

ELIGIBILITY INDEX

SAFE DRINKING WATER LOAN PROGRAM

The purpose of this index is to provide municipalities and consultants with a preliminary review of eligible costs, guidance, and policies within the Safe Drinking Water Loan Program (SDWLP) prior to submitting an application or a disbursement request to the Department of Natural Resources (DNR).

This index addresses the eligibility of many items not specifically covered within the statutes or codes. However, statutes and codes should be reviewed in conjunction with this index. The SDWLP cost eligibility items are listed in s. NR 166.07, Wis. Adm. Code. Allocable project-specific costs that are reasonable and necessary are eligible for financial assistance.

ABANDONMENT – The abandonment of an entire or portions of a water system is an eligible cost if it is:

- within the scope of the project as determined in the engineering report; and
- approved in the plans and specs or by appropriate DNR staff.

Portions of the water system that may be abandoned include, but are not limited to: the well(s), pumphouse and associated appurtenances. Abandonment may include activities such as demolition, removal and disposal of debris, and landscaping.

See also “Demolition”.

ACCESS ROADS – Access roads included in the plans and specs are eligible. Access roads may be gravel or paved and may include curb and gutter. An access road may be a road:

- from a pumphouse or storage facility to the nearest public roadway;
- within the confines of a water treatment plant site;
- required for other access.

ACQUISITION OF WATER SYSTEMS – In acquisition issues, there are several scenarios.

1. Consolidate existing water systems that have technical, financial or managerial difficulties. Projects for consolidation shall be limited in scope to the service area of the systems being consolidated.
2. Purchase a portion of another water system’s capacity if it is the most cost-effective solution.
3. On a case-by-case basis, acquisition costs for an entire or portion of a water system may be eligible.

ADMINISTRATION OF NON-SDWLP LOANS/GRANTS – Any contract costs for administering a municipality’s CDBG, STAG, ACOE, or other federal/state loan or grant are ineligible.

AMERICANS WITH DISABILITIES ACT (ADA) – Costs associated with meeting ADA requirements are eligible. Municipalities must examine and conform to ADA requirements.

APPLICATION PREPARATION FOR SDWLP– Salary reimbursement of a municipal employee (not elected officials or on-staff attorney(s)) is eligible if the municipality complies with the force account certification requirements. Application preparation is also eligible when it is part of a consultant contract. Application preparation costs associated with other state or federally funded financial assistance programs are ineligible. See also Force Account and Ordinary Operating Expenses.

ARCHAEOLOGICAL/HISTORICAL SURVEYS AND WORK – During the project, identified or incurred costs for historical, architectural, archaeological, and cultural resources are eligible. Eligible costs

include but are not limited to the costs of: on-site inspections, review of pertinent documents, photographic reconnaissance, services of archaeologists and historians.

ARCHITECT/ENGINEER COSTS – Eligible project-specific costs include but are not limited to: SDWLP application preparation, travel, indirect costs, labor, and public participation.

Construction phase A/E costs must be prorated if ineligible construction and equipment costs are 10% or more of total construction and equipment costs. Costs typically prorated include bidding services, contract preparation, inspection, project management, and project closeout activities.

AUDITS – Costs associated with annual municipal audits are ineligible. Prorated costs associated with the federal single audit portion of an audit report are eligible until the project is complete.

BUILDINGS – Buildings for water system purposes, such as administration or storage buildings, are eligible if included in the approved plans and specifications. Costs for buildings that are shared with other municipal entities, such as a wastewater utility, may be prorated.

CAPITALIZED INTEREST – A municipality may capitalize the interest on a SDWLP loan. The municipality borrows monies from the SDWLP to make its first May and/or November interest payment(s). Capitalization of interest on a SDWLP loan is allowable under the following circumstances:

1. Construction of the project is on behalf of a newly-created utility with no current service area or current customer base, or
2. The project will serve a substantial group that has not been extended services in the past, and thus has not been paying water bills (expansion of service area/customer base).

CLOSING COSTS – The following are eligible costs when incurred for a SDWLP loan closing:

1. Bond counsel fees – The SDWLP requires that ALL municipalities closing on a SDWLP loan hire a bond counsel to provide an opinion that addresses the validity, enforceability and tax-exempt status of the debt.
2. Financial advisor fees – Financial advisor fees related to the SDWLP loan closing are eligible.

COMMISSIONS – On a case-by-case basis, the SDWLP will administer loans for projects involving municipalities that are members of a joint commission. The SDWLP will reimburse eligible administrative, legal and other costs associated with work performed by the commission on the project. The costs incurred forming the commission are ineligible. The actual loan(s) cannot be made directly to the commission but rather must be made to individual municipalities. The SDWLP may provide funding to all or some of the municipalities that are members of the joint commission. Typically, each municipality that is a member of the joint commission is assigned a percentage of the project/treatment facility; these percentages are used to determine the costs attributable to each municipality.

An agency agreement is required by the SDWLP for these types of projects. Agency agreements are reviewed by the SDWLP for similar language as in intermunicipal agreements.

The commission can turn in one disbursement request, and the SDWLP will make one disbursement to the commission, or individual disbursements can be made to each municipality that is a member of the joint commission, if each submits a separate disbursement request.

COMPUTERS – Computers, printers, and other computer-related equipment and software are eligible. We consider it necessary and reasonable for municipalities to purchase computers for accounting purposes, billing systems, operation and maintenance of the water system, and other project specific uses.

DEMOLITION – In order for demolition costs to be eligible, the existing structures must be part of:

- the water system,
- site preparation, or
- demolition as part of abandonment procedures approved in plans and specifications or by appropriate DNR staff.

These costs are eligible if the demolition is part of an eligible SDWLP project under s. NR 166.06(1), Wis. Adm. Code. The eligible costs of demolition do not include normal operation and maintenance costs.

See also “Abandonment”.

EASEMENTS – Costs related to acquisition of easements and rights-of-way, including administrative and legal costs, are eligible. A municipality may also gain necessary legal access for the purpose of operation and maintenance, or construction, of the water system by incorporating language into the Water Rates Ordinance.

Easements and land must be acquired from a willing seller and the land must be integral to the project.

ENVIRONMENTAL REVIEW – Costs associated with providing information for an environmental review are eligible.

FEDERAL EQUIVALENCY – The costs associated with meeting federal equivalency requirements are eligible for SDWLP financial assistance.

FORCE ACCOUNT – The SDWLP can reimburse for work performed on a SDWLP project by on-staff engineers, clerks, accountants, and others. Force Account costs include work that is typically contracted out but can be more economically performed by qualified in-house staff. For example, application preparation, planning, design, landscaping and inspection costs may be included if performed by municipal staff.

- Salaries and expenses of elected officials and on-staff municipal attorneys are ineligible.
- No legal costs should be charged to the force account. Legal costs are eligible as administrative costs if performed by an attorney who is on contract or retainer for the municipality and who bills the municipality for time devoted specifically to the SDWLP project.

Municipalities must comply with all Force Account Certification requirements by completing Form No. 8700-245.

GROUNDWATER STUDIES & MONITORING – Project specific groundwater studies, monitoring equipment or facilities are eligible. Study costs for the entire water system may be prorated.

INSPECTION – Costs associated with technical inspections of the project are eligible. These costs can be included under Force Account and/or Construction Management.

INSURANCE – General liability and builders risk insurance premiums are eligible expense. These types of insurance are required under Financial Assistance Agreement. A municipality may carry construction insurance but often the insurance is part of the construction contract. If the municipality feels it is necessary to carry additional insurance for the project (e.g., public liability insurance for personal injuries or property damage), those costs are ineligible.

INTEREST AND LATE FEES ON DELAYED PAYMENTS – Any interest or late fees charged to a municipality for delayed payments are ineligible.

INTERIM FINANCING – Costs associated with the approval, preparation, issuance, and sale of interim financing (including bond counsel, financial consultants, and underwriter’s fees) necessary for SDWLP projects are eligible costs.

The interim financing policy limits the total issuance costs to \$7,500 plus ½% of the total issuance (debt). This policy applies to all interim financing issuance costs. All costs above and beyond this policy are ineligible.

Bond Counsel fees are an eligible expense for interim financing. However, costs must comply with the current interim financing policy. In the event the municipality issues debt that covers more than one project, the legal costs need to be prorated for that portion of the debt reimbursed or refunded with SDWLP proceeds.

Interest on interim financing is eligible from no earlier than 6 months prior to construction through the earliest of one of the following:

- loan closing date;
- one year following substantial completion.

Net Interest Expenses – The SDWLP will finance reasonable and necessary net interest expenses that municipalities may incur as the result of securing interim financing for planning, design and construction phases of an eligible project. Net interest expense is accrued interest less any interest earnings the municipality made on unspent monies of the interim financing. IRS regulations do not allow for the reimbursement of principal or interest payments made by the municipality out of its ordinary operating funds.

LABORATORY EQUIPMENT AND SUPPLIES – Laboratory equipment and supplies related to initial setup, upgrade or expansion of a lab are eligible. Costs associated with ongoing laboratory operations (i.e., chemicals, glassware, etc.) should be part of the O&M budget and are ineligible.

LAND – Costs associated with obtaining a legal statement regarding ownership of the project site are eligible. If the legal statement is for land deemed ineligible under ch. NR 166, Wis. Adm. Code, the costs of this statement are ineligible.

- **Other Eligible Land Costs**

- a. *Site Acquisition costs related to:*

- Land that is integral to the project – necessary to locate a treatment facility, transmission line, storage tank or pump station, or to site a new well with a buffer zone. Land and easements must be acquired from a willing seller.
- Administrative and legal activities for securing appropriate land and easements.
- The purchase of easements.

- b. *Relocation Costs* – Relocation costs necessary for construction of the project are eligible. Costs of implementing the State of Wisconsin Relocation Law defined under ss. 32.185 – 32.27, Wis. Stats., and 49 CFR, Part 24 (DOT), “Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs” are eligible.

- **Other Ineligible Land Costs**

- a. Easement disputes after easements have been purchased.
- b. Annexation costs.

LANDSCAPING – Costs for landscaping, architectural and aesthetic features are eligible.

LEASES – Leases are generally ineligible because they are on-going and are viewed as operating expenses. However, there could be exceptions and these should be discussed with the project manager and the Dept. of Administration.

LIFT STATIONS – These costs are eligible on a case by case basis.

LIQUIDATED DAMAGES – Costs associated with liquidated damages (judgments, law suits, arbitration or lien waivers) are ineligible.

MAPPING SERVICES – These costs are eligible if the work is project specific. The costs may be prorated if the study is for the entire water system.

MOBILE EQUIPMENT – This equipment is eligible provided it is part of the DNR approved plans and specifications necessary for the operation and maintenance of the water system or if recommended by appropriate DNR staff. Eligible items include, but are not limited to:

- a. Portable stand-by generators or large portable emergency pumps to provide “pump-around” capacity in the event of pump station failure or due to pipeline breaks.
- b. Grounds and maintenance apparatus such as mowers and snow removal equipment.

MONITORING EQUIPMENT – Equipment at the water system used for monitoring is eligible provided it is part of the DNR approved plans and specifications, or recommended by appropriate DNR staff.

OFFICE SPACE, EQUIPMENT & FURNISHINGS – Items necessary for administration of the water system, and a part of the DNR approved plans and specifications or approved by appropriate DNR staff, are eligible. Eligible costs include, but are not limited to: telephones, walkie talkies, answering machines, computers, AV equipment for training, printers, software, copy machines, office furniture and shop furnishings.

Water utility office space is eligible. However, these costs must be prorated if services other than the water utility are provided. Office space primarily used for purposes unrelated to the water system (e.g., town or village board meetings) is ineligible.

OPERATION AND MAINTENANCE – Equipment service, preventive maintenance, correctional maintenance and replacement of equipment are ineligible. Maintenance agreements, financial and personnel management, records, laboratory control, process control, safety and emergency operation planning are ineligible. See Startup Services for similar costs that are eligible.

ORDINARY OPERATING EXPENSES/NORMAL GOVERNMENTAL EXPENSES - Costs incurred by a municipality that are typical business expenses are ineligible if not incurred solely for the project.

- **Ineligible:**

- a. *Legal Fees* – Costs for setting up a water commission, sanitary district, or a utility district, or legal expenses incurred regarding liquidated damages, contract disputes and appeals, etc.
- b. *Postage and Phone Bills* – Costs relating to postage, phone bills, fax bills and other utility bills.
- c. *Municipal Salaries* – Salaries of elected municipal officials and on-staff municipal attorneys. See Force Account for further information regarding municipal employees’ salaries.
- d. *Miscellaneous Expenses* - Interest or late fees on delayed payments, annual financial audits and bank fees.
- e. *Annexation Costs*.

- **Eligible:**

- a. *Permits* – Examples of project specific permits/fees include railroad crossing permits, Chapter 30 permits, building, electrical and plumbing permits, etc. If these permits are part of a construction

contract, the costs will be paid as part of the contract. If obtained outside of the construction contract, the municipality must provide documentation of the cost.

- b. *Service Fees* - Fees for project specific services provided to a municipality by a state agency (DOT, DNR, PSC, Commerce, etc.).
- c. *Legal Fees* – Legal costs if the legal work is project specific and performed by an attorney that is not an on-staff municipal attorney. Includes legal reviews of A/E or construction contracts, user charge systems, water system ordinances, management plans, intermunicipal agreements, and legal work necessary for securing eligible permits.

POLY-PIGGING – Poly pigging is a process used to thoroughly clean pipes in a distribution system. Costs incurred for poly pigging are generally considered operation and maintenance and are, therefore, ineligible. These costs may be considered eligible in some projects; for example, if an iron and manganese treatment facility is being built where there have been long-term iron and manganese problems, poly pigging may be eligible to avoid continued flushing of iron through the system to residents' taps.

PRE-DESIGN STUDIES – Pre-design work that is planning work for the entire water system will be prorated for each specific project identified in the study.

PRIVATE ACTIVITY - Municipalities must issue a tax-exempt obligation as security on their SDWLP loan. This tax-exempt status must meet the requirements of the Internal Revenue Code of 1986. Following are examples of some common relationships with private companies that may impact the issuance of tax-exempt bonds:

- a contractual payment to the municipality if the company ceases or reduces its use of the system, ceases operations, or moves to another municipality
- a guaranteed fixed payment for municipal debt payments or capital costs
- a guaranteed payment for a percentage of debt payments or capital costs
- water rates or other special provisions that are not available to other users in the same service class
- structure of a contract for management/operation of a municipal system
- the private company receives all or part of the net profits of the system
- the private company is a “related party” to the municipality

If a municipality has a customer that contributes more than 10% of the revenues to the water rates, the municipality and the SDWLP need to determine if there is a private activity problem. The SDWLP can offer financial assistance to municipalities with private activity problems. However, the municipality may need to meet alternative minimum tax requirements.

PROJECT COSTS – The SDWLP Financial Assistance Application is being revised to include a page for “Non-core Project Costs”. Applicants can identify non-core project activities and associated costs that fall outside of the core project scope, but will contribute to the overall functionality or integrity of the system.

The DNR will track requests for non-core project costs separately and first allocate loan funds to eligible core project costs in project priority score order. Once allocations have been made for all core project costs, the DNR may allocate funds for non-core project activities, again in order by project priority score. Principal forgiveness will be calculated on core project costs only.

Non-core Project Costs are limited to the following:

- Up to 5% of their core project costs subject to the limits below:
 - If 5% of core project costs equal \$50,000 or less, then a municipality may request up to \$50,000 for non-core project activities.
 - If 5% of the core project costs are greater than \$100,000, the municipality may request no more than \$100,000 for these non-core project activities.

- In no situation can the amount requested for non-core project activities exceed the cost of the core project.

Since the SDWLP will now allow non-core project activities to be identified at the time of application submittal, the DNR will restrict the use of contingency funds to cover only those unanticipated costs associated with the construction of the core project.

PROJECT SIGNS - Temporary SDWLP project and permanent plant identification signs are eligible.

PUBLIC SERVICE COMMISSION FEES – If the municipality files an application for PSC rate review specifically for the project, the fees involved with the filing are eligible.

REPLACEMENT (MAINTENANCE, REHABILITATION) - Replacement, repair or rehabilitation of the water system identified in the plans as a cost-effective and necessary part of a project is eligible.

RESTORATION OF STREETS AND RIGHTS-OF-WAY – Reasonable and necessary restoration of streets and/or rights-of way is an eligible cost, provided the need for such restoration results directly from the construction of the eligible project. Repairing damaged pavement, sidewalks, or storm sewers, etc., is generally eligible. These costs are ineligible if incurred due to contractor negligence.

SAFETY EQUIPMENT - Safety equipment included in the approved plans and specifications, or approved by appropriate DNR staff, is eligible. Such safety equipment should meet applicable local, state, federal, and industry regulations and standards.

SALVAGE VALUE - Salvage value of existing material that remains the property of the municipality will not be recovered by the state. It is not subject to refunds, rebates or credits.

SEWER PIPES – If construction of a project requires relocation of sewers, the work associated with the relocation is eligible. If the sewers cannot be relocated without damage, costs to replace the sewer pipes at the same size or mandated minimum size are eligible.

SPARE PARTS - Spare parts for items included in the approved plans and specifications, or approved by the appropriate DNR staff, are eligible.

SPECIAL ASSESSMENTS - Legal and financial costs associated with preparing/developing special assessments are eligible if the municipality is pledging special assessments for its SDWLP financial assistance.

SPECIAL DISTRICTS - The mechanics of establishing special purpose districts such as sanitary districts, utility districts and joint commissions, etc., are ineligible because they are normal governmental functions.

STAFFING EVALUATIONS – Evaluations to determine appropriate post-project staffing levels are eligible.

START-UP SERVICES – Eligible start-up services include:

- a. Preparing a start-up curriculum and training materials.
- b. Initial training of operating and maintenance personnel on new or modified equipment, laboratory procedures, records management and treatment processes.
- c. Obtaining expert operational assistance for adjustments of the treatment process.
- d. Implementing a maintenance management system.
- e. Obtaining necessary computers, upgrades, and software.
- f. Attending off-site formal training programs, if necessary for the initial operation of the constructed

water system.

Costs associated with the operation and maintenance of a municipal water system, such as salaries for operation and maintenance personnel, chemicals, power, etc., are ineligible. The cost of training for operators to meet state certification requirements under ch. NR 114, Wis. Adm. Code, is also ineligible. Equipment and facility testing is the responsibility of the contractor under the supervision of the engineer and would be included in the construction contract.

STORAGE FACILITIES – Construction of storage facilities that are used for water system equipment, repair vehicles, maintenance vehicles, etc., are eligible if they are included in the approved plans and specifications.

STORM SEWERS (On-Site) - Storm sewers to handle runoff at treatment facilities, lift stations, wells and storage facilities are eligible.

TEST WELLS – Costs incurred to drill a test well are eligible as long as the municipality is requesting SDWLP funds to construct a permanent well. A test well cannot be a stand-alone project. In order to be reimbursed for test well costs, the municipality will need to submit documentation, such as a contract or meeting minutes, that shows the well driller was authorized by the municipality to do the work.

TOOLS/EQUIPMENT – Tools necessary for construction or maintenance of the water system, when purchased as part of a project, are eligible. In addition, machinery for manufacturing and/or repairing water system tools and/or equipment are eligible.

TRAINING FOR SDWLP RECIPIENTS - Costs associated with training, workshops and seminars conducted by SDWLP are eligible. Training for new equipment and new processes related to the project is also eligible.

UTILITIES - Removing, relocating or replacing utilities, providing temporary utilities necessary for the project, installing new utility equipment or upgrading utilities are eligible costs, if included in the plans and specifications or approved by appropriate DNR staff.

If, in the course of moving a utility pole, etc., a water main or other essential utilities are damaged, the replacement cost is eligible. Costs associated with negligence on the part of the consultant or contractor are ineligible.

VULNERABILITY ASSESSMENTS – A vulnerability assessment is eligible if needed to determine security equipment needs. The vulnerability assessment is not required in order to receive funding for security equipment, nor are the specific security details required in the plans and specs.