

State Water Resources Control Board  
Division of Financial Assistance  
Drinking Water State Revolving Fund

## **GUIDELINES FOR CONSOLIDATION PROJECTS**

### **Purpose**

The following guidance is provided to aid public water systems in applying for construction financing. This guidance may also be used to develop the scope of work for planning projects. This document is intended as general guidance; however, each project has unique characteristics which demand case-by-case decisions and implementation. Please communicate any special project requirements as soon as you become aware of any issues to the Division of Financial Assistance (Division) within the State Water Resources Control Board (State Water Board).

### **Background**

The State Water Board encourages the use of DWSRF financing for consolidation projects. Non-compliant public water systems lacking the necessary Technical, Managerial, and Financial (TMF) capacity can achieve compliance with safe drinking water standards by consolidating with another public water system that is in compliance. The following definitions established in the DWSRF Policy are used in this guidance:

“Public Water System” 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 at least twenty-five (25) individuals, pursuant to the SDWA.

“Consolidation” means a project that involves the restructuring of two or more water systems into a single public water system.

“Restructured Water System” means the single public water system which results from the consolidation of two or more water systems.

The limitation imposed on all water systems involved in consolidation projects is that upon completion of a consolidation project, all water systems involved in the consolidation, other than the restructured system, shall cease to operate as public water systems. Please note – a project to construct an interconnection for supply of raw water, or to construct an interconnection and establish a wholesale/retail water supply arrangement, is not a consolidation project unless if upon completion of the project all but the restructured system meets all the conditions set forth in Health & Safety Code, Division 104, Part 12, Chapter 4, Section 116280.

A consolidation project must have one restructured water system and one or more consolidating public water system(s). The restructured water system will be the single, surviving public water system that results from the consolidation project and the consolidating water systems will cease to exist as public water systems after the project is complete except if the system meets Section 116280 cited above.

Types of Consolidation Projects:

**Master meter consolidations (Limited to consolidation of a public water system that, upon completion of the project, will meet all of the conditions set forth in Health & Safety Code, Division 104, Part 12, Chapter 4, Section 116280.)** – The restructured water system’s responsibility ends at the master water meter. A connection is provided to the consolidating public water system, which will be responsible for operating and maintaining the infrastructure within its own boundaries. For this type of consolidation project, a water service agreement must be made between the owner of the consolidating entity and the restructured water system. An example is the construction of a pipeline, connection, and master meter for supply of water from an adjacent water system (the restructured water system) to a mobile home park, where the park owner still owns the distribution system within the park and buys water from the restructured water system via the master meter, is an example of this type of consolidation. In the case of a master meter consolidation where the consolidating entity remains a Public Water System per Health & Safety Code Section 116280 and the Division determines that the entity has the legal, financial, technical and managerial capacity to own and operate the project and to comply with the terms of a financing agreement, the Division may enter into a financing agreement with the consolidating entity.

**Distribution system consolidations** – The restructured water system will directly bill each customer within the consolidating public water system’s service area. The restructured water system’s facilities will include the distribution system of the consolidating public water system(s). This means that the restructured water system will operate and maintain the entire distribution system – lines, pumps, tanks, etc., and therefore the consolidation project must result in the restructured water system having the legal right to access the distribution facilities and provide service within the service area of the consolidating system(s). For this type of consolidation project, a consolidation and water service agreement(s) must be made between the entity having legal ownership of each consolidating public water system, and the restructured water system. (Depending on the legal authority of a consolidating public water system to require its customers to accept service from the restructured water system, it may be necessary to require consolidation and water service agreement(s) from individual customers. For example, if individual customers in a mutual water company have individual deeded ownership in the water system, then a form of consolidation and water service agreement(s) is required between each customer and the restructured water system.)

A project designed to supply customers directly via constructed service connection/meter at each home (as opposed to a single master meter) is referred to as a distribution system consolidation project. A project to construct a connection/meter to each individual home (formerly served by the mutual) for direct delivery of water by the restructured water system is would be an example of a distribution system consolidation.

The type of consolidation project proposed should be clearly described in the application. The consolidation type will directly affect the application and financing agreement requirements. For example, if your proposed project is a master meter consolidation, the responsibilities listed below for the consolidating water system and the restructured water system could change depending upon which water system is proposing to enter into a financing agreement with the State Water Board. The specific requirements will be established when the application is reviewed.

### **Responsibilities**

Each party involved in the consolidation project has significant responsibilities. It is important that these responsibilities be understood fully before pursuing consolidation so that the parties can evaluate the viability of the potential consolidation.

For the consolidating public water system(s), the responsibilities are as follows:

- The consolidating water system(s) must authorize the restructured water system to act on the consolidating system's behalf in matters relating to DWSRF financing. The authorization must be in writing.
- The consolidating water system(s) must enter into a consolidation and water service agreement(s) with the restructured water system that identifies: (i) the terms of service; (ii) infrastructure ownership; (iii) operation and maintenance; (iv) transfer of facilities; (v) inactivation of the consolidating water system; (vi) intent to surrender its domestic water supply agreement; and (vii) other terms as negotiated between the entities. The form of water supply agreement will vary depending upon the particular project. For example, if the project is a distribution consolidation project, then each homeowner must agree to be served water by the restructured water system and pay the established user rates. Alternatively, the agreement may be an agreement between the restructured water system and a mutual water company, acting on behalf of its members. If the project is a master meter project, the water service agreement is between the consolidating and restructured water system. The form of this agreement must be approved by the Division. The persons signing the agreement(s) must have appropriate authority to legally bind their respective public water systems. Documentation of this authority must be provided to the Division along with the draft water supply agreement.

- The consolidating water systems must surrender their domestic water supply permits and cease to exist as public water systems. The decision to surrender a domestic water supply permit must be made by the legal owner of the public water system, according to the requirements and processes stated in the system's enabling statutes. The type of ownership (e.g., mutual water company, special district, corporation) must be clearly established for all consolidating water systems involved and supporting documentation must be provided to the Division.

For the restructured water system, the responsibilities are as follows:

- The restructured water system must act on behalf of the consolidating public water system(s) in matters relating to DWSRF financing. This includes coordination with the Division to obtain DWSRF financing.
- The restructured water system must enter into a consolidation and water service agreement(s) with each consolidating public water system and/or consolidating entity. (Note that this is the same consolidation and water service agreement(s) discussed above under responsibilities of a consolidating system.) The restructured water system must agree to supply water to the consolidating public water system(s)/entities for the useful life of the project. The agreement(s) to supply water may be conditioned on the consolidating system/entity paying the agreed upon rates and complying with the restructured water system's standard rules of service.
- The restructured water system will be responsible for managing the construction project and ensuring that the project is operated to supply water to the consolidating public water system(s)/entities for the useful life of the project, and ensure that the consolidating public water systems'/entities' former source of supply is properly disconnected, abandoned, and/or destroyed.
- The restructured water system will operate and maintain facilities built using DWSRF funds (the project facilities) as well as any facilities transferred from the consolidating public water system, and must submit an application for an amended domestic water supply permit for all such facilities.
- The restructured water system must demonstrate that it has legal authority to provide domestic water to the service area(s) of consolidating public water system(s). This requirement must be satisfied before the DWSRF financing agreement will be circulated for signature.
- The restructured water system must demonstrate its legal authority to enter into an agreement with the State Water Board. Ownership of the restructured water system must be demonstrated before the DWSRF financing agreement will be circulated for signature.

- The restructured water system must demonstrate its financial capacity to satisfy the proposed DWSRF financing. The Division will evaluate an applicant's eligibility for available principal forgiveness or grant funding once the applicant has submitted an application. The restructured water system may enter into an appropriate agreement with the consolidating public water system(s) for transfer of funds to satisfy the DWSRF financing.
- In the case of a construction project, the Division will provide DWSRF financing to the restructured water system as it will be the only public water system remaining after the consolidation project is complete. The restructured water system will be solely responsible for satisfaction of the DWSRF financing agreement terms and conditions. (Please note, while the restructured water system may contract with the consolidating public water system(s) to satisfy appropriate conditions, ultimate responsibility for satisfying the conditions of the DWSRF financing agreement will rest with the restructured system.)
- In the case of a planning/design project, any of the participating public water systems may apply. The Division will determine the financing recipient during the planning application review process.
- The restructured water system's agreement with the consolidating public water system(s) for satisfaction of the DWSRF obligation, as well as any other project responsibilities, must be addressed during the consolidation and water service agreement(s) negotiations and prior to the circulation for signature of the DWSRF financing agreement.

### **Initial Coordination and Communication**

As early as possible, all parties should begin coordinating their efforts. At a minimum, the involved parties should discuss the following key issues:

- Determining who will be submitting the DWSRF application and conveying this information to the Division.
- Obtaining commitments from all parties. The commitments must be in writing, whether by board resolution or other mechanism allowed by the water systems' enabling statutes.
- Identifying any procedural requirements that must be completed before the consolidation can occur (e.g., LAFCO approval, permits, and/or annexation processes). Timelines for these requirements should be determined so they can be considered during the application process.
- If it will be necessary for the restructured water system to annex the area served by the consolidating water system or obtain approval from the California Public Utilities Commission (CPUC) or LAFCO, such processes should be initiated as

soon as possible. (NOTE – In some cases, such approvals may not occur until a DWSRF financing agreement has been circulated for signature.)

- A draft consolidation and water service agreement(s) should be prepared. The restructured water system's terms and conditions for consolidation should be discussed and documented in the agreement(s). The consolidating systems will need to satisfy any terms and conditions specified in the agreement(s) in order for the consolidation to occur. (The restructured water system may use its standard agreement for new service connections as appropriate, but will either need to amend that standard agreement to add additional terms to cover items such as those listed under the Consolidation and Water Service Agreement(s) section of this document or, submit two agreements. One agreement would be the standard one and the other would contain terms to cover the items listed under the Consolidation and Water Service Agreement section of this document.) A copy of the draft agreement(s) must be submitted to the Division for review, comment and/or approval. The final consolidation and water service agreement(s), a form(s) approved by the Division, must be signed and submitted to the Division before DWSRF financing agreement will be circulated for signature.

### Applying for DWSRF Financing

Any of the participating public water systems, or the restructured water system, may submit the application for DWSRF financing. It is not necessary to submit more than one application for the consolidation project. If the restructured water system will be submitting the application, the consolidating water systems must authorize the restructured water system to apply on their behalf, and the applicant system must provide documentation of this authorization.

Regardless of who is submitting the application, all involved parties **must submit supplemental information** to complete the application, including documentation of each participating public water system's problem that is to be solved by the proposed project. Each participating public water system's problem will be ranked and utilized when determining project financing. It is critical that all the requested information be submitted with the application to avoid financing delays. The restructured water system must be clearly identified.

The following information must be obtained from all involved parties and provided to the Division as soon as possible:

- Public Water System (PWS) Name
- PWS Number
- Primary Contact information (name, phone number, email)
- Identify whether the PWS is a consolidating water system or the restructured water system
- Identification of the problem for each PWS

If consolidation is to be considered as the solution, it is important to begin coordinating and communicating with all of the involved parties including the Division early in the financing process. It is important whenever possible to begin communication in advance of applying for financing as consolidation cannot occur without all systems agreeing to the project. This may be as early as prior to submitting an application for financing or at the latest, immediately after consolidation is selected as the preferred project alternative.

**Additional Application Deliverables for Projects Involving Consolidation**

Each party in the consolidation project must be designated as either the restructured water system or a consolidating water system. Each designated entity will be responsible for addressing the following requirements in the application:

**Table 1 - Summary of additional application deliverables.**

Description	Restructured water system	Consolidating water system
Submitting the application	Only one party needs to apply, but all parties that did not apply must submit a supplemental information form with the application.	
Documentation showing commitments to consolidate	Yes	Yes
Documentation authorizing the restructured water system to act on consolidating water systems' behalf	No	Yes
DRAFT consolidation and water service agreement	Yes	Yes
TMF capacity	Yes – Submit TMF assessment form (evaluate all TMF)	No – Must submit ownership and water rights documents
Ownership information	Yes – Must be a legal entity that can enter into a financing agreement with the State Water Board	Yes – Must be owned by valid legal entities

Commitments to Consolidate

The commitments to consolidate must be in writing, whether it is by board resolution or other mechanism allowed by the water systems' enabling statutes. It is not necessary for all parties to sign one document as long as each consolidating system provides documentation showing its commitment to the consolidation project and authorizing the applicant to act on behalf of the consolidating system.

Be aware for construction projects, the consolidating system must agree to consolidate and surrender its domestic water supply permit upon completion of a construction project. The restructured water system must agree to serve the consolidating system's customers for the duration of the expected useful life of the project.

Please note that the commitment to the consolidation project must not contain conditions that contradict DWSRF requirements. For example, it is inappropriate to condition the consolidation upon the receipt of principal forgiveness or grant funds because DWSRF principal will not be forgiven or grants awarded except pursuant to the terms of an executed DWSRF financing agreement. However, it is appropriate to condition consolidation on the consolidating water system's agreement to reimburse the restructured water system for payments it makes to the State Water Board in satisfaction of the DWSRF financing. Please remember that the DWSRF is a revolving fund program. While principal forgiveness or grants may be offered under certain circumstances, the State Water Board cannot guarantee them at the time of application. Also note that the criteria and limitations for principal forgiveness or grant funds are established in the Intended Use Plan for the DWSRF.

Consolidation and Water Service Agreement(s)

A draft consolidation and water service agreement(s) must be submitted with the DWSRF application. The agreement should clearly identify the obligations of each party and include at least the following items:

1. The agreement should describe any construction related requirements including the following:
  - a. A clear description of the project components
  - b. Identify any easements necessary to construct the facilities
  - c. Identify which components are to be constructed by each party
  - d. An estimated project completion schedule
  
2. Terms of transfer of the consolidating system's customers and assets:
  - a. Procedures and timing for consolidating water system's surrender of domestic water supply permits
  - b. Process, terms, conditions, and timeline for the restructured water system's supply of water to each and every consolidating system and, in the case of a distribution consolidation system, supply of water to each customer of the consolidating public water system(s)
  - c. Terms, conditions, and timeline for any transfer of facilities from consolidating system(s) to the restructured water system
  - d. Terms, conditions, and timeline for disconnecting the consolidating systems' water supply facilities, installation of any project required cross-connection or backflow protection devices
  - e. Terms, conditions, and timeline for destruction of disconnected water supply facilities (e.g., destruction of wells)
  - f. For distribution system type consolidations, the procedures, terms, conditions, and timeline for systematic transfer of each customer to receive water service and supply from the restructured water system, and disconnect from the consolidating system's service line. Please note, if this will require construction of new lateral connections on the customers' property, terms for providing the cost of such construction must be

- delineated. DWSRF monies are not available to reimburse improvements on private property, such as private laterals.
- g. Establish terms of service:
  - h. Operation and maintenance terms of all facilities. Must clearly delineate areas of responsibility and facility ownership for each party.
  - i. Establish DWSRF payment obligation terms and water rates if the consolidating water system will be responsible for reimbursing the restructured water system for payment obligation under the DWSRF financing agreement.

**NOTE:** The restructured water system may use its standard agreement for new connections but will need to amend that agreement to add additional terms. Alternatively, it may submit two agreements - the standard one and one that would address the applicable items above. Additionally, the final consolidation and water service agreement(s) **must** be signed by all parties before the financing agreement is circulated for signature.

#### Technical, Managerial, and Financial (TMF) Capacity

A TMF assessment form must be completed by the restructured water system and submitted with the application. If the applicant is one of the consolidating water systems, the restructured water system must complete the appropriate TMF assessment form. Consolidating water systems must submit ownership and water rights information as requested in the supplemental information form below.

#### Financial Information

Each water system involved in a planning/design or construction project must submit the most recent three years of audited financial statements and relevant system debt documents.

#### Ownership

Ownership documentation must be submitted by each water system involved in the consolidation project. The restructured water system must submit its ownership documents with the required TMF assessment form. Consolidating water systems must submit ownership documents with the requested supplemental information form. It is imperative that ownership of each water system be clearly defined. Even though the consolidating water systems must surrender their permits, the decision to do so must be made by the legal owner of the water system.

#### Documentation of Problem

Documentation of the problem for each water system involved in the consolidation must be submitted with the financing application.

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**SUPPLEMENTAL INFORMATION FORM  
CONSOLIDATION PROJECTS**

**Excluding the applicant, one supplemental information form must be filled out for each public water system (PWS) involved in the consolidation project.** The following information must be returned with the completed DWSRF application. Please refer to the Guidelines for Consolidation Projects for additional information on the roles and responsibilities of each PWS.

**PWS Information:**

PWS Name: \_\_\_\_\_  
PWS Number: \_\_\_\_\_  
Physical Address: \_\_\_\_\_  
\_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

**Primary Contact Information:**

Contact Name: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Email Address: \_\_\_\_\_

**This PWS is involved in the consolidation project as a:**

- Restructured water system (will remain a PWS after the consolidation)
- Consolidating water system (will cease to operate as a PWS)

**Problem Description**

Attach documentation of problem (e.g., water quality testing results from a certified lab).

**This PWS is classified as a:**

- Community Water System
- Non-transient, Non-community Water System
- Transient, Non-community Water System
- Not currently classified as a water system

**This PWS has the following ownership type(s) (check all that apply):**

- |                                              |                                                                                |
|----------------------------------------------|--------------------------------------------------------------------------------|
| <input type="checkbox"/> Public              | <input type="checkbox"/> Private                                               |
| <input type="checkbox"/> Municipality        | <input type="checkbox"/> Corporation (includes Nonprofit Mutual Water Company) |
| <input type="checkbox"/> County Agency       | (Federal Tax ID No. _____)                                                     |
| <input type="checkbox"/> Special District    | <input type="checkbox"/> Partnership                                           |
| <input type="checkbox"/> State Agency        | <input type="checkbox"/> Limited Partnership                                   |
| <input type="checkbox"/> Irrigation District | <input type="checkbox"/> General Partnership                                   |
|                                              | <input type="checkbox"/> Limited Liability Company                             |
|                                              | <input type="checkbox"/> Revocable Family Trust                                |
|                                              | <input type="checkbox"/> Sole Proprietorship                                   |

Other (please describe): \_\_\_\_\_

**Applicant is in contact with this PWS regarding the consolidation project.**

- Yes       No

**Applicant has contacted the Division to inform them of this PWS's participation in the consolidation project.**

- Yes       No

**If this is a planning project, the following must be attached to this information form:**

- Documentation showing the PWS's commitment to the consolidation planning project, and authorization for Applicant to act on behalf of the PWS with respect to the planning project
- Documentation supporting the PWS's ownership type identified above
- A map delineating the PWS's service area boundaries and its physical proximity to the service areas of Applicant and other PWS's participating in this project
- For a publicly owned water system, please submit its three most recent years of audited financial statements. For a privately owned water system, please submit its last three years of federal income tax returns (all schedules). For either, please submit debt documents of the system.

**If this is a construction project, the following must be attached to this information form**

- Documentation showing the PWS's commitment to the consolidation construction project and authorization for Applicant to act on behalf of the PWS with respect to the project

- Draft Consolidation and Water Service Agreement(s) identifying the terms of consolidation and water service
- Documentation supporting the PWS's ownership type identified above
- For a publicly owned water system, please submit its three most recent years of audited financial statements. For a privately owned water system, please submit its last three years of federal income tax returns (all schedules). For either, please submit debt documents of the system.
- A map delineating the PWS's service area boundaries and its physical proximity to the service areas of Applicant and other PWSs participating in this project

**CERTIFICATION**

I hereby certify that I am the Applicant's authorized representative and that the information provided on this Supplemental Information Form is accurate to the best of my knowledge.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Representative's Signature

\_\_\_\_\_  
Authorized Representative's Name

\_\_\_\_\_  
Authorized Representative's Title