

830-RICR-10-15-1

TITLE 830 - INFRASTRUCTURE BANK

CHAPTER 10 – PROGRAMS

SUBCHAPTER 15- SEPTIC AND SEWER

PART 1 - Clean Water State Revolving Fund Loan Policies and Procedures

1.1 Purpose:

The within Loan Policies and Procedures of Rhode Island Infrastructure Bank (the "Bank") have been established to govern the lending activities of the Water Pollution Control Revolving Fund and the Rhode Island Water Pollution Control Revolving Fund in accordance with the State Water Pollution Control Revolving Funds, 33 U.S.C. §§ 1381 to 1388 and R.I. Gen. Laws Chapter 46-12.2 as amended.

1.2 Definitions:

Except as otherwise defined herein, the words and phrases used within these Loan Policies and Procedures have the same meaning as the words and phrases have in R.I. Gen. Laws Chapter 46-12.2 as amended.

1.3 Financial Assistance:

These Policies and Procedures govern the provision of financial assistance to local governmental units, persons or corporations (collectively "Borrowers") to finance costs of approved water pollution abatement projects in the form of loans with below market interest rates or interest rate subsidies which reduce the cost of financing these projects by at least 33%. Financially distressed Borrowers may receive financial assistance greater than 33% as long as these loans do not have an adverse effect on other participants in the loan programs of the Bank; bond holders; other creditors of the Bank; or the finances of the Bank. In determining those Borrowers that qualify as "financially distressed" the Bank may consider the criteria set forth in R.I. Gen. Laws §§ 45-13-12(b)(1) through (4) as amended.

1.4 Loan Application:

- A. Requests for financing should be submitted in writing by the Chief Executive Officer or other authorized officer of the Borrower to the Executive Director of the Bank. The written request shall include:
1. A description of the project to be financed with the projected construction and completion schedule. In the case of a refinancing, a description of the completed project and the terms and source of previous financing.
 2. A description of the dedicated source of loan repayment, i.e., general revenues, or wastewater system revenues
 3. A description of the overall operations of the Borrower, including but not limited to the most recent annual report or audited financials, with an emphasis on
 - a. legal structure;
 - b. management;
 - c. sources of revenues;
 - d. operating expenses;
 - e. operating surpluses or deficits;
 - f. actual results versus budget; and
 - g. sources of financial liquidity.
 4. Legal authority or authorities to construct, finance and operate the project.
 5. The past five years Audited Financial Statements in accordance with Generally Accepted Government Accounting Standards.
 6. Financial and demographic information.
 7. For revenue bonds, financial projections over the life of the financing showing sources of revenues, operating expenses, capital replacement reserves, user fee impact analysis, and cash available for debt service.
 8. Such other information as the Bank may reasonably require.

1.5 Loan Approval Process:

- A. Loan approvals are subject to the following terms:
1. that all projects to be funded appear on the Rhode Island Department of Environmental Management's ("RIDEM") Project Priority List and have Certificates of Approval issued;
 2. that the loan comply with all federal, state and Bank laws, rules and regulations;
 3. that the loan and debt service requirements be approved by any applicable regulatory Agency;
 4. that a satisfactory loan agreement be signed by all parties to the transaction;
 5. that the loan will be made subject to availability of funds as related to the Bank's capacity; and that the loan will be made subject to ranking on RIDEM's Project Priority List.
 6. The Bank will conduct a financial analysis for each loan application which may include, but not be limited to:
 - a. sources of revenue and financial liquidity
 - b. historical and projected financial operating results
 - c. present and future debt service requirements
 - d. impact of dedicated user fees and/or general revenues
 - e. cost of the project and completion schedule
 - f. long term capital replacement planning
 - g. socioeconomic conditions and trends
 - h. management qualifications and experience
 - i. effects of legal structure and any regulator control
 - j. any other information that the Bank or its Board of Directors may require.

7. In addition, the Bank may take into consideration the Affordability Criteria established by the Bank and RIDEM posted on the Bank's website.
- B. If the Board approves the application, a Commitment Letter will be issued to the Borrower for their acceptance, outlining the terms and conditions of the loan.

1.6 Terms and Conditions:

- A. **Borrowing Rate** - The stated interest rate on the Borrower bond, which is the Borrower's market rate (the "Market Rate"), is the prevailing market taxable or tax-exempt interest rate for issuers of comparable creditworthiness to the Borrower, as determined by the Bank on the advice of the Financial Advisor after consultation with the Borrower. Subject to adjustment by the Bank from time to time, the subsidized interest rate for the Loan is $66 \frac{2}{3}\%$ of the Market Rate (the "Subsidized Interest Rate"). The Borrower will be obligated by the Borrower bond to pay the Market Rate, but will be billed only for the Subsidized Interest Rate. If the Borrower or other borrowers of the Bank should default in timely payment of debt service on the Loan or on the loans made to such other borrowers of the Bank, the Bank may require the Borrower to pay up to the Market Rate on the Borrower Bond.
1. Interest is to be calculated based on a 360-day year and twelve thirty-day months, and may be capitalized during construction. Interest payments are semi-annually on March 1 and September 1.
- B. **Loan Fees** - An origination fee of the greater of \$1,000 or one percent (1%) of the principal amount of the Loan will be payable to the Bank by the Borrower at the time of the Loan's closing. All other costs incidental to the Borrower's role in the transaction, i.e. legal fees, financial advisory fees, bond insurance premiums and the like, will be paid by the Borrower. The Bank will charge an annual service fee of one-half of one percent (0.5%) of the Loan's outstanding principal, payable semi-annually at each interest payment date. A late payment of five percent (5%) of the amount of the late payment will be charged for every 15 days that a payment is late.
- C. **Amortization** - Amortization will begin at a mutually agreed upon date, but in no case later than the earlier of three (3) years after loan closing or September 1 after completion of the construction of the projects. Principal payments will be made annually on September 1st and the schedule of payments will be structured to meet the debt service and financial assistance needs of the Borrower.
- D. **Final Maturity** - Loans shall mature no later than thirty years after the Loan closing.

- E. Prepayments - A loan may be prepaid by the Borrower at any time but may be subject to a prepayment penalty based on the cost of reinvesting the prepayment, the cost of prepaying outstanding bonds of the Bank or any other negative financial impact to the Bank.
- F. Security - Loans will have a pledge of
1. general revenues and/or wastewater system revenues; and/or
 2. may be secured by any other assets and upon such other terms and conditions as the Bank deems appropriate to protect the interests of the other participants in the loan programs of the Bank; bondholders; other creditors of the Bank; bondholders; or the finances of the Bank.
- G. Construction Progress Payments - Progress payments for each construction project will be made through an account established for the Borrower. Loan proceeds will be transferred monthly from the Borrower account for each borrower based upon approved Requisition Forms submitted to the Bank. Upon receipt of the Requisition Form, the Bank will verify:
1. that a Certificate of Approval has been issued by RIDEM;
 2. the vendor is identified in the contract; and
 3. there is sufficient availability in the Borrower account to make the payment.
 - a. Payments will be made directly to the vendor and/or the Borrower for reimbursements by the Bank, and a "paid" stamped copy of the Requisition Form will be sent to the Borrower and RIDEM. RIDEM will perform periodic project inspections to:
 - (1) monitor construction progress;
 - (2) verify eligibility of construction cost under the program; and
 - (3) ensure construction is in conformity with Plans and Specifications.
 - b. RIDEM will provide a copy of the inspection report to the Bank. Any adverse conditions will be reported to the Bank who will suspend further payments until the adverse conditions have been rectified. RIDEM will perform a final project inspection before the final payment is made by the Bank.

1.7 Reporting Requirements:

- A. Borrowers will be required to provide information to the Bank during the life of the loan, including, but not limited to:
1. A copy of its Annual Audited Financial Statements in accordance with Generally Accepted Government Accounting Standards, annually within nine months of end of fiscal year.
 2. An annual analysis of operating revenues and expenses, including without limitation, a description of the status of the dedicated wastewater system revenues and/or general revenues and operating expenses in excess of budget and a schedule of current and projected user rates.
 3. A copy of the annual budget of the Borrower, within fifteen days of its adoption.
 4. An annual schedule of current and projected short term and long term debt service.
 5. An annual schedule of Capital Replacement Reserves.
 6. Copies of reports submitted to RIDEM, the Environmental Protection Agency ("EPA") and any other regulatory agency relating to the projects financed by the Bank or the operation thereof.
 7. Other information or reports that the Bank deems appropriate.

1.8 Loan Agreements:

There will be a Loan Agreement with the Borrower outlining the terms and conditions of the Bank's loan. The Borrower's repayment obligation to the Bank under the agreement will be evidenced by a bond(s) of the Borrower outlining the loan's specific terms and condition. The bonds shall be in fully marketable form, accompanied by documentation, in form and substance satisfactory to the Bank and an opinion, in form and substance satisfactory to the Bank, of nationally recognized bond counsel satisfactory to Bank as to its valid authorization, execution, delivery and enforceability, as well as its federal and state tax consequences, and may include an opinion that the bonds are not private activity bonds within the meaning of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code") 26 U.S.C. § 141.

1.9 Compliance with State and Federal Law:

- A. The Borrower must comply with all applicable state laws and regulations. Recipients of loans must also comply with all requirements of 33 U.S.C. §§1381 to 138 and regulations and guidance issued thereunder in addition to any other applicable federal laws and regulations.
- B. In addition, the Borrower must agree to take all action, or refrain from taking any action, that would cause interest on any obligations of the Bank to be included, for federal income tax purposes, in the gross income of the holders of such obligations.

1.10 Modifications:

Where deemed appropriate by the Bank, waiver or variation of any provisions herein may be made or additional requirements may be added.

1.11 Severability:

If any provision of these rules and regulations or the application thereof to any local government unit, person, or corporation is held invalid by a court of competent jurisdiction, the remainder of the rules and regulations shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections shall not affect the validity of the remainder of these rules and regulations.

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