

# Business Oregon

Infrastructure Finance Authority

Program Guidelines & Handbook

for the federally funded

Safe Drinking Water Revolving Loan Fund

May 2015 *includes:*

**Emergency Projects Eligibility as  
Disadvantaged Communities**



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## Section One—Introduction

### 1.1 Program Purpose and Source of Funds

Created by Congress in 1974, the [Safe Drinking Water Act](#) (SDWA) was amended in 1996 to create the federal [Drinking Water State Revolving Fund](#) (DWSRF). Congress appropriates funds to the U.S. Environmental Protection Agency (USEPA) who then allocates funds to the states. These funds assist in the improvement of local [public water systems](#). For these purposes, the state of Oregon may receive an annual grant from the USEPA based on submissions by the state for each year's grant. Most of this grant is used to capitalize the state's [Safe Drinking Water Revolving Loan Fund](#) (SDWRLF), for which a 20 percent match from the state is required. Additional federal and state funds also are used for the [Drinking Water Source Protection Fund](#) (DWSPF) and costs to administer the SDWRLF program.

To benefit the public and Oregon communities, the Oregon Health Authority Drinking Water Services (OHA-DWS), Infrastructure Finance Authority (IFA) and Department of Environmental Quality (DEQ) have formed a partnership to carry out the federal DWSRF and other financing mechanisms in the [Safe Drinking Water Act Amendments of 1996](#) (PL 104-182). These agencies jointly prepare documentation the USEPA needs for each year's grant award. Additionally the agencies work together to approve [projects](#), administer the revolving loans and undertake related activities. Oregon Revised Statutes ([ORS](#)) [285A](#). 213 authorizes IFA's administration of the fund, which is further described in Oregon Administrative Rules ([OAR](#)) [Chapter 123, Division 049](#).

Eligible water systems use these financial and technical resources in planning, designing and building facilities to correct noncompliance with current or future drinking water standards, and to further the public health protection goals of the federal SDWA and Oregon's Drinking Water Quality Act.

### 1.2 Safe Drinking Water Revolving Loan Fund

SDWRLF activities that may be funded range from project planning to acquiring land and equipment and constructing facilities for better water supply, treatment, storage and distribution. The SDWRLF is designed primarily to aid in achieving compliance with federal and state health standards that ensure the safety of water for human consumption.

### 1.3 Drinking Water Source Protection Fund

The Drinking Water Source Protection Fund (DWSPF) provides financial assistance to drinking water systems to help implement strategies designed to minimize the risk that contaminants might enter the drinking water supply. The application process for DWSPF financing is not the same as for the SDWRLF. For more information on the DWSPF, please see the [Drinking Water Source Protection Fund Guidelines and Handbook](#).

### 1.4 Important Facts about the Program

- All projects must address compliance with a health-based drinking water standard, and the primary purpose of the project cannot be solely for non-health related purposes such as for fire suppression or population growth capacity. See [Section 2.2](#) and [Section 2.3](#).
- In accordance with federal law, 15 percent of the funds are reserved for systems serving 10,000 or fewer population. See [Section 2.6.4](#).
- The SDWRLF program primarily offers loan financing. All SRF eligible water systems may be eligible for some subsidy. See [Section 2.6](#).
- The SDWRLF program financing is generally available to municipal, nonprofit and privately owned public drinking water systems. See [Section 1.5](#).
- All water systems must submit a Letter of Interest (LOI) to be considered for funding, and may submit an LOI at any time using the online [Letter of Interest Form](#). See [Section 3.1.1](#).
- All Letters of Interest will be listed on the Project Priority List (PPL), a compilation of rated and ranked Letters of Interest prioritized by the severity of health and compliance issues. See [Section 3.1.1](#).
- All water systems must have the technical and managerial capacity to operate and manage the system in order to receive funding. See [Section 2.5](#).
- All water systems must demonstrate financial capacity to receive, manage and repay the money borrowed. See [Section 2.5.3](#).

- Improvements must be designed by a professional engineer licensed in the state of Oregon and the design must be approved by OHA-DWS. See [Section 2.1.2](#).
- Water systems that meet affordability criteria may qualify as disadvantaged communities. Disadvantaged communities may qualify for a reduced interest rate and/or principal forgiveness to help maintain affordable water rates. See [Section 2.6](#).

## 1.5 Eligible Water Systems

### 1.5.1 Eligible Water Systems

**The following water system types are eligible to apply for funding:**

- **Community water system:** a public water system that has 15 or more service connections used by year-round residents, or that regularly serves 25 or more year-round residents. The term “community” refers to the number and permanency of connections and users. The term “public” does not refer to the legal entity that owns the system, but rather to the conveyance and provision of water to the public. Therefore, “community” water systems that are publically owned or privately owned (organized as either a for-profit or nonprofit entity) are all eligible.
- **Nonprofit non-community water system:** a public water system that does not meet the definition of a community water system, but that regularly serves at least 25 people and is recognized under Oregon law as a nonprofit corporation.

### 1.5.2 Ineligible Water Systems

The following types of entities are not eligible to apply for funding:

- Federally owned water systems
- For-profit non-community water systems
- Systems lacking the technical, financial and managerial capacity to ensure compliance, financial health and loan repayment

## 1.6 Technical Assistance/Circuit Rider

The process of developing, funding and administering a SDWRLF project can be complex, especially for smaller systems with limited capacity. IFA Regional Coordinators are an excellent source of SDWRLF program information. However, there are times when more technical assistance is needed. To meet this need, OHA-DWS funds free Circuit Rider services for small water systems (less than 10,000 population served). The Circuit Rider is a licensed engineer who can devote up to ten hours of services in assessing the needs of a water system. Some examples of those services are:

- Onsite troubleshooting for short-term operational issues
- Onsite evaluations and inspections to identify system deficiencies and recommend solutions
- Guidance for system repair, maintenance and improvements

[Circuit Rider services](#) are available as funds allow.

Funds also may be available from the IFA to complete project-specific feasibility studies. Contact the [IFA Regional Coordinator](#) for further information.

**1.7 Regional Coordinator Contact Information.** Please contact an IFA Regional Coordinator for assistance preparing a Letter of Interest, moving through the funding process and administering a project. Regional Coordinator contact information is available from our [Web site](#).

## Section Two—SDWRLF Program Requirements and Benefits

### 2.1 Eligible Project Types

All projects must help address present or prevent future violations of health-based drinking water standards, with the most serious health problems receiving the highest priority.

Three main types of infrastructure projects may be funded:

- Planning and Preliminary Engineering
- Design and Specifications
- [Construction](#) Improvements

*Note:* Projects containing more than one of the above project types can be combined in a single application.

#### 2.1.1 Planning and Preliminary Engineering

Funds may be used to pay for preliminary planning and for legal, fiscal or engineering investigations to determine the feasibility of a water projects. Examples of eligible project components include:

- Water system master plans
- Feasibility studies
- Engineering studies
- Problem identification studies
- Preliminary engineering work
- Water treatment pilot studies or corrosion control studies
- Preparation of a construction project Application to the SDWRLF program

A planning and preliminary engineering project must produce a report or planning document with at least the following elements:

- Characterization of the area to be served by the eventual construction project/system improvements that are proposed and the need or problem to be resolved
- Description of existing water system facilities in the area to be served, including condition, adequacy and suitability for continued use
- Analysis of options to correct the problem
- Description of most cost-effective and environmentally sound alternative
- Cost estimate for proposed system and discussion of financing options
- Current and proposed annual operating budget and rate structure adequate for operation, maintenance and indebtedness of the proposed system and long-term capital replacement reserves
- Appropriate maps, drawings and sketches
- Discussion of all anticipated construction difficulties
- Conclusions and recommendations

Any comprehensive assessment of the water system must result in a plan that addresses the needs of the water system and demonstrates an ability to generate sufficient revenues to meet future improvement costs over a time frame of 20 years or the loan term, whichever is greater.

For a [water system master plan](#), a water system must comply with [OAR 333-061-0060\(5\)](#) and relate to a specific improvement. The actual contents of the scope of work and final product will be determined for each project on a case-by-case basis by the water system, OHA-DWS and the IFA.

Any project identified in the planning document must be coordinated with local land use planning and capital improvement budgeting processes, in terms of the local timetable for future improvements, capital project priorities, estimations of cost, consideration of financing methods, et cetera.

### 2.1.2 Final Design and Specifications

This project type is often combined with a construction project application, although funding can be awarded separately. An application for final design and specifications must include an engineering feasibility report prepared, stamped and signed by a professional engineer registered in Oregon, unless exempted by [OHA-DWS](#). The report must contain the following:

- discussion of project feasibility
- description of possible solutions and recommended option
- construction time line
- estimate of project costs
- plan for operation, maintenance and long-term replacement of the facilities

Final design and specifications must provide the water system with all the elements necessary to proceed to a construction project, including:

- Project description, including an explanation about the rationale for the site and about the capacity of the proposed water system facility
- Pre-design reports
- Final engineering design and bid specifications
- Detailed cost estimates of everything necessary to complete project
- Identification of all permits and approvals necessary for the project with a schedule showing a realistic review and process for each
- Financial feasibility information, including information about the water system's financial situation
- Maps of the specific project location including, if applicable, tax lots or parcels served by the water system, source and service connections, water lines sizes, treatment facility, pump stations, et cetera.
- Environmental review of the proposed project conforming to State Environmental Review Process (SERP), other applicable federal authorities and [USEPA](#) implementing regulations. See [Section 3.2](#).

### 2.1.3 Construction

A construction project Application must include an engineering feasibility report stamped and signed by a professional engineer registered in Oregon that includes the items in [Section 2.1.2](#) above.

Funds for construction may be used to pay for activities such as:

- Compliance with federal and state prevailing wage laws. See [Section 4.3](#).
- Bid process in conformance with Oregon public procurement laws. See [Section 4.5](#).
- Federal requirements of the Uniform Relocation and Acquisition Act. See [Section 4.6](#).
- Construction of improvements
- Construction management
- Construction contingencies
- Appraisal and acquisition of real property, easements or rights of way
- Project audits, inspections, and regulatory compliance related to the construction project
- Installation of water metering equipment and systems
- Acquisition and installation of water treatment equipment
- Cost to purchase property currently being leased by the water system

### 2.1.4 Emergencies

- An emergency is an event resulting from natural disaster, extreme weather, and related causes that represents a threat to public health. A project may be funded under the designation "Emergency Project," if so designated by the Health Services Administrator of Public Health Systems or a Governors Declaration of an Emergency. A public water system experiencing an emergency will be given Disadvantaged Community status. See [Section 2.6.5.4](#).

## 2.2 Eligible Project Activities

The following are additional examples of eligible project activities:

- Construction, reconstruction or modification of any drinking water facility necessary for source of supply, filtration, treatment, storage, transmission or metering
- The acquisition of real or personal property directly related to or necessary for the proposed project including land, rights-of-way, easements or equipment
- Preliminary and final engineering, geotechnical surveying, legal review and other support activities necessary for actually constructing and upgrading the water system
- Construction contingencies
- Costs necessary for environmental review services directly related to the impacts and implications of the project
- Costs associated with labor standards compliance and enforcement
- Costs associated with project management
- Development and provision of technical documentation, operations manual, computer software and similar information resources, including but not limited to customary contingency/emergency plans that are necessary or prudent for soundly and safely running plant and equipment that comprises a funded project, and for helping preserve that investment
- For an approved planning and preliminary engineering award, costs associated with the preparation and submission of an Application for the final design and/or construction phase
- Expenditures associated with "[security measures](#)" pertaining to the facilities or infrastructure of the public water system
- Costs associated with an [emergency project](#)

Projects that include any capacity building for future population growth must satisfy all of the following stipulations:

- Expected population increases are based on current and reasonable projections accepted by local and state land use-planning authorities
- Expansion to satisfy future population is not the primary purpose for constructing the facilities, as contrasted with protecting public health
- Provision of public drinking water systems to an unincorporated area does not trigger greater residential zoning density

## 2.3 Ineligible Project Activities

### 2.3.1 Dams, Reservoirs and Water Rights

Acquisition or creation of the following are ineligible project activities:

- Construction or rehabilitation of dams
- Reservoirs, except for finished water reservoirs and those reservoirs or impoundments that are part of the drinking water treatment process
- Purchase of water rights, including groundwater, except when the water rights are already owned by a system that is being acquired through consolidation

### 2.3.2 Additional Ineligible Project Activities

Project activities will not be funded if:

- The system lacks adequate technical, managerial and financial capacity, unless the system agrees to undertake feasible and appropriate operational changes or restructuring to ensure adequate capacity. See [Section 2.5](#).
- The project improvements are for infrastructure that is or will be owned or operated by an ineligible water system, such as a for-profit non-community system or any type of federally owned system
- The project is needed mainly or intended primarily for something other than correcting an environmental/health violation or risk, including but not limited to:
  - Fire protection or suppression

- Supporting, supplying or attracting future growth for the community
- The project is for systems subject to significant regulatory noncompliance, if the funding does not directly lead to compliance
- To reimburse for water system management

### **2.3.3 Ongoing Activities**

Costs for ongoing activities or purchases not directly related to the principal project are not eligible. Examples on ineligible expenses include:

- Laboratory fees for monitoring
- Administrative costs
- Incidental equipment, such as most types of motor vehicles
- Off-site property for purposes such as wetland mitigation
- Environmental assessments, such as source delineation or watershed analysis, unless directly undertaken as part of the required review of project impacts
- Operation and maintenance of new or existing facilities

### **2.3.4 Pre-Award Costs**

Costs incurred before an official award of funding by the IFA are generally not eligible for reimbursement. The exception is that a water system may be reimbursed for the cost of preconstruction activities (e.g., engineering)—but not expenses directly associated with physical investment in the new/improved water system, such as construction, contract bids, real estate/capital purchases and final design—without prior IFA permission. Pre-award costs must be included in initial project application.

To request reimbursement for pre-award activities, the water system should:

- Discuss the expenses for which the water system will seek reimbursement with a Regional Coordinator, to ensure project budget eligibility
- Document preconstruction expenses the same as for other project expenses associated with SDWRLF funding

## **2.4 Conditions for Funding**

To be eligible to receive funding for final design and construction, a water system must have already satisfied the requirements in this section. The resolution of a current or future compliance problem or health hazard remains an important factor to qualify for funding.

### **2.4.1 Water Master Plan**

A water system with 300 or more service connections must maintain a current water master plan that evaluates the needs of the water system over a period of at least 20 years, that includes the eight major elements in [OAR 333-061-0060\(5\)](#).

### **2.4.2 Feasibility Study**

A water system having fewer than 300 service connections is required to have an engineering feasibility study or analysis for the project. An engineering feasibility study must include:

- Discussion of project feasibility
- Discussion of possible solutions and recommended options
- A construction timeline
- Estimate of project costs
- Identify costs for operation, maintenance and long term replacement of the water system

The feasibility study must be stamped and signed by the engineer responsible for the work and licensed in the state of Oregon, unless exempted by OHA-DWS. Funding awards with principal forgiveness may be available to help water systems complete the needed feasibility study. See [Section 2.6.3](#).

### **2.4.3 Meters**

All water systems must have, or install as part of the project, source water meter(s) and service metering for all connections throughout the water system. The installation of these meters is an eligible project cost as part of a larger construction project. The water system must have an operational program and resources for reading and maintaining the meters.

### **2.4.4 Environmental Review**

Both federal and state laws require water systems that receive SDWRLF funding to complete an environmental review on every project that is subject to the [SERP](#). See [Section 4.2](#). The SERP Handbook is given to the water system when an OHA-DWS technical staff conducts a site visit in order to begin work on the system's capacity assessment. See [Section 2.5](#). It is the water system's responsibility to review the handbook and contact OHA-DWS to initiate the review. The environmental review must be complete before any construction work on the project begins.

### **2.5 Capacity Assessment**

OHA-DWS and IFA will review the overall financial, managerial and technical capacity of the water system to maintain compliance with the SDWA. If a system does not have the technical, managerial or financial capacity to ensure compliance, or has a significant deficiency in one or more of these respects, then the water system may receive assistance only if:

- The assistance will ensure sufficient capacity for compliance—or
- The owner or operator of the system agrees to undertake appropriate changes or restructuring that will ensure the system has the technical, managerial and financial capacity to meet and maintain compliance with the SDWA.
- OHA-DWS and IFA will assist the water system in correcting deficiencies in financial, managerial and technical capacity, when possible. Other resources, such as Circuit Rider services, may be allocated or available to the water system that may ensure compliance in one or more of the three capacity review areas.
- Consolidation with another water system is a possible alternative for resolving shortcomings with managerial, technical or financial capacity, where proximity or other factors offer opportunities to exploit economies or efficiencies. This can mean full physical or organizational consolidation of two or more systems, or the consolidation, sharing or contracting of management or other types of common services or resources.

The requirements and review processes for managerial, technical and financial capacity are described below in more detail. This review will commence when an IFA Intake is approved and the determination is made that the project is ready to proceed and likely to be funded. See [Section 3.1.3](#).

The managerial and technical capacity reviews are generally requested by the IFA Regional Coordinator in consultation with the IFA SDWRLF Program and Policy Coordinator (PPC) after the signing of a completed IFA Intake form. The capacity review must be completed before project funds are awarded. Items identified in the capacity review that cannot be corrected prior to implementing the project must be included as a condition of the loan contract.

#### **2.5.1 Managerial Capacity Review**

The managerial capacity review is the responsibility of OHA-DWS. This review will look at the water system's overall condition of system management. Assessment will include identification and evaluation of the following elements:

- Operator certification
- Organizational structure & communication
- Water system policies & programs
- Professional engineering & attorney services
- Record keeping
- Public communication

### **2.5.2 Technical Capacity Review**

The technical capacity review is the responsibility of OHA-DWS. This review will look at the overall condition of the water system's infrastructure and staffing. Assessment will include identification and evaluation of the following elements:

- Water source construction & protection
- Water source capacity
- Water treatment facility construction & treatment performance standards
- Distribution system construction, capacity & leakage
- Water system engineered plans
- Water quality monitoring compliance
- Physical security

### **2.5.3 Financial Capacity Review**

The financial capacity of a system will be assessed by IFA during the underwriting analysis of a project Application. This assessment will include identification and evaluation of the following elements:

- Appropriate budgeting, accounting and financial reporting
- A capital asset-financing plan
- financial health ratios and ratings
- Adequate rates, charges and revenues to cover debt and all other expenses
- Appropriate valuation of rate base (privately owned systems)

## **2.6 Financial Benefits**

### **2.6.1 General Financial Assistance by the IFA**

Prior to the consideration or preparation of a financing Application, a water system is encouraged to attend a "One-Stop Financing" meeting, which the IFA convenes. See [Section 3.1.2](#). These meetings offer discussion and review of various funding sources and development issues, and typically involve other state and federal officials.

If the IFA accepts an Application for funding, it will determine the amount and type of financing to be awarded based on a complete staff analysis and recommendation. The analysis and recommendation will be based on current IFA [SDWRLF Loan Underwriting Criteria](#), and may reflect comments from applicable federal and state agencies.

The IFA will require security pledges for all approved loan financing. The form and amount of security will be consistent with the nature of the project and the creditworthiness of the water system. Subordination of the SDWRLF loan to other system liabilities will be considered on a case-by-case basis. Loan repayment may include pledges of utility revenues or other revenue funds. Additional security pledges such as debt service reserves, real or personal property, personal guaranties or other collateral also will be considered. A municipal [borrower](#) must pledge its full faith and credit, unless, by law, they cannot.

In assisting a water system, the IFA may structure a financing package comprised of various sources of funds administered by the IFA. If additional funding sources are needed, please contact the IFA Regional Coordinator for assistance.

### **2.6.2 Loan Terms**

The [Basic SDWRLF Financing Options](#) reference sheet contains the loan terms, including availability of principal forgiveness, offered by the IFA.

#### **2.6.2.1 Term Length**

No SDWRLF loan shall exceed the useful life of the facility being built. Within this parameter, the following maximum terms are allowed:

- Up to twenty years for standard loans
- Up to thirty years for a [Disadvantaged Community](#) (See [Section 2.6.5.1](#)) for a definition of Disadvantaged Community). If an extended loan term does not bring the user rate close to the affordability rate (See

[Section 2.6.5.2](#)), an interest rate subsidy (See [Section 2.6.2.3](#)) and/or principal forgiveness (See [Section 2.6.3](#)) may be considered.

### **2.6.2.2 Repayment**

Repayment terms will be determined when the award is made and will be detailed in the Financing Contract. Loan payments are typically not required during construction, but will accrue interest on actual funds disbursed. All accrued interest will be due prior to or with the first principal and interest payment.

Loans will typically have a level annual payment due each December 1st for principal and interest. Loans may be awarded with other repayment frequencies (i.e., quarterly, monthly, semi-annually) at the sole discretion of the IFA.

### **2.6.2.3 Annual Interest Rate**

For standard loans, the interest rate is set when the award is made, based on the prevailing rate for the current quarter, which may be set as low as 60 percent but no higher than 80 percent of the lesser of the prior quarter's 20-Bond Index or the prior month's 20-Bond Index.

For loans to Disadvantaged Communities, the interest rate will be determined based on a sliding scale between the standard loan rate and a fully subsidized rate of 1%. If reducing the interest rate to 1% does not bring the monthly user rate close to the affordability rate, principal forgiveness may be considered. See [Section 2.6.5.3](#)

### **2.6.3 Principal Forgiveness**

Awards including principal forgiveness may be available to all eligible projects. Awards including principal forgiveness may be available to Disadvantaged Communities. Principal Forgiveness will be considered in amounts up to an additional 50 percent of the total award or \$500,000, whichever is less. The total amount of principal forgiveness, in combination with all other subsidies/grants, shall not be so much as to lower the average annual water rate below the affordability rate. See [Section 2.6.5](#).

Awards including principal forgiveness may be available to complete a required feasibility study to aid in the resolution of a water system's health or compliance issue. Principal forgiveness will be considered in amounts up to 100 percent of related costs, not to exceed \$20,000. To qualify for assistance to complete a [feasibility study](#), the water system must:

- Meet the SDWRLF program definition of a disadvantaged community, or consist of less than 300 service connections. See [Section 2.6.5](#)
- Be an eligible publicly owned water system or Public Utility Commission (PUC) rate-regulated [privately owned water system](#)

Awards including principal forgiveness may be available to construction projects for hiring qualified consultants to oversee Federal Davis Bacon Labor requirements. Principal forgiveness will be considered in amounts up to 100 percent of related costs, not to exceed \$15,000.

Awards including principal forgiveness in excess of 60 percent of the total award or in excess of \$750,000 will require additional approval. Criteria for approval of additional principal forgiveness include SDWRLF program goals, financial review and availability of funds.

The principal forgiveness subsidy is intended to benefit the users of the water system, and not the water system owner. This is a concern primarily in the case of a privately owned water system or publically owned water system sold to a private owner. Consequently, in the event that the water system is sold, the value of the subsidy cannot be part of the purchase price. Any subsidy must be treated as a contingent liability and not as (owner) equity in the financial statements of the water system in accordance with [OAR 123-049-0050](#).

#### **2.6.4 Loan Limits**

Loans may be awarded up to but not exceeding \$6 million per project, except with special approval of the Oregon Drinking Water Advisory Committee (DWAC). Similarly, loans exceeding \$ 3 million are subject to review by the IFA Board. Other special circumstances may warrant review by the DWAC, the IFA Board and USEPA.

Decisions may be dependent on additional review and approval from the Drinking Water Advisory Committee (DWAC) and/or the IFA Board if funding approval threshold levels are exceeded.

The 15 percent of funds for small system requirement could limit the size and number of awards to large systems.

The 20 percent minimum and 30 percent maximum in additional subsidy (i.e., principal forgiveness), required by USEPA could require changes to the amount of subsidy available in [Section 2.6.3](#) above.

#### **2.6.5 Disadvantaged Community Status**

##### **2.6.5.1 Eligible Systems**

Any water system that is normally eligible under the [SDWRLF](#) may be a Disadvantaged Community, with the exception of a privately owned system that is not rate regulated under the jurisdiction of the Oregon PUC. See [OAR 123-049-0050](#).

##### **2.6.5.2 Affordability Rate**

The determination that a water system is a Disadvantaged Community depends on objective criteria measuring how affordable the future water rates are relative to the prevailing income of residents—i.e., a community-wide “ability-to-pay” test.

IFA calculates an Affordability Rate by multiplying the water system median household income (MHI) by 1.25% and dividing by 12. The Affordability Rate is compared to the average monthly residential water charge during an IFA financial review to determine a water system’s Disadvantaged Community status.

The [MHI](#) is based on the 5-Year American Community Survey (ACS) figure for the city or other more appropriate census statistical unit (e.g., census tract and/or block group) that is representative of the water system’s users. Each year, the affordability rate may be adjusted based on the annual 5-year ACS data release for median household income.

The MHI figure for the system area must be less than the corresponding figure for the state of Oregon (most recent 5-Year ACS), unless the average monthly residential water rate is more than 1.5 times the affordability rate above, as adjusted for inflation.

A water system should consult with the IFA if the most recent 5-Year ACS figure (currently 2008-2013, updated annually) might significantly overstate the relative level of current household income in the local area. In such cases, a special survey that either exists already or is newly commissioned (consistent with the IFA’s survey procedures) may be used to establish a comparable, up to date median household income figure.

The average monthly residential rate for drinking water must be at or above the indicated Affordability Rate for the area generally served by the water system:

- The average monthly water rate is the monthly fee that the water system would need to charge its residential service connections for 7,500 gallons of water usage per month after taking account of operations, maintenance, replacement reserves, debt repayment and all other reasonable system expenses, including the funded project.
- As applicable, the water user rate will incorporate fee-equivalents derived from other local funding sources that are or will be used to pay for the water system, including any special levy on taxable property within the system’s service boundary.

Prior to project closeout, the water system must take final administrative and legal action for instituting fees sufficient to satisfy the water user rate criterion that allowed for Disadvantaged Community status.

### 2.6.5.3 Restructure and Disadvantaged Community Status

Restructuring and consolidation projects are those that will acquire other non-compliant, failing or struggling public water systems. A public water system willing to engage in a restructure will be given Disadvantaged Community status. Additional subsidy (e.g., principal forgiveness loans, reduced interest rates, extended terms) may be made available to a public water system willing to engage in a restructure of a Disadvantaged Community water system. A restructure may include one or more of the following elements:

- Consolidation—merger or acquisition resulting in the elimination of one or more systems
- Change of ownership—transfer of ownership through sale or receivership process
- Long-term agreements—agreements with another water system or other provider for the services such as:
  - operation, maintenance, and repair
  - billing, rate setting, and accounting
  - management
  - alternative water supply

These projects may be placed on the [PPL](#) after submitting an [LOI](#) or initiated by either OHA-DWS or IFA. Up to 50 percent of the state’s annual grant from EPA may be used to provide assistance to restructure a water system if OHA-DWS or IFA can identify these projects and secure agreements from all systems involved.

### 2.6.5.4 Emergencies

An emergency is an event resulting from natural disaster, extreme weather, and related causes that represents a threat to public health. A project may be funded under the designation “Emergency Project,” if so designated by the Health Services Administrator of Public Health Systems or a Governors Declaration of an Emergency. A public water system experiencing an emergency will be given Disadvantaged Community status. The Emergency Project must have the following characteristics:

- Represents a threat to public health.
- Entails an immediate lack of available potable drinking water from the system for a community over an extended period of time.
- Has arisen from a reasonably unexpected and unpreventable occurrence of disaster or catastrophe such as droughts, earthquakes, tsunamis, and floods. A situation arising from negligence such as preventable mechanical failure will not qualify.
- Includes assessment, design, and/or construction activities that will return the water system operations and production capacity within the shortest possible recovery timeframe.
- Designation by the Health Services Administrator of Public Health Systems or a Governors Declaration of an Emergency has occurred within 180 days before application is submitted.

## **Section Three—SDWRLF Funding Process**

### **3.1 Project Development**

#### **3.1.1 Letter of Interest**

All water systems interested in applying for funding must first submit a Letter of Interest (LOI). LOI's are accepted at any time, but should be submitted in consultation with the [IFA Regional Coordinator](#) for the area. More information can be found at the [Safe Drinking Water Revolving Loan Fund LOI Page](#).

#### **3.1.2 Rating and Ranking**

Once submitted, an LOI is rated and ranked by OHA-DWS using the criteria in [Development of the Project Priority List for Intended Use Plan](#). Rating and ranking of a submitted LOI occurs on a quarterly basis each March 15<sup>th</sup>, June 15<sup>th</sup>, September 15<sup>th</sup>, and December 15<sup>th</sup>.

#### **3.1.3 Project Priority List**

All eligible projects that are rated and ranked by OHA-DWS are combined to form the Project Priority List (PPL). The PPL is used by IFA to further refine project concepts and to invite project applications. The PPL is included in the annual [Intended Use Plan](#) (IUP) submitted to USEPA.

#### **3.1.4 Stakeholder Engagement**

Every water system is encouraged to give the public notice and to hold a public hearing before submitting an application to the IFA. The hearing may be held in conjunction with a regularly scheduled meeting of the governing body. The IFA requires water systems that receive a SDWRLF award to pass a borrowing resolution that includes a certification the borrower has met all charter and governing law requirements for providing public notice. Local public notice should be given by the water system through the news media customarily used within the community, explaining the purpose of the hearing. (See this [Example of Public Notice](#) language).

For privately owned water systems, a formal customer notification process is encouraged. The process should include an informational meeting with receipt of both written and verbal comments regarding the application. Notification should be mailed to all system users by letter at least ten days before the scheduled meeting. The notice should include a brief description of the project, its budget and the amount of loan requested from the SDWRLF.

Various coordination meetings may take place that will allow the water system, IFA and other parties to better understand the project and allocate resources for it. A water system also may schedule a One-Stop meeting to present its project to the IFA and other funding partners. One-Stop meetings are held regularly in Salem on the second Tuesday of each month, or can be scheduled in the water system's community or via Web/phone conferencing upon request. The water system will be given an opportunity to discuss the project, receive information about potential funding scenarios and learn about program requirements of the funding partners.

#### **3.1.6 Intake Information**

The IFA Regional Coordinator will work with the water system to complete an IFA Intake Form for a project on the PPL that is ready to proceed with SDWRLF funding. Generally, a complete LOI submitted by the water system will suffice in lieu of an Intake Form. The IFA Regional Coordinator will circulate the completed Intake form to IFA staff and others for comments and questions that may need to be addressed before submitting an application. Once an Intake Form has been reviewed and accepted by the IFA, a water system may receive an invitation to apply for funding.

#### **3.1.7 OHA-DWS Technical and Managerial Capacity Assessment**

OHA-DWS will conduct a technical and managerial capacity assessment of the water system when an Intake is approved. If OHA-DWS determines that the water system lacks adequate technical and/or managerial capacity, the water system must remedy the deficiency. This may be accomplished prior to implementing the project or, at the discretion of OHA-DWS and IFA, as a component of the project and included as special conditions in the loan contract. See [Section 2.5.2](#) and [Section 2.5.3](#).

### **3.1.8 Application Information**

The IFA Regional Coordinator will invite an application once the Intake Form is approved. Applications for financial awards will be accepted year round by the IFA. The level of detail and supporting documentation that must be submitted for an application will depend on the project scope, the water system's organizational structure, and other details. The water system should work closely with the IFA Regional Coordinator while preparing an application for financial award.

### **3.1.9 IFA Financial Capacity Assessment and Programmatic Review**

IFA loan applications will be evaluated in terms of any relevant financial, technical or managerial concerns that must be addressed, as well as overall project and engineering feasibility. Also, the IFA will conduct a financial capacity assessment and programmatic review. A site visit may be necessary during this review to verify application information and to thoroughly understand the project. IFA review will include adequacy of project funding, strength of pledged security, ability to repay the loan, coverage of operating expenses and replacement requirements, compliance with land use goals and regulations, and ability to administer the project. A successful application will result in an approved IFA staff recommendation of financial award. If the IFA determines that the water system and/or the proposed project do not meet SDWRLF program requirements, the IFA may reject an application or require further documentation from the water system.

### **3.1.10 Notice of Decision.**

Following receipt of a completed application, the IFA will notify the water system by letter regarding its funding decisions. Decisions may need additional review and approval from the Drinking Water Advisory Committee (DWAC) and/or the IFA Board if funding approval threshold levels are exceeded. See [Section 2.6.4](#).

### **3.1.11 Contract Execution**

The funding award will be contingent on certain items, including a financing contract signed by the water system's highest elected official or duly authorized signatory. The water system shall return this document to the IFA not later than 60 days after receipt. Letter(s) of financial commitment regarding any other matching funds needed to undertake and complete the infrastructure project also will be required.

## **3.2 Project Implementation**

### **3.2.1 Project Start Up**

For construction projects, the IFA Regional Coordinator must be given 10-day notice of a pre-construction conference. The agenda for this conference will include a review of the project schedule and budget, process for requesting reimbursement, review of requisite forms (including prevailing wage and DBE requirements). IFA will use the [Preconstruction Conference Notes Form](#) during this conference. The water system is encouraged to include the system operator, project engineer, contract administrator and payroll clerks of all contractors and sub-contractors, including lower-tier subcontractors.

Project start-up may include preconstruction activities including environmental (See [Section 4.2](#)) and plan reviews (See [Section 2.1.1](#)). A water system will submit to OHA-DWS a [Land Use Compatibility Statement](#) to ensure that the construction project is compatible with the city and/or county comprehensive plan and land use regulations. See [Section 4.8](#).

When the project team has been assembled, the water system should submit an [EPA Form 5700-54 Key Contacts](#). Once a contract for construction is awarded, the water system will submit a [Notice of Construction Contract Award and Start of Construction](#) form.

It is critical to remain in close contact with the IFA Regional Coordinator during implementation of the project, particularly as the project begins.

### 3.2.2 Procurement of Services

Federal SDWA regulations require water systems that receive SDWRLF funds to follow state laws for procurement and contracting. See [Section 4.5. ORS Chapter 279](#) requires that Oregon municipalities generally award public contracts through an open competitive process. The water system's governing body is responsible for ensuring local procurement practices meet governing law. IFA may review the competitive process used to award contracts, including the procurement of professional services, and may provide consultation and non-legal advice regarding procurement and contracting. All construction contracts financed with awards from the SDWRLF fund are subject to:

- State of Oregon Prevailing Wage Rates and federal Davis Bacon wage rates See [Section 4.3](#) and [Section 4.4](#).
- Any public water system receiving an SDWRLF award must ensure implementation of the Six Good-Faith Efforts in the federal "Fair Share Program" regarding contracting opportunities for Disadvantaged Business Enterprises (DBE). See [Section 4.1](#).
- The water system and any sub-recipients of SDWRLF funds must submit a [Certification Regarding Lobbying](#) that no federal funds will be paid for lobbying activities, and also must include language regarding lobbying in all bid award documents. If funds other than federal funds are used for lobbying activities, such activity must be disclosed using [EPA Form SF-LLL](#) Disclosure of Lobbying Activities.

### 3.2.3 Expenditure of Funds

Once under contract, loan funds may be drawn down as needed on an expense reimbursement or costs-incurred basis only for eligible project costs. To expedite disbursement of funds, direct deposit may be made by completing a [Direct Deposit Authorization Form](#) and submitting the form for approval.

The water system may request funds either to directly pay for incurred costs (i.e., payment goes to water system to directly pay the contractor) or to reimburse the water system for costs paid with own funds. The time between drawdown from the IFA and any disbursement of funds by the water system must be as brief as is administratively feasible. The water system must submit requisite form(s) and documentation when requesting funds from IFA, including:

- [IFA Disbursement Request Form](#)
- [EPA Data Tracking—Cash Disbursement Supplement](#)
- [DBE-SDWRLF Disbursement Request Form](#)

Additional resources that may be useful to a water system and its contractors and sub-contractors requesting disbursement of SDWRLF funds from IFA include the following:

- [SDWRLF Contractor/Subcontractor Agreement and Fringe Benefit Summary Form](#)
- [Invoice Justification Form](#)
- [Sample Invoice Format](#)
- [SDWRLF Contractor Data Sheets](#)

### 3.2.4 Monitoring

IFA will conduct "desk-top" and/or on-site project monitoring activities to assure the project is implemented in accordance with contractual and legal requirements and SDWRLF program objectives. Monitoring activities may include frequent telephone, e-mail and written communications, scheduled project site visits, interviews with the water system staff and project team, and review of project files (e.g., certified payroll records, land acquisition notices, invoice/receipt records). IFA will report any findings or concerns and necessary corrective actions that must be undertaken, if any, in a monitoring letter notice to the water system. If corrective actions are necessary to address monitoring findings or concerns, the water system will have 30 days from the date of monitoring letter notice to implement the necessary corrective action and avoid sanctions or further actions by IFA. The IFA Regional Coordinator will schedule any necessary meetings with the water system and project team members to complete project monitoring activities.

### 3.2.5 Contract Amendments

During the course of implementing a project, changes may arise that necessitate execution of a contract amendment. Modifications to award amounts, loan terms or project scope are examples of changes that would

necessitate a contract amendment. The IFA Regional Coordinator should be contacted as early as possible should such changes occur during the implementation phase of the project.

### **3.3 Project Finalization**

#### **3.3.1 Project Completion and Closeout**

A completed project will typically include notices of substantial completion, placement of improvements into service, issuance of final engineering or planning reports, final inspection and request for final disbursement of loan funds. After final OHA-DWS approvals have been obtained and final disbursement of loan funds has been made, IFA will provide a Project Completion Report template for the water system to complete and return to IFA within 2 weeks. The Project Completion Report will document the final project costs, financing and accomplishments. IFA will formally finalize the closeout process with a Contract Closeout Form and provide to the water system a Final Closeout Letter documenting that contract requirements have been satisfied.

#### **3.3.2 Loan Amortization and Repayment**

Loan repayment, including interest accrued during the construction period, will commence prior to or upon the first payment date as determined in the financing contract. Repayment must begin within one year of initiating operations after project completion. IFA will provide an amortization schedule, invoicing, financing terms, payment options and other information requested by the water system to make scheduled loan payments. Final determination of loan forgiveness will occur after a request for final disbursement has been submitted to IFA.

#### **3.3.3 Audits/Review/A-133 compliance**

Books, documents, papers and other records related to the project must be maintained by the water system and made available for review and audit by the state, USEPA and other federal agencies upon request or as required. The water system must maintain records sufficient to deliver reporting that may be required in conjunction with the project including procurement of services, reimbursement requests, financial reporting and [OMB Circular A-133](#) audit filings.

#### **3.3.4 Final Loan Payment and Lien Release**

IFA will send a Notice of Loan Satisfaction once a final loan payment has been processed. At that time, any real or personal property liens securing the loan may be released. Any cost associated with releasing such liens will be the responsibility of water system.

## Section Four—Federal and State Requirements

There are a number of federal laws, executive orders and government policies that apply to projects receiving SDWRLF funds. These “crosscutting federal authorities” include environmental laws, as well as social and economic policies. See the [List of Federal Crosscutters](#) applicable to all SDWRLF projects and EPA’s [Additional Information on Federal Crosscutting Authorities](#) for additional information.

- The state will assist a water system when consultation or coordination is necessary to resolve issues regarding compliance with “crosscutting” authorities
- All water systems awarded SDWRLF funds may be subject to special federal audit requirements, as described in the [Office of Management and Budget’s Circular No. A133](#)

In addition to federal laws, there are a number of Oregon Revised Statutes and Administrative Rules that help guide the implementation of the SDWRLF.

### 4.1 Disadvantaged Business Enterprises

When a water system uses SDWRLF funds for project activities, the USEPA places special emphasis on the utilization of Disadvantaged Business Enterprises, which includes not only minority- and women-owned businesses, but also any small business especially in rural or “labor surplus areas.” In Oregon, these requirements are organized as follows:

- **Six Good Faith Efforts.** A water system awarded SDWRLF funds, contractors and subcontractors that perform work on the project must take steps ([Six Good Faith Efforts](#)) to solicit and to contract with Disadvantaged Business Enterprises. Also, it is the responsibility of the water system to ensure that files and records are maintained to document the steps taken.
- **Reporting for Women & Minority-owned Businesses.** For strictly statistical reasons, a water system awarded SDWRLF funds must report the actual use, if any, of women- and minority-owned businesses in two ways:
  - **Quarterly Reports.** At the end of any quarter in which the water system or contractors have procured construction contracts, services and supplies from a woman- or minority-owned business, a [DBE-SDWRLF Quarterly Report](#) must be submitted to the IFA.
  - **Cash Requests.** With every [IFA Disbursement Request form](#), the water system must include a [DBE-SDWRLF Disbursement Request Form](#) showing how much of those expenditures (even if none) were from women- or minority-owned businesses.
- **Contractor Forms**
  - [EPA Form 6100-2](#) Subcontractor Participation
  - [EPA Form 6100-3](#) Subcontractor Performance
  - [EPA Form 6100-4](#) Subcontractor Utilization
- **Additional Resources**
  - [DBE Report Forms Instructions](#)
  - [Final DBE Rule Federal Register Notice](#)
  - [MBE WBE Certification Requirements](#)
  - [DBE Program Overview with Comparison](#)
  - [DBE Rule, Forms & Fact Sheets](#)
  - [Oregon Fair Share Goals 2007](#)

### 4.2 Environmental Review Process

- All water systems receiving SDWRLF awards need to complete an environmental review on every project in accordance with the SERP, pursuant to federal and state environmental laws. Compliance with SERP means full adherence to the OHA-DWS [Environmental Review Process Handbook for SDWRLF](#).
- The environmental review must be completed prior to any construction work on the project.

- These requirements include receipt by OHA-DWS of evidence that the water system issued adequate local notice to elicit public comments (example [Public Notice—Categorical Exclusion](#)).
- The water system can receive funds to assist with the completion of the environmental review if listed as an activity under final engineering in the application.
- The water system may formally request (example [Request Letter](#)) to be excluded from further environmental review if the project is eligible for a categorical exclusion in accordance with [OAR 333-061-0063](#).

### 4.3 Federal and State Prevailing Wages

Construction projects assisted in whole or in part by the SDWRLF Program must be carried out in compliance with both the federal Davis-Bacon and related acts, and the Oregon Bureau of Labor and Industries (BOLI) requirements. These requirements apply regardless of the water system ownership. They also apply to all contracts under the project, regardless of the source of funds for each specific contract. All construction workers must be paid for the type of work being performed at least as much as the higher of the wage rates shown in the Oregon Prevailing Wage “[Prevailing Wage Rate for Public Works Contracts in Oregon](#)” or the applicable federal Davis-Bacon Wage Determination (see [ORS 279C.800](#)).

General requirements for the water system or their representative include:

- Designate an individual who is responsible for compliance
- State in the solicitation that prevailing wage rates are applicable, and include the applicable wage determination for the area where construction will occur
- Verify eligibility of the general contractor before awarding the construction contract
- Ensure that the required labor standards provisions and applicable prevailing wage rates are included in all construction contracts
- Inform, advise and support contractor compliance
- Monitor for violations
- Investigate probable violations and complaints of underpayment
- Require weekly certified payroll reports to be submitted by contractors and review them for compliance
- Work to resolve cases of non-compliance, including immediate reports of violations of the prevailing wage requirements

Failure to comply with prevailing wage requirements may result in loss of federal and state funds.

The prime construction contractor (also referred to as the general or principal contractor) is liable for wages paid and all other labor standards provisions applicable to the project for their own employees and those of all subcontractors and any lower tier subcontractors. Because of the contractual relationship between general contractors and the subcontractors, communication with any subcontractor should generally be facilitated in writing through the general contractor.

Please see the [Oregon Safe Drinking Water Revolving Loan Fund Labor Standards Guidelines](#) for additional information. Some additional sources of information regarding the requirements and complying with the Federal Davis-Bacon and related acts are:

- [General Davis Bacon Act](#) requirements and applicability
- [Wage determinations](#)
- Selecting the appropriate [construction type](#)
- Review of certified payrolls—See [example](#)
- Recommendations for resolving wage rate violations—See [DOL employment law guide](#)

Information about Oregon’s prevailing wage rate requirements is included in the BOLI [Prevailing Wage Rate Law Handbook](#) and [Prevailing Wage Rates for Public Works Contracts in Oregon](#), along with other BOLI publications.

Water systems, or their representatives, may develop their own filing systems for documentation evidencing that all actions required for labor standards administration and enforcement were taken. The recommended minimum content for files includes:

- Documentation of contractor selection process and outreach to women- and minority-owned businesses
- Applicable wage determination, including effective modifications and additions
- Verification of contractor/subcontractors' Oregon Construction Contractors Board registration
- Verification of contractor eligibility (federal "excluded parties" list of suspended and debarred contractors)
- Responsible Bidder Determination Form
- Evidence of \$30,000 public works bond
- Pre-construction conference documentation, including signed minutes
- Contractor/Subcontractor Agreement and Fringe Benefit Summary Form for each prime contractor and every subcontractor
- Notice of construction contract award and start of construction
- Weekly Certified Payroll Report forms and signed Statements of Compliance
- Evidence that payrolls were checked against applicable wage rates
- Documentation of registered apprentices or trainees and proper ratio to journeyman
- Record of employee interviews
- Record of contacts with contractor regarding labor standard matters
- Evidence of restitution/resolution of discrepancies, if any

#### **4.4 Other Federal and State Labor Standards Applicable to Contractors**

**CCR and DUNS Number.** The recipient and any entity that directly contracts with the recipient of SDWRLF funds is required to have both a DUNS number and CCR (now referred to as [System of Award Management](#)) registration. This includes construction prime contractors and those who contract for legal services, project management of any other service directly with the recipient

**Compliance with Federal and State Overtime Laws.** The federal Contract [Work Hours and Safety Standards Act](#) requires that persons performing the work of laborers or mechanics under contracts that exceed \$100,000 must be paid no less than one and one-half times the basic rate of pay for weeks in which they work more than 40 hours. The federal [Fair Labor Standards Act](#) requires weekly overtime pay for contracts under the \$100,000 threshold. State of Oregon law for overtime pay is not the same as federal law. The state's statutes ([ORS 279C.520](#), [279C.540](#) and [279C.800](#) et seq.) do not exempt federally funded projects from the state overtime law. State overtime law requires payment of overtime to workers that are employed in excess of 8 hours per day, unless there is a prior working agreement allowing four 10 hours days per work week, or 10 hours per day or 40 hours in any one work week.

**Copeland "Anti-Kickback" Act.** For all contracts and sub-grants in excess of \$100,000 for construction or repair, the [Copeland "Anti-Kickback" Act](#) provides that each contractor is prohibited from inducing, by any means, any person to give up any part of the compensation to which they are entitled. The water system receiving SDWRLF funds must report all suspected or reported violations.

**Equal Employment Opportunity.** Contractors must comply with [Executive Order 11246](#), "Equal Employment Opportunity," as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at [41 CFR part 60](#), "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

**Federal statutes relating to nondiscrimination.** These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 ([P.L. 88-352](#)), which prohibits discrimination on the basis of sex; (b) [Section 504 of the Rehabilitation Act of 1973](#), as amended (29 U.S.C. 795), which prohibits discrimination on the basis of handicaps; (c) the [Age Discrimination Act of 1975](#), as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (d) the [Drug Abuse Office and Treatment Act of 1972](#) (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (e) the [Comprehensive Alcohol Abuse and Alcoholism Prevention,](#)

[Treatment and Rehabilitation Act of 1970](#) (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (f) Sections 523 and 527 of the Public Health Service Act of 1912 ([42 U.S.C. 290 dd-3 and 290 ee-3](#)), as amended, relating to confidentiality of alcohol and drug abuse patient records.

[ORS 279C.500](#) et seq. include other labor standards applicable to construction contracts.

#### **4.5 Federal and State Procurement Standards**

All owners of water systems must meet federal standards for procurement policies and procedures, for all procurements and contracts related to the project.

- For water systems owned by a public body, those federal standards are: [OMB Circular A-102](#), Uniform Administrative Requirements for Grants in Aid for State and Local Governments, as implemented at [40 CFR §31.36](#).
- For water systems owned privately by nonprofit organization, those federal standards are: [OMB Circular A-110](#), Uniform Administrative Requirements for Grants and Agreements with Nonprofit Agencies, as implemented at [40 CFR §30.40](#).
- Water systems owned privately by a for-profit organization also are required to meet federal standards for procurement policies and procedures as generally described in 40 CFR.

Those federal procurement standards allow water system owners to follow applicable state and local laws and regulations, so long as those laws and regulations meet the federal standards. By contract, IFA requires all recipients to follow state procurement laws in [ORS 279A](#), [ORS 279B](#) and [ORS 279C](#).

Under those state laws, the Oregon Department of Justice has created model rules for procurements (“DOJ Model Rules”).

- State law requires water systems owners that are public bodies authorized by law to conduct procurements to follow the DOJ Model Rules, unless they have lawfully adopted their own rules pursuant to [ORS 279A.065](#).
- By contract, IFA requires all privately owned water systems (for-profit or nonprofit) to substantially follow the DOJ Model Rules:
  - Public Procurements for Goods or Services [OAR 47](#)
  - Consultant Selection: Architectural, Engineering and Land Surveying Services and Related Services Contracts [OAR 48](#)
  - General Provisions Related to Public Contracts for Construction Services [OAR 49](#)

Further information can be found in the *Attorney General’s Model Public Contract Rules Manual*, available from the state of Oregon Department of Justice by completing this [order form](#).

The IFA will not provide a water system receiving SDWRLF funds with legal advice regarding the application of these procurement laws and rules to specific factual situations, but can provide general explanations and further resources. The IFA may require water systems receiving SDWRLF funds to provide documentation of all procurement related actions, including, when necessary, an opinion of the water system’s legal counsel regarding compliance with these procurement laws and rules.

Selected general procurement standards for all water systems receiving SDWRLF funds include:

- A code or standard of conduct that governs the performance of its officers, employees or agents engaged in the awarding of contracts using federal funds, particularly controlling conflicts of interest, both actual and perceived.
- Procedures that ensure all procurement transactions are conducted in a manner to provide, to the maximum extent practical, open and free competition. Minimum procedural requirements, as follows:
  - Follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items.
  - Solicitations shall be based upon a clear and accurate description of the technical requirements of the procured items.
  - Positive efforts shall be made to use women and minority owned businesses.

- The type of procuring instrument (fixed price, cost reimbursement) is determined by the water system, but must be appropriate for the particular procurement and for promoting the best interest of the program involved.
- Contracts must be made only with contractors who possess the ability to perform successfully under the terms and conditions of the proposed procurement.
- Some form of price or cost analysis should be performed in connection with every procurement action 24.
- Procurement records and files for purchases shall include all of the following:
  - Contractor selection or rejection.
  - The basis for the cost or price.
  - Justification for lack of competitive bids if offers are not obtained.
  - Efforts to use women and minority owned businesses
- A system for contract administration to ensure contractor conformance with terms, conditions and specifications of the contract.

#### **4.6 Federal Uniform Relocation Act**

The [Uniform Relocation Assistance and Real Property Acquisition Policies Act](#) establishes a uniform policy for fair and equitable treatment of persons who are displaced from their homes, farms or businesses to make way for federally assisted projects. The Act provides basic guidelines for negotiating the acquisition of real property by the federal government. The Act also requires agencies to reimburse individuals for actual and reasonable expenses incident to relocation, such as moving costs, direct loss of tangible personal property associated with moving or discontinuing a business, and expenses involved in searching for a replacement home or business.

The following examples may be useful to water systems needing to acquire property:

[Example Notice to Owner—Property Acquisition with no Relocation](#)

[Example Agreement—Property Acquisition with no Relocation](#)

#### **4.7 Oregon Municipal Budget Law**

Funds disbursed to municipalities are subject to the requirements of the [Oregon Municipal Budget Law](#). Accordingly, the water system must budget and account for funds through a financial management systems, and financial management systems need to also conform to “generally accepted accounting principles” for state and municipal corporations established by the National Committee on Governmental Accounting.

#### **4.8 Water Service to Unincorporated Lands**

Unless the project is inside an urban growth boundary or an “unincorporated community” boundary, no SDWRLF award is allowed if extension of the water system or the establishment of a new system would allow for higher density of residential zoning or development than what is otherwise allowable or authorized without such drinking water service, consistent with [OAR 660-011-0065](#). [Department of Land Conservation and Development](#) can provide further information on this rule and other relevant aspects of Statewide Planning Goal #11.

#### **4.9 IFA Remedies and Exceptions**

The financing contract executed by the water system and the IFA details all terms and conditions under which the financial assistance is provided. In the event that a water system fails to comply with these terms and conditions, IFA will utilize any or all remedies specified in the contract or as described in [OAR 123-049-0040](#).

Applications not conforming in every respect to these Program Guidelines are not normally considered. The IFA Executive Director may waive non-federal, non-statutory requirements of the SDWRLF program, if demonstrated that such a waiver would serve to further the goals and objectives of the SDWRLF program and state economic and community development policies.

#### **4.10 American Iron and Steel (AIS) Requirement Implementation**

The American Iron and Steel (AIS) requirement will apply to projects that sign a SDWRLF financing contract with IFA after January 17, 2014 through the end of the Federal Fiscal Year 2014.

Water system projects funded during this period will be required to use iron and steel products that are produced in the United States. Water systems must include language in construction contracts pertaining to this requirement (see [Sample Construction Contract Language](#)). In addition, water systems must collect letters from iron and steel product/material suppliers certifying compliance with the requirement (see [Sample Certification](#)). A water system (SRF assistance recipient) may work with the [IFA Regional Coordinator](#) (State SRF designee) to pursue the EPA [Waiver Process](#) if a case for granting a waiver can be demonstrated.

[Frequently Asked Questions \(FAQ\)](#) are available, and additional details are available at the [EPA State Revolving Fund American Iron and Steel Requirement](#) Web site.

# Appendices

## Appendix A Glossary

**Applicant:** Potential recipient of funds from the Safe Drinking Water Revolving Loan Fund or the Drinking Water Source Protection Fund.

**Application:** A form submitted by an Applicant to IFA to apply for project funding from the Safe Drinking Water Revolving Loan Fund.

**Borrower:** See **Recipient** below.

**Capacity:** Demonstrated resources, capabilities and so forth, needed to technically, managerially and financially maintain improvements arising from the project.

**Capacity compliance:** The financial, managerial and technical ability of a public water system to sufficiently maintain compliance with the Safe Drinking Water Act or any state drinking water regulation, for purposes of the funded project.

**Community water system:** A public water system that has 15 or more service connections used by year-round residents, or which regularly serves 25 or more year-round residents. This includes water systems that are owned privately, by non-profit or public entities such as a city, district or port.

**Construction:** The erection, installation, expansion or improvement of a drinking water system building, structure or facility.

**Disadvantaged Community:** The service area of a publicly owned, nonprofit or Public Utility Commission (PUC) regulated privately owned community water system or nonprofit non-community water system that meets the stipulations outlined in 2.6.5 above, and that is eligible for especially subsidized financing in accordance with section 1452(d) of the U.S. Safe Drinking Water Act Amendments of 1996

**Equivalent Dwelling Unit (EDU):** For water systems, an Equivalent Dwelling Unit is one residential connection or up to the equivalent of 7,500 gallons of usage, whichever is less. A recent Water Master Plan or Facility Plan should determine the number of EDUs for your system. (Commercial and industrial users normally account for multiple units.)

**Emergency project:** A project that will address a reasonably unexpected situation, catastrophe or the like that results in a severe threat to public health and a dangerous lack of potable drinking water for a community over an extended period of time. The Office of Public Health System's Administrator or Acting Administrator must declare the situation to be such a State emergency that warrants such immediate action. Complete Applications for emergency projects must be received by the State within 180 days of the event that creates the emergency.

**Federal capitalization grant:** Federal monies are appropriated by Congress and allocated to the state of Oregon's Safe Drinking Water State Revolving Loan Fund under the U.S. Safe Drinking Water Act Amendments of 1996 for use as grants and loans. This does not include State matching monies.

**Infrastructure Finance Authority (IFA):** The state of Oregon's Infrastructure Finance Authority is the entity that administers project and loan oversight for the Safe Drinking Water Revolving Loan Fund and Drinking Water Source Protection grants and loans.

**Initiation of operation:** The date on which the project or the facility improvement, which constitutes the project, is substantially complete and ready to undertake full operation for the purposes for which it was planned, designed and built.

**Intended Use Plan (IUP):** The Intended Use Plan is the annual submission by a state to receive that fiscal year's federal capitalization grant, as defined in the U.S. Safe Drinking Water Act Amendments of 1996. The IUP must be made available for public comment and describe the way in which the state government intends to use and disburse these requested funds.

**Nonprofit non-community water system:** This is a public water system that is not a community water system and that regularly serves at least 25 people (more than 6 months per year) and is legally recognized under Oregon law as a nonprofit entity. The State must be able to execute a contract with the water system that may require the water system to collect revenues to be used for repayment of a loan. If a water system is unable to meet this requirement, the Regional Coordinator can work with the water system to help it meet the necessary requirements.

**Privately owned (community) water system:** This is any community water system that is owned by an individual, investor or a partnership in a potentially profit-making manner, even if it provides drinking water to or for the public.

**Project:** Any activity or activities funded under the SDWRLF program in a single award.

**Public (drinking) water system:** This is a water system that is used for the treatment, provision or conveyance to the public of piped water for human consumption.

**Recipient or Borrower:** An applicant that has received funds from the Safe Drinking Water Revolving Loan Fund or the Drinking Water Source Protection Fund.

**Security Measures:** Assessments, plans, surveillance devices, barriers, alarms and other such investments, to prevent or minimize risks/vulnerabilities potentially arising from known or unknown persons, including but not limited to terrorists, that could threaten the public water system or the availability, usability or safety of the associated water supply. Operation and maintenance of such investments, security personnel and other ongoing expenditures are not eligible to receive funding.

**Water system master plan:** A written plan that evaluates the needs of the water system for at least twenty years and meets the division's requirements of OAR 333-061-0060(5), equivalent to a water "facilities" master plan.

## **Appendix B Acronyms**

ACS	American Community Survey
BOLI	Bureau of Labor and Industries
DBE	Disadvantaged Business Enterprise
DEQ	Department of Environmental Quality
DWAC	Drinking Water Advisory Committee
DWSPF	Drinking Water Source Protection Fund
DWSRF	Drinking Water State Revolving Fund
IFA	Infrastructure Finance Authority
LOI	Letter of Interest
MHI	Median Household Income
OAR	Oregon Administrative Rules
OHA	Oregon Health Authority
OHA-DWS	Oregon Health Authority—Drinking Water Services
OMB	Office of Management and Budget
ORS	Oregon Revised Statutes
PPC	Program & Policy Coordinator
PPL	Project Priority List
PUC	Public Utility Commission
SDWA	Safe Drinking Water Act
SDWRLF	Safe Drinking Water Revolving Loan Fund
SERP	State Environmental Review Program
USEPA	United States Environmental Protection Agency