

NOTE: This is a living document that will be periodically updated.

PRE-PLANNING AND LEGAL ENTITY FORMATION ASSISTANCE PROGRAM

FREQUENTLY ASKED QUESTIONS (FAQ)

1. What is the purpose of these Safe Drinking Water State Revolving Fund (SDWSRF) set-aside funds?

Funds are intended to assist communities not currently served domestic water from an existing community water system and cannot that can access SDWSRF funds due to the lack of an eligible governing entity. The funds are to be used to explore/investigate potentially available existing entities (governing bodies) which would have, or could have, the necessary authority to undertake planning, construction, and operation of a project to solve the drinking water problems of the targeted area or community. Once an appropriate governing entity is identified and there is sufficient public support, then the governing entity would be formed. In some cases the result would be the identification or creation of a regional authority, identification of an existing authority (public water system) which could extend service, or the creation of a new governing authority. In cases where a community is geographically isolated, a new governing entity would need to be created.

For purposes of these set-aside funds, primary drinking water standards includes drinking water quality or quantity public health problems

2. What is the total amount of funding available under this set-aside?

The total funding available in this initial pilot period is \$1,707,160.

3. What is the maximum amount of funding an applicant can apply for?

\$250,000 (grant funds)

4. Who can be included in the pre-planning project?

Eligible communities for inclusion in the pre-planning scope include:

Homes, schools and businesses (1) that obtain drinking water from domestic wells or surface water sources with a water quality or quantity public health problem, *and* (2) that are not currently served by a PWS, that wish to:

- form a legal entity with the necessary authority to access SDWSRF funds and eventually a Community Water System (CWS), or
- become part of or be served by a nearby PWS.

State small water systems (SSWS), or multiple SSWSs, and individual homes/businesses (1) that obtain drinking water from domestic or surface water sources with a water quality or quantity public health problem, *and* (2) that are not currently served by a PWS, that wish to:

- form a legal entity with the necessary authority to access SDWSRF funding and eventually a CWS, or
- become part of or be served by a nearby PWS.

Existing PWSs with a water quality or quantity public health problem that are not eligible for SDWSRF funding due to the lack of a legal entity, that wish to:

- form a legal entity with the necessary authority to access SDWSRF funding, or
- form a regional entity eligible for SDWSRF funding with the appropriate governing authority over participating PWSs, or
- become part of or be served by a nearby PWS.

5. Who is eligible to apply for these funds?

Eligible applicants are limited to public agencies, such as county planning departments or existing public water systems, Local Agency Formation Commissions (LAFCo), public colleges/universities, Joint Power Authority (JPA) and non-profit organizations that can enter into a funding agreement with California Department of Public Health (CDPH) and demonstrate their ability to carry out the proposal.

6. How does an eligible applicant apply for funding?

There will be an open application period beginning in August 2013, with applications due November 8, 2013. Information will be posted on CDPH's website, along with the application package. A completed application, including all required deliverables must be submitted by the stated deadline in the application. No time extensions will be given.

7. How will the award of funds be determined?

A review panel consisting of CDPH headquarters and field staff will review, score and rank each application received. A funding list will be compiled and posted on CDPH's website and CDPH will notify selected applicants of funding approval.

8. When will funds be awarded?

CDPH anticipates issuing funding agreements 30 days from the posting of rankings on its website.

9. Is the use of the pre-planning set-aside funding required to be eligible for SDWSRF planning or construction funding?

No. These set-aside funds are not intended as an additional or separate funding step to access SDWSRF planning or construction funds. The funds are intended to assist communities with identified public health problems, that are not currently eligible for SDWSRF funds due to, among other things, the lack of a governing entity with the necessary authority over the targeted area/community(ies). Once an appropriate governing entity is identified and formed, that governing entity would be able to move into the regular funding process for SDWSRF planning and construction, beginning with the submission of a pre-application.

10. What are the minimum authorities the identified governing entity must have in order to be eligible to submit a pre-application for SDWSRF planning or construction funding?

- operate a public water system
- undertake formation necessary to cover the targeted area/community(ies), such as a LAFCo application to extend district boundaries or annexation by local municipality or, if necessary, form an entirely new entity
- assess fees for domestic water supply on property owners and consumers in the targeted area or community(ies)
- legally bind the targeted area/community(ies) including affected individual property owners to accept and pay for domestic water supply from the selected entity
- hold necessary water rights or legally contract for water supply needed to supply the targeted area/community(ies)
- acquire or construct the necessary facilities
- acquire necessary rights to an adequate water supply source
- enter into a funding agreement with CDPH on behalf of the targeted area/community(ies)
- assess/charge the homeowners, as necessary, to fund any part of a project not provided as grant funds and also to operate and maintain the project for the long-term
- enter into contracts as necessary, with adjacent or neighboring public water systems for water supply sources
- enter into contracts with adjacent or neighboring public water systems for purposes of consolidation. This includes authority to transfer existing facilities (e.g. wells and distribution facilities) as necessary to achieve a consolidation or regional solution

11. What activities are eligible for funding?

The following are costs that may be **eligible** for funding under the Project. This list is provided for illustrative purposes only and may not be relied upon as a

comprehensive list of eligible costs. CDPH reserves the right to make additional eligibility determinations as questions arise and in the course of reviewing claims submitted for reimbursement.)

- Feasibility study to identify and evaluate options for formation of a legal entity, including identification of the steps to create each type of entity, estimated cost and schedule to complete formation
- Public Outreach
- Identification of interested project participants and potential service connections
- Formation of a legal entity (new or expanded) encompassing at least 15 service connections to serve the affected area or facilities service to the affected region by an existing public water system
- Costs associated with the LAFCo process/requirement
- Legal services, financial planning, and administrative fees related to the formation of a legal entity
- Administrative costs related to management of Project tasks and costs associated with the administration of the Pre-planning grant (including the preparation of claims for reimbursement)
- Costs associated with the preparation of the Pre-planning application
- Preliminary engineering, such as surveying, necessary for the formation of a legal entity
- Feasibility study to look at water source options
- Environmental work necessary for the formation of a legal entity (new or expended)
- Limited water quantity testing to establish existing conditions and verify the public health problem, and/or establish the boundaries of the geographic area affected by the public health problem
- Limited water quality testing by California Environmental Laboratory Accreditation Program (ELAP) certified laboratories, to establish existing conditions and verify the public health problem, and/or to establish the boundaries of the geographic area affected by the public health problem. (Routine water quality sampling is considered an operations and maintenance (O&M) cost and as such is not an eligible expense).

Note: Water quality sampling conducted by an appropriate California ELAP certified laboratory is acceptable for the purposes of demonstrating a water quality problem. Please be aware that lists vary depending on the targeted constituent. For procedures, lists of certified labs, and other related information, please visit: <http://www.cdph.ca.gov/certlic/labs/Pages/ELAP.aspx>. CDPH will evaluate alternative forms of water quality sampling data and/or reports submitted for sufficiency on a case by case basis.

12. What are ineligible activities?

The following are costs that are **ineligible** for funding under the Project. This list is provided for illustrative purposes only and may not be relied upon as a comprehensive list of ineligible costs. CDPH reserves the right to make additional eligibility determinations as questions arise and in the course of reviewing claims submitted for reimbursement..

- Engineering design (preliminary or final design of a project alternative)
- Income/MHI surveys
- Evaluation of solutions to the water quality or quantity public health problem
- Funding for operation costs (For example, if an existing PWS has a suspended status with the Secretary of State, the cost to bring the PWS into compliance with the Secretary of State is not eligible.)
- Purchase of equipment
- Purchase of interim water (including bottled water)
- Routine water quality or quantity sampling
- Purchase of water rights
- Connection fees

13. Why is engineering design not eligible?

These set aside funds are designed to be used for activities or purposes that otherwise cannot be funded with the SDWSRF planning/construction funds; and are necessary to enable the targeted area/community(ies) to access SDWSRF project funding.

14. Are water quality/quantity tests eligible?

Limited water quality/quantity testing of local private wells or surface water source to determine the public health issues which needs to be addressed and to determine the boundaries of the affected area is eligible.

15. Why is the cost for an income survey not eligible?

An income survey is eligible for funding under the planning/construction process and is not a necessary component for these funds. Additionally, the affected area identified under pre-planning may not be the same area applicable to any future planning or construction project.

16. Can a request for additional funds be submitted after funds are awarded to an applicant?

CDPH intends to commit all available funds; however, if 100% of the available funding is not committed, CDPH may consider a request for additional funds but in no case, will funds committed to an applicant exceed the \$250,000 limitation.

17. Is there a deadline by which the activities must be completed?

No, other than the general State requirement of 3 years; however, CDPH anticipates that the average time for completion will be less than a year.

18. Why are connection fees ineligible?

These funds are not intended to reimburse for costs eligible under the normal SDWSRF planning or construction program. Connection fees are eligible for reimbursement under SDWSRF construction funding. (Connection fees typically only apply to consolidation or interconnection construction projects.)

19. Can the SDWSRF pre-planning set aside funds and planning funding be applied for concurrently?

It depends. In general, the funds are to assist with the formation of a legal entity with the appropriate authorities, to enable communities that do not have access to safe drinking water and public water systems, which are not eligible for SDWSRF funding due to the lack of an eligible entity. To receive SDWSRF planning funds, there must already be an existing legal entity with the appropriate authorities; however, there could be situations in which both a planning and pre-planning applications are submitted concurrently for the same affected community depending upon the specific situation. Please contact the appropriate CDPH person listed in the "Solicitation for 2013 Pre-Planning Applications" posted on CDPH's website, for further discussion.

20. If an applicant is developing a large-scale regional entity, (maybe as large as 12 PWSs), is it possible to develop multiple applications that could end up with a single outcome? For example, could 4 applications for a single regional entity be submitted and each application receive \$250,000?

No. In a Pre-Planning application for the creation of a single regional entity, the application must identify all participating PWSs in the affected geographic area. Multiple Pre-Planning applications should not be submitted requesting funding for the same PWS within the same cycle. Funding of an application is limited to the \$250,000 maximum; however, the applicant could apply for additional funds in a future funding cycle. Be aware that receipt of funds in one funding cycle does not guarantee future funding as the funding is awarded on a competitive basis. Additionally, this new set-aside is a pilot program whose

results will be evaluated to determine the success of the program. There is no guarantee this set-aside will always be available.

21. Can the completion of a Technical, Managerial, and Financial (TMF) Assessment be included as a reimbursable activity in my Pre-Planning Work Plan?

Generally, a TMF assessment should not be included. Most applicants and communities applying for Pre-Planning funds do not meet the federal definition of a Community Water System (CWS) at the time of application; therefore, TMF requirements do not apply until a CWS is formed or established at a later time.

At the conclusion of the Pre-Planning project, if the resulting entity operates shared water facilities and meets the federal definition of a CWS, CDPH may issue an Assistance Referral request for one of its third party contractors to assist the newly formed entity in the completion of a TMF assessment – at no cost to the CWS.

However if at the conclusion of the Pre-Planning project the newly formed entity merely has the authority to apply for funding on behalf of an affected community but does not operate shared water facilities and/or does not meet the definition of a CWS, a TMF assessment would likely not be completed until the actual creation of the CWS, or until water system facilities are constructed such that the community served meets the definition of a CWS. The inclusion of a TMF assessment at any time prior to the creation or establishment of a CWS would be premature.

In all instances, Pre-Planning activities which appear to be similar to the components of TMF (e.g. preparation of ownership documents, a Capital Improvement Plan) should be listed separately, not tied to or labeled as a TMF item, and expressly tied to their intended purposes. In these instances, the activity will only be deemed eligible if required during the formation of an entity by a State or Local governmental department or agency. In these instances, the activity is taking place with the objective of forming a DWSRF eligible entity, not assessing the community's TMF capacity.