

**STATE
WATER
RESOURCES
CONTROL
BOARD**



**CALIFORNIA
ENVIRONMENTAL
PROTECTION
AGENCY**



**Policy for Implementing the Drinking
Water State Revolving Fund**



Amended
XXXXX, 2024

Prepared by:
THE DIVISION OF FINANCIAL ASSISTANCE

STATE WATER RESOURCES CONTROL BOARD STATE OF
CALIFORNIA

Amended XXXX, 2024

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THE DRINKING WATER STATE REVOLVING FUND
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https://www.waterboards.ca.gov/drinking_water/services/funding/DWSRF_Policy.html

LIST OF ACRONYMS AND ABBREVIATIONS

AIS	American Iron and Steel
CEQA	California Environmental Quality Act
CPUC	California Public Utilities Commission
CWS	Community Water System
DAC	Disadvantaged Community
DBE	Disadvantaged Business Enterprise
DWSRF	Drinking Water State Revolving Fund
GWUDI	Ground Water Under the Direct Influence
IUP	Intended Use Plan
LAFCO	Local Agency Formation Commission
MCL	Maximum Contaminant Level
MHI	Median Household Income
NOE	Notice of Exemption
O&M	Operation and Maintenance
PRF	Pledged Revenue and Funds
PWS	Public Water System
SDAC	Severely Disadvantaged Community
SDWA	Safe Drinking Water Act
SERP	State Environmental Review Process
SRF	State Revolving Fund
TMF	Technical, Managerial, and Financial Capacity
UCC	Uniform Commercial Code
USEPA	United States Environmental Protection Agency

I. INTRODUCTION

This Policy is adopted for the State Water Resource Control Board's (State Water Board) implementation of the 1996 Amendments to the federal Safe Drinking Water Act (SDWA), which created the Drinking Water State Revolving Fund (DWSRF) program. The program is intended to provide financial assistance in perpetuity using federal and state funds. The DWSRF provides various types of assistance for Public Water Systems (PWS), including projects that: (1) address or prevent future public health risk problems, (2) are needed to comply with the SDWA, and (3) assist those most in need on a per household affordability basis. The federal DWSRF provides Capitalization Grants to states that may be used to provide loans and other assistance to PWSs. The DWSRF program was initially implemented by the California Department of Health Services, and subsequently transferred to the State Department of Public Health. As of July 1, 2014, the program is implemented by the State Water Board.

The California statutory basis for the DWSRF is established in sections 116760 – 116762.60 of the Health and Safety Code. The federal statutory basis for the DWSRF is established in title 42, section 300j-12 of the United States Code. In addition, the 2021 Infrastructure Investment and Jobs Act, also referred to as the Bipartisan Infrastructure Law (BIL) appropriated funds over five years to the DWSRF. These funds are subject to modified requirements, as provided in the BIL. Notwithstanding any provision of this Policy, the State Water Board will implement the DWSRF program consistent with federal and state law and policy.

This Policy governs the administration of the DWSRF. The Policy may also be used to administer funds other than DWSRF funds to the extent provided in the annual DWSRF Intended Use Plans (IUP), the Expedited Drinking Water Grant Program (EDWG) Guidelines, or as otherwise specified by the State Water Board. The annual Intended Use Plans, EDWG Guidelines, or other documents adopted by the State Water Board may specify when federal requirements apply, to the extent consistent with federal law, and may otherwise modify the application of the provisions of this Policy. The Deputy Director may determine not to apply certain DWSRF Policy requirements or federal requirements to projects that only receive State Grant funding.

The provisions of this Policy are effective upon adoption, unless otherwise required by federal or state statute, guidance, regulation, or agreement. The scoring criteria in Section IV.C.2 will be utilized for applications submitted after January 1, 2025, meaning that the State Fiscal Year 2026-27 DWSRF IUP will be the first IUP to utilize these scoring criteria.

II. PURPOSE AND OBJECTIVE

Under federal and state law the primary purpose of the DWSRF is to assist

PWSs in financing the cost of drinking water infrastructure projects needed to achieve or maintain compliance with SDWA requirements and to further the public health objectives of the SDWA.

Section 106.3 of the Water Code provides that it is the policy of the state that every human being has the right to safe, clean, affordable and accessible water adequate for human consumption, cooking, and sanitary purposes, i.e., the Human Right to Water. This section requires the State Water Board to consider this state policy when adopting policies and grant criteria. The State Water Board has considered the provisions of section 106.3 of the Water Code in establishing this Policy.

The State Water Board also seeks to reduce the effects of climate change and to promote sustainable water resources for future generations. In 2017 the State Water Board adopted Resolution No. 2017-0012 specifying a range of actions the State Water Board's divisions and offices will take to implement its climate change program. This Policy is designed to support those efforts.

The State Water Board adopted a Racial Equity Resolution on November 16, 2021. Resolution No. 2021-0050 directed staff to develop a plan to advance racial equity within the Water Boards. The State Water Board's Racial Equity Action Plan includes goals, actions, and metrics to create a future where we equitably preserve, enhance, and restore California's water resources and drinking water for all Californians, regardless of race, and where Water Board employees reflect the racial and ethnic diversity of California. It requires the Division to assess race/ethnicity data and other relevant demographic data associated with the communities that benefit from funding administered by the Division and include this information in its funding reports and plans.

III. DEFINITIONS

The following words used in this Policy shall have the meaning ascribed to them:

“Acceptable Result” means the project that, when constructed, solves the problem for which the project was placed on the Comprehensive List, ensures the owner and operator of the improved or restructured PWS shall have long-term TMF to operate and maintain the PWS in compliance with state and federal safe drinking water standards, can provide a dependable source of safe drinking water long-term, and is both short-term and long-term affordable, as determined by applicable regulations or policies adopted by the State Water Board.

“Allowance” or “Soft Costs” means an amount of money for eligible planning, design, value engineering, construction management, environmental, and administration costs of the project.

“Applicant” means the Legal Entity with the authority to enter into contracts and

agreements and incur debt on behalf of the community and/or PWS to be served by the project being financed by the DWSRF.

“Authorized Representative” means the duly appointed representative of the Applicant/Recipient that has the authority to represent the water system, sign documents pertaining to the financing application, execute the Financing Agreement on behalf of the Applicant/Recipient, and submit reimbursement requests.

“Bridge Financing” means interim financing to cover Eligible Project Costs until DWSRF financing for the project is received from the State Water Board.

“Capitalization Grant” means federal DWSRF funds granted to the State Water Board by the United States Environmental Protection Agency (U.S. EPA) in a particular year pursuant to certain terms and conditions.

“CEQA” means the California Environmental Quality Act (commencing with Section 21000 of the Public Resources Code and including the regulations and guidelines adopted by the California Natural Resources Agency to implement the Act).

“Change Order” means a change in the scope of work of a planning and design services contract, or of a construction contract, that results in an unforeseen cost. Change Orders are subject to approval by the Division.

“Contingency” means the amount budgeted for unforeseen Eligible Project Costs (Change Orders) in a Financing Agreement. Contingencies are subject to approval by the Division.

“Community Water System” or “CWS” means a PWS that: 1) serves at least 15 service connections used by yearlong residents of the area served by the system, or 2) regularly serves at least twenty-five (25) yearlong residents of the area served by the system.

“Completion of Construction” means the date that the work of building and erection of the project is substantially complete.

“Completion of Planning/Design” means that the Division has accepted the deliverables identified in the planning/design Financing Agreement.

“Comprehensive List” means a list that consists of all planning/design and construction projects for which at least one portion of an application has been received, including sufficient information for an initial listing.

“Construction Financing” means financing to cover some or all of the cost of the construction of a water system infrastructure project, including but not limited to planning, preliminary engineering, design, treatment systems, water sources, interconnections, consolidations, acquisition of water systems, purchase of land

or equipment, and extending service to residents currently served by individual wells or surface water sources.

“Cost-effective” means achieves an Acceptable Result at the most reasonable cost.

“Disadvantaged Community” or “DAC” means the entire service area of a CWS, or community therein, in which the MHI is less than eighty percent (80%) of the statewide median household income. In general, the entire water system service area will be used or, for a consolidation or extension of service project, the Subsumed Water System’s entire service area or the community that will be connected will be used to determine grant/PF eligibility.

“Deputy Director” means the Deputy Director of the State Water Board’s Division of Financial Assistance.

“Division” means the Division of Financial Assistance within the State Water Board.

“Eligible Construction Start Date” means the date established by the Division upon approval of the financing application. Construction costs incurred after this date are eligible for financing. For Construction Financing the Eligible Construction Start Date may not be earlier than a fundable project’s notice to proceed date or the start of project implementation. For DWSRF funding, an Applicant must receive written approval from the Deputy Director of the Division in order to begin construction prior to a Financing Agreement. Construction costs incurred prior to written approval are ineligible for DWSRF funding.

“Eligible Project Cost” means those costs of a Financing Agreement that are deemed by the Division to be eligible for financial assistance pursuant to applicable federal and state laws, rules, regulations, policies, and guidelines.

“Eligible System”¹ means any of the following:

- Privately-owned and publicly-owned CWSs or Non-Profit Non-CWSs
- CWSs created by the Project that meet the federal requirements for new systems
- Systems referred to in Section 1401(4)(B) of the SDWA for the purposes of point of entry or central treatment under Section 1401(4)(B)(i)(III)

“Environmental Document” means a Categorical Exemption, Initial Study and Negative Declaration, Mitigated Negative Declaration, Environmental Impact Report (EIR), Addendum, Supplemental or a Subsequent document prepared in

¹ Eligibility is restricted in conformance with 42 USC 300j-12(i) and USEPA guidance for projects that have received assistance from the national set-aside for Indian Tribes and Alaska Native Villages.

accordance with CEQA and associated supporting documents showing compliance with applicable federal environmental laws, consistent with the State Environmental Review Process (SERP).

“Executive Director” means the Executive Director of the State Water Board.

“Existing Debt” means the Applicant’s existing material debt.

“Expanded Small Community Water System” or “Expanded SCWS” means a CWS that serves more than 3,300 service connections, but no more than 6,600 service connections; or a yearlong population of more than 10,000 persons but no more than 20,000 persons.

“Expanded Small Disadvantaged Community” or “Expanded Small DAC” means a Disadvantaged Community with a population more than 10,000 persons but no more than 20,000 persons, or more than 3,300 service connections but no more than 6,600 service connections.

“Financial Distress” or “Financial Emergency” means that a Recipient has filed for bankruptcy protection in federal court or has taken either of the preliminary actions for bankruptcy protection pursuant to Section 53760 of the Government Code.

“Financing Agreement” means the written agreement signed by all parties and any amendments thereto, between the State Water Board and the Recipient, setting forth the terms, provisions, and conditions governing the financing and the repayment, if any. This document may be a Loan, a grant, or another financing instrument.

“Fundable List” means a list of projects in the IUP that are expected to receive assistance from the DWSRF, its complementary programs, or both in a particular state fiscal year.

“Ground Water Under the Direct Influence” or “GWUDI” means any water beneath the surface of the ground with significant occurrence of insects or other microorganisms, algae or large diameter pathogens such as *Giardia lamblia* or *Cryptosporidium*, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity or pH which closely correlate to climatological or surface water conditions (CCR, Title 22, Sec. 64651.50).

“Intended Use Plan” or “IUP” means the annual document that the State Water Board submits to U.S. EPA, after public review and comment, which contains the business plan for the DWSRF and complementary financing and identifies the projects that the State Water Board anticipates funding during the year.

“Large Community Water System” or “Large CWS” means a CWS that serves more than 30,000 service connections or a yearlong population of more than 100,000 persons.

“Legal Entity” means an entity that is duly formed and operating under the laws of this State.

“Loan” means and includes any repayable financing instrument, including a loan, bond, installment sale agreement, note, or other evidence of indebtedness.

“Median Household Income” or “MHI” means the household income that represents the median value for the community.

“Medium Community Water System” or “Medium CWS” means a CWS that serves more than 6,600 service connections but no more than 30,000 service connections; or a yearlong population of more than 20,000 persons but no more than 100,000 persons.

“Medium Disadvantaged Community” or “Medium DAC” means a Disadvantaged Community with a population more than 20,000 but no more than 100,000 people, or more than 6,600 service connections but no more than 30,000 connections.

“Multifamily Residential” means a classification of housing where multiple separate housing units for residential inhabitants are contained within one building, such as a duplex or apartment building.

“Native American Tribe” means a federally recognized Indian tribe, or a State Indian tribe listed on the Native American Heritage Commission’s California Tribal Consultation List.

“Non-Community Water System” or “Non-CWS” means a PWS that is not a CWS.

“Non-Profit” or “Not-for-Profit” means exempt from taxes under Section 501(c)(3) of the United States Internal Revenue Code. NTNCs owned by public schools are deemed to be Not-for-Profit for the purposes of funding eligibility. Other entities owned and operated as a non-profit entity may be deemed eligible if funding source requirements are met.

“Non-Repayable Financing” means and includes any form of non-repayable financing, whether in the form of grant, Principal Forgiveness, or other form of financing instrument.

“Non-transient Non-Community Water System” or “NTNC” means a Public Water System that is not a Community Water System and that regularly serves at least 25 of the same persons over six months per year.

“Operating Agreement” means the Operating Agreement pursuant to Section 35.3545 of title 40 of the Code of Federal Regulations. (see *Appendix B*)

“Planning/Design Financing” means financing to cover some or all of the cost of preliminary activities necessary to construct a project including, but not limited to, legal costs, studies, planning, preliminary engineering, and design for a project.

“Pledged Revenue and Funds” or “PRF” means one or more existing dedicated sources of revenue and/or funds pledged by the Applicant for the repayment of the loan.

“Primary Drinking Water Standard” means those standards as defined pursuant to Section 116275 et seq. of the Health and Safety Code.

“Principal Forgiveness” means a loan, or a portion of a loan, from the State Water Board that is anticipated to be forgiven with no principal and interest due at completion of the project.

“Private Lateral” means the water pipe from a service connection (as defined in Section 116275 of the Health and Safety Code) to a residential, commercial, institutional, or industrial structure.

“Project” means cost-effective facilities for the construction, improvement, or rehabilitation of a PWS. It may include the planning and design of facilities, annexation or consolidation of water systems, source water assessments, source water protection, and other activities specified in the SDWA.

“Public Agency” means any city, county, district, joint powers authority, or other political subdivision of the state.

“Public Water System” or “PWS” means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least 60 days out of the year, pursuant to the SDWA.

“Recipient” means a Legal Entity that enters into a DWSRF Financing Agreement with the State Water Board.

“Receiving Water System” means the Public Water System that provides service to a Subsumed Water System through consolidation.

“Safe Drinking Water Act” or “SDWA” means the Federal Safe Drinking Water Act (42 U.S.C. § 300f et seq.), including any amendments thereto.

“Service Area” means all of the geographical area that is currently served by a PWS.

“Severely Disadvantaged Community” or “SDAC” means a community with a median household income of less than sixty percent (60%) of the statewide MHI.

“Small Community Water System” or “Small CWS” means a CWS that serves no more than 3,300 service connections or a yearlong population of no more than 10,000 persons.

“Soft Costs” or “Allowance” means an amount of money for eligible planning, design, value engineering, construction management, environmental, and administration costs of the Project.

“Small Disadvantaged Community” or “Small DAC” means a Disadvantaged Community with a population no more than 10,000 persons, or no more than 3,300 service connections.

“Small Non-Disadvantaged Community” or “Small Non-DAC” means a community with a population no more than 10,000 persons, or no more than 3,300 service connections, and with an MHI greater than or equal to 80 percent of the statewide annual MHI.

“Small Severely Disadvantaged Community” or “Small SDAC” means a community with a population no more than 10,000 persons, or no more than 3,300 service connections, and whose MHI is less than 60 percent of the statewide average MHI.

“State” means the State of California.

“State Grant” means a grant administered under the IUP funded by state general obligation bonds or state general fund appropriations that is not used as state match for a DWSRF capitalization grant.

“State Small Water System” means a system for the provision of piped water to the public for human consumption that serves at least five, but not more than 14, service connections and does not regularly serve drinking water to more than an average of 25 individuals daily for more than 60 days out of the year.

“Subsumed Water System” means the Public Water System consolidated into or receiving service from the Receiving Water System.

“State Water Board” means the State Water Resources Control Board.

“Technical, Managerial, and Financial Capacity” or “TMF” means the ability of a PWS to plan for, achieve, and maintain long term sustainable compliance with drinking water standards, thereby ensuring the quality and adequacy of the water supply. (see *Appendix C*)

“Urban Water Supplier” means a supplier, either publicly or privately owned, providing water for municipal purposes either directly or indirectly to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually, pursuant to Section 10617 of the California Water Code.

“Useful Life” means the estimated period of time over which the funded facility will serve its intended purpose in a cost-effective manner from the estimated initiation of operation date.

“U.S. EPA” means the United States Environmental Protection Agency.

“Waterworks Standards” means regulations adopted by the State Water Board entitled “California Waterworks Standards” (Chapter 16 (commencing with Section 64551) of Division 4 of Title 22 of the California Code of Regulations).

IV. PROGRAM MANAGEMENT

A. Intended Use Plan and Capitalization Grant Applications

1. Annually, the Division will prepare an IUP for the State Water Board’s consideration and submittal to the U.S. EPA. The State Water Board may establish various requirements, conditions, and incentives in the IUP, and may reserve funds for selected classes or types of projects. The IUP will provide information necessary to satisfy U.S. EPA’s requirements including, but not limited to, the availability of and applicable limitations on Non-Repayable Financing, equivalency requirements, the application of financing service charges, set-aside allocations and their planned uses, as well as a Fundable List of projects eligible to receive funding based on their priority and the availability of funds for the year.
2. Amendments to an IUP must be made by the State Water Board following public review, except that the Deputy Director of the Division may add projects to the Fundable Lists in accordance with procedures set forth herein and in the applicable IUP. The Deputy Director of the Division may make non-substantive corrections to an IUP without conducting public review.
3. The Executive Director may apply for and accept Capitalization Grants and approve amendments to the Capitalization Grants.
4. The Deputy Director of the Division may negotiate and submit workplans for Capitalization Grants to U.S. EPA for review and approval.
5. The Executive Director is authorized to approve amendments to the Operating Agreement.

B. Comprehensive List

1. Purpose of the Comprehensive List

The purpose of the Comprehensive List is to catalog and identify Projects potentially eligible for placement on the Fundable List. As the Division

receives DWSRF applications from Applicants, it will assign to each project, in consultation with the Division of Drinking Water, a category from Section IV.B.2. of this Policy.

Placement of a project on the Comprehensive List does not constitute a commitment to provide financing. However, projects included on the Comprehensive List may be considered for placement on the Fundable List based upon the criteria and process included in this Policy.

2. Project Category

To the maximum extent practicable, priority for funding and placement on the Fundable List will be given to projects which: 1) address the most serious risk to human health, 2) are necessary to ensure compliance with the requirements of the SDWA, and 3) assist systems most in need on a per household basis.

Projects are scored by the categories and other criteria established below to achieve these objectives. Each project will be assigned to one of the following categories:

Category–A - Immediate Health Risk

- (1) Documented waterborne disease outbreaks attributable to the water system.
- (2) Water systems under a court order to correct SDWA violations or to correct water outage problems.
- (3) Total coliform Maximum Contaminant Level (MCL) violations attributable to active sources contaminated with coliform bacteria (e.g., fecal, E. coli, or total coliform).
- (4) Severe domestic water supply outage(s) posing an imminent threat to public health and safety.
- (5) The distribution of water containing nitrates/nitrites, perchlorate, chlorite, or chlorine dioxide exceeding the MCL.

Category–B - Untreated or At-Risk Sources

- (1) Surface water or GWUDI sources that are untreated, not filtered, or have other filtration treatment deficiencies, or a recent history of deficiencies, that violate federal or state regulations.
- (2) Non-GWUDI groundwater sources that are contaminated with fecal coliform or E. coli and are inadequately treated.

-
- (3) Uncovered distribution reservoirs.

Category–C - Compliance or Shortage Problems

- (1) Water quantity violations, or a recent history of repeated water quantity violations, caused by source capacity, or water delivery capability that is insufficient to meet existing demand.
- (2) The distribution of water containing chemical or radiological contamination in violation of, or a history of repeated water quality violations of, a state or federal primary drinking water standard (other than those listed in Category A). Projects that are addressing water quality levels above a new MCL (e.g., hexavalent chromium or perfluoroalkyl and polyfluoroalkyl substances (PFAS)) may be considered a Category C priority even if they are not currently in violation of the MCL.
- (3) Total Coliform Rule violations for reasons other than source contamination.

Category–D - Inadequate Reliability

- (1) CWSs with a single source and no backup supply.
- (2) Distribution reservoirs with non-rigid covers in active use.
- (3) Disinfection facilities that lack needed reliability features, such as chlorine analyzers or alarms.
- (4) Violations of the Waterworks Standards related to disinfection.

Category–E - Secondary Risks

- (1) The distribution of water exceeding secondary drinking water standards.
- (2) The distribution of water exceeding a published chemical notification level.
- (3) The distribution of water exceeding a primary drinking water standard in one or more samples but not a running average standard.
- (4) A standby groundwater source exceeding a primary drinking water standard.
- (5) Violations of the Waterworks Standards (other than those already covered above).

Category—F - Other Projects

- (1) Non-metered service connections, replacement of defective water meters or water meters that have reached the end of their useful life, and installation of remote read equipment.
- (2) Deficiencies attributable to the water system that address present or prevent future violations of health-based standards, including deficiencies associated with emerging contaminants (other than those already covered above).

3. Updating the Comprehensive List

The Division may update the Comprehensive List. The Comprehensive List will be posted periodically by the Division on the State Water Board's website after it has been updated.

4. Project Removal from the Comprehensive List

- a. The Division will monitor the progress of project applications on the Comprehensive List to ensure that Applicants are proceeding expeditiously to a complete application.
- b. The Deputy Director of the Division will remove any Project from the Comprehensive List when:
 - i. The Project has been on the Comprehensive List for at least four (4) consecutive quarters, and the Applicant has been non-responsive or has not requested that the Project remain on the Comprehensive List;
 - ii. The State Water Board so instructs;
 - iii. The Project has received DWSRF financing or alternative financing;
 - iv. The Project has repeatedly received a low priority score and is unlikely to be added to the Fundable List at a later date;
 - v. The water system ceases to exist or becomes ineligible or the Project is determined to be ineligible for financing;
 - vi. The problem no longer exists or has been corrected; or
 - vii. The Applicant requests that the Project be removed.
- c. Projects that are removed from the Comprehensive List may be added again in the future.

C. Fundable List & Scoring

The purpose of the Fundable List is to identify eligible projects that the State Water Board intends to finance during the state fiscal year.

1. Fundable List in General

- a. A Project must be on the Fundable List to receive financing but placement on the Fundable List does not guarantee financing. A Financing Agreement will be executed only if the application meets all applicable eligibility requirements and sufficient funds are available.
- b. All projects submitted to the Division for DWSRF and its complementary funding sources will be evaluated for placement on the Fundable List. Annually all applications requesting repayable financing, and any other applicant or project types described in the applicable IUP as being subject to scoring will receive a priority score as described in Section IV.C.2 of this Policy.
- c. Project or applicant types identified in the applicable IUP as not subject to scoring are eligible to be added to the Fundable List by the Deputy Director of the Division once conditions in that year's IUP are met.
- d. Projects without a complete application will receive a priority score of 0. A complete financial assistance application means that all application packages (i.e., general, technical, financial, and environmental), with all applicable attachments, have been submitted to the Division.

2. Priority Score

For Projects subject to scoring, the Priority Score is the sum of three components: (1) the "project score," (2) the "affordability score," and (3) the "readiness score." Prorated scores will not be awarded for any components of the priority score.

a. Project Score

- i. All applications subject to scoring will receive a project score. The project score is a single number selected from Table 1.
- ii. The maximum project score is eight (8).

Table 1: Project Score	
<i>Categories A-C – Immediate Health Risk, Untreated or At-Risk Sources, Compliance or Shortage Problems</i>	8 <input type="checkbox"/>
<i>Category D – Inadequate Reliability</i>	6 <input type="checkbox"/>
<i>Category E – Secondary Risks</i>	2 <input type="checkbox"/>
<i>Category F – Other Projects</i>	0 <input type="checkbox"/>
<i>Note: See DWSRF Policy, Section IV.B.2 for detailed explanation of Project Categories</i>	

b. Affordability Score

- i. All applications subject to scoring will receive an affordability score. The affordability score is a single number determined by Table 2.
- ii. The affordability score is potentially the sum of three numbers: community size and MHI, Water Rates/MHI Ratio, and whether the applicant has a rate assistance program.
- iii. The maximum affordability score is four (5).
- iv. “Offers Rate Assistance” means the applicant or the entity that owns and maintains the project offers financial assistance to help some rate payers within its service area pay residential water bills.

Table 2: Affordability Score

System Size ²	<80% of State MHI	≥80% of <100% of State MHI	≥100% and <150% of State MHI
Small CWS	Not subject to scoring*	2	2
Expanded Small CWS	2	1	1
Medium CWS	2	1	0
Large CWS	1	0	0
Note: * The IUP may identify additional projects as not subject to scoring. Small CWS with < 80% of State MHI will automatically be placed on the Fundable List, if the Deputy Director deems the application to be complete and the applicant is seeking repayable loan.			

² Where a community is not currently being served by the funding recipient, scoring may be based on the community that will be served by the project rather than the funding recipient, if consistent with the requirements of the funding source.

** Note: CWS with State MHI > 150% will receive a zero (0) in the table above. These CWS can still receive points for Water Rates as a Percentage of MHI.	
Water Rates as a percentage of MHI: <ul style="list-style-type: none"> • <1.5% • ≥1.5% 	0 points 2 points
Offers Rate Assistance	1 point

Affordability Score Descriptions

Small: Means a CWS with a population less than or equal to 10,000, or less than or equal to 3,300 connections.

Expanded Small: Means a CWS with a population greater than 10,000 and less than or equal to 20,000, or greater than 3,300 connections and less than or equal to 6,600 connections.

Medium: Means a CWS with population greater than 20,000 and less than or equal to 100,000, or greater than 6,600 connections and less than or equal to 30,000 connections.

Large: Means a CWS with a population greater than 100,000, or greater than 30,000 connections.

Water Rates/MHI: A year summation of a CWS's adopted, residential water rate compared to the CWS's MHI.

Offers Rate Assistance: The applicant or the entity that owns and maintains the project operates a program which offers financial assistance to help some rate payers within its service area pay residential water bills.

c. Readiness Score

- i. All projects subject to scoring will receive a readiness score.
- ii. The readiness score will be based on the status of the application and the project's plans and specifications as of December 31 of the year preceding the Fundable year.
- iii. The readiness score is the sum of the applicant's readiness for an agreement and the applicant's readiness to construct the project based on the factors identified in Table 3. If the threshold is not met for any factor, then the score for that factor is 0 (zero).
- iv. The maximum readiness score is three (3).

Table 3 – Readiness Score

Application or Design Status	Score
If status of Plans & Specifications ≥ 90%, as verified by State Water Board Staff.	1
Consent to use of a funding agreement template: <ul style="list-style-type: none"> • As posted on the Division’s website • Applicant’s Recent Deal as basis for funding agreement template (Requires a satisfactory certification form submitted with application documents.)	2 1

Readiness Score Descriptions

Plans & Specifications: Release of a request for proposal for design-build or similar construction procurement will be counted as 100% Plans & Specifications (P & S) for purposes of the readiness score. For construction projects that do not require construction P & S, acquisition of all agreements and approvals necessary to implement the scope of work will be counted as 100% P & S for purposes of the readiness score. Planning/design Projects are not eligible for this readiness point.

Consent to use of the funding agreement template as posted on the Division’s website: An Applicant may qualify for these readiness points if it certifies via a form provided by the Division, that it is willing and able to agree to terms and conditions as they are posted on the Division’s website, plus any Subsequent Updates³, and agrees not to request any changes to the posted template.

Consent to use of Applicant’s Recent Deal as basis for funding agreement template: An Applicant may qualify for this readiness point if each of the following is true:

1. The Applicant has within 24 months of the scoring deadline executed, or given legal concurrence on, a repayable SRF agreement with the State Water Board, secured on the senior-most tier of the Applicant’s debt structure by the same pledged revenues to be pledged to repayment of the anticipated project financing (the “Recent Deal”).
2. The Applicant certifies that there have been no material negative changes to its financial condition since the date of the Recent Deal, including but not limited to

³ Notwithstanding the foregoing, the State Water Board is subject to compliance obligations associated with its funding and will therefore periodically update the standard terms used in its financing agreements (such updates are the “Subsequent Updates”). The Applicant’s certification that it agrees to use of either the posted template or a Recent Deal neither bars it from agreeing to Subsequent Updates nor precludes the Division from including Subsequent Updates in the Pending Deal or posting updates to the posted template. This certification in no way bars the Division from including new conditions, or modifying existing conditions, as it deems appropriate to address project-specific concerns.

material negative changes to its debt service coverage ratio, cash on hand, or future budget projections.

3. The Applicant certifies its ability and willingness, including any necessary consent of its general counsel and bond counsel, to use the Recent Deal, plus any Subsequent Updates to the Division's standard terms, as the template for the anticipated project financing agreement (the "Pending Deal"), and agrees not to request any changes from this template.

Once the Applicant has certified its consent to use either the posted agreement terms and conditions or the Recent Deal as the basis for the funding agreement template for the Pending Deal, the Division will deduct the readiness points awarded for this certification if the Applicant requests any change to the draft agreement developed by the Division on this basis for the Pending Deal or, in the case of use of a Recent Deal, if the Division determines that (a) the Applicant's financial condition has materially changed since the date of the Recent Deal or (b) other considerations make the terms of the Recent Deal inappropriate for use as a template for the Pending Deal. Such deductions may result in the Applicant's project being removed from the Fundable List if they cause the project to no longer score high enough for placement on the Fundable List. The Division's determination to deduct readiness points pursuant to this paragraph is not subject to the appeal procedure in Section XVIII. If an Applicant disputes the Division's determination, the Applicant may contact the Division with any concerns. However, the final determination of whether to award readiness points shall rest with the Division and is at its sole discretion.

- d. Priority Score Adjustments

The priority scores once established in an adopted IUP may only be adjusted by the adoption of a new IUP or amendment of an existing IUP.

3. Development of the IUP's Fundable List

- a. Based on the funding applications received, the Division will select a cutoff score by comparing the demand for loan funds with the DWSRF's sustainable loan Funding Target in the IUP. The purpose of the cutoff score is to establish a Fundable List whose cumulative estimated repayable loan financing is within the sustainable loan Funding Target.
 - i. All projects with a priority score higher than the cutoff score will be added to the Fundable List. Projects with a priority score equal to the cutoff score may be added to the Fundable List or not added to the Fundable List depending on the outcome of the process described in this subsection of the Policy. Projects below the cutoff score will not be added to the Fundable List.
 - ii. If a cutoff score results in a Fundable List with estimated total loan amounts equal to or greater than 90% of the Funding Target but

less than or equal to 125% of the Funding Target, then that cutoff score will be used to determine the Projects that will be added to the Fundable List in the IUP.

- iii. If a cutoff score results in a Fundable List with estimated total loan amounts less than 90% of the Funding Target, then a lower cutoff score will be selected.

If the next lower cutoff score results in a Fundable List with estimated total loan amounts greater than 125% of the Funding Target, then Projects whose priority score is equal to the proposed cutoff score will be evaluated separately for placement on the Fundable List using the affordability score determined by Table 2 above.

- Projects with the same affordability score will either be added to the Fundable List or not be added to the Fundable List.
- The Division will sort and rank all Projects with the proposed cutoff score from highest affordability score to lowest affordability score for potential placement on the Fundable List.
- The Division will select the lowest affordability score such that the cumulative estimated loan financing of the Projects with that affordability score or higher when added to the cumulative loan financing of the Projects with priority scores greater than the cutoff score results in a Fundable List equal to or greater than 90% of the Funding Target but less than or equal to 125% of the Funding Target.
- If the selection of an affordability score by the procedure above still results in a Fundable List greater than 125% of the Funding Target, then the Division may consider partially funding a subset of Projects. The Division will attempt to provide 100% of the requested financing to every Project on the Fundable List to the greatest extent feasible, and will establish any funding limitations uniformly to those selected for partial funding. Projects approved for partial funding must demonstrate that the remaining funding is secured, or the Division must determine that it reasonably believes that the applicant is capable of obtaining the remaining funds necessary to successfully complete the Project and interrelated and interdependent phases of the Project. The funding limitations will not be adjusted during the Fundable year.

- b. The IUP may establish a maximum per project repayable loan amount

resulting in partially funded projects in order to establish a lower cutoff score.

- c. Applications that are requesting only complementary financing sources (i.e., no DWSRF Loan funds) and score below the cutoff score, may be included on the Fundable List based on the funding criteria for the complementary financing sources as described in that year's IUP.
- d. The Division may recommend a Fundable List greater than 125% of the Funding Target for good cause.
- e. The State Water Board reserves the right to modify the recommended Fundable List to provide for effective and equitable use of DWSRF and other funds.

4. Funding of Projects

- a. All Projects on the Fundable List are fundable provided they meet all eligibility requirements, are not bypassed, and sufficient funds are available. The Division will monitor progress of all Projects and applications for planning/design financing on the Fundable List to ensure that Applicants are proceeding expeditiously to an executed Financing Agreement and completion of their planning/design, construction or implementation.
 - i. The Division may establish a deadline in the IUP for scored applications on the Fundable List to submit all information requested by the Division staff necessary to execute an agreement and consent to the DWSRF's loan provisions through legal consultation, to remain on the Fundable List.
 - ii. The Division may also establish in the IUP other applicable deadlines necessary for applications to remain on the Fundable List.
- b. The Division will review all applications on the Fundable List with the objective of meeting performance metrics identified in the IUP, giving priority to projects for Small Water Systems serving DACs and SDACs, as well as those projects that address high ranking public health priorities. Applications on the Fundable List that are not financed by the end of the state fiscal year will generally be carried over to the next year's Fundable List if the applicant has met any applicable deadlines in the IUP.
- c. The Division may limit funding to costs necessary to enable a PWS to meet primary drinking water standards, as defined in the Health and Safety Code, commencing with Section 116270.

5. Project Bypass

- a. The Deputy Director of the Division may bypass a Project on the Fundable List if it is determined that it is not ready to proceed to financing.
- b. The Deputy Director of the Division may add a Project from the Comprehensive List to the Fundable List, based on scoring criteria, if:
 - i. The Project is expected to proceed to financing; and
 - ii. The aggregate funding amount is consistent with the funding capacities determined in the IUP.

6. Project Removals

- a. The Deputy Director of the Division will remove a Project from the Fundable List when:
 - i. It has been funded.
 - ii. The problem ceases to exist or the application is determined to be ineligible for funding;
 - iii. The applicant fails to meet applicable deadlines established in the IUP;
 - iv. The State Water Board instructs that it be removed;
 - v. The Division determines there is a conflict of interest between the applicant and a person or entity that would financially benefit from the funding (for example, a contractor or consultant); or
 - vi. The applicant requests that its application be removed.
- b. In addition, the Deputy Director of the Division may remove a Project that does not serve a Small SDAC or Small DAC from the Fundable List if the applicant is non-responsive and the Deputy Director has notified the applicant and given the applicant a reasonable opportunity to respond.
- c. Projects that were removed from the Fundable List for any reason may be placed on a future Fundable List if the requirements for placement in the Policy and in the applicable IUP have been satisfied.

D. Interest Rate and Other Charges

1. Generally, the interest rate for repayable DWSRF Financing Agreements will be fifty percent (50%) of the average interest rate paid by the State on

general obligation bonds issued in the prior calendar year, rounded up to the nearest one-tenth of one percent (0.1%). The interest rate will apply to all loans as of the date the Division initiates preparation of the Financing Agreement document for routing and signoff or the State Water Board approves the financing, whichever is first.

2. The State Water Board may identify a lower rate for specific types or categories of eligible projects or recipients in the IUP.
3. The State Water Board will utilize the IUP to establish any authorized charges, including administrative service charges, drinking water small community emergency grant charges, financing charges, and incentives. The administrative service charge provides funding for administration of the DWSRF program, and the small community emergency grant charge provides a source of grant funding for drinking water projects that benefit DACs and SDACs, or for emergency drinking water projects that benefit small community water systems. Where a Financing Agreement includes any such charge, the interest rate is correspondingly reduced so that the combined payment of principal, interest, and charge(s) is the same regardless of whether a charge is applied.

E. Annual Report to the U.S. EPA

The Division will prepare and send an Annual Report to the U.S. EPA that describes how the DWSRF program met the goals and objectives identified in the previous year's IUP and appropriate additional periodic reporting requirements. The report will be posted on the State Water Board's website.

The State Water Board adopted the Racial Equity Resolution November 16, 2021. [Resolution No. 2021-0050](#) directed staff to develop a plan to advance racial equity within the Water Boards. The State Water Board's [Racial Equity Action Plan](#) includes goals, actions, and metrics to create a future where we equitably preserve, enhance, and restore California's water resources and drinking water for all Californians, regardless of race, and where Water Board employees reflect the racial and ethnic diversity of California.

Consistent with the Racial Equity Action Plan, the annual report should assess race/ethnicity data and other relevant demographic data, associated with the communities that benefit from the funding administered by the Division under this Policy. Data should be on a Project specific basis where appropriate.

F. Report to the Legislature

At least once every two years, the Division will prepare a report to the California Legislature regarding the implementation of the DWSRF Program. The report will be posted on the State Water Board's website.

V. MATCH FINANCING

The State must generally contribute capital into the DWSRF equal to twenty percent (20%) of the federal capital contributions (i.e., Capitalization Grants), although requirements differ for BIL capitalization grants. The State Water Board may offer incentivized financing to applicants that contribute matching funds through their Financing Agreement.

A. Availability

The State Water Board will determine at least once each year whether to offer match financing. This determination will normally be made in the IUP.

B. Match Contribution

The Division will normally set the Applicant's match contribution for the Project at the proportional level to meet the state's required match. Match financing may be used regardless of whether federal capitalization grant monies are ultimately used for the remainder. Where the current interest rate environment renders this approach infeasible, the Division may set the Applicant's match contribution at an amount resulting in an imputed interest rate that is competitive with the current DWSRF interest rate for Construction Financing.

C. Match Financing Resolution

An Applicant seeking match financing must submit a resolution passed by the Applicant's governing body that sets forth the Applicant's intent to provide the matching funds in the amount and at the times necessary to complete the Project. *Appendix D* contains a model resolution.

D. Match Financing Terms

The interest rate on match Financing Agreements will be zero percent (0%). The principal amount of the Financing Agreement will include both the amount received from the State Water Board and the matching funds contributed by the Recipient. The State Water Board may elect to charge a fee to cover the costs of obtaining federal funds. Planning/design Financing Agreements cannot utilize match financing. Match Financing may not be combined with other interest rate reduction incentives.

E. Match Disbursements

The Recipient must certify that it has paid at least the match portion of incurred Eligible Project Costs within a particular claim for reimbursement. Such certification must include documentation of payment acceptable to the Division. Once the Division has confirmed payment of the match portion, the remainder of the incurred Eligible Project Costs will be reimbursed.

VI. ASSISTANCE FOR SMALL DISADVANTAGED COMMUNITIES

- A. A project for the benefit of a publicly or privately owned Small CWS that serves a DAC or SDAC may be eligible for Non-Repayable Financing (e.g., principal forgiveness) for a planning/design or construction project according to the criteria and terms included in the IUP. Projects that benefit other types of communities may also be eligible for Non-Repayable Financing to the extent specified in the applicable IUP.
- B. Similarly, a PWS owned by a public school district may be eligible for Non-Repayable Financing for a planning/design or construction Project. Notwithstanding any other term of this Policy, a PWS owned by a public school district is determined to serve a SDAC. The Non-Repayable Financing criteria and terms for PWSs owned by public school districts will be included in the IUP.
- C. Consolidation Incentive

To the extent possible based on funds available, and to encourage the consolidation of PWSs, the Deputy Director may offer funding for an eligible capital project that solely benefits the Receiving Water System (Incentive Project) that, with State Water Board funding, completes a full physical consolidation of an existing PWS(s) (where the Subsumed Water System is no longer separately permitted) or a community (at least 15 year-round residential service connections or a year-round population of at least 25 people) not currently served by a PWS (Consolidation Incentives). The IUPs may provide additional terms relating to Consolidation Incentives.

The Consolidation Incentive may be applied to one or more eligible capital improvement projects chosen by a receiving system and approved by DFA. Incentive Project financing may be combined with other financing options, including DWSRF funds, to fully fund an Incentive Project. The subsidized financing for the Incentive Project is in addition to any subsidized financing for the associated consolidation project. Consolidation Incentives, which may include non-repayable financing and reduced interest rates, will be described in the DWSRF IUP.

Receiving systems interested in receiving Consolidation Incentives should submit, at minimum, a DWSRF General Application Package for the Incentive Project(s) to DFA before completion of the associated consolidation project(s). The application should indicate that it is for an Incentive Project and identify the associated consolidation project(s). The receiving system must also complete and submit a full DWSRF application for the Incentive Project(s) within one year of completion of the associated consolidation project(s). The Deputy Director is authorized to allow additional time for good cause.

- D. An Eligible System that serves a DAC or SDAC is eligible for a repayment

term of up to forty (40) years for Construction Financing, as provided in Section X.C.3.

VII. GOVERNING AUTHORITIES

Applicants must have the authority to do all the following. If approvals related to the items below are necessary for the project, the Division will require such approvals to be obtained.

- (A) Operate a PWS;
- (B) Assess rates, fees, or charges for domestic water supply on property owners and consumers in the targeted area or community unless the Division approves an alternative revenue source;
- (C) Legally bind, or cause to be legally bound by the subject system, affected individual property owners or consumers in the targeted area or community to accept and pay for domestic water supply from the subject system;
- (D) Hold, or cause to be held by the subject system, all necessary water rights or legally contract for the water supply needed to supply the targeted area or community;
- (E) Acquire and/or construct necessary facilities;
- (F) Acquire necessary rights to an adequate water supply source;
- (G) Enter into a Financing Agreement with the State Water Board on behalf of the targeted area or community;
- (H) Assess and/or charge homeowners and consumers, as necessary, to fund any part of a Project not receiving Non-Repayable financing from the Division and to operate and maintain the Project for the long-term;
- (I) Enter into contracts, as necessary, with adjacent or neighboring PWSs for water supply sources;
- (J) Enter into contracts, as necessary, with adjacent or neighboring PWSs for the purposes of consolidation. This includes the authority to transfer existing facilities (e.g. wells and distribution pipelines) to achieve a consolidation or regional solution; and
- (K) If the Project involves an extension of water service from an existing PWS, undertake the formation necessary to cover the targeted area or community, including obtaining any necessary LAFCO approval of a boundary extension, annexation, or formation of a new CWS or a regional authority.

VIII. WATER RATE STUDIES

Recipients of Planning/Design Financing may be required to complete a water rate study to cover the costs of operating and maintaining the water system, including the proposed construction Project, for at least a five (5) year period from the start of construction. The rates will generally be expected to be adopted no later than the completion of a planning/design Project.

Prior to execution of a Construction Financing Agreement, an Applicant must demonstrate, to the satisfaction of the Division, water rates sufficient to operate and maintain the water system, including the proposed construction Project, for a period of at least five (5) years from the anticipated Completion of Construction. Any rate increase determined to be necessary by the Deputy Director of the Division must generally occur prior to the start of construction.

IX. PLANNING/DESIGN FINANCING

Planning and design costs are eligible for reimbursement as part of a Construction Financing agreement if not previously financed. However, applicants also have the option to apply for separate planning and/or design financing. Approval of Planning/Design Financing does not obligate the State Water Board to provide subsequent Construction Financing.

An Applicant must submit all documents identified by the Division in the application forms, unless otherwise specified in the applicable Intended Use Plan, or otherwise authorized by the Deputy Director of the Division for good cause, to obtain Planning/Design Financing. Key application requirements are noted below. In order to maintain a complete application, the Applicant must submit updated information when there are significant changes and when requested by the Division. The Division may require that the Applicant submit additional information or certifications necessary or useful to ensure that the financing complies with applicable state and federal requirements. Priority will be given to applications on the Fundable List.

A. Planning/Design Application Requirements

If the applicant intends to restructure the Planning/Design Financing as part of a DWSRF Construction Financing agreement, then the Plan of Study must ensure development of all documents necessary for Construction Financing approval. The Division will apply the Credit/Financial Guidelines in the review of each planning/design financing application or request for securing additional debt (see *Appendix E*).

1. General Planning/Design Application Requirements:

The following requirements apply to all planning/design applications. Applicants who are applying for repayable Planning/Design Financing

must also follow the requirements given in Section IX.B.2 below. Applicants who do not comply with the requirements of subsection IX.B.2 will not be eligible for repayable financial assistance.

The application for planning/design financing must include the following:

- a. General Information, including basic Applicant and Project information needed by the Division to process the application, and information to assist in completing the priority scoring process.
- b. Technical Information:
 - i. A Plan of Study which includes the following components:
 - (A) Description of the water quality and/or quantity problem(s) to be addressed (including information about existing or pending enforcement actions)
 - (B) Scope of Work, prepared with the following requirements under consideration:
 1. The Applicant must evaluate all feasible alternatives, including consolidation, prior to or during the planning/design. The evaluation must compare the estimated capital and operations and maintenance (O&M) costs over the Useful Life of each alternative. The scope of work must identify the Project that will produce an Acceptable Result. Consolidation projects may not be required to evaluate other alternatives. For consolidation requirements refer to *Appendix A*.
 2. The Applicant must obtain approval of the selected alternative from the Division prior to developing plans and specifications for the eventual Project. The Division will consult with the Division of Drinking Water, if necessary, to determine if the selected alternative will address the water quality and/or quantity problem(s).
 3. The anticipated environmental impact of each alternative must be evaluated to the extent required by the SERP. Prior to the development of plans and specifications for the eventual construction project, the Applicant is expected to consult with the agencies responsible for

implementing local, state, and federal environmental statutes and authorities, if applicable, and incorporate any recommended design features and measures from those agencies into the project.

4. Planning/design budget

5. Planning/design schedule (including deliverables and submittal dates)

ii. Water Metering

Applicants must certify compliance with the water metering requirements of Section 529.5 of the Water Code or that the water metering requirements are not applicable to the Applicant⁴.

iii. Water Rights (see Section X.A.2.c of this Policy for requirements)

iv. Water Management (see section X.A.2.d of this Policy for requirements)

c. Environmental information:

i. This includes information and documentation necessary to evaluate applicable state and federal environmental requirements.

ii. Applicants must provide complete and adequate environmental documentation to allow the State Water Board to fulfill its responsibilities under CEQA and to meet applicable federal environmental review requirements. In accordance with the Operating Agreement, the State Water Board uses the SERP to fulfill these requirements when providing DWSRF funding. (See *Appendix P.*)

d. Financial Information:

i. The Division may review financial documents to determine the Applicant's capacity to sustainably operate and maintain its water system.

⁴ Projects involving the installation of water supply meters are not required to meet these requirements when applying for financing.

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- ii. The Division will apply the Credit/Financial Guidelines to review each application or request for securing additional debt (see *Appendix E*) when applicable.
 - iii. If the Applicant's operating budget is unable to support DWSRF financing, the Division will work with the Applicant to determine alternative methods of financing the planning/design, if feasible.
 - iv. The Applicant must submit a resolution or ordinance adopted by its governing board authorizing submittal of the application and designating a board member, official, or employee by title as the applicant's Authorized Representative (in the case of certain private entities, other documentation may be acceptable to the Division). The Authorized Representative, or the Authorized Representative's designee, must be authorized to sign all relevant financing documents and supporting materials and certifications on behalf of the applicant. (See the Authorized Representative resolution template posted on the Division's website.)
 - v. The Applicant must also submit resolutions or ordinances documenting rate setting in compliance with applicable laws, including Proposition 218 or California Public Utility Commission (CPUC) approval, as applicable, upon request of the Division.
 - vi. The Applicant must notify the Division if it has any of the following, and must provide the following at the Division's request:
 - A copy of any relevant service, management, operating, or joint powers agreements with a summary explanation of the shared financial and management responsibilities of the parties.
 - The correct name of its proposed revenue source and, for public entities, related enterprise fund from which Operations and Maintenance Costs are anticipated to be paid (e.g. Water Revenues and Water Enterprise Fund).
 - The Applicant's Debt Management Policy.
 - vii. The Applicant must provide all financial statements requested by the Division, preferably audited financial statements. The Division will generally request three (3) years of financial statements. The financial statements may include the current

year (if available), and the two (2) previous years, or three (3) previous years if the current year has not been completed.

- (A) The Applicant must identify any restricted funds and the reason for such restrictions
 - (B) If the system is privately owned, and lacks audited financial statements, the Applicant must provide tax returns involving the system for the years requested by the Division. The Division will generally request three (3) years. The Applicant's submitted information will not be deemed confidential.
 - (C) The Applicant must provide any adopted budget for future year(s) and a projected budget through first payment if requested by the Division. Budget projections may include proposed taxes, assessments, and/or fee or service charges (as applicable).
- viii. The Applicant must describe any issues related to its proposed planning/design financing, including but not limited to contractual or ratepayer/taxpayer disputes, pending litigation, audit findings (including commercial and government auditors, grand juries, or other similar entities acting in a formal capacity), disputes, or property right issues associated with the proposed project.

2. Repayable Planning/Design Application Requirements

Applications for repayable financial assistance for planning/design must include all of the information required in subsection IX.B.1 above. Additionally, applications for repayable financial assistance for planning/design must meet the requirements and include the information required by this subsection IX.B.2. Applicants that do not meet the requirements or submit this information will not be eligible for repayable financial assistance.

The application for repayable planning/design financing must include the following:

- a. Financial information:
 - i. The Applicant must provide a copy of any relevant service, management, operating, or joint powers agreements for the proposed project with a summary explanation of the shared financial and management responsibilities of the parties.

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- ii. The Applicant must provide the correct name of its proposed pledged revenue source and related enterprise fund to the Division (e.g., Water Revenues and Water Enterprise Fund).

- b. Coverage

The applicant must comply with existing coverage covenants or with DWSRF coverage requirements included in *Appendix E*, whichever covenants or requirements provide greater coverage. The Division will employ appropriate credit criteria to evaluate all pledged sources of repayment.

- c. Additional Debt

Additional debt will be evaluated in accordance with *Appendix E*.

- d. Existing Debt

- i. The Applicant must submit a schedule of all material debt, both short-term and long-term. This includes debt that reflects an obligation relying on the same revenue as the Planning/Design Financing, and debt that is otherwise material to the transaction.
- ii. The Applicant must submit a copy of each material debt document (e.g., indenture, installment agreement, loan, note, etc.) and credit instrument (e.g., swaps, hedges, etc.). Where the relevant debt is a bond series, the Applicant must submit both the Official Statement and the underlying debt document (e.g., indenture, pledge resolution, etc.).
- iii. If the Applicant has no material debt, the Applicant's Authorized Representative must certify this.

- e. Debt Management Policy

Where the Applicant is a local government, it must submit a copy of its debt management policy.

- f. Financial Statements and Budgets

- i. The Applicant must provide three (3) years of financial statements, preferably audited financial statements. The financial statements must include the current year (if available) and the two previous years, or three previous years if the current year has not yet been completed.
- ii. The applicant must identify any restricted funds and the reason for such restrictions.

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- iii. If the system is privately owned, and lacks audited financial statements, the applicant must provide tax returns involving the system for the most recent three (3) years. The applicant's submitted information will not be deemed confidential.
 - iv. The applicant must provide any adopted budget for future year(s) and a projected budget through first payment if requested by Division. Budget projections may include proposed taxes, assessments, and/or fee or service charges (as applicable).
 - v. The Applicant must provide its current average residential water rate and the calculations employed to represent such a rate, if requested by the Division. If the average residential water rate is expected to increase following submittal of an application as a result of previously adopted water rate increases, then the Applicant shall provide the anticipated average residential water rates and an adopted schedule for their implementation.

g. Resolutions and Ordinances

In addition to the resolutions and ordinances listed earlier in the Policy, the Applicant must submit a resolution authorizing the loan transaction at closing. If match financing is requested, the Applicant must submit a resolution or ordinance authorizing the match component.

h. Material Events, Existing Debt, and Debt Limits

- i. The Applicant must notify the Division regarding current, prior, or pending material events (e.g., bankruptcy, defaults, litigation, Grand Jury findings or indictments) and provide all information requested by the Division.
- ii. The Applicant must identify any conditions in related debt obligations that must be satisfied prior to executing the DWSRF Financing Agreement.
- iii. The Applicant must identify any debt limit to which it is subject.

i. New Tax, Fee, Charge or Assessments Projections

The Applicant must provide budget projections based on the proposed taxes, fees, charges, or assessments if a new tax, fee, charge, or assessment will be a PRF.

j. California Public Utilities Commission and Surcharges

The Applicant must submit the following documentation if regulated by the CPUC: 1) CPUC authorization for the PWS to enter into a DWSRF Financing Agreement and incur debt for a DWSRF financed Project,

2) CPUC authorization for a surcharge to be pledged as repayment for a DWSRF loan, and 3) CPUC authorization for any system's assets to be pledged as collateral.

k. Private Entities

Notwithstanding any requirement in this section, private entity applicants must comply with the applicable requirements provided for in *Appendix E*.

B. Eligible Planning/Design Costs

1. Eligible planning and design costs that were incurred by the Applicant prior to the execution of a planning/design Financing Agreement may be reimbursed, provided all applicable state and federal requirements have been met. If a Recipient incurs eligible planning/design costs before the execution of a Financing Agreement, it does so at its own risk.
2. Eligible costs are the costs of completing planning/design including the preparation of documents, including but not limited to:
 - a. Feasibility studies and Project reports
 - b. Plans and specifications
 - c. Financial analyses
 - d. Engineering and design documents
 - e. Preparation of environmental documents
 - f. Legal costs and fees
 - g. TMF assessments and documents
 - h. Capital improvement plans
 - i. Asset management plans
 - j. Water rate studies and costs related to Proposition 218 proceedings
 - k. Financing applications
 - l. Water conservation plans
 - m. Reasonable administrative and legal costs associated with land acquisition (actual land acquisition is not eligible as a planning/design cost)

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- n. Test wells
 - o. Temporary easements for planning purposes
 - p. Lead service line inventories
3. The Applicant may include a Contingency amount in its application to cover unforeseen eligible costs. Any Contingency work shall require prior approval from the Division. The IUP may limit the amount of Contingency available to projects.
 4. Ineligible Planning/Design Costs
 - a. Land acquisition
 - b. Water rights
 - c. Motor vehicles used for employee transportation or for the transportation of materials
 - d. Laboratory fees for routine compliance monitoring
 - e. Food and drink and/or service thereof, for meetings or events, including catering costs
- C. Repayable Planning/Design Financing Terms
1. Interest

The interest rate shall be determined as specified in Section IV.D. of this Policy, and interest will accrue from the date of each disbursement and continue to accrue until the Financing Agreement is fully amortized. The Recipient will be invoiced accrued interest during the planning/design period, in accordance with Section XV.A of this Policy.
 2. Amortization Period

Repayments will be amortized by equal annual payments over five (5) or ten (10) years, whichever the Applicant selects, unless restructured. The first amortized principal and interest repayment shall be due no later than one (1) year following the completion of the planning/design. As a courtesy, the Division will issue a revised payment schedule after the Recipient submits an acceptable final reimbursement request. The grace period on the payment is specified in Section XV.C.2 of this Policy.
 3. Restructured Planning/Design Financing

A planning/design Financing Agreement may be amended and restructured

so that the amortized balance of the planning/design Financing Agreement, meaning the remaining principal and any interest accrued but unpaid prior to the restructuring, will be re-amortized using the interest rate and the length of the amortization period of the construction Financing Agreement for the Project. The planning completion date will generally be amended to match the completion of construction date of the Project. The amortized interest on the restructured planning/design Financing Agreement will accrue at the new rate, and the revised amortization schedule will take effect, generally starting on the completion of construction date.

x. CONSTRUCTION FINANCING

An Applicant must submit all documents identified by the Division in the application forms, unless otherwise specified in the applicable Intended Use Plan, the Expedited Drinking Water Grant Program Guidelines, or otherwise authorized by the Deputy Director of the Division for good cause, to obtain Construction Financing. *Appendix G* contains the application for Construction Financing. Key application requirements are noted below. In order to maintain a complete application, the Applicant must submit updated information when there are significant changes and when requested by the Division. The Division may require that the Applicant submit additional information or certifications necessary to ensure the Project complies with applicable state and federal requirements. Priority will be given to Projects on the Fundable List.

A. Construction Application Requirements

1. General Information Package

This package includes basic Applicant and Project information needed by the Division to process the application, and information to assist in completing the priority scoring process.

2. Technical Package

a. Project Report

The Applicant must submit an engineering report, or its equivalent, that contains the information outlined in *Appendix G* as appropriate to the Project. Engineering reports must be signed and stamped by a registered Professional Engineer. The contents of the report outlined in *Appendix G* are not prescriptive but are intended to provide the Division with sufficient information to evaluate whether the Project is eligible for DWSRF financing, meets applicable technical requirements, and is likely to meet applicable objectives and standards. For consolidation requirements refer to *Appendix A*.

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- i. The Applicant must evaluate all feasible alternatives. For Applicants seeking Construction Financing, an analysis of alternatives must be submitted as part of the application.
 - ii. The Applicant must evaluate consolidation of the subject system with nearby water systems. If consolidation is deemed infeasible, the Applicant must discuss the reasons for that determination.
 - iii. The selected Project must result in an Acceptable Result. The engineering analysis required as part of the application must compare estimated capital and operations and maintenance (O&M) costs over the projected term of the Financing Agreement or over a twenty (20) year period, whichever is longer. The evaluation must analyze the technical effectiveness of each alternative.
- b. Technical, Managerial, and Financial Capacity
- i. The Applicant must provide a completed TMF assessment using the appropriate form in *Appendix C*.
 - ii. To the extent required by *Appendix C*, the Division will generally review the TMF assessment for the subject system to ensure all mandatory elements of TMF have been met prior to executing a financing agreement and necessary elements will be achieved upon Completion of Construction.
- c. Water Rights
- i. Section 5103 of the Water Code requires water diverters to submit records of water diversions to the State Water Board's Division of Water Rights. If the Applicant is not current on these submittals, the Division will not execute a Financing Agreement or disburse any funds until the reports are submitted unless the Deputy Director determines that (a) the DWSRF financing will assist the Applicant in complying with the reporting requirements, and (b) the Applicant has submitted to the State Water Board a one-year schedule for complying with the reporting requirement.
 - ii. The Applicant must provide information to allow the Division to determine whether a petition for change of water rights must be filed and approved with the State Water Board's Division of Water Rights for the project.
- d. Water Conservation and Urban Water Management
- i. All Applicants that are Urban Water Suppliers must comply with the provisions of Division 6, Part 2.6 of the Water Code (commencing at section 10610).

ii. Water Metering

All Applicants must certify compliance with water metering requirements of Section 529.5 of the Water Code or that the water metering requirements are not applicable to the Applicant.

3. Environmental Package

- a. This package includes information and documentation necessary to evaluate applicable state and federal environmental requirements.
- b. Applicants must provide complete and adequate Project specific environmental documentation to allow the State Water Board to fulfill its responsibilities under CEQA and to meet applicable federal environmental review requirements. In accordance with the Operating Agreement, the State Water Board uses the SERP to fulfill these requirements when providing DWSRF funding. (See *Appendix P*.)

4. Financial Security Package

This package includes information and certifications necessary to evaluate the financial security and capacity of the Applicant and the proposed Financing Agreement.

a. General Requirements

- i. The Division will review the Financial Package, including the financial security documents when applicable, to determine the Applicant's capacity to sustainably operate and maintain its water system, including the proposed construction project, and for a repayable Financing Agreement, the applicant's credit capacity.
- ii. The Division will apply the Financial Review Guidelines (see *Appendix E*) in the review of each Financial Package or request for additional funding or for securing additional debt.
- iii. If the Applicant's finances cannot support the funding request, Division staff will work with the Applicant to find a way to finance the project(s), if feasible.
- iv. The Applicant must comply with all State Water Board funding agreements to which it is a party, including compliance with any and all financial covenants.
- v. The applicant must submit a resolution or ordinance adopted by its governing board authorizing submittal of the application and designating a board member, official, or employee by title as the applicant's Authorized Representative (in the case of certain private entities, other documentation may be acceptable to the Division).

The Authorized Representative, or the Authorized Representative's designee, must be authorized to signatory to all relevant financing documents and supporting materials and certifications on behalf of the applicant. (See the Authorized Representative resolution template posted on the Division's website.)

b. Coverage and Reserve

- i. For repayable Financing Agreements, the Recipient will normally be expected to establish and maintain, until the Financing Agreement is repaid in full, a restricted reserve equal to one year's debt service from available cash prior to the construction completion date, unless the Division determines that credit or tax considerations support a different result.
- ii. All applicants will be expected to comply with the coverage requirements provided for in *Appendix E*.
- iii. For repayable Financing Agreements, the Recipient must comply with existing coverage covenants or with the DWSRF coverage requirements included in *Appendix E*, whichever covenants or requirements provide greater coverage. The Division will employ appropriate credit criteria to evaluate all pledged sources of repayment.

c. Additional Debt for Repayable Financing Agreements

- i. The State Water Board normally expects the DWSRF debt obligation's lien status to be on parity with the Applicant's senior/first tier lien debt obligations, unless the Division determines that credit considerations compel a lower lien status. In cases where credit considerations compel a lower lien status, the financing agreement will require that the Recipient's senior/first tier of debt be closed to any additional debt, except for additional obligations meeting the conditions set forth in paragraph (iii) of this section.
- ii. Additional obligations secured by the PRF may be senior to DWSRF obligations in the following circumstances:
 - (A) The DWSRF Financing Agreement provides for one hundred percent (100%) principal forgiveness;
 - (B) The senior obligation meets the conditions set forth in Section X.A.4.c.iv of this Policy.
- iii. Additional obligations that meet the coverage requirements of this Policy, including the requirements provided in *Appendix E*, and

that are secured by the PRF may be on parity with the DWSRF obligations.

- iv. The Applicant may refund debt with new debt if all of the following conditions are met:
 - (A) The new debt refunds or refinances Existing Debt with the same or lower lien position as the Existing Debt;
 - (B) The new debt has the same or earlier repayment term as the refunded senior debt;
 - (C) The new debt service is the same or lower than the Existing Debt service; and
 - (D) The new debt will not diminish the Applicant's ability to repay its DWSRF obligation(s).
 - v. Applicants with assessment-backed financing must meet the assessment related requirements laid out in *Appendix E*.
 - vi. Special tax-based financing will require the Division's consent for additional debt.
- d. Proposed Loan Security/Pledged Revenue and Funds (PRF) for Repayable Financing Agreements
- i. The Applicant must identify all sources of security to be pledged.
 - ii. The loan security may include pledged PRF, real property, and other appropriate assets.
 - iii. A PRF may be a special tax, user fees, or a special assessment, provided that the Applicant has the authority to control and pledge the PRF. As stated in *Appendix E*, typically, assessment-backed financing will be combined with a revenue pledge.
 - iv. In case of a privately owned system, the Applicant must document its authority to bind itself to the Financing Agreement and grant adequate security in relevant assets and revenues for the repayment of the loan. It must also submit draft documents in support of filing all relevant liens, including a UCC lien with the Secretary of State.
- e. Existing Debt for Repayable Financing Agreements
- i. The Applicant must submit a schedule of all material debt, both short-term and long-term. This includes debt that reflects an obligation relying on the same revenue as the Construction

Financing Agreement, and debt that is otherwise material to the transaction.

- ii. The Applicant must submit a copy of each material debt document (e.g., indenture, installment agreement, loan, note, etc.) and credit instrument (e.g., swaps, hedges, etc.). Where the relevant debt is a bond series, the Applicant must submit both the official statement and the underlying debt document (e.g., indenture, pledge resolution, etc.).
- iii. If the Applicant has no material debt, the Applicant's Authorized Representative must certify this.

f. Debt Management Policy

For repayable Financing Agreements where the Applicant is a local government, it must submit a copy of its debt management policy.

g. Future Capital Needs

- i. The Applicant must describe its capital improvement and asset management plans, and the long-term indebtedness needed to fund its future capital improvements. The Applicant must provide any formal capital improvement and asset management plans to the Division.
- ii. Unless otherwise specified in the PWS's capital improvement plan that is acceptable to the Division, a budgeted cost for the future replacement of the construction project will be factored into the credit analysis.

h. Financial Statements and Budget

- i. The Applicant must provide all financial statements requested by the Division, preferably audited financial statements. The Division will generally request (3) three years of financial statements. If the PWS is privately owned, the Applicant must provide tax returns involving the PWS for the years requested by the Division.
- ii. The Applicant must identify any restricted funds and the reason for the restrictions.
- iii. The Applicant must provide any adopted budget for future year(s) and a projected budget through first principal and interest payment, if requested by the Division. Budget projections may include designated tax, assessments, and/or fee or service charges (as applicable).

iv. The Applicant must provide its current average residential water rate and calculations employed to represent such a rate, if requested by the Division. If the average residential water rate is expected to increase following submittal of an application as a result of previously adopted water rate increases, then the Applicant shall provide the anticipated average residential water rates and an adopted schedule for their implementation.

i. Tax Questionnaire and Reimbursement Resolution

All Public Agency Applicants for repayable Financing Agreements must provide certain information for the State Water Board's tax counsel to assess the Applicant's ability to receive DWSRF funds from tax-exempt revenue bond proceeds and submit a Reimbursement Resolution. While the Reimbursement Resolution establishes a potential date for reimbursement, the actual date and limitations for eligible costs will be stated in the Financing Agreement.

For projects that have received or may receive DWSRF funds from tax-exempt revenue bond proceeds, the Division may periodically require the Applicant to certify its ongoing compliance with tax requirements.

j. Resolutions and Ordinances

The Applicant must submit resolutions or ordinances authorizing submittal of the application and designating an Authorized Representative by title as a signatory to all relevant financing documents and supporting materials, and authorizing the match component (if match financing is requested). The Applicant for a repayable Financing Agreement must submit a reimbursement resolution meeting the reimbursement requirements for compliance with federal tax laws and a resolution authorizing the financing agreement (closing resolution). The Applicant must also submit resolutions or ordinances documenting rate setting in compliance with applicable laws, including Proposition 218 or CPUC approval, as applicable.

k. Material events, Existing Debt, and debt limits

i. The Applicant must notify the Division regarding current, prior, or pending material events (e.g., bankruptcy, defaults, litigation, Grand Jury findings or indictments) and provide all information requested by the Division.

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- ii. The Applicant must identify any conditions in related debt obligations that must be satisfied prior to executing the DWSRF Financing Agreement.
 - iii. The Applicant must identify any debt limit to which it is subject.

- I. Relevant Agreements

The Applicant must provide a copy of any relevant service, management, operating, or joint powers agreements for the proposed project with a summary explanation of the shared financial and management responsibilities of each party.

- m. California Public Utilities Commission and Surcharges

If the PWS is regulated by the CPUC, then the Applicant must submit the following documentation: 1) CPUC authorization for the PWS to enter into a DWSRF Financing Agreement and incur debt for a DWSRF financed project, 2) CPUC authorization for a surcharge to be pledged as repayment for a DWSRF loan, and 3) any other necessary CPUC authorizations.

- n. Private Entities

Notwithstanding any requirement in this section, private entity applicants must comply with the applicable requirements provided for in *Appendix E*.

- B. Construction Eligibility

Project costs are eligible to the extent consistent with federal and state authority. The following are general categories of eligible and ineligible costs. The Applicant must segregate the eligible and ineligible costs. When cost categories include a combination of eligible and ineligible costs, the ineligible costs will be estimated on an incremental basis.

- 1. Eligible Project Costs

- a. Treatment facilities, including monitoring equipment, process control systems, back-up reliability equipment, and start-up costs. Acquisition of real property, rights-of-way, and easements for land that will be an integral part⁵ of the treatment process;
- b. Water sources, if necessary to comply with state or federal drinking

⁵ Integral part means only the land that is necessary to accommodate the treatment facilities, including reasonable administration, employee parking, and laboratory building space directly related to their operation. Land meant to provide a buffer zone around treatment facilities, public parking, or reserved for future expansion is not eligible.

water standards, including drilling costs, equipment, structures to protect the quality of source water, and purchase of source capacity in another water system. Treatment facilities on a new source are eligible if required for the source to be utilized;

- c. Consolidation project costs, including but not limited to connection fees, source capacity charges, costs to secure or develop new water sources to meet the additional demand, and legal fees for preparation of consolidation related documents are eligible;
- d. Value appraisal and the cost of purchasing a water system may be eligible as specified in the IUP.
- e. Costs for the purchase of land that is integral to the project. Land must generally be acquired from a willing seller (land acquired by eminent domain is generally not eligible). Where the Financing Agreement provides exclusively Non-Repayable Financing, the Division will only reimburse for land purchase costs up to an approved appraisal amount.
- f. Pipelines and water mains integral to the project and necessary for the project to function properly. Purchase of property, rights-of-way, and easements must be confined to the pipelines for which they were acquired;
- g. Installation and replacement of Private Laterals to an existing residential or school structure by an Eligible System, and replacement of lead service lines with non-lead service lines, including purchase of easements to maintain control of such infrastructure⁶;
- h. Implementing measures needed to comply with TMF requirements, including conducting water capacity/demand analyses, technical evaluations, and the development of operations plans;
- i. Equipment and additional capacity to provide fire protection as required by the applicable governing fire code and incidental appurtenances for fire protection such as fire hydrants;
- j. Purchase and installation of water supply meters⁷;

⁶ Cost for the installation of a Private Lateral can only be reimbursed to an Eligible System.

⁷ If a construction project involves the installation of water meters, the Recipient shall implement volumetric pricing and begin charging volumetric rates no later than one year following the project completion date.

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- k. Backflow prevention devices if: (1) installation is required for operation of the project, and (2) the responsibility for installation of such devices rests with the PWS;
 - l. Change Orders approved by the Division for increased construction costs (not planning/design costs) provided the costs are Eligible Project Costs, consistent with the original scope of the project and the remaining Contingency and unused budget amounts included in the Financing Agreement;
 - m. Stationary and mobile equipment integral to the project. Equipment must be dedicated to the storage, treatment, or distribution facilities for which it was purchased;
 - n. Costs for planning, design, preparation of the construction application, construction management, and administration;
 - o. Preparation of environmental documents, and implementation of environmental mitigation measures and monitoring required by the Division and state and/or federal agencies;
 - p. Necessary insurance related to the construction contract.
 - q. Purchase of "water rights" to the extent allowed by the U.S. EPA memo ["Approval of Class Deviation from the Regulatory Prohibition on the Use of the Drinking Water State Revolving Fund to Purchase Water Rights."](#) dated November 26, 2019.
 - r. Reservoirs or rehabilitation of reservoirs for finished water reservoirs and those reservoirs that are part of the treatment process and are on the property where the treatment facility is located.
 - s. Rehabilitation of dams and reservoirs owned by the public water system where the primary purpose is for drinking water supply as described in the U.S. EPA memo ["Approval of Class Exception from Regulatory Prohibitions on the Use of Drinking Water State Revolving Fund for Rehabilitation of Dams and Reservoirs,"](#) dated July 14, 2021.
2. Ineligible Costs
- a. Land acquisition that is not an integral part of the project;
 - b. Facilities that are constructed primarily to serve future growth;
 - c. Construction of dams or rehabilitation of dams, except as noted above;
 - d. Construction of facilities primarily used for irrigation systems;

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- e. Water rights, except when acquired through physical or managerial consolidation with another water system or for the purchase of water rights as described in section X.B.1.q.
 - f. Decorative items (art works, sculptures, reflective ponds, fountains, etc.);
 - g. Extended warranties for equipment and act of God, flood, and earthquake insurance costs;
 - h. Motor vehicles used for employee transportation or for the transportation of materials;
 - i. Laboratory fees for routine compliance monitoring;
 - j. Operation and maintenance expenses except to the extent they are used in the startup and testing of the completed project unless otherwise authorized by the law;
 - k. Laboratories, except those necessary for operation of a treatment facility.
 - l. Food and drink and/or service thereof, for meetings or events, including catering costs
3. The Division may reimburse eligible Allowances (Soft Costs) as well as identified, eligible pre-purchased material and equipment costs that were incurred prior to the Eligible Construction Start Date of an associated construction Financing Agreement, provided all applicable state and federal requirements have been met.
 4. Construction eligible start date. If the applicant wishes to begin construction prior to receiving a Financing Agreement, the applicant must receive written approval from the Deputy Director of the Division before beginning such construction. Starting construction before receiving such approval may render a construction project ineligible for financing. Costs incurred before receiving a construction Financing Agreement are at the Applicant's risk. Changes to laws or requirements that occur prior to execution of a Financing Agreement may affect some or all funding eligibility.
 5. Costs previously disbursed under a planning/design Financing Agreement are not eligible for reimbursement in any subsequent Financing Agreement.
 6. The Division will determine eligible capacity of the Project and related facilities using the metrics and limitations established in *Appendix H*, prior to financing approval. The capacity of the Project and related

facilities must be consistent with any applicable environmental constraints.

7. In a construction Financing Agreement, the Contingency amount may be used to pay for eligible construction (not planning & design) Change Orders approved by the Division. Contingencies are subject to financial review and approval by the Division.

C. Construction Financing Terms for Repayable Financing Agreements

1. Interest

The interest rate shall be determined as specified in Section IV.D.1 of this Policy, and interest will accrue from the date of each disbursement and continue to accrue until the Financing Agreement is fully amortized. The Recipient will only be invoiced accrued interest during construction of the project, in accordance with Section XV.A of this Policy.

2. Repayment Timing

The first amortized principal and interest repayment due date will be no later than one year following the Completion of Construction date established in the originally executed funding agreement. The Division generally will not extend the initial repayment due date, but shall have discretion to extend on a case-by-case basis, upon justification from the Recipient.

The first amortized principal and interest repayment due date may be no later than 18 months following the Completion of Construction date for Eligible Systems serving a DAC or SDAC.

3. Amortization Period

Repayments will generally be amortized by equal annual payments over 30 years, or the Useful Life of the financed project, whichever is shorter. Repayments for PWSs serving a DAC or SDAC may be amortized over 40 years, or the Useful Life of the financed project, whichever is shorter, unless otherwise limited in the IUP.

XI. PROJECT FINANCING AGREEMENTS

A. Financing Approval

1. The Applicant may receive a Financing Agreement if determined to be an Eligible System and after its application has been reviewed and approved.
 - a. For routine, noncontroversial Projects on the Fundable List, the Executive Director or Deputy Director of the Division is authorized to

approve financing. Non-routine or controversial Projects on the Fundable List will be considered by the State Water Board at a State Water Board meeting.

- b. Upon review and approval of required documents, the Division will prepare a Financing Agreement. In general, the Division will prepare one Financing Agreement for each of the Recipient's construction contracts to construct the Project, but may, at its discretion, provide a Financing Agreement that includes separate phases for the Project. The Division will not disburse funds until the Financing Agreement is executed and all conditions for disbursement set forth in the Financing Agreement have been met.

2. The Division may issue a notice to an Applicant at its request that:

- a. Identifies costs eligible for DWSRF or other financing,
- b. Identifies draft terms and conditions, including conditions precedent, that will be applicable to a Financing Agreement and related disbursements provided that specific conditions are met, and
- c. Includes other relevant information.

B. Execution of the Financing Agreement

The Executive Director or Deputy Director of the Division may execute Financing Agreements and amendments on behalf of the State Water Board for eligible projects with approved applications.

1. Conditions and Critical Due Date(s)

- a. Financing Agreements may include appropriate conditions and critical due dates to ensure that Projects are completed successfully and expeditiously in conformance with applicable requirements. If a Recipient misses a critical due date or fails to fulfill a condition of the agreement, the Deputy Director may terminate the agreement.
- b. The Completion of Construction and Final Reimbursement Request dates will be established by mutual agreement between the Division and the Recipient.
- c. At closing, the applicant will generally be expected to submit a legal opinion of its general counsel and, if relevant, an opinion of its bond counsel. Any such opinion(s) must be satisfactory to the Division's counsel and should be substantially similar to the template(s) in *Appendix Q*.

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- d. For repayable financing, the Applicant will generally be expected to submit a resolution authorizing the financing at closing.
 - e. For DWSRF funding, an Applicant must receive written approval from the Deputy Director of the Division in order to begin construction prior to a Financing Agreement. Construction costs incurred prior to written approval are ineligible for DWSRF funding. The Division may issue a construction authorization letter establishing a construction eligible cost date prior to execution of a Financing Agreement, but after completion of the Division's environmental review. This authorization is not a guarantee that all costs will be approved as eligible for reimbursement, nor is an executed Financing Agreement guaranteed to be executed.
 - f. Applicants using professional service providers (e.g., professional engineering, environmental, land surveying, project management) must base service provider engagements on demonstrated competence and qualifications, and shall ensure rates are reasonable and consistent with state laws regarding contracting for professional services. See *Appendix J* for guidance on the engineering firm selection process.
 - g. Public agency applicants must comply with applicable state or local bidding requirements when contracting for construction work. Private entity applicants are required to comply with the procedures and requirements set forth in *Appendix K* unless waived by the Deputy Director of the Division. The Applicant will be required to certify that it has complied with all applicable contracting requirements.

2. Budget

- a. The budget in the Financing Agreement will be based on the budget requested by the Applicant, subject to the Division's approval. The Applicant may include a Contingency amount in its budget. The IUP may limit the amount of Contingency available to the project. Any request for an increase in the Financing Agreement must be submitted to the Division prior to incurring the additional costs and is subject to review and denial by the Division.
- b. Where the Financing Agreement provides Non-Repayable Financing, the total amount of Non-Repayable Financing cannot exceed the limits otherwise established in law and policy. The Division will not approve a Financing Agreement which results in these limits being exceeded.

3. Compliance with Federal and State Statutes and Authorities

An Applicant must agree to comply with, and require its contractors and subcontractors to comply with, all applicable federal and state laws, rules and regulations, permits, and all applicable local ordinances, specifically including, but not limited to, environmental, procurement and safety laws, rules, regulations, permits, ordinances, and labor compliance requirements. The Financing Agreement will include the Applicant's certification that it has complied, or will comply, with a non-exclusive list of applicable federal and state laws, as well as any other applicable federal and state laws. The IUP may limit applicability of federal requirements depending on the funding source. Additional details regarding some of the applicable federal requirements are contained in Appendices I and O, including but not limited to the following:

- a. Disadvantaged Business Enterprise (DBE) (see *Appendix I*)
- b. Davis-Bacon Wage Requirements (see *Appendix O*)
- c. American Iron and Steel (AIS) (see *Appendix O*).

XII. DISBURSEMENTS OF PROJECT FUNDS

A. Disbursements in General

1. All disbursements are subject to applicable federal and state requirements and/or limitations notwithstanding any provisions of this Policy. Disbursement of funds is contingent on execution of a Financing Agreement, and the State Water Board will not disburse funds until after a Financing Agreement has been executed. Once the Financing Agreement has been executed, a Recipient may submit reimbursement requests that identify specific eligible costs incurred. After execution of the Financing Agreement, the Recipient will be expected to submit reimbursement requests in a timely manner to ensure the timely and expeditious use of DWSRF and complementary funds. Costs submitted to the Division must be currently due and payable, but the Recipient does not need to have actually paid the costs before requesting reimbursement. The Financing Agreement may contain a condition stating that the Division will not disburse any funds until the Recipient adopts any required rate increase, assessment, surcharge, or other charge and demonstrates the rates, assessment, surcharge, or other charge, were adopted in accordance with the legal requirements the Recipient is subject to for the setting of rates, assessments or other charges to customers. Also see section VIII, above, regarding water rate studies. (Publicly owned water systems are generally subject to Proposition 218 requirements. See Cal. Const., arts. XIII C and XIII D.)
2. The Division will send the Recipient a copy of the required forms to

request reimbursement with the Financing Agreement. *Appendix L* contains instructions for requesting reimbursements. The Division will send the Recipient a copy of the approved reimbursement request form, indicating the total amount approved for disbursement.

3. The Recipient must ensure that adequate local funding is available to pay any and all Project related costs in the event a reimbursement request is not received by the Recipient before payment is due.
4. In limited circumstances, principal, interest and fees on Bridge Financing may be eligible for reimbursement. Applicants should contact the Division with the terms of such Bridge Financing to request approval prior to securing such financing in the form of a bridge loan, line of credit, or any other external source of interim financing.
5. Costs incurred prior to execution of a financial assistance agreement are not guaranteed to be approved, nor is an agreement guaranteed to be executed.
6. The Division will base disbursement on the eligible amount currently due and payable for Eligible Project Costs, minus any amounts previously disbursed by the Division.
7. The Recipient must certify that work has been completed and that claimed costs were incurred. The Recipient must submit invoices or other documentation acceptable to the Division to substantiate the reimbursement of eligible costs. Ineligible or questioned costs may result in a lesser amount approved for disbursement or a suspension of disbursement(s).
8. The Recipient must inform DFA of any Project related disputes that may affect compliance with the Financing Agreement. Neither the U.S. EPA nor the State Water Board will participate in resolving bid or disputes between the Recipient and any other party. The Recipient will have sole responsibility to resolve all bid or contractual disputes. The Division may withhold disbursement of funds until all bid and/or contract disputes have been resolved to the Division's satisfaction. The State Water Board will not reimburse legal or other costs associated with such disputes.

B. Disbursements After Execution of the Financing Agreement

1. Allowances (Soft Costs), Material, and Equipment
 - a. The Division may disburse eligible allowances (soft costs) for the Project after execution of the Financing Agreement, as long as such costs were incurred after the Eligible Work Start Date established in the Financing Agreement and were incurred in

compliance with applicable federal and State requirements, which depend on the rules associated with particular funding sources. Costs previously disbursed under a planning/design financing agreement are not eligible for reimbursement.

- b. After execution of the financing agreement, the Division may disburse funds to reimburse costs for eligible materials and equipment purchased directly from the manufacturer or supplier and used in the Project in accordance with state and federal law.

2. Land Purchase

The Division will not disburse funds for land purchase costs incurred for the project prior to the Eligible Work Start Date of the Financing Agreement. After execution of the Financing Agreement, the Division may disburse eligible land purchase costs for the project.

3. Construction Costs

The Division will not disburse funds for construction costs incurred for the Project prior to the Eligible Construction Start Date of the financing agreement. After execution of the financing agreement, the Division may disburse eligible construction costs subject to the provisions of this Section.

4. Planning/Design Costs

In general, the Recipient must submit all draft deliverables prior to disbursement beyond 70 percent of the financing amount in the planning/design agreement, and it must submit all final deliverables to the Division prior to disbursement beyond 90 percent of the financing amount in the planning/design agreement.

C. Final Budget Form(s)

1. After the project has been bid, the Recipient must submit to the Division a complete and adequate final budget form, including all information requested by the Division. If a project is separated into phases, the Recipient may submit a separate form for each phase, and the Division may provide approval of phases separately.
 - a. The Division may withhold disbursement of eligible construction costs if the Recipient submits an incomplete or inadequate final budget form. If the Division approves the final budget form, it may disburse project funds for eligible construction costs.
 - b. To minimize the risk that the Division withholds the disbursement of eligible construction costs, a Recipient may request that the Division

document its approval of the final budget form before the Recipient requests reimbursement of eligible construction costs.

2. The Division will review the final budget form to determine consistency with the executed Financing Agreement and compliance with applicable DWSRF Program requirements, including federal cross-cutters as applicable. The Division will also review the form to ensure that both the Recipient and its consultants, contractors, or vendors have complied with the applicable requirements of this Policy, any conditions specified in the Financing Agreement, and that all permits, approvals, and financing necessary to complete the project have been obtained.

D. Change Orders

The Recipient may use the Contingency amount in the budget, plus any funds remaining in the other cost categories in the Financing Agreement due to cost reductions, subject to any restrictions in the Financing Agreement, to pay for eligible Change Orders approved by the Division. The Division will review and approve Change Orders on a case-by-case basis.

E. Final Reimbursement

1. The Financing Agreement will establish a deadline for submittal of the Final Reimbursement Request. The complete Final Reimbursement Request must be received by the Division by this date. Reimbursement requests received after the deadline for submitting the Final Reimbursement Request cannot be processed unless the date is extended through amendment of the agreement. The Final Reimbursement Request will not be processed until the Project Completion Report is submitted per Section XIV of this Policy.
2. Prompt submittal of the final reimbursement request is the responsibility of the Recipient. If the Division has not received the complete final reimbursement request, the Division may deobligate the undisbursed balance of the Financing Agreement.

XIII. CONSTRUCTION

A. Project Conference or Media Events

The Recipient must notify the Division of any significant press or public media events (e.g., ground-breaking or ribbon-cutting) related to the project with at least ten (10) days' notice.

B. Interim and Final Inspections

1. The Division may conduct interim inspections during construction.

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2. The Division will conduct a final project inspection.

C. Progress Reports

At least quarterly, the Recipient must submit progress reports on the status of project activities starting with the issuance of the executed Financing Agreement and ending upon final reimbursement. The reports must contain at least the following information:

1. A summary of progress to date including a description of progress since the last report, percent complete, percent invoiced, and percent schedule elapsed;
2. A listing of change orders including amount, description of work, and change in contract amount and schedule;
3. Any problems encountered, proposed resolutions, schedule for resolutions and status of previous problem resolutions; and
4. A summary of compliance with environmental conditions, if applicable.

XIV. PROJECT COMPLETION REPORT

The Recipient must notify the Division that its construction/implementation project was completed by submitting a Project Completion Report to the Division and the District Office of the Division of Drinking Water. The Project Completion Report must be submitted on or before the due date established in the Financing Agreement. The Project Completion Report must describe the project, describe the water quality or quantity problem the project sought to address, discuss the project's likelihood of successfully addressing that water quality or quantity problem in the future, and summarize compliance with environmental conditions, if applicable. Additional Project Completion elements may be required by the Division on a case-by-case basis.

XV. FINANCING PAYMENTS

- A. Interest and other charges, if applicable, will accrue on all disbursements on the date of each disbursement. During a planning/design or construction project, the Recipient shall pay interest to the State Water Board on all financing disbursements. Interest accrued on financing disbursements will not be deferred. The Division will invoice the Recipient annually on interest accrued during the project.
- B. The Division will issue a final payment schedule after approval of the final reimbursement request. The final payment schedule will include the following:
 1. The interest rate, administrative service charges, and other charges as appropriate, if applicable;

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2. The final principal amount including interest, charges, and fees, if applicable; and
 3. A complete amortization table.
- C. The Recipient must make its first annual amortized principal and interest payment as established in the Financing Agreement and any amendments thereto.
1. As a courtesy, the Division will normally send a payment notice approximately thirty (30) days before the payment due date, but prompt payment remains the responsibility of the Recipient.
 2. The Recipient will have a ten (10) day grace period, after which time the State Water Board may assess a penalty in the amount of costs incurred for lost interest earnings, staff time, bond default penalties, and other costs incurred or flowing from the late payment. Any penalties will be deposited in the DWSRF account. Penalties will not change the principal balance of the Financing Agreement and will be treated as a separate receivable in addition to the annual payment due.

D. Prepayments

Loan prepayments require the consent of the Deputy Director of the Division. (see Section XII of the Clean Water and Drinking Water State Revolving Funds Debt Management Policy).

E. Loan Compliance and Monitoring

1. All loan Recipients must submit audited financials to the Division annually for at least the first 5 years of the repayment term and possibly for every year until full loan repayment. Where the loan has been pledged as security for the Board's revenue bond debt, the Division will review audited financials every year until full loan repayment.
2. Rate Stabilization Fund transfers may be viewed as supplemental revenue to System Revenues, for purposes of complying with the Debt Service Coverage requirement on an occasional basis during the repayment term and may require notice.
3. Where SRF revenue bond proceeds funded any portion of a loan, the Division will review tax compliance documentation on that loan annually.

F. Restructuring for Financially Distressed Recipients

The Division may restructure existing DWSRF loans for Financial Distress or Financial Emergencies.

XVI. RECORD KEEPING REQUIREMENTS

- A. Recipients must maintain separate accounts in accordance with federal requirements as specified in the Financing Agreement. (See 2 CFR, Part 200, Subpart F). In most cases, the records retention period will be thirty-six (36) years.
- B. Recipients shall maintain accounts according to generally accepted accounting principles (GAAP), the uniform accounting and reporting procedures set forth in publications of the American Institute of Certified Public Accountants or its successor, or by any other generally accepted authority on such procedures, and includes, as applicable, the standards set forth by the Governmental Accounting Standards Board or its successor.

XVII. BOARD RESERVATION OF AUTHORITY

- A. Prior to approving any Financing Agreement, the State Water Board reserves the right to modify this DWSRF Policy or its implementation as necessary to provide for effective and equitable use of DWSRF funds, including:
 - 1. Reducing the eligible funding amount for cause;
 - 2. Conforming to applicable state and federal laws, rules, regulations, or agreements, including but not limited to the Operating Agreement, the Capitalization Grant Agreement, and agreements related to any DWSRF revenue bonds.
- B. The Deputy Director of the Division may update and amend the DWSRF Policy Appendices and create new Appendices as necessary for administrative or procedural changes not in conflict with this Policy, except that certain activities require Executive Director approval as stated in this Policy.
- C. Throughout this document, the Executive Director and Deputy Director have been authorized to perform actions. The Executive Director and Deputy Director are also authorized to re-delegate any of those actions to a designee.
- D. Throughout this document, the Division has been designated to perform certain actions. In general, this refers to actions or decisions by the Deputy Director of the Division or staff assigned those responsibilities by the Deputy Director of the Division.

XVIII. DISPUTES

- A. Approvals or actions taken by the Division's predecessors pursuant to statutes, regulations, and policies in effect at the time of the approvals or actions remain valid. Division approvals or actions after the effective date of

this Policy that conflict with or are inconsistent with approvals or actions taken by the Division's predecessors will be resolved by the Deputy Director of the Division.

- B. Division approvals or actions taken under previous versions of this Policy remain valid. Division approvals or actions after the effective date of this Policy amendment that conflict with or are inconsistent with approvals or actions taken under previous versions of this Policy will be resolved by the Deputy Director of the Division.
- C. An Applicant or Recipient may appeal a staff decision within thirty (30) days to the Deputy Director of the Division, for a final Division decision. An Applicant or Recipient may appeal a final Division decision to the State Water Board within thirty (30) days. The Office of the Chief Counsel of the State Water Board will prepare a summary of the dispute and make recommendations relative to its final resolution, which will be provided to the State Water Board's Executive Director and each State Water Board Member. Upon the motion of any State Water Board Member, the State Water Board will review and resolve the dispute in the manner determined by the State Water Board. Should the State Water Board determine not to review the final Division decision, this decision will represent a final agency action on the dispute.
- D. Where a Financing Agreement has been executed, the dispute and remedies provisions of that agreement will control, and the dispute provisions of this section are inapplicable.