

DWSRF Guidance Document Number 8
Loan Eligibility

- I. The following cost categories are not eligible for assistance from the DWSRF:
 - A. Laboratory fees for routine compliance monitoring
 - B. Operation and maintenance costs
 - C. Litigation Costs
 - D. Pre-award interest charges

- II. The following costs have been specifically classified under federal rules as non-eligible for assistance from the DWSRF:
 - A. Dams or rehabilitation of dams
 - B. Water rights, except if the water rights are owned by a system that is being purchased through consolidation as part of a capacity development strategy
 - C. Reservoirs or rehabilitation of reservoirs, except 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.
 - D. Projects needed primarily for fire protection
 - E. Projects needed substantially to serve future population growth. A project significantly advancing health protection as its primary purpose may be sized for a reasonable amount of growth for the useful life of the facility. This reflects the understanding that it is neither cost-effective capital financing nor good system engineering practice to build a facility that is expected to reach capacity at or shortly after its completion.

- III. Eligibility determinations at the program level have been made for the following costs:
 - A. Water Meters

Water meters are eligible for VT DWSRF loans.
 - B. Connection Fees

One-time buy-in, water connection, and construction (e.g., installing water service from the distribution main in the street to the meter) fees are eligible for VT DWSRF loans. Other non-construction related fees are not eligible.
 - C. Individual Water Systems

The construction of facilities maintained, operated, or owned, by individual homeowners are generally not eligible for DWSRF funding. This includes individual wells, individual home booster pumping facilities, individual home water storage tanks, and water service lines beyond the curb stop.

D. Pump Failures

Pump replacement is considered part of routine maintenance and is not eligible for funding. Pump failures are not justification for emergency project designation.

E. Meeting and Office Space

Meeting rooms or similar purposes are not eligible for VT DWSRF loans. Limited space in treatment facilities or pumping stations required for water system operation, maintenance and administrative purposes may be eligible.

F. Land Purchase Procedures

Land that is integral to a project and needed to locate eligible source, treatment, or distribution facilities is eligible for funding. Appraisals by a Vermont-Licensed Real Estate Appraiser will be required to provide an indication of current land value on the open market.

G. Product Replacement

In kind product replacement is considered an O&M cost if the product breaks down before the original life cycle estimate from a manufacturer or engineer. Upgrades are potentially eligible, regardless of life cycle.

H. Pre-loan Award Costs

- (1) Water systems should contact DEC prior to incurring any obligations which they anticipate financing with loans through the DWSRF.
- (2) Project-related expenses incurred prior to loan awards may be eligible for funding subject to the following conditions:
 - (a) The costs are reasonable.
 - (b) The completed work products meet DEC requirements.
 - (c) The work product is a necessary component of a project that meets funding eligibility requirements.
 - (d) The State Environmental Review Process has been satisfactorily completed prior to construction with a finding of "no significant impact."
 - (e) Permits, reviews, and approvals required for DWSRF projects were obtained prior to the initiation of construction.
 - (f) Procurement procedures and procurement documents including professional service agreements meet DEC requirements.

I. Water System Purchase

- (1) The purchase of a part or all of an existing water system may be an eligible project cost. Determinations will be made on a case by case basis.
- (2) Considerations are:
 - (a) Is the purchase part of the most cost effective solution to correcting a public health or compliance problem?
 - (b) Is the purchase price fair and reasonable? To answer this question a third-party

appraisal by a Vermont-Certified General Real Estate Appraiser will need to be conducted. The appraised value will be the maximum amount eligible under a loan, regardless of the final sale price.

- (c) Will the purchase have a positive impact on the long term financial, managerial, and technical capability of the system?

J. Source Protection Expenses

Generally, source protection expenses are not eligible project costs; however, there are at least two exceptions.

- (a) Source water protection plans and delineation as part of new source development or a new surface water treatment facility are considered eligible.
- (b) Correction of a probable contamination problem as part of a larger project may be eligible. An example is relocation of an absorption field that has demonstrated a high probability of contaminating a well and is an incidental project cost.

K. Project Management, Administrative and Legal Fees

The following practice shall be followed in evaluating and approving project management, administrative, and legal fees.

- (a) Some organizations, including many municipalities, have operating budgets which include administrative staff to manage the day-to-day operation of the organization and provide support for their planning and construction projects. DWSRF funds should not be used to reimburse organizations for project related expenditures which are funded in routine operating budgets. This is consistent with our policy of not funding labor costs for force account construction.
- (b) Some organizations routinely obtain support services for projects from non-profit organizations or others at no cost to the organization. It is not appropriate to use DWSRF loan funds to reimburse loan recipients for services which are routinely provided at no cost by a third party.
- (c) Some loan recipients are obtaining project management support from organizations or individuals which are not affiliated with professional engineering organizations. These services include management of project finances, income surveys, records maintenance, environmental review documentation, loan preparation and submittal, and management of professional engineering contracts. These types of expenses are DWSRF loan eligible.
- (d) The types of service identified under Item (c) above require an agreement between the loan recipient and the provider which includes, as appropriate, identification of the services being provided, a listing of the deliverables, rates and fee schedules and a level of effort estimate. Such agreements must be approved by the DWSRF Program Specialist prior to disbursement of funds. Loan recipients should provide draft copies for review.
- (e) Estimated costs for the services identified in Items (c) above and (f) below should be identified in the Project Cost Summary Section of the loan application.
- (f) The following types of expenditures may be approved by FED without the submission of an agreement for review by the WSD.
 - (i) Bid advertising
 - (ii) Bond counsel
 - (iii) Title searches/easement services (if related to eligible land)
 - (iv) Interest reimbursement (as calculated by FED)
- (g) Historically, a maximum of 2% has been the goal for administrative costs. The goal for engineering services plus administrative and management services should continue to be that allowed for engineering services under Guidance Document #9 plus 2%.

L. System Extension and New System Eligibility

The Environmental Protection Agency (EPA) Drinking Water State Revolving Funds Interim Final Rule (specifically 40 CFR §35.3520(b)(2)(vi)) includes guidance on providing loans for creating new water systems or regional water systems. We believe these provisions also apply to major extensions of existing systems to serve homes and businesses currently using individual wells or surface water sources. The guidance is general in nature; detailed guidance and interpretations are required to assure uniform application for situations encountered in Vermont.

- (a) EPA Requirements
 - (i) Upon completion of the project the loan recipient must meet the definition of a federal community water system.
 - (ii) The project must be included on the funded portion of the State priority list.
 - (iii) The project must "address existing public health problems with serious risks caused by unsafe drinking water" or consolidate "existing systems that have technical, financial, or managerial difficulties."
 - (iv) Projects addressing existing public health problems must be limited in scope to the specific geographic area affected by contamination.
 - (v) The project can only be sized to accommodate a reasonable amount of growth expected over the life of the facility. Capacity to serve future population growth cannot be a substantial portion of the project.
 - (vi) The project must meet all technical, financial, and managerial capacity requirements.
 - (vii) The project must be a cost effective solution to the public health problem.
 - (viii) Projects that create new regional community water systems by consolidating existing systems must be limited in scope to the service area of the systems being consolidated.
- (b) Vermont Application of EPA Requirements
 - (i) The first EPA requirement requires no additional explanation.
 - (ii) The second EPA requirement is also self explanatory. The Vermont priority ranking system only gives points for the public health problem being corrected for this type of project. Points are not awarded for consolidation, affordability, population, or downtown center preference. This approach assures that systems with a project correcting a public health problem for their existing customers will have priority over a new system or system extension addressing the same type of public health problem.
 - (iii) Public Health Problem and Consolidation
 - 1. The project will only meet the requirement of correcting "existing public health problems with serious risks" if the current or projected immediate future raw water quality does not meet the primary drinking water standards. The probability of source contamination in the immediate future will be determined by the WSD based on documentation submitted by the applicant.
 - 2. Existing systems eligible for assistance with consolidation include only public community water systems and public non-profit non-community water systems. In Vermont essentially all small systems have technical, financial, or managerial difficulties to some degree and will be eligible for assistance with consolidation. Capacity evaluations will be completed for systems requesting funding for consolidation and the technical, financial and managerial difficulties requiring correction detailed in the preliminary engineering report or other documentation submitted to the WSD.
 - (iv) Project Boundaries (project correcting a public health problem). Boundaries for this type of project are established by the specific geographic area affected by the contamination. The geographic boundaries of the water system will encompass those existing homes and businesses that would typically be served by the contaminated source. It is not practical to limit participation only to

homes that have a problem.

(v) The growth restrictions make it clear that design and construction can only be based on reasonable growth projections for the existing population served by the project. Anticipated new development or industrial or commercial expansion cannot be a consideration.

(vi) The requirement for the system to demonstrate technical, financial and managerial capacity is self explanatory.

(vii) We will meet the cost effective requirement for this type of project by requiring a cost comparison of all feasible alternatives that includes operation and maintenance costs and the use of individual treatment units when appropriate. The analysis must clearly demonstrate that a community water system is the preferred alternative to correct the problem.

(viii) The service area of systems being consolidated will be limited to:

1. Current connections for non-profit non-community systems
2. Current customers and those adjacent potential customers close enough to the existing distribution system to be connected with service lines

(c) Joint Funding

(i) New regional water system construction projects and major water system extension projects using other sources of funds may consolidate some small water systems and/or correct water contamination problems of some homes or businesses. These types of projects will typically serve homes and businesses beyond the specific areas of contamination, consolidate systems ineligible for DWSRF funding and include capacity for future development. Partial funding for these types of projects using DWSRF funds to compensate for the cost of correcting contamination problems or consolidating eligible public water systems will not be provided.

(ii) DWSRF projects funded under this eligibility criterion must be planned, designed, justified and constructed in accordance with DWSRF criteria and the total project DWSRF funding eligible. There is no restriction on expansion or extensions of DWSRF funded facilities after project completion.

Honorable Peter Shumlin, Governor Deb Markowitz, ANR Secretary David Mears, DEC Commissioner

This guidance and related environmental information are available electronically via the internet. For information visit us through the Vermont Homepage at <http://www.vermont.gov> or visit VT WSD directly at <http://www.drinkingwater.vt.gov>

Drinking Water and Groundwater Protection Division
1 National Life Drive (Main Building-Floor 2)
Montpelier, VT 05620-3521
Toll free 1-800-823-6500
Out of State 1-802-241-3400
Fax 1-802-828-1541