

**PROGRAMMATIC REQUIREMENTS FOR
FEDERAL FISCAL YEAR 2019 STATE REVOLVING FUND (SRF) PROJECTS**

Programmatic requirements to be completed by MDE:

PLANS AND SPECIFICATIONS APPROVAL: Plans and specifications **must be reviewed and approved by MDE prior to bidding.** Additionally, at the time of MDE's plans and specifications review, a determination will be made regarding "green" project components, if applicable.

CLEARINGHOUSE AND ENVIRONMENTAL REVIEW: Projects must undergo a State environmental review (except for nonpoint source projects) and State clearinghouse review. The process typically requires a 3-month review period and should be initiated as soon as possible, using project information to be provided by the SRF recipient.

FINANCIAL ANALYSIS: A Financial Analysis will be undertaken to determine the SRF recipient's ability to repay the loan debt service, if there is a need to increase revenue, and/or determination of disadvantaged community status (on the basis of rate shock). The SRF recipient will need to provide audited financial statements for the prior three years, the current user rate structure, and other information as requested by MDE.

FINANCIAL, TECHNICAL AND MANAGERIAL CAPACITY: The Federal Safe Drinking Water Act requires all drinking water projects receiving DWSRF loans to be evaluated prior to loan execution for financial, managerial and technical capacity (i.e., Capacity Development).

BOARD OF PUBLIC WORKS: The Department will typically seek State Board of Public Works (BPW) approval after the construction bid procurement package has been approved by MDE (see also Procurement on page 2).

Programmatic requirements to be completed by the SRF recipient's legal representation¹:

AUTHORIZATION TO INCUR DEBT: Prior to loan execution, legal representation must insure that all necessary legal steps have been taken for the SRF recipient to incur SRF loan debt consistent with its Charter, Articles of Incorporation, etc.

LOAN PROCEEDS QUESTIONNAIRE & CERTIFICATE (LPQ&C): Governmental SRF recipients must coordinate completion of the LPQ&C with their Bond Counsel to address tax issues related to the funding of the project, if the loan transaction is greater than \$400,000 (i.e., "tax exempt.") MDE will provide this form at an appropriate time.

DECLARATION OF OFFICIAL INTENT TO REIMBURSE: Governmental SRF recipients who intend to reimburse project construction expenditures for costs incurred prior to loan closing from tax-exempt SRF loan proceeds must work with their Bond Counsel to declare an Official Intent to Reimburse. The Declaration should be made and submitted to the MDE Funding Coordinator prior to making any construction expenditures.

Programmatic requirements to be completed by the SRF recipient:

FISCAL SUSTAINABILITY PLAN: For WQSRF transactions to publicly-owned treatment works, a fiscal sustainability plan (FSP) must be developed and implemented for the funded project. The FSP should include an inventory of critical assets; an evaluation of the condition and performance of inventoried assets; an evaluation/implementation of water and energy conservation efforts; and an asset maintenance, repair, and replacement schedule. These are components of a Preliminary Engineering Report, which may also be required (see "Minimum Funding Participation Requirements for Preliminary Engineering Reports at <http://www.mde.maryland.gov/wqfa>). Certification of having an FSP, as well as the FSP and/or link to the FSP, must be provided prior to loan closing for the project.

COST & EFFECTIVENESS ANALYSIS: For WQSRF transactions to public entities, a Cost and Effectiveness Analysis of the processes, materials, techniques, and technologies selected (to the maximum extent practicable) that maximizes the potential for **efficient water use/reuse/recapture/conservation** and **energy conservation** must be developed for the funded project. This is a component of a Preliminary Engineering Report, which may also be required (see "Minimum Funding Participation Requirements for Preliminary Engineering Reports at

¹ For loan transactions exceeding \$400,000 (i.e., "tax exempt"), SRF recipients are **REQUIRED** to utilize Bond Counsel.

<http://www.mde.maryland.gov/wqfa>). Certification of having a Cost & Effectiveness Analysis, as well as the Cost & Effectiveness Analysis and/or link to it, must be provided prior to loan closing for the project.

PROCUREMENT: SRF recipients may follow local procurement procedures for construction and engineering services but **must demonstrate competitive procurement and comply with the following:**

- **MDE SRF Insert** - "Requirements and Contract Provisions...." (a.k.a., "MDE Insert") **must be included in the bid packages**. The MDE Insert outlines certain contractor responsibilities (e.g., Minority & Women's Business participation, Wage Rates, American Iron and Steel, project sign, etc.). Contact MDE's Project Manager for the proper MDE SRF Insert.
- **American Iron & Steel** - SRF recipients are required to use iron and steel products that are produced in the U.S. These provisions are included in the MDE Insert.
- **Davis-Bacon Wage Rates** - Davis-Bacon Wage Rates are required for all WQSRF- and DWSRF-funded construction contracts. These provisions are included in the MDE Insert.
- **Disadvantaged Business Enterprise (DBE)** - SRF recipients and sub-recipients (i.e., loan recipients, prime contractors, A/E consultants) are required to make a Good Faith Effort to award a fair share of work to qualified small, minority and women's businesses. This requirement includes procurements in the categories of **construction, equipment, supplies and services**. These Good Faith provisions are included in the MDE Insert. Questions regarding the SRF DBE program should be directed to M/WBE Program Coordinator at 410-537-3146. Information can also be found on MDE's website at <http://www.mde.maryland.gov/wqfa>.
- **Bid Packages** – Once the lowest, responsive, responsible bidder has been determined, the bid package must be forwarded to the Department for approval for compliance with SRF program requirements.
- **Contracts/Agreements** – Any contract/agreement associated with the work being performed and funded by the SRF must be submitted to and approved by the Department prior to being funded.

SRF LOAN AND DISBURSEMENT CONFIRMATION: After the project has been bid and the project costs have been determined, the SRF recipient will be asked to confirm the final loan amount and estimated disbursement schedule.

FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) FORM: The FFATA requires that information disclosure by entities receiving federal funding be made available to the public via www.USASpending.gov. SRF recipients will complete a simple form regarding total federal funding received by the entity in a given year.

INITIAL CASH DRAW REQUEST: Federal tax code requires a draw of in excess of 5% of the loan amount (if less than \$1,000,000) or in excess of \$50,000 (if loan amount is \$1,000,000 or more) to be disbursed at loan closing for tax exempt transactions. In order to make a disbursement at loan closing, the "Cash Draw Request Form" must be completed and approved at least four weeks prior to the scheduled loan closing date.

DEDICATED SOURCE OF REVENUE: For loan repayment security, a General obligation and revenue pledge is required from governmental entities. Private entities will require a form of collateral agreeable to the Administration.

LOAN CLOSING: Once all applicable aforementioned programmatic requirements are completed, a loan closing will be scheduled for a date agreed upon by MDE and borrower's legal representation.