within six (6) months after receipt of notice of the grant approval or within the time limits of any extension granted pursuant to § 3.2.16 of this Part.
- B. During the conference, the Board's personnel and the Grantee will ensure that the proposed interconnection incorporates all the significant features as shown on a typical connection detail. The Board's consultant may develop a typical interconnection detail which may be used throughout the project. The detail shall include provisions to prevent backflow, metering, pumping and accommodations for water flowing in both directions. The Board and Grantee will ensure that all precautions are observed to prevent contamination of either system. Backflow prevention shall be installed to eliminate all unwanted transfer of water between systems.
- C. The Grantee shall certify that the remaining sections of its distribution system are adequate to transmit all the water supplied at the interconnection and can accept, use, boost, blend and deliver this water safely.
 - 1. Any additional plans for the project which may be required by the Board shall be prepared by an engineer licensed in the State of Rhode Island, shall be signed and sealed and have a title block giving the name and location of the project, the scale(s) used, date, the name of the engineer and engineer's license number. The plans shall show clearly the datum to which the elevations shown are referred. The National Geodetic Vertical Datum of 1929 (US Geological Survey) or the North American Vertical Datum of 1988 (NAVD 88) should be used wherever possible or an equation converting the datum. The plans shall clearly reflect and include but not be limited to:
 - a. A vicinity map showing the location of the project.
 - b. A plan of the entire project that is to be constructed. The plan shall include but not be limited to an index map, water transmission mains, water distribution pipes, service connections, fire hydrants, gate valves, blow off valves, air relief valves, pressure reducing valves, meters and pumping facilities to be installed.
 - c. The Board requires that any existing topographic and/or pressure contour maps of the transmission system shall be made available to the Board's consultant.
 - d. Standard details of all gate valves, check valves, air release valves, drains, surge control equipment, expansion joints, manholes, pump

stations, gages, risers, headers and other components of the system that are to be installed and/or constructed.

2. The construction specifications for the project shall include but not be limited to:
 - a. The general provisions, which shall specify the rights, duties and responsibilities of the owner, Grantee, engineer(s), builder(s) and the prescribed order of work.
 - b. The technical provisions, which shall describe carefully and in detail, the approved work methods, equipment and materials to be used, the results to be attained, and the project payment schedule. The technical provision should comply with the construction standards as shown on the construction drawings.
- D. Any Grantee that fails to begin the construction of an interconnection within a six (6)-month period or any authorized extension thereof is in default of the grant award and the Grantee may lose entitlement to the grant funds.

3.2.6 Eligible Project Costs

- A. Eligible project costs will be allowed to the extent permitted by the subsection and the grant award document. Eligible project costs shall be those costs set forth below and as approved by the Board:
 1. Construction and/or reconstruction of all or part of any potable water supply transmission facilities that link a potable water system with another existing system;
 2. Engineering, design, and resident inspection for construction of a potable water system interconnection;
 3. Special and outside services, professional geological, hydraulic and surveying services, water testing services, and the construction and/or reconstruction required as pertinent to the engineering and design of a potable water supply system interconnection;
 4. The acquisition costs of land or rights-of-way necessary for the engineering and design of a potable water supply system interconnection;
 5. The eligible project scope must be consistent with a plan adopted and kept current by the Board in accordance with R.I. Gen. Laws Chapter 46-15.6 and with applicable elements of the State Guide Plan as adopted and kept current by the Council in accordance with R.I. Gen. Laws § 42-11-10(c);

6. The Board will make the final determination of applicant eligibility, eligible project scope, and eligible product costs.
- B. Ineligible project costs shall be those costs set forth below:
1. Salaries of regular municipal or quasi-municipal water purveyor employees, expenses associated with municipally or quasi-municipally owned equipment, and any other such municipal or quasi-municipal force account expenses not specifically used in the implementation of the interconnection.
 2. Legal expenses;
 3. Financial, professional and any other services not directly involved in engineering and design;
 4. Legal, amortization, borrowing, and all other costs attendant to the funding of the project are not eligible for financial assistance under these procedures and must be fully borne by the applicant. The cost of distribution facilities as defined in this section is not eligible for funding under these procedures unless specifically required to complete the interconnection.
- C. Development and construction project contracts must be awarded in accordance with R.I. Gen. Laws Title 37, as amended and the rules and regulations adopted pursuant thereto.
- D. Grantees shall be allocated funds based on the actual costs incurred and properly documented as eligible project costs up to the maximum specified in the grant award document.
- E. Eligible project engineering and design costs shall not be reimbursed until construction contracts have been awarded.

3.2.7 Unused Grant Funds

Any difference in grant funds between actual eligible project costs for implementation and the estimated eligible project cost for grant award purposes shall be retained by the State of Rhode Island and shall in the Board's discretion be applied to any eligible project pursuant to R.I. Gen. Laws Chapter 46-15.2, and to these regulations.

3.2.8 Fraud and Other Unlawful or Corrupt Practices

- A. The Grantee shall administer the grant award contracts, subcontracts, and the grant award document pursuant to all applicable local, State, and federal laws. The Grantee is responsible for the prevention, detection, and cooperation in the prosecution of any all applicable local, State, and federal law.

- B. The Grantee shall pursue all available judicial and administrative remedies and take appropriate remedial action with respect to any allegation(s) of all violations of applicable local, State, and federal law. The Grantee shall notify the Board immediately after such allegation or evidence comes to the Grantee's attention. The Grantee shall periodically advise the Board of the status and ultimate disposition of any matter that is adjudicated. Failure to immediately notify the Board of same will result in the termination of funding pursuant to grant award documents and these regulations.

3.2.9 Grant Conditions

- A. The following requirements, in addition to such other statutes, rules, terms, and conditions as may be applicable to grants, and are conditions of each grant and conditions precedent to each payment under a grant award document.
1. The project or phase of the project must be initiated and completed in accordance with the time schedule indicated in the grant award document.
 2. All contracts, agreements, change orders, etc. between the Grantee and any contractor, consultant, or others employed on the project which commit payments to be made as part of the eligible costs shall be approved by the Board as to form and content.
 3. The Grantee must submit proof that the Grantee's contractors, consultants, and other employees follow all hazard insurance requirements as specified in the grant award document and shall certify that the insurance is in full force and effect and that premiums are paid.
 4. The Grantee shall ensure that the Grantee's contractors and consultants employed on the project meet all applicable local, State and federal generally accepted industry-wide accounting procedures and/or requirements.
 5. The Grantee shall ensure that the Grantee's contractors and consultants, and other employees on the project follow the anti-discrimination and affirmative action provisions of The Civil Rights Act of 1964, 42 U.S.C. § 2000(e), The Rehabilitation Act of 1973, 29 U.S.C. § 504 and all applicable local, State, and federal law, including these regulations.
 6. The Grantee shall include a requirement in all its construction and development contracts that the contractor post a performance bond in an amount equal to the full cost of the project. The performance bond or guarantee shall remain in effect until the Board's final inspection of the project and until the Board determines in writing that the project is satisfactorily completed. The performance bond or performance guarantee shall be both nondiscriminatory and financially acceptable to the Board. Applicants are exempted from the performance bond requirement.

7. The Grantee shall ensure it follows all other standards and conditions as required by the grant award document.
8. The Grantee shall ensure that in the construction of the project, including letting of contracts in connection therewith, the Grantee has conformed to all applicable requirements of local, State, and federal law, and these regulations.

3.2.10 Administration and Performance of the Grant

The Grantee is responsible for administration and success of the project, including any subagreements made by the Grantee for accomplishing grant objectives. Although Grantees are encouraged to seek advice and opinion of the Board on problems that may arise, the giving of such advice and/or opinion shall not shift the responsibility for final decisions to the Board. The primary concern of the Board is the grant funds awarded to be used in conformance with these procedures and the grant award document to achieve grant objectives and in conformance with the purposes set forth in the Rhode Island Emergency Water System Interconnection Program. All such improvements will be developed to provide an emergency supply of water between adjacent systems and in no such way shall the delivery of this water be deemed to constitute a basis for any claim or claims for a permanent right to obtain water by the receiving system.

3.2.11 Access

The Grantee and the Grantee's contractor, consultant and all others employed on the project shall give and provide to the Board's personnel, access to the facilities, premises and records related to the project. The Grantee shall submit to the Board such documents and information as requested. The Grantee and all contractors, consultants, and others employed on the project may be subject to a financial audit as determined by the Board. All records shall be retained by the Grantee and made available to the Board for a minimum of three years after issuance of the final grant award payment.

3.2.12 Grant Award Payments

Grant award funds shall be released to the Grantee upon substantial completion of the entire project as determined by the Board or on an interim basis as approved by the Board. If interim payments are made, such payment shall equal twenty-five percent or fifty percent, of the eligible project costs completed. Ten percent of all grant payments made shall be withheld by the Board until the Board receives acceptable documentation that the project has been completed in a manner satisfactory to the Board.

3.2.13 Assignment

The grant and all payments under this grant may not be assigned unless and until the Grantee receives final approval of the Board.

3.2.14 Publicity and Signs

On projects with grants exceeding \$25,000, a project identification sign shall be required. The sign shall comply with local ordinances and be approximately four feet long and three feet high, bearing the emblem of the State of Rhode Island. It shall be displayed in a prominent location at each publicly visible project site and facility. The sign shall identify the project, amount of state grant support, and any other information required by the Board.

3.2.15 Debarment

No Grantee shall enter into contract for work on a grant award project with any contractor, consultant or other person debarred, suspended or disqualified from contracting with the State of Rhode Island pursuant to the rules and regulations established by and promulgated under R.I. Gen. Laws Chapter 37-2, as amended.

3.2.16 Project Changes and Grant Award Modifications

- A. All changes require written approval of the Board.
- B. A grant award modification is any written alteration to the terms, conditions, budget, project method, project scope, or other administrative, technical or financial agreement contained in the grant award document.
- C. Due to limited funds available for Water System Emergency Interconnections grants, there shall be strict limitations on modifications increasing the grant amounts. The Grantee must seek approval of the Board before authorizing any modifications increasing project costs to have such increased costs judged eligible for a grant increase.
- D. The Grantee shall notify the Board promptly in writing via certified mail, return receipt requested from the Board, of events and/or proposed changes which may require a grant modification including but not limited to:
 - 1. Re-budgeting,
 - 2. Changes in approved technical plans or specifications for the project
 - 3. Changes to the approved scope or objective of the project
 - 4. Significant changed conditions at the project site
 - 5. Any changes in the time schedule for performance and/or completion of the project or any major phase thereof,
 - 6. Changes which may increase or substantially decrease the total cost of the project,

7. Changes in essential personnel identified in the grant award document or a reduction in time or effort devoted to the project by such personnel.
- E. If the Board decides a formal grant amendment is necessary, the Board shall notify the Grantee and a formal grant award document amendment shall be prepared in accordance with § 3.2.25 of this Part. If the Board decides no formal grant award document is necessary, the Board shall follow § 3.2.26 of this Part.

3.2.17 Formal Grant Award Document Amendments

- A. The Board shall require a formal grant document amendment to change principal provisions of the grant award document, particularly where project changes substantially alter the cost, schedule and/or time of performance of the project or any major phase thereof.
- B. The Board and the Grantee shall effect a formal grant award amendment(s) only by written amendment to the original grant award document, signed and certified by the appropriate authorities.

3.2.18 Administrative Grant Changes

Administrative changes by the Board, such as a change in the designation of key Board personnel or of the location to which a report is to be transmitted by the Grantee or a change in the payment schedule of the grant for planning, engineering and design, and construction of the project, constitute changes in the grant award document but not necessarily changes to the project performance, and therefore do not affect the substantive rights of the Board or Grantee. The Board may issue such changes unilaterally. Such changes shall be in writing and shall generally be effected by letter certified Mail, return receipt requested, to the Grantee.

3.2.19 Noncompliance

- A. In addition to any other rights or remedies available to the Board pursuant to law, in the event of non - compliance with any grant condition, requirements of these procedures and/or grant award document requirements or specifications, the Board may take any of the following actions or combinations thereof:
 1. Issue a notice of noncompliance pursuant to § 3.2.20 of this Part
 2. Withhold grant funds pursuant to § 3.2.21 of this Part
 3. Terminate or annul a grant pursuant to §§ 3.2.23 and 3.2.24 of this Part

3.2.20 Notice of Noncompliance

When the Board determines that the Grantee is in noncompliance with any condition and/or requirement of law, of these procedures, and/or of the grant

award document, the Board shall notify the Grantee of the noncompliance. The Board may require corrective action to be taken within thirty (30) days of receipt of notice of noncompliance, or if such action is not deemed adequate by the Board, the Board may withhold payment.

3.2.21 Withholding of Funds and Payments

The Board may withhold a grant payment or any portion thereof when it determines in writing that a Grantee has failed to comply with any grant condition, or any provision of these regulations, any applicable law, or any specification or requirement of the grant award document.

3.2.22 Stop Work Order(s)

- A. The Board may order the Grantee to stop work for good cause by informing the Grantee of its intent to withhold payments for any further work on the project. Good cause shall include, but not be limited to, default in performance or in noncompliance with the terms and/or conditions of the grant. The Board will limit use of a stop work order to those situations where the Board deems it advisable to suspend work on the project or a portion or a phase of the project for identifiable and substantive program and/or project considerations. The Board shall have no obligation to the contractors and/or consultants involved in the affected work as the Board has no contractual agreement with said contractors and/or consultants.
- B. Prior to issuance, the Board will afford the Grantee an opportunity to discuss the stop work order with the Board's personnel. The Board will consider such discussions prior to issuing the order. Stop work orders will contain:
 - 1. The reasons for issuance of the stop work order.
 - 2. A clear description of the work to be suspended.
- C. The Board, by written order to the Grantee via certified mail, return receipt requested,) may require the Grantee to stop all, or any part of the project work for a period of not more than forty-five (45) days after the Grantee receives the order, and for any further period to which the parties may agree.
- D. Effect of stop work order
 - 1. Upon receipt of a stop work order, the Grantee shall immediately comply with the terms of the stop work order and take all reasonable steps to minimize incurring additional costs for the work covered by the stop work order during the period or work stoppage. Within the suspension period or any extension thereof to which the parties have agreed, the Board will either:
 - a. Rescind the stop work order, in full or in part,

- b. Terminate the work covered by such order,
 - c. Authorize resumption of work.
- 2. If a stop work order is cancelled or the period of the order or any extension thereof expires without any action taken by the Board within ten (10) days following the expiration date, the Grantee shall promptly resume the previously suspended work. An equitable adjustment shall be made in the grant period, the project work program or both, and the grant award document shall be modified accordingly within the discretion of the Board.

3.2.23 Termination of Grant

- A. The Board may terminate a grant award in whole or in part for good cause. The term good cause shall include but not be limited to substantial failure to comply with the terms and conditions of the grant, or default in performance by the Grantee.
 - 1. The Board shall give written notice to the Grantee via certified mail, return receipt requested of its intent to terminate a grant award in whole or in part at least ten (10) days prior to the intended date of termination. The notice shall state the reasons for the proposed termination.
 - 2. The Board will afford the Grantee an opportunity for consultation prior to any termination. After such opportunity for consultation, the Board may in writing via certified mail, return receipt requested, terminate the grant award in whole or in part.
- B. A Grantee shall not unilaterally terminate the project work for which a grant has been awarded. The Grantee shall promptly give written notice to the Board of any proposed complete or partial termination of the grant project work. If the Board determines that there is good cause for the proposed termination of all or any part of the project for which a grant has been awarded, the Board may enter into a termination agreement with the Grantee. If the Board determines that the Grantee has terminated work on the project unilaterally, the Board may unilaterally terminate the grant award pursuant to Subsection or annul the grant award pursuant to § 3.2.24 of this Part.
- C. The Board and the Grantee may enter into an agreement to terminate the grant award at any time pursuant to terms which are consistent with this subsection. The agreement shall establish the effective date of the termination of the project and the grant award, the basis for settlement of termination costs applicable to the grant award, and the amount and date of payment of any sums due either party.

3.2.24 Nullification

- A. The Board may, in writing via certified mail, return receipt requested, annul the grant award if it determines that;
1. Substantial performance of the project work has not occurred;
 2. The grant award was obtained by fraud, or in violation of applicable local, State, or federal law; or
 3. Gross abuse or corrupt practices in the administration of the project have occurred and/or the project is administered in violation of applicable local, State, or federal law.
- B. At least ten (10) days prior to the intended date of annulment, the Board will give written notice to the Grantee of intent to annul the grant. The Board shall afford the Grantee an opportunity for consultation prior to annulment of the grant award. Upon annulment of the grant award, the Grantee shall forthwith return all grant funds previously paid to the Grantee. The Board will make no further payments to the Grantee. In addition, the Board shall pursue such remedies as may be available under federal, State and local law.

3.2.25 Administrative Hearings

The Board shall decide all disputes under a grant award. The Grantee may request a hearing within fifteen (15) days of notifying the Board in writing of any disputes or disagreement in the interpretation of the grant award. The Board shall grant and conduct such a hearing in accordance with the provisions of the Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35. Following a hearing, the Board shall reduce its decision to writing and furnish a copy thereof to the Grantee.

3.2.26 Liberal Construction

The provisions of these procedures shall be liberally construed to achieve the purposes thereof, and where any specific power is given to any agency by the provisions hereof, the statement thereof shall not be deemed to exclude or impair any power otherwise in these procedures conferred upon that agency.

3.2.27 Rules and Regulations

The Board may issue, amend, and/or repeal these procedures at its discretion and in accordance with the provisions of the Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35, to provide proper security for the State of Rhode Island's grants-in-aid for each approved project.

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TITLE 490 - WATER RESOURCES BOARD

CHAPTER 00 - N/A

SUBCHAPTER 00 - N/A

**PART 3 - RULES AND REGULATIONS FOR EMERGENCY WATER SYSTEMS
INTERCONNECTIONS**

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