

Construction Before Application Guide



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Guidelines for when construction commences before applying for financial assistance from the Clean Water Fund Program or the Safe Drinking Water Loan Program.

This document is intended solely as guidance and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.

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If construction has already begun, or is imminent, it's essential to contact the Clean Water Fund Program (CWFP) or the Safe Drinking Water Loan Program (SDWLP) for guidance. [Program staff](#) will decide whether the project can still be considered for financial assistance and provide what steps need to be taken.

Before Starting Construction

There are a number of things that need to be considered when deciding to start construction before applying for CWFP or SDWLP financial assistance. The following is a detailed explanation of this.

Determine Eligibility

Review eligible and ineligible projects and costs within the program prior to starting construction, see the [CWFP Eligibility Index](#) or [SDWLP Eligibility Index](#). Note: Projects that have been substantially complete for three (3) years or longer are **ineligible** for financial assistance.

The following are general guidelines helpful in determining whether your project is eligible for CWFP/SDWLP financial assistance:

- The municipal wastewater project is a necessity to stay in compliance with Wisconsin Pollution Discharge Elimination System (WPDES) permits or to meet new permit requirements.
- Projects constructing a new sewer system to eliminate groundwater pollution and threats to public health.
- Projects correcting public water systems that violate health standards, have contamination, are not in compliance with drinking water standards or have inadequate transmission pipes and/or storage facilities.

Adopt Reimbursement Resolution

Adopt a [reimbursement resolution](#), also known as a declaration of official intent to reimburse, prior to starting construction and before spending any money from municipal accounts that are expected to be reimbursed with CWFP/SDWLP loan proceeds.

A reimbursement resolution is required as part of a complete CWFP/SDWLP application, with the exception of private-side lead service line replacement projects (bonds for these projects are considered taxable due to the private activity).

The reimbursement resolution is an Internal Revenue Service (IRS) requirement for issuing a tax-exempt [bond or promissory note](#) as security for the CWFP/SDWLP loan. The DNR strongly recommends that a municipality adopt a reimbursement resolution even if they are planning to issue a taxable bond or promissory note just in case their funding needs change in the future.

Consult For Interim Debt

If [interim debt](#), also known as interim financing, is being utilized then the municipality should consult with its attorney and bond counsel or municipal advisor (that is registered with the Municipal Securities Rulemaking Board) as to how the IRS regulations apply to its specific project and financing plan prior to starting construction.

- Do not make any principal or interest payments to interim project debt before receiving CWFP/SDWLP financial assistance. The CWFP/SDWLP cannot reimburse principal or interest payments made by the municipality out of its ordinary municipal revenues or funds, per IRS reimbursement regulations.
- Ask the interim debt provider whether pre-payments can be made without penalty prior to the maturity date of the interim debt. If pre-payments can be made without penalty, the municipality potentially could pay off the interim debt prior to the maturity date, thus saving money by not having to pay interest on the principal interim debt.

Comply With Procurement Laws

Comply with local, state and federal laws applicable to the project when procuring professional services, construction contracts and supplies. Municipalities should work with their attorneys to ensure compliance with all bidding laws prior to starting construction.

- Guidance for [Bids And Construction Contracts \(PUB-CF-030\)](#).
- The [Procurement Guide for Local Governments Receiving Grants \(State or Federal\) from the Wisconsin Department of Natural Resources](#) also applies to loan recipients.

Comply With Federal Requirements

Comply with federal requirements prior to starting construction. Reminder: Specific **language** should be included in documents for procurements, bids, construction contracts and subcontracts, professional service agreements (i.e. engineering) and continuing all the way up through the CWFP/SDWLP financial assistance agreement (FAA), also known as a loan.

- Comply with [American Iron and Steel \(AIS\)](#) procurement requirements.
- Compliance with the [Cost and Effectiveness Certification](#) - for CWFP projects only.
- Comply with [Davis Bacon and Related Acts \(PUB-CF-074\)](#) wage rate requirements.
- Solicit for [Disadvantaged Business Enterprises \(DBEs\)](#).
- Complete an environmental review of the project site(s):
 - CWFP - part of the [facilities planning process](#).
 - [SDWLP Environmental Review Guide \(PUB-CF-060\)](#) - If you are unable to upload documents in the Environmental Loans Online System, email the required

documentation, detailed project description and SDWLP project number (if available) to DNRCFLEnvironmentalReview@wisconsin.gov.

Note: The CWFP/SDWLP project number is also known as the Environmental Improvement Fund (EIF) project number.

Apply For Permits

Apply for and obtain federal, state and local permits such as permits required by the DNR for the to-be-scored project, including those under chs. [30](#) and [283](#), Wis. Stats., and permits for construction, including building, electrical and plumbing permits, pit or trench dewatering permits, hydrostatic test water permits, construction site storm water permits and railroad crossing permits.

Get PSC Approval

Apply for and obtain [water construction authorization](#) from the Public Service Commission of Wisconsin (PSC) prior to starting construction, if applicable to the project. Invite the regional DNR plan reviewer to the pre-application consultation with the PSC (to coordinate project review and approval times).

Get DNR Approvals - Any entities that commence construction without plan approval are ineligible for financial assistance.

Submit to and obtain approval from the DNR for any required engineering reports/facility plans, selected sites and plans and specifications prior to starting construction. Note that because the DNR is prohibited from approving projects after construction has commenced and because plan approval is a required piece of a complete CWFP/SDWLP application, *any entities that commence construction without plan approval are **ineligible** for financial assistance.*

As a reminder, the CWFP requires an approved facility plan/engineering report and approved plans and specifications, regardless of a “reviewable” or “maintenance” project classification. For example, an abbreviated form of a facilities plan, or engineering report, is required even for sanitary sewer replacement or rehabilitation projects, if seeking CWFP financial assistance.

DNR Approvals For CWFP Projects

- [Municipal Wastewater Facility Planning](#), include a [parallel cost estimate](#) and an [environmental assessment](#). See also [Septage Considerations Guidance](#).
- [Wastewater Plan Submittals by Project Type](#).
- [Storm Water Technical Standards, Models and Best Management Practices](#).
- Direct questions to [DNR wastewater system plan reviewers](#) and [DNR storm water plan reviewers](#).

DNR Approvals For SDWLP Projects

- [Public Water System Engineering Report Requirements](#).
- [Public Water System Plan Review](#) and [Plan Review by Project Type](#).
- Direct questions to [DNR drinking water system plan reviewers](#).

Additional Considerations Meant To Assist Municipalities And Consultants Prior To Starting Construction

Comply With Federal Equivalency Requirements

If a municipality meets or exceeds the population threshold listed on the [Federal Equivalency webpage](#), their project(s) must also comply with federal equivalency requirements prior to starting construction. Emerging contaminants (i.e. PFAS) or lead service line projects that receive [BIL/IIJA funding](#) must comply with federal equivalency requirements, regardless of population size. Applicable federal equivalency requirements include, at a minimum:

- Compliance with the federal [Single Audit Act](#) (see also [2 CFR 200 Subpart F - Audit Requirements](#)).
- Compliance with Architectural and Engineering (A/E) Procurement requirements (40 U.S. Code § 1101 *et seq.*) - for CWFP projects only.
- Compliance with one of the options for [Enhancing Public Awareness of State Revolving Fund Assistance](#).
- Compliance with [Build America, Buy America \(BABA\) Act](#) procurement requirements. Note that any project that is exempt from BABA under a waiver would instead be required to comply with the [American Iron and Steel \(AIS\)](#) procurement requirements.

Invite Regional DNR Construction Management Engineer To Preconstruction Meeting

Contact the [regional DNR construction management engineer \(CME\)](#) to confirm their availability at *least one week **prior to scheduling** the preconstruction meeting*. If the meeting is rescheduled or canceled, promptly notify the CME.

The preconstruction meeting should provide an understanding of the project plan and timing for the CME. Provide the CME with the construction progress meeting schedule. Ensure the CME has all the [conformed construction documents](#), award letter and bid tab at least one week prior to the preconstruction meeting to allow the CME time to review the proposed project beforehand. If you are unable to upload these documents in the Environmental Loans Online System, contact the regional DNR CME to discuss how to provide them with the documents (e.g. email, VPN, etc.).

Resources

- Review a [list of documents](#) (includes links to guidance) that must be submitted with the CWFP/SDWLP application for financial assistance.
- Review [Construction Management](#) and [Accounting and Financial Management](#).
- Search the [Reference Guide Index](#) for CWFP and SDWLP topics and guidance.
- For additional program details and to learn how funds will be allocated to eligible projects of applicants (municipalities), read the program's [intended use plan \(IUP\)](#) for the corresponding state fiscal year funding cycle.

Contact Information

To aid in the success of any CWFP/SDWLP project, it is important for the municipality, architectural/engineering firm, construction contractor and DNR staff to coordinate efforts prior to starting construction and throughout construction. Maintain contact with the DNR staff because they can provide insights and answer questions, particularly if an area of concern develops.

- For more information, refer to the [Environmental Loans Staff Directory](#).