

CHAPTER 62-552 STATE REVOLVING FUND PROGRAM FOR DRINKING WATER FACILITIES

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62-552.200 Definitions.

For purposes of this rule chapter:

- (1) "Act" means the Federal Safe Drinking Water Act, as amended.
- (2) "Additional completion loan" means a loan, subsequent to execution of a pre-construction loan agreement and the Department's authorization to incur post-allowance project costs, which may be made to the project sponsor by the Department for the purpose of furnishing additional funds to finance post-allowance project costs. The interest rate for any additional completion loan shall be established under Rule 62-552.300(9), F.A.C.
- (3) "Adjusted post-allowance project costs" means the costs associated with post-allowance project activities for a project that will qualify for construction loan or construction grant funding. Capitalized interest and loan repayment reserve pertain to loans only, and such costs for loan funded projects are excluded from adjusted post-allowance project costs.
- (4) "Capitalized interest" means interest accruing at the interest rate set for the loan and compounding annually from the time when disbursements are made until six (6) months before the first semiannual loan repayment is due.
- (5) "Community water system" means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.
- (6) "Complete grant application" means completed form 62-552.900(3), Grant Application.
- (7) "Complete loan application" means completed form 62-552.900(2), Loan Application.
- (8) "Contingency portion" means the portion of a project list consisting of projects qualified to be on the fundable portion upon list adoption but for which there are insufficient funds.
- (9) "Cost-effective" means the lowest present worth (or equivalent annual value) of the implementable and environmentally acceptable alternatives to achieve the project sponsor's objectives considering capital costs as well as operation and maintenance costs.
- (10) "Department" means the Department of Environmental Protection.
- (11) "EPA" means the U.S. Environmental Protection Agency.
- (12) "Equivalency project" means a project for which the project sponsor shall document compliance with specific federal requirements under Rule 62-552.700(1), F.A.C., in addition to the general requirements under Rules 62-552.700(2) through (11), F.A.C.
- (13) "ERC" means the Environmental Regulation Commission.
- (14) "Financially disadvantaged community" means a municipality, county or agency (such as a county-wide department) thereof, franchised area, or other entity with a defined public water system service jurisdiction meeting the following requirements:
 - (a) It must be served by a community water system;
 - (b) It has a median household income of less than the statewide average as reported in the most recently available decennial census or as of a more recent verifiable determination and, for the purpose of qualifying for a grant to fund post-allowance project activities, it would have a debt service component, reflecting both existing indebtedness and that which would be required to implement the proposed project without financial assistance under this rule chapter, of the annual average residential drinking water user charge (or the equivalent thereof) to median household income financial burden ratio exceeding the following criterion:
 1. When the median household income is at least 80% but less than the 100% of the statewide average, the financial burden ratio criterion shall be 1.0%;
 2. When the median household income is below 80% of the statewide average, the financial burden ratio criterion shall be 0.5%.
- (15) "Fiscal year" means the 12-month period between July 1 and June 30.

(16) "Fundable portion" means the portion of a project list consisting of the projects scheduled to receive approval for funding during the fiscal year for which a list is prepared.

(17) "Funds allocated each year by the Department" means funds that are credited to the Drinking Water Revolving Loan Trust Fund in any fiscal year and are available, or expected to be available, for project grants and loans (including those for financially disadvantaged communities and small communities) during the fiscal year for which a project list is being developed as follows:

(a) As a direct result of federal capitalization grants and state appropriations less the amount of any funds appropriated, or similarly designated, for specific purposes or projects;

(b) As a direct result of loan repayments from project sponsors; and

(c) As a direct result of investment earnings, project list management actions under Rules 62-552.680(4) and (5), F.A.C., project cost underruns, and previous allocations by the Department that leave funds unassigned to projects on the fundable portion.

(18) "Loan" means financing provided by the Department under this rule chapter and which has been, or will be, secured using a formal agreement executed by the project sponsor's authorized representative and the Secretary.

(19) "Non-community water system" means a public water system which provides piped water for human consumption to at least 15 service connections or which serves at least 25 individuals at least 60 days out of the year but which is not a community water system. NOTE: The difference between a community water system and a non-community water system is that the former serves inhabitants whereas the latter serves transients or non-residents who otherwise do not inhabit the building served by the system. Private and limited use public water systems are addressed in Chapter 64E-8, F.A.C., and are regulated by the Department of Health.

(20) "Non-profit water system" means a public water system that is owned by a non-profit Florida corporation qualifying for such status under Chapter 617, F.S., the Florida Not For Profit Corporation Act.

(21) "Non-transient non-community water system" means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over six (6) months per year.

(22) "Planning portion" means the portion of the project list consisting of alphabetically ordered projects for which planning and design related activities are incomplete and, as a result, may receive funding in a future fiscal year.

(23) "Pledged revenue" means project sponsor revenue specifically approved by the Department and pledged for the repayment of the loan.

(24) "Post-allowance activities" shall mean the construction, procurement of equipment and materials, land acquisition, demolition, and technical services after construction bid opening.

(25) "Post-allowance project costs" means allowable costs for post-allowance activities and contingency and, for projects to be funded with loans, capitalized interest and loan repayment reserve.

(26) "Project" means any cost-effective devices and systems associated with the supply, storage, transmission, treatment, disinfection, and distribution of drinking water, including rehabilitation of existing facilities. Project construction need not, in and of itself, result in an operable system. The principal purpose of the project shall be to provide safe drinking water for the population projected to require such service during the design life of the project. The scope of a project includes only those facilities which qualify for funding under this rule chapter.

(27) "Project list" means the yearly listing of fundable, contingency, and planning portion projects for project financial assistance.

(28) "Project sponsor" means an entity, as defined in any of the following, that seeks or obtains financial assistance under this rule chapter:

(a) A municipality, county, district, or authority or any agency thereof or a combination of two or more of the foregoing acting jointly in connection with a project, having jurisdiction over a public water system; or

(b) A legally responsible entity representing a privately owned, investor-owned, or cooperatively held public water system.

(29) "Public water system" means all facilities, including land, necessary for the treatment and distribution of water for human consumption and includes a community, non-transient non-community, or non-community system for the provision to the public of piped water for human consumption, provided that such system has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. The term includes:

(a) Any collection, treatment, storage and distribution facility or facilities under control of the operator of such system and used primarily in connection with such system;

(b) Any collection or pretreatment storage facility or facilities not under control of the operator of such system but used primarily in connection with such system.

(30) "Rate-based community water system" means a community water system providing water to its customers in exchange for revenues based, at least in part, on the quantity of water that may be provided. One characteristic of a rate-based community water system is that operating revenues may be generated in excess of the operating expenses.

(31) "Refinancing loan" means a loan under this rule chapter to finance any portion of project construction and related services that has been completed or partially completed before the execution of the loan agreement if the project sponsor incurred debt to enable construction.

(32) "Request for inclusion" means form 62-552.900(1), Request for Inclusion on the Priority List for Drinking Water Facilities.

(33) "Secretary" means the Secretary of the Department of Environmental Protection.

(34) "Segmented project" means a project for which the allowable costs in a given fiscal year exceed the amount that the Department commits to provide under Rule 62-552.500(1)(d), F.A.C., or 62-552.600(1)(b), F.A.C.

(35) "Small community" means a municipality or unincorporated community or other identifiable entity with a total population of 10,000 or less as of the most recent decennial census or as of a more recent verifiable determination.

(36) "Target date" means the anticipated effective date for a financial assistance agreement for any part of the amount listed on the fundable portion of the project list.

(37) "Water facilities plan" means plans and studies formally adopted by the project sponsor that directly relate to selecting facilities for a public water system. The requirements for a water facilities plan are set forth in Rule 62-552.700(4), F.A.C.

Specific Authority 403.8532, 403.852 FS. Law Implemented 403.8532 FS. History—New 4-7-98, Amended 8-10-98, 7-20-99.

62-552.300 General Program Information.

(1) Only project sponsors owning community water systems, non-profit non-community water systems, and non-profit non-transient non-community water systems meeting the provisions of Section 403.8532(3), F.S., shall be eligible to receive financial assistance under this chapter.

(2) The categories of allowable project costs are:

(a) Land, including easements and rights-of-way, that will be acquired from a willing seller and is necessary for the location of the facilities to be funded. Funding of an acquisition shall be limited to the fair market value of the property necessary to locate the project facilities thereon including mandatory set-backs and buffer areas. However, the cost of acquisition shall not be included in the adjusted post-allowance project cost for the purpose of establishing allowances under Rule 62-552.420, F.A.C.;

(b) Public water system construction and related equipment procurement and land acquisition when contracts are executed either after the effective date of a financial assistance agreement with the Department or, if an authorization to incur costs for such activities has been given by the Department, before the effective date of a financial assistance agreement with the Department. Written authorization to incur costs shall be mailed to the project sponsor within 14 days of receipt of a request for such authorization provided that the environmental review under Rule 62-552.700(3), F.A.C., has been completed. Requests for such authorization shall be made in writing and shall be submitted to the Department of Environmental Protection, Bureau of Water Facilities Funding, 2600 Blair Stone Road, MS 3505, Tallahassee, Florida 32399-2400;

(c) Demolition and removal of existing structures;

(d) Contingency for unforeseen project costs;

(e) Technical services after bid opening;

(f) Loan repayment reserve;

(g) Interest accruing during construction on payments under binding agreements between a project sponsor and contractors, manufacturers, or suppliers;

(h) Unretired debt principal, excluding any reserves such as for debt service, under a when refinancing loan;

(i) Capitalized interest for the loan;

(j) Multiple purpose facilities, such as those to treat or convey wastewater and drinking water residuals. The proportion of the total cost allowable shall be established using engineering estimates of the total cost and the least cost facilities that could resolve the public water system problem;

(k) Allowances under Rule 62-552.420, F.A.C.;

(l) Acquiring all or part of an existing public water system from a willing seller as part of a consolidation or regionalization project. Funding of an acquisition shall be limited to the fair market value. However, the cost of acquisition shall not be included in the adjusted post-allowance project cost for the purpose of establishing allowances under Rule 62-552.420, F.A.C.; and

(m) Capacity purchase in an existing public water system. However, the cost of capacity purchase shall not be included in the adjusted post-allowance project cost for the purpose of establishing allowances under Rule 62-552.420, F.A.C.

(3) Unallowable project costs include the following:

(a) Facilities not in conformance with an approved water facilities plan;

(b) Facilities not included within the approved project scope;

(c) Construction using personnel employed by the project sponsor;

(d) Costs yet to be incurred at the time of the on-site administrative action taken by the Department to document project completion, such as for pending construction claims;

(e) Facilities or services for which the requirements of Rule 62-552.700, F.A.C., are not met;

(f) Any project for which the post-allowance project costs are less than \$75,000;

(g) Any project sponsored by a for-profit private owner or investor-owner entity of a community water system that regularly serves 1,500 service connections or more within the certified or franchised area in which the project will be located unless such project will result in the consolidation of the project sponsor's public water system and at least one additional public water system;

(h) That part of any project primarily intended to serve future growth not justified by public water system service demand projections in the water facilities plan; and

(i) That part of any project to be given financial assistance by another agency; and

(j) Any other cost not listed as allowable under subsection (2) above.

(4) In order to receive consideration for financial assistance, a complete grant or loan application shall be submitted to the Department of Environmental Protection, Bureau of Water Facilities Funding, 2600 Blair Stone Road, MS 3505, Tallahassee, Florida 32399-2400. The project sponsor may incorporate into a grant or loan application by reference any information previously submitted to the Department that meets the applicable requirements of this rule chapter in lieu of resubmitting such information.

(5) The amount of the allowable project contingency shall not exceed 10% of the estimated sum of the costs for allowable land (when the actual costs are unknown), equipment contracts, materials contracts, and construction contracts prior to completion of procurement activities under Rule 62-552.700(5), F.A.C. The contingency shall be adjusted by the Department to not more than 5% of construction, equipment, and materials contract amounts after procurement contracts have been executed. The contingency remaining after accounting for contract change orders shall be eliminated by the Department at the time of the on-site administrative action taken by the Department to document project completion. Contingency funds shall not be used to pay for work not described in the financial assistance agreement.

(6) The repayment period for loans under this rule chapter and the Act shall be limited as follows:

(a) Construction loans shall be repaid in no more than 20 years except for loans to project sponsors qualifying as financially disadvantaged communities. The 30-year limitation established under Section 403.8532, F.S., shall be available only for construction loans for projects to serve financially disadvantaged communities.

(b) Pre-construction loans shall be repaid in no more than 10 years. However, when construction loans are executed to finance the facilities planned and designed under a pre-construction loan, the project sponsor shall have the option to convert the repayment period to the repayment period negotiated for the construction loan.

(7) Only project sponsors qualifying for funding under Rule 62-552.200(28)(a), F.A.C., are eligible for a refinancing loan in accordance with the Act. However, a project, or any portion thereof, that is financed with a loan from the Department shall not be refinanced, at a lower interest rate, by the Department.

(8) The lesser of 15% of the funds allocated each year by the Department or 30% of the amount determined by adding the federal grant and state matching funds and subtracting the set-asides authorized by the Act shall be used to fund projects for financially disadvantaged communities. Financial assistance may be in the form of grants or grants and loans for the non-grant funded share under subsection (6) above. However, funds available for such grants and loans are not reserved. There is no special preferential consideration given to financially disadvantaged communities in identifying projects for funding under Rules 62-552.655 or 62-552.680, F.A.C. Funds that are not committed to projects on the fundable portion of the list at the time of the annual list adoption immediately also become available for loan commitments to other than financially disadvantaged communities on a priority score basis.

(9) The interest rate available for an additional completion loan shall be as follows:

(a) The lesser of the interest rate established in the pre-construction loan agreement provided that the conditions under Rule 62-552.350(3), F.A.C., have been met, or

(b) The subsidized rate based on market conditions as described in Rule 62-552.430(3), F.A.C., provided the project becomes listed on the fundable portion of the priority list under the procedures described in Rule 62-552.655 or 62-552.680, F.A.C.

(10) Each loan and grant agreement shall have terms necessary to meet the requirements of Section 403.8532, F.S., the Act, and this rule chapter.

(11) The ERC shall establish priorities and have final state approval on grant funding. Only the ERC shall place projects to be funded with grants for financially disadvantaged communities on the fundable or contingency portion of the project list under Rule 62-552.600 or 62-552.680(1), F.A.C. Only the ERC shall remove projects involving grants from the list under Rule 62-552.680(4), F.A.C.

(12) The Secretary or designee shall establish priorities and have final state approval on loan funding.

Specific Authority 403.8532 FS. Law Implemented 403.804, 403.8532 FS. History—New 4-7-98, Amended 8-10-98, 7-20-99.

62-552.350 Pre-construction Loans for Rate-Based Community Water Systems.

Funding of pre-construction loans for planning, engineering, and administrative allowances shall be made only to project sponsors having rate-based community water systems for projects which have a public health risk priority component under Rules 62-552.650(4)(a) through (d), F.A.C. A pre-construction loan shall not be available as a supplement to a pre-construction grant. A pre-construction loan project sponsor must qualify as a small community unless the project priority is based, in part, on consolidation or regionalization under Rule 62-552.650(5)(c), F.A.C. Pre-construction loans shall be available only after a listing on the fundable portion of the priority list has been obtained, a complete loan application has been submitted to the Department, and execution of a loan agreement for which the Department shall have the primary responsibility for drafting and settling of terms. Pre-construction loans shall be available before the completion of project planning.

(1) The maximum estimated adjusted post-allowance project costs, for the purpose of establishing allowances, shall be limited to \$2,000,000.

(2) The planning activities under a pre-construction loan shall address, at a minimum, all of the small community's public health and compliance related drinking water facilities needs throughout the planning period required under Rule 62-552.700(4)(b), F.A.C.

(3) Loan recipients shall prepare and submit to the Department, no later than the time set forth in the loan agreement:

- (a) Water facilities plan.
- (b) Affirmation of availability of all project sites for the purposes of construction, operation, and maintenance over the useful life of the facilities.
- (c) Biddable plans and specifications consistent with the selected alternative described in the water facilities plan.
- (d) Value engineering report for operationally related project facilities for which the adjusted post-allowance project costs are valued at more than \$5,000,000.
- (4) Loan agreements shall provide for the continuation of the pre-construction interest rate for post-allowance activities to be covered under an additional completion loan when the conditions stated in subsection (3) above have been met. When the conditions have not been met, the Department's commitment to continue the interest rate shall be terminated.
- (5) Loan agreements shall provide for the following:
 - (a) The loan repayment reserve, semiannual loan repayment, interest rate determination, loan service fee, loan security features, escrow account, pledged revenue coverage, legal affirmation, assurances of compliance with SRF program requirements, disbursement, and annual certification requirements of Rule 62-552.430, F.A.C.
 - (b) The late repayment remedies under Rule 62-552.430, F.A.C.
 - (c) A project sponsor shall be entitled to the special interest rate consideration given in Rule 62-552.300(9), F.A.C., when a project to be funded with an additional completion loan has been planned and designed according to the schedule incorporated into a pre-construction loan agreement, and the project has been included on the fundable portion of the priority list.
 - (d) The Department shall have no lien on or security interest in or claim on any moneys of the project sponsor except as expressly provided in the loan agreement.
 - (e) The project sponsor shall begin repaying a loan no later than the date originally scheduled under the loan agreement. The scheduled date shall be six months after completion of planning, engineering, and administrative activities. Pre-construction administrative activities include the Department's written notification of completion of all documentation required under Rule 62-552.350(3), F.A.C.
 - (f) A project sponsor shall be entitled to roll over the pre-construction loan principal into a construction loan when a project to be funded with such an additional completion loan has been planned and designed according to the schedule incorporated into a pre-construction loan agreement and the project has been included on the fundable portion of the priority list for a construction loan. However, the loan service fee, if included in the principal of the pre-construction loan, shall not be rolled over into the principal of the construction loan. The loan service fee for both the pre-construction and construction portions of the total loan principal shall be applied as described under Rule 62-552.400(1), F.A.C.

Specific Authority 403.8532 FS. Law Implemented 403.8532 FS. History—New 8-10-98, Amended 7-20-99.

62-552.360 Pre-construction Grants for Financially Disadvantaged Communities.

Grants shall be available only after a listing on the fundable portion of the priority list has been obtained, a complete grant application has been submitted to the Department, and a grant agreement has been executed. Pre-construction grants shall be available before the completion of project planning.

- (1) A project sponsor must qualify as a financially disadvantaged community in order to receive a pre-construction grant for planning, engineering, and administrative allowances.
- (2) A project sponsor must qualify as a small community unless the project priority is based, in part, on consolidation or regionalization under Rule 62-552.650(5)(c), F.A.C.
- (3) Pre-construction grants for financially disadvantaged communities shall be for 85% of the allowances under Rule 62-552.420, F.A.C., unless a lesser amount is requested by the project sponsor.
- (4) Pre-construction grants shall be awarded only for projects which have a public health risk priority component under Rules 62-552.650(4)(a) through (d), F.A.C.
- (5) No project sponsor shall be eligible to receive more than one pre-construction grant unless the project priority is based, in part, on consolidation or regionalization under Rule 62-552.650(5)(c), F.A.C.
- (6) Pre-construction grants shall be subject to the requirements and limitations of Rules 62-552.350(1) through (3), F.A.C., except that "loans" shall mean "grants."
- (7) Pre-construction grants shall be subject to the requirements and limitations of Rules 62-552.370(1)(j), (2) and (3), F.A.C.

Specific Authority 403.8532 FS. Law Implemented 403.8532 FS. History—New 8-10-98, Amended 7-20-99.

62-552.370 Construction Grants for Financially Disadvantaged Communities.

Grants shall be available only to project sponsors that qualify as financially disadvantaged communities. Additionally, projects must meet the financial burden, benefit limitation, and priority criteria under this rule section. Grants shall be available only after a listing on the fundable portion of the priority list has been obtained, a complete grant application has been submitted to the Department, and a grant agreement has been executed.

- (1) Construction grants shall be subject to the following limitations:

(a) The grant amount plus the loan amount, when the non-grant funded share is funded under this rule chapter, for a project in any one year shall not exceed the lesser of \$750,000 or 25% of the funds available under Rule 62-552.300(8), F.A.C. The total financial assistance shall be less than the foregoing not-to-exceed amount when there are insufficient funds to enable funding of all projects qualifying for such assistance on the fundable portion of the priority list. When deferred funding occurs under paragraph (f) below, the minimum segmented grant and loan amount available in any one year shall be the lesser of the estimated adjusted post-allowance project costs or \$375,000 subject to the 25% limitation referenced above.

(b) The grant funding shall not exceed 85% of any allowance under Rule 62-552.420, F.A.C., and the estimated post-allowance project costs when the median household income is below 80% of the statewide average and the financial burden ratio is at least 0.5% as established under Rule 62-552.200(14)(b), F.A.C.

(c) The grant funding shall not exceed 65% of any allowance under Rule 62-552.420, F.A.C., and the estimated post-allowance project costs when the following conditions have been met:

1. The median household income is at least 80% of the statewide average but less than the statewide average and the financial burden ratio is at least 1.0% as established under Rule 62-552.200(14)(b), F.A.C., or

2. The median household income is below 80% of the statewide average and the financial burden ratio is less than 0.5% as established under Rule 62-552.200(14)(b), F.A.C.

(d) No project sponsor shall be eligible to receive more than one construction grant unless the project priority is based, in part, on consolidation or regionalization under Rule 62-552.650(5)(c), F.A.C. However, a grant that is segmented for deferred funding as described under paragraph (a) above or paragraph (i) below shall not be construed to be multiple grants.

(e) A project sponsor shall document as part of the requirements under Rule 62-552.700(4)(i), F.A.C., that the debt service component of the user charge (or equivalent thereof) to median household income ratio requirement of Rule 62-552.200(14)(b), F.A.C., has been met.

(f) A project sponsor, owning or operating more than one public water system, shall document under Rule 62-552.700(4)(i)5., F.A.C., that the exclusive benefit requirement has been met.

(g) Grants shall be awarded only for projects and for project components to which a public health risk has been assigned under Rules 62-552.650(4)(a) through (d), F.A.C. When a multiple component project has both public health risk and compliance priority components, project components to which compliance priorities have been assigned under Rule 62-552.650(4)(e), F.A.C., may be grant funded subject to the following considerations:

1. Project components having public health risk priorities under Rules 62-552.650(4)(a) through (d), F.A.C., shall be funded before any consideration is given to funding project components having compliance priorities.

2. In the event grant funds remain available after all public health risk priority project components are funded, project components having compliance priorities shall be funded in order of priority rank established under Rule 62-552.655 or 62-552.680, F.A.C.

3. No project component to which an "other" priority has been assigned under Rule 62-552.650(4)(f), F.A.C., shall be eligible for grant funding.

(h) The funding of projects qualifying for grants in excess of the amount available from the Department in a single fiscal year shall be segmented for deferred funding under paragraph (a) above and Rules 62-552.600(1)(b) and 62-552.655(4)(a)1., F.A.C.

(i) A project sponsor shall obtain, within 180 days of grant agreement execution, a binding commitment for the non-grant share of the project costs described in, and to be incurred under, the grant agreement if such funds are not available at the time of grant application. No grant disbursements shall be made before the non-grant share has been secured.

(2) Compliance with the requirements of this rule chapter shall be necessary to qualify for a construction grant.

(3) Failure to comply with the terms and conditions of the grant agreement shall result in one or more of the following actions:

(a) Grant disbursement withholding.

(b) Suspension, termination, or annulment of the grant agreement.

(c) Legal proceedings to recover the grant amount.

Specific Authority 403.8532 FS. Law Implemented 403.8532 FS. History—New 8-10-98, Amended 7-20-99.

62-552.400 Program Administration Costs.

(1) A loan service fee based on a percentage of the total loan amount less the portion of the loan for capitalized interest and loan repayment reserve shall be paid by the loan recipient. The service fee percentage shall be established at the beginning of each fiscal year by the Department for all loans to be executed during that year. Each loan agreement shall identify the loan service fee percentage and the loan service fee amount. The loan service fee shall be assessed at the time of loan agreement execution. The loan recipient may elect to pay the entire loan service fee at the time of loan agreement execution or pay it plus capitalized interest thereon no later than by the time that the second semiannual loan repayment is due. Projections of loan program administration costs over a period of five (5) years shall be made by the Department to establish the service fee percentage for each year. These projections shall take into account the balance of the administrative funds available under Rule 62-552.500(2), F.A.C., at the beginning of each fiscal year and the estimated investment earnings thereon, funds resulting from scheduled loan repayments, federal and state appropriations for the fiscal year under consideration and that are available at the time the fee is being established, and projected expenses to administer the program. The earnings on investments shall be estimated using an interest rate 1% below

the Thomson Publishing Corporation's "Bond Buyer" 20-Bond GO Index average weekly yield for the full weeks during the January 1 to March 31 calendar year quarter immediately preceding the fiscal year for which the loan service fee is being established. The fee percentage authorized shall be not more than that required to ensure that the balance of administrative funds available at the beginning of the first year is not less than the sum of the administrative expenses for the succeeding two (2) fiscal years and the projected balance at the end of the fifth year is not less than zero. The fee percentage shall be rounded to the nearest 0.1%. However, the loan service fee shall not be less than 2% nor greater than 4%. Loan service fees shall be adjusted downward if procurement contracts result in a loan decrease.

(2) The service fee for a loan agreement executed after June 30 of the fiscal year in which a project, or segment of a project, is first listed on the fundable portion shall be the greater of the fee percentage for the fiscal year during which the project was first listed on the fundable portion and the fee percentage for the fiscal year in which the loan agreement is executed.

Specific Authority 403.8532 FS. Law Implemented 403.8532 FS. History—New 4-7-98, Amended 7-20-99.

62-552.420 Project Allowances.

Certain allowances shall be included in the allowable project cost at the request of the project sponsor. However, the costs of acquiring land, including easements and rights-of-way; acquiring existing public water systems; and purchasing capacity in an existing public water system shall be excluded from the adjusted post-allowance project costs for the purpose of establishing allowances. Allowances shall be used in lieu of reimbursement for incurred costs. When administrative and engineering allowances are disbursed under a pre-construction loan or pre-construction grant, the project sponsor shall be ineligible to receive the same allowance disbursements under a construction loan or construction grant for the same project. The amount of the disbursements under a construction assistance agreement shall be established by subtracting the amount previously disbursed under a pre-construction agreement from that allowable under the construction assistance agreement. When a construction project is funded with a combination of a grant and a loan, the financial assistance shall have both grant and loan components. The grant percentage established under Rule 62-552.370(1)(b) or (c), F.A.C., shall be applied to each allowance to determine the grant portion under such combined grant and loan assistance. The loan portion of administrative and engineering allowances shall be for the remainder after subtracting the grant portion from the total of each allowance. There shall be no loan portion for a planning allowance since no pre-construction loans shall be made in conjunction with pre-construction grants.

(1) The allowance for administrative expenses shall not exceed the following:

(a) For pre-construction loans and pre-construction grants, the maximum allowance that may be requested shall be \$12,000 regardless of the adjusted post-allowance project costs.

(b) For construction loans and construction grants, the allowance shall not exceed 0.6% of the adjusted post-allowance project costs. However, the maximum allowance that may be requested for projects with adjusted post-allowance project costs not exceeding \$2,000,000 shall be \$12,000.

(2) The allowance for engineering work performed before construction bid opening shall not exceed the following:

(a) For pre-construction loans and pre-construction grants, the allowance shall not exceed the larger of the allowance listed under "Engineering Amount" for the range in costs or the amount calculated using the percentage listed under "Engineering Amount" multiplied by the estimated adjusted post-allowance project costs as given in the table below. The amount of the allowance shall be subject to the adjusted post-allowance project costs limitation of \$2,000,000 under Rule 62-552.350(1) or 62-552.360(6), F.A.C., respectively.

Adjusted Post-allowance Project Costs	Engineering Amount
Less than \$500,000	10.3% or \$21,000
At least \$500,000 but less than \$1,000,000	8.5% or \$52,000
At least \$1,000,000 but less than \$2,000,000	7.5% or \$85,000
At least \$2,000,000 but less than \$5,000,000	6.8% or \$150,000
At least \$5,000,000 but less than \$10,000,000	6.4% or \$375,000
At least \$10,000,000 but less than \$50,000,000	6.0% or \$640,000
At least \$50,000,000	5.7% or \$3,000,000

(b) For construction loans and construction grants, the allowance shall not exceed the larger of the allowance listed under "Engineering Amount" for the range in costs or the amount calculated using the percentage listed under "Engineering Amount" multiplied by the estimated adjusted post-allowance project costs as given in the table under paragraph (a) above.

(3) The allowance for planning work under a pre-construction loan or a pre-construction grant shall be independent of other allowances for engineering work and administrative expenses under this rule section. The amount of the allowance shall be subject to the adjusted post-allowance project costs limitation of \$2,000,000 under Rule 62-552.350(1) or 62-552.360(6), F.A.C., respectively. The planning allowance shall not exceed the larger of the allowance listed under "Planning Amount" for the range in costs or the amount calculated using the percentage listed under "Planning Amount" multiplied by the estimated adjusted post-allowance project costs as given in the table below:

Adjusted Post-allowance Project Costs	Planning Amount
Less than \$1,000,000	4.4% or \$15,000
At least \$1,000,000 but not more than \$2,000,000	3.9% or \$44,000

(4) Disbursement of allowances shall be as follows:

(a) For pre-construction grants and pre-construction loans, one-half of each of the administrative and the planning allowances shall be disbursed on request of the project sponsor after a financial assistance agreement is signed. The remaining one-half of each of the administrative and the planning allowances shall be disbursed on request of the project sponsor and after the environmental review under Rule 62-552.700(3), F.A.C., has been completed. One-half of the engineering allowance under a pre-construction loan or pre-construction grant agreement shall be disbursed upon request of the project sponsor after the environmental review under Rule 62-552.700(3), F.A.C., has been completed. The remaining one-half of the engineering allowance shall be disbursed upon request of the project sponsor after completion of the plans and specifications.

(b) For construction grants and construction loans, administrative and engineering allowances shall be disbursed on request of the project sponsor after a financial assistance agreement is signed. Planning allowances shall not be included in construction loans or construction grants.

(5) Increases to allowances shall be subject to the procedures for obtaining a priority for funding under either Rule 62-552.655 or 62-552.680(1), F.A.C., and to the following:

(a) There shall be no increase in the amount of a planning allowance.

(b) An increase, if requested, to the administrative or engineering allowance shall be according to the following:

1. An increase in an allowance initially included in a pre-construction loan or pre-construction grant shall be available only when a project has been planned and designed according to the schedule incorporated into a pre-construction assistance agreement and only in conjunction with a construction loan or construction grant that provides funding for facilities designed under the pre-construction loan or pre-construction grant. The amount of an allowance increase shall be established by subtracting the allowance based upon the originally estimated costs for post-allowance activities documented in the pre-construction assistance agreement from the allowance based upon the adjusted post-allowance project costs established upon execution of the final procurement contract for which the design was funded under the pre-construction assistance agreement. The costs included in such final adjusted post-allowance project costs shall be in the award amount(s) for the construction related contract(s) included in the project scope as described in the construction assistance agreement, regardless of whether project funding has been segmented under Rule 62-552.500(1)(d) or 62-552.600(1)(b), F.A.C.

a. When an increase in post-allowance project costs occurs for a project funded first with a pre-construction grant that has not been limited by the \$2,000,000 maximum adjusted post-allowance project costs imposed by Rule 62-552.360(6), F.A.C., and then funded with a construction grant for any part of the project, an increase to grant participation in engineering and administrative allowances shall be made at the 85% grant participation level for that part of the project being funded with the construction grant.

b. When an increase in post-allowance project costs occurs for a project funded first with a pre-construction grant that has been limited by the \$2,000,000 maximum adjusted post-allowance project costs imposed by Rule 62-552.360(6), F.A.C., and then funded with a construction grant for any part of the project, an increase to grant participation in engineering and administrative allowances shall be made at the construction grant participation level for that part of the project being funded with the construction grant.

c. When a project funded first with a pre-construction grant that has been limited by the \$2,000,000 maximum adjusted post-allowance project costs imposed by Rule 62-552.360(6), F.A.C., and then is funded with a construction grant for any part of the project, grant participation in that part of the engineering and administrative allowances previously disallowed by the \$2,000,000 maximum shall be available on request. Such grant funding shall be made at the construction grant participation level for that part of the project being funded with the construction grant.

2. An increase in an allowance initially included in a construction loan or construction grant shall be available when the amount of all construction related contract awards exceeds the estimate documented in the construction assistance agreement. The amount of an allowance increase shall be established by subtracting the allowance based upon the originally estimated costs for post-allowance activities documented in the construction assistance agreement from the allowance based upon the adjusted post-allowance project costs established upon execution of the final procurement contract. The costs included in such final adjusted post-allowance project costs shall be in the award amount for the construction related contracts included in the project scope as described in the construction assistance agreement, regardless of whether project funding has been segmented under Rule 62-552.500(1)(d) or 62-552.600(1)(b), F.A.C.

(6) Decreases to allowances shall be made by amendment to the financing agreement which the Department shall prepare and provide to the project sponsor for execution subject to the following:

(a) The amount of any decrease under pre-construction grants or pre-construction loans shall be established as follows:

1. When planning is not completed as required by a financing agreement, the amount of the decrease shall be established by eliminating all remaining undisbursed allowances from the pre-construction grant or pre-construction loan amount.

2. When planning is completed but facilities are not designed as required by a financing agreement, the amount of the decrease shall be established as the engineering allowance for the incomplete design work based on the estimated adjusted post-allowance costs documented in the completed facilities plan. The decrease shall be applied to all remaining undisbursed allowances under the pre-construction loan or pre-construction grant. If necessary, the decrease shall be recovered in conjunction with a construction loan or construction grant that provides funding for any part of the designed facilities. Allowances are subject to further adjustment under paragraph (b) below.

(b) The amount of any decrease to allowances under construction grants or construction loans shall be established by subtracting the allowance based upon the adjusted post-allowance project costs established upon execution of the final procurement contract from the allowance based upon the originally estimated costs for post-allowance activities documented in the construction assistance agreement. The costs included in such final adjusted post-allowance project costs shall be in the award amount for construction related contracts included in the project scope as described in the construction assistance agreement, regardless of whether project funding has been segmented under Rule 62-552.500(1)(d) or 62-552.600(1)(b), F.A.C.

1. When a decrease in post-allowance project costs occurs for a project funded first with a pre-construction grant that has not been limited by the \$2,000,000 maximum adjusted post-allowance project costs imposed by Rule 62-552.360(6), F.A.C., and then funded with a construction grant for any part of the project, a decrease to grant participation in engineering and administrative allowances shall be made at the 85% grant participation level for that part of the project being funded with the construction grant.

2. When a decrease in post-allowance project costs occurs for a project funded first with a pre-construction grant that has been limited by the \$2,000,000 maximum adjusted post-allowance project costs imposed by Rule 62-552.360(6), F.A.C., and then funded with a construction grant for any part of the project, a decrease to grant participation in engineering and administrative allowances shall be made only if the costs drop below the maximum and then the grant decrease shall be made at the 85% grant participation level for that part of the project being funded with the construction grant.

Specific Authority 403.8532 FS. Law Implemented 403.8532 FS. History—New 4-7-98, Amended 8-10-98, 7-20-99.

62-552.430 Construction Loans for Rate-Based Community Water Systems.

To receive a loan, a project sponsor must enter into a negotiated written agreement with the Department. The Department shall have the primary responsibility for drafting the agreement and settling its terms. Loan agreements shall provide for the following:

(1) The project sponsor shall establish a loan repayment reserve account. When pledged revenues result from the operation of water systems or water and sewer systems entirely owned by a single project sponsor responsible for systems operation and for loan repayment, the reserve shall be 0.03 times the total loan amount less the portion of the loan for capitalized interest and loan repayment reserve. When pledged revenues result from other revenues, the project sponsor responsible for loan repayment is other than as previously described in this subsection, the project sponsor has not demonstrated the ability to service long term debt, or all default remedies under subsection (15) below are not available to the Department, the repayment security in the form of coverage in addition to the 1.15 amount and other security features described in subsection (4) below shall be negotiated. However, any loan repayment reserve in excess of that based on the 0.03 factor specified above shall be established using local funds unless the project sponsor qualifies as a financially disadvantaged community.

(2) Uniform loan repayments shall be made semiannually. The loan recipient shall make monthly deposits of pledged revenues to an escrowed debt service account and shall be responsible for the maintenance of that account.

(3) The interest rate shall be 60% of the market rate as established using the Thomson Publishing Corporation's "Bond Buyer" 20-Bond GO Index and shall not exceed that paid on the last bonds sold pursuant to s. 14, Art. VII, State Constitution. The market rate (20-Bond GO Index) shall be established by the Department as of January 1, April 1, July 1, and October 1 of each year and shall be the average weekly yield for the full weeks occurring during the three months immediately preceding the date of determination. Once established in the loan agreement, the interest rate shall be fixed for the principal amount of the loan. Interest rates for additional funds, if any, lent to the project sponsor via a loan agreement amendment shall be established in the same manner as for the initial loan. The procedures for establishing the market rate for any funds lent shall be subject to the following considerations:

(a) When the loan agreement, as provided to the project sponsor by the Department for execution, is signed and returned to the Department in the same fiscal quarter as it is offered, the market rate shall be the average weekly yield during the preceding fiscal quarter.

(b) When the loan agreement, as provided to the project sponsor by the Department for execution, is signed and returned to the Department in the fiscal quarter after that in which it is offered, the market rate shall be the greater of the average weekly yield for the fiscal quarter preceding that in which the loan agreement is offered and the fiscal quarter preceding that in which the signed loan agreement is returned to the Department.

(4) Pledged revenues resulting from the operation of water systems or water and sewer systems entirely owned by a single project sponsor responsible for systems operation and for loan repayment shall be as follows:

(a) When the project sponsor has demonstrated the ability to service long term debt and all default remedies under subsection (15) below are available to the Department, pledged revenue shall be not less than 1.15 times the amount required to make each semiannual loan repayment unless the project sponsor establishes an escrowed reserve using local funds in an amount not less than one semiannual loan repayment.

(b) When the project sponsor has demonstrated the ability to service long term debt but all default remedies under subsection (15) below are not available to the Department, pledged revenues shall be not less than 1.15 times the amount required to make each semiannual loan repayment.

(c) When the project sponsor has not demonstrated the ability to service long term debt and all default remedies under subsection (15) below are not available to the Department, pledged revenues shall be not less than 1.15 times the amount required to make each semiannual loan repayment. In addition, special loan security provisions shall be negotiated that provide assurance that debt service requirements will be fulfilled. The additional security provisions shall be as follows:

1. Additional escrowed reserve funds equivalent to not less than five semiannual loan repayments. Upon request from a financially disadvantaged community, the Department shall include the equivalent of one of the five additional semiannual loan repayments in the loan repayment reserve funds to be included in the loan principal under subsection (1) above. Escrowed funds shall be accompanied by a lien on the assets of the project sponsor in the amount of the total loan principal less the amount of security of principal provided by the additional escrowed funds.

2. A letter of credit from a bank or trust company, having a combined capital and unimpaired surplus of not less than \$50 million, authorized to transact commercial banking or savings and loan business in the State of Florida and insured by the Federal Deposit Insurance Corporation assuring that no less than five semiannual loan repayments will be made. The letter of credit shall be accompanied by a lien on the assets of the project sponsor in the amount of the total loan principal less the amount of security of principal provided by the letter of credit.

3. A personal or corporate, as applicable, obligation ensuring that all semiannual repayments can be made.

4. Other security features equivalent to those described in subparagraphs 1. through 3. above.

(d) When the project sponsor has not demonstrated the ability to service long term debt and all default remedies under subsection (15) below are available to the Department, pledged revenues shall be not less than 1.15 times the amount required to make each semiannual loan repayment.

(5) Pledged revenues resulting from the operation of water systems or water and sewer systems that are not entirely owned by a single project sponsor responsible for systems operation and for loan repayment shall be subject to the negotiated loan security provisions under paragraph (c) above.

(6) Pledged revenue coverage for the loan from the Department shall not result from or be transferred from or be derived from coverage required by senior lien debt documents.

(7) When submitting a loan to the Department for execution, the project sponsor shall provide an affirmation by legal counsel that:

(a) The loan agreement constitutes a valid and legal obligation of the project sponsor;

(b) The loan agreement specifies the revenues pledged to the repayment of the loan; and

(c) The pledge is valid and enforceable.

(8) The Department shall have no lien on or security interest in or claim on any moneys of the project sponsor except as expressly provided in the loan agreement.

(9) The project sponsor shall provide assurance that:

(a) Written records will be kept and organized. The Department, the State of Florida, and their agents shall have access to all records pertaining to the loan.

(b) Accounting and financial reporting related to a project sponsored by a governmental entity will be in accordance with Generally Accepted Government Accounting Principles established by the Government Accounting Standards Board. Accounting and financial reporting related to a project sponsored by other than a governmental entity will be in accordance with Generally Accepted Accounting Principles established by the Financial Accounting Standards Board. The address at which documents may be obtained from either Board is 401 Merritt 7, P. O. Box 5116, Norwalk, CT 06856-5116.

(c) Facilities will be properly operated and maintained.

(d) Loan funds will not be used for the purpose of lobbying any governmental entity.

(10) The project sponsor shall begin repaying a loan no later than the date originally scheduled under the loan agreement.

(11) Disbursements to the project sponsor shall be for costs paid or incurred, certain allowances, or establishment of a loan repayment reserve. However, capitalized interest is not disbursed to the project sponsor. Disbursements shall be subject to the following requirements:

(a) Requests for disbursements (other than those relating to allowances) shall be accompanied by certifications and itemized summaries of the materials, labor, or services to identify the nature of the work performed. Certifications shall state that the construction or other service for which payment or reimbursement is sought has been satisfactorily performed.

(b) The materials, labor, and services being invoiced shall be part of the approved project.

(c) The disbursement shall be due under the terms of the loan agreement.

(d) Requests for disbursements for allowances shall be subject to the limitations imposed by Rule 62-552.420, F.A.C.

(12) No later than three (3) months before the project sponsor's first loan repayment and annually thereafter until the final loan repayment is made, the project sponsor's authorized representative or its chief financial officer shall submit a certification that:

(a) Pledged revenue collections, currently deposited under subsection (2) above plus those projected to be collected at current collection rates before the due date for a semiannual loan repayment will satisfy the rate coverage requirement;

(b) The monthly escrow account contains the funds required under subsection (2) above.

(c) The loan repayment reserve account under subsection (1) and, if appropriate, subsection (4) above contains the funds required; and

(d) Insurance in effect for the facilities generating the pledged revenues adequately covers the customary risks to the extent that such insurance is available.

(13) Events of default shall include noncompliance with any of the terms of a loan agreement.

(14) No delay or omission by the Department to exercise any right or power accruing upon an event of default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised as often as may be deemed expedient.

(15) Remedies for default, including delinquent repayments, include the following:

(a) Imposition of 6% penalty interest, accruing on any amount due and payable on the 30th day following the repayment due date, in addition to charging the cost to handle and process the debt.

(b) Interception of local governmental agencies' revenue sharing or tax sharing, except as otherwise provided by the State Constitution. The Department shall certify any local governmental agency repayment delinquency to the Auditor General and the Comptroller. The certification of delinquency shall not limit the Department from pursuing other remedies for default.

(c) Imposition of any remedy available to the Department under Florida law.

Specific Authority 403.8532 FS. Law Implemented 403.8532 FS. History—New 4-7-98, Amended 8-10-98, 7-20-99.

62-552.500 Funds Reserved for Specific Purposes.

A portion of the funds allocated each year by the Department, including the financially disadvantaged community funds established under Rule 62-552.300(8), F.A.C., is reserved for the benefit of small communities. Funds are also reserved to reimburse the Department for its administrative costs in managing the program.

(1) Fifteen percent of the funds allocated each year by the Department shall be reserved for projects that will serve small communities. The Department shall administer the small-community reserve funds as follows:

(a) Projects that will serve small communities that have sufficient priority ranking, after the assignment of a priority score under Rule 62-552.650, F.A.C., shall be listed on the fundable portion list using the procedures under Rule 62-552.655 or 62-552.680, F.A.C.

(b) A project that will serve a small community shall be eligible for construction loan funding from the small-community reserve even if the project sponsor does not qualify as a small community subject to the conditions listed below. This provision shall not apply to pre-construction grants or construction grants. This provision shall not apply to pre-construction loans unless the project priority is based, in part, on regionalization or consolidation under Rule 62-552.650(5)(c), F.A.C.

1. A county government or agency thereof is the project sponsor; or

2. The existing population of the small community is at least one-half of the total existing population to be served by the project; and

3. The design year population growth projected for the small community represents at least one-half of the total design year population growth to be served by the project.

(c) When the project list is adopted, any part of the reserved amount not needed to place small-community projects on the fundable portion shall no longer be reserved exclusively for small-community projects.

(d) The amount of funds that may be lent for any construction project in any one year to serve a small community shall be limited to 25% of the funds reserved under this subsection. Projects qualifying for additional assistance shall be subject to the same limitations and entitlements as those segmented under Rule 62-552.600(1)(b), F.A.C.

(e) The amount of funds that may be lent for any pre-construction project shall be subject to the limitations under Rule 62-552.350(1), F.A.C.

(f) The amount of grant funds that shall be reserved for a pre-construction project shall be subject to the limitations under Rules 62-552.360 and 62-552.300(8), F.A.C.

(g) The amount of grant funds that shall be reserved for all construction grant projects shall be subject to the limitations under Rule 62-552.300(8), F.A.C.

(2) Service fees under Rule 62-552.400, F.A.C., shall be deposited in the Department's Grants and Donations Trust Fund. Fee proceeds, including investment earnings, shall be reserved to pay for the administration of the financial assistance programs of the Bureau of Water Facilities Funding.

Specific Authority 403.8532 FS. Law Implemented 403.8532 FS. History—New 4-7-98, Amended 8-10-98, 7-20-99.

62-552.600 Project List Information.

Each year, a project list shall be adopted at a public hearing. The ERC establishes project priorities and approves the placement of projects on the list before projects can be funded with grants for financially disadvantaged communities. The Secretary or designee establishes project priorities and approves the placement of projects on the list before projects can be funded with loans. The list becomes effective after adoption, but not before July 1 of the fiscal year for which it is developed. The following are the procedures to be used to establish project list information for Fiscal Year 1999 and subsequent years:

(1) The Department shall accept requests for inclusion on the next year's project list when they are postmarked or delivered between December 1 and February 15. Resubmittal shall not be necessary if the requested project was included on the preceding year's list. However, current target date and estimated cost information shall be provided by the February 15 deadline for any

project previously listed on the planning portion or contingency portion to qualify for listing on the fundable portion. A request for inclusion shall be submitted to the Department of Environmental Protection, Bureau of Water Facilities Funding, 2600 Blair Stone Road, MS 3505, Tallahassee, Florida 32399-2400. Procedures for the review of requests for inclusion shall be:

(a) Additional information shall be requested by the Department when the data provided by the project sponsor are incomplete or unclear. Data remaining incomplete or unclear after 30 days from receipt of the Department's written request for additional information shall result in a lower funding priority, reflecting a substitution of assumed data for the incomplete or unclear data. The assumed data shall generate the minimum priority score attributed to the incomplete or unclear data.

(b) The amount of funds available to a project sponsor for projects to be listed on the fundable portion for construction loans shall be limited to no more than 25% of the funds allocated each year by the Department in any one fiscal year. The amount of funds available to a project sponsor in any one fiscal year for projects to be listed on the fundable portion for construction grants shall be limited under Rule 62-552.370(1)(a), F.A.C. There shall be no limitation imposed on the amount of funding assigned to contingency portion projects. A project shall be segmented for deferred funding when a project sponsor achieves a fundable portion listing and qualifies for funding in excess of that available to it in any one fiscal year.

(c) A target date shall be assigned to each project, including those partially funded during the preceding fiscal year. Projects to be scheduled for funding in the fiscal year for which the list is being developed shall have target dates no later than March 31 of that fiscal year.

(d) A priority determination under Rule 62-552.650, F.A.C., shall be made for each project.

(2) A schedule for completing all remaining requirements before the target date deadline, referenced in paragraph (1)(c) above, shall be furnished by the project sponsor to obtain a project listing on the fundable or contingency portion. The schedule shall be compatible with deadlines required by administrative or judicial actions or by permit conditions.

(3) The scope of a fundable or contingency portion project described on the project list shall not be expanded to encompass additional work unless it has been subject to the prioritization procedures of Rule 62-552.650, F.A.C., and either the list development procedures of Rule 62-552.655, F.A.C., or the list management procedures of Rule 62-552.680, F.A.C., as appropriate.

(4) After the ranking of projects under Rule 62-552.655, F.A.C., and before June 1 preceding the fiscal year for which the list will be in effect, a proposed list shall be established. The proposed list shall be mailed by the Department, not later than 14 days prior to the list adoption hearing to be held under this rule section, to all project sponsors that have submitted a request for inclusion on the proposed list and to anyone who submits a written request, at least 14 days before the scheduled list adoption, to the Department of Environmental Protection, Bureau of Water Facilities Funding, 2600 Blair Stone Road, MS 3505, Tallahassee, Florida 32399-2400.

Specific Authority 403.8532 FS. Law Implemented 403.804, 403.8532 FS. History--New 4-7-98, Amended 8-10-98.

62-552.650 Priority Determination.

(1) The priority system for financial assistance is based on public health considerations, compliance with the Act or other enforceable requirements relating to drinking water systems, and affordability. Affordability includes the evaluation of median household income, population affected, and consolidation of very small public water systems which serve a population of 500 people or fewer. The baseline priority score shall be determined as set forth in subsections (2), (3), and (4) below. The affordability score shall be determined as set forth in subsection (5) below and shall be added to the baseline score. Special consideration shall be given, in the form of the cost-effectiveness preference under Rule 62-552.700(2), F.A.C., to projects in areas where salt water intrusion jeopardizes adequate supplies of safe drinking water.

(2) Each project, or component of a project when a project has components qualifying for different baseline priority scores, shall be assigned a baseline priority score to indicate protection of public health, compliance with the Act or other enforceable requirements, or another lower priority need.

(a) When a construction loan project has components qualifying for different baseline priority scores, the score for the entire project shall be the highest number of points for which at least 50% of the estimated project costs qualify. When no single project component generates at least 50% of the estimated project costs, the cost of the highest priority component shall be combined with one or more lower priority component costs, at the lowest number of points associated with any of the combined components, to achieve the 50% threshold and thereby establish the overall project baseline priority score.

(b) When a construction grant project has components qualifying for different baseline priority scores, each component shall be assigned its own priority score. A project must have a public health risk assigned to it or to one of its components to qualify for a construction grant under Rule 62-552.370(1)(h), F.A.C. The priority of any project component, regardless of the ratios of component costs to total project cost, shall not establish overall project baseline priority score.

(c) When a pre-construction project has components qualifying for different baseline priority scores, one of the project components must have a public health risk assigned to it to qualify for a loan under Rule 62-552.350, F.A.C., or a grant under Rule 62-552.360, F.A.C. Such a public health risk priority establishes the overall project baseline priority score. However, an overall pre-construction project baseline priority score shall not be carried over to any subsequent construction grant or construction loan project. Any prioritization of a construction project shall be subject to the applicable paragraph (a) or (b) above.

(3) Compliance monitoring results for public water systems or County Health Department sampling results for other supply, treatment, or distribution systems during the 48-month period immediately preceding the date upon which a request for inclusion is submitted under Rule 62-552.600(1) or Rule 62-552.680(1)(a)2., F.A.C., shall be used to justify public health and compliance baseline priority scores involving a comparison to a maximum contaminant level (MCL) or other numerical standard relating to drinking water quality. A certification by the State Health Officer of the existence of a public health risk during the referenced 48-month period also shall justify a public health baseline priority score.

(4) Baseline priority scores shall be assigned to projects that will eliminate any of the following conditions or satisfy the Florida Administrative Code requirements cited below:

(a) Acute public health risk sub-category projects shall be assigned a baseline priority score of 800 points when the following is documented.

1. Exceedance of the fecal coliform or E. Coli MCL value as set forth in Rule 62-550.310(3)(b), F.A.C.;
2. Failure to meet the surface water treatment or disinfection requirements of Rules 62-550.560 and 62-555.600 through 62-555.630, F.A.C., commonly known as the Surface Water Treatment Rule;
3. Exceedance of a lead or copper action level as set forth in Title 40 of the Code of Federal Regulations, part 141, sections 80 through 91 (1995) for two (2) successive monitoring periods; or
4. Exceedance of a nitrate, nitrite or total nitrogen MCL value as set forth in Rule 62-550.310(1), F.A.C. For public water systems, an exceedance shall be established according to the monitoring requirements of Rule 62-550.512, F.A.C.

(b) Potential acute public health risk sub-category projects shall be assigned a baseline priority score of 700 points when the following is documented.

1. Exceedance of the total coliform MCL value as set forth in Rule 62-550.310(3)(a), F.A.C.;
2. Violation of the disinfection requirements under Rule 62-555.320(4), F.A.C.;
3. Exceedance of 50% of a nitrate, nitrite or total nitrogen MCL value as set forth in Rule 62-550.310(1), F.A.C.;
4. Treatment or disinfection facilities are needed to enhance compliance with the Surface Water Treatment Rule; or
5. A certification is made by the State Health Officer that an acute public health risk exists as a result of contaminants for which the Department has no established standards for water supplies and the proposed project will eliminate the risk.

(c) Chronic public health risk sub-category projects shall be assigned a baseline priority score of 600 points when an exceedance of an MCL value for the following is documented.

1. Primary chemical contaminants (except nitrate, nitrite, and total nitrogen) identified in Tables 1, 2, and 3 of Chapter 62-550, F.A.C.;
2. Trihalomethanes identified in Rule 62-550.310(2)(a), F.A.C.; or
3. Radionuclides identified in Rule 62-550.310(4), F.A.C.

(d) The potential chronic public health risk sub-category projects shall be assigned a baseline priority score of 500 points when the following is documented.

1. Exceedance of 50% of an MCL value for primary chemical contaminants (except nitrate, nitrite, and total nitrogen) identified in Tables 1, 2, and 3 of Chapter 62-550, F.A.C.; or
2. Exceedance of 80% of an MCL value for trihalomethanes identified in Rule 62-550.310(2)(a), F.A.C.; or
3. A certification is made by the State Health Officer that a chronic public health risk exists as a result of contaminants for which the Department has no established standards for water supplies and the proposed project will eliminate the risk.

(e) The compliance with the Act and other enforceable requirements category projects shall be assigned a baseline priority score of 300 points when any of the following is documented.

1. Violation of any secondary contaminant standard found in Table 4 of Chapter 62-550, F.A.C.
2. Required facilities do not currently exist or must be provided to enable compliance with rules of the Department. The situations requiring compliance are listed below:
 - a. Requirements for the minimum number of wells in Rule 62-555.315(1), F.A.C.;
 - b. Well set-back and construction requirements of Rules 62-555.312 and 62-555.315, F.A.C., respectively;
 - c. Treatment, storage, power, and distribution requirements of Rule 62-555.320, F.A.C.; and
 - d. Cross connections and backflow control requirements of Rule 62-555.360, F.A.C.

(f) A separate category having a baseline priority score of 100 points shall be assigned to all other projects that cannot be categorized under paragraphs (a) through (e) above. Examples of such projects are water softening treatment and computer or laboratory facilities.

(5) In addition to the assignment of a baseline score, each project shall be awarded points based upon the three affordability criteria outlined below. These points shall be added to the baseline category score to determine the total priority score for the project.

(a) A median household income (MHI) score shall be derived based on the extent to which a community's MHI falls below the statewide average. Data used to determine the score shall be from the most recent decennial census or from verifiable estimates provided by the project sponsor. Household income data shall be representative of all areas to be served by the proposed project. The score is based on the following formula:

$$\text{MHI score} = 200 \times (1.00 - \text{MHI fraction})$$

Where the MHI fraction is the MHI estimate for the project service area divided by the statewide average MHI. This score shall not exceed a maximum of 100.0 points and shall be rounded to the nearest tenth of a point.

(b) Projects for small systems are generally less affordable than those for larger systems because of the limited rate base from which to recover costs. These systems also often have difficulty complying with the Act. Thus, special consideration will be given to such projects based on population. The population score is based on the following formula:

$$\text{Population score} = 50.0 - (P/1,000)$$

Where P is the population of the project's service area. The minimum score shall be 0.0 points and shall be rounded to the nearest 0.1 point.

(c) Because very small public water systems often experience difficulty complying with the regulatory requirements, a consolidation score will be used to reflect a project's consolidation or regionalization of such systems. For each project which consolidates or regionalizes public water systems serving 500 or fewer persons, an additional 15 points for each such system will be awarded. However, the consolidation score shall not exceed 45 points regardless of the number or consolidated or regionalized systems.

Specific Authority 403.8532 FS. Law Implemented 403.8532 FS. History—New 4-7-98, Amended 7-20-99.

62-552.655 Ranking Projects for Project List Development.

Projects shall be assigned to the fundable, contingency, and planning portions of the project list each year, thus establishing project rankings. Each project shall be listed on the fundable, contingency, or planning portion. Priority score of the project, the amount of funds allocated each year by the Department, and, for construction grants and loans, readiness of the project sponsor to proceed with construction procurement shall determine the appropriate portion for project listing. The small-community reserve funds under Rule 62-552.500(1), F.A.C., shall be administered so that the ranking of qualifying projects is independent of rankings of other projects on the project list. When a segmented project is included on the fundable portion, the unfunded remainder shall be deferred to the contingency portion. Projects with equal priority scores shall be subranked in order of the date of postmark or receipt by the Department of the request for inclusion, whichever is earlier. Similar subranking of projects shall take place when updated project information is submitted under Rule 62-552.600, F.A.C.

(1) Projects shall be listed on the fundable portion of the project list if sufficient funds are expected to be available, the conditions of this section are met, and a schedule for completing all remaining program requirements before the target date has been submitted under Rule 62-552.600(2), F.A.C.

(2) The procedures for identifying the projects to be funded from the small-community reserve funds require the identification of the lowest ranked project, regardless of size of the community to be served, on the fundable portion based on the availability of unreserved funds only. Subsequent procedures are described below, and they may result in the assignment of small-community projects with relatively low priority scores to the fundable portion of the project list.

(a) When there are more qualifying small-community project needs than reserved funds available, reserved funds shall be made available in descending order of relative priority score for projects having lower priority scores than the lowest ranked fundable portion project established under subsection (2) above. Any remaining reserved funds then shall be assigned to projects in ascending order of relative priority score for projects having higher priority scores than the lowest ranked fundable portion project establish under subsection (2) above.

(b) When there are more reserved funds available than there are qualifying small-community project needs, reserved funds shall be made available for all qualifying projects regardless of priority score. After assignment of the reserved funds to all qualifying projects, the remaining funds no longer shall be reserved to fund small-community projects.

(c) The lowest ranked project not qualifying for reserve funds on the fundable portion shall be reestablished as a result of assigning reserved funds to small-community projects as described in paragraphs (a) and (b) above.

(3) When the reserved or unreserved funds expected to be available will not fully finance the lowest-ranked project being considered for the fundable portion and the project sponsor seeking funding will not commit to building the entire project without an assurance of additional funding from the Department, the entire project shall be deferred to the contingency portion and listed immediately below incompletely funded projects.

(4) Projects shall be placed on the fundable portion as described below during the annual updating under Rule 62-552.600, F.A.C. Only qualifying projects may be placed on the project list. The rules of the Department in effect when a project was placed on the contingency portion of the list shall be used to establish whether the project qualifies for a fundable portion listing. However, projects that are to serve the needs of small communities shall receive preferential consideration as described in subsection (2) above for placement on the fundable portion when there are available funds reserved for small communities.

(a) Projects, if any, included on the fundable portion of the previous fiscal year's project list and requiring additional funds to carry out the approved scope of work shall be ranked above all other projects on the fundable portion of the project list being developed if current target date and estimated cost information are provided by February 15 under Rule 62-552.600(1), F.A.C. The incompletely funded projects shall appear on the fundable portion as follows:

1. Segmented projects limited to the maximum funding under Rule 62-552.500(1)(d) or 62-552.600(1)(b), F.A.C., and having an unfunded remainder listed on the contingency portion in the immediately preceding fiscal year shall be advanced to the fundable portion in priority score order.

2. Other incompletely funded projects shall be listed in priority score order immediately after the segmented projects that advance from the contingency portion. Incompletely funded projects shall be listed ahead of other projects advancing from the contingency portion.

(b) Other qualifying projects shall be placed on the fundable portion in the order described below.

1. Projects receiving a priority score based on a public health risk sub-category and which were included on the preceding year's contingency portion shall advance in priority score order. These projects shall be ranked immediately behind the incompletely funded projects.

2. All other qualifying projects shall be placed on the fundable portion in priority score order immediately behind those advancing from the contingency portion pursuant to subparagraph 1. above.

(5) The following documentation shall be postmarked or delivered to the Department by April 15 preceding list adoption under Rule 62-552.600, F.A.C., to qualify a construction loan or construction grant project for listing on the fundable portion:

(a) The water facilities plan.

(b) Evidence that the results of the Department's environmental review have been published under Rule 62-552.700(3), F.A.C., and environmental concerns, if any, identified during the 30-day comment period have been resolved.

(c) Biddable plans and specifications and evidence that the Department has established conformance with the water facilities plan.

(d) Evidence that any of the following permitting related conditions exist for the project:

1. The use of a general permit under Rule 62-555.410, F.A.C., has been authorized;

2. An intent to issue a permit under Rules 62-555.520 and 62-555.530, F.A.C., has been established;

3. The Department has issued other authorization for project construction; or

4. The Department has determined that its authorization is not required prior to construction.

(e) Certification of availability of all project sites necessary for the purposes of construction, operation, and maintenance over the useful life of the facilities.

(f) Reasonable financial assurance that project construction will be completed. Such assurance may be in the form of a commitment to maintain adequate reserve funds dedicated throughout the construction period to ensuring project completion. Other forms of such reasonable assurance include requirements for contractors to provide performance and payment bonds under Section 255.05, F.S., and insurance covering workers' compensation, comprehensive general liability, vehicle liability, and property damage to the extent that coverage is available for construction activities.

(g) A value engineering report for operationally related project facilities for which the adjusted post-allowance project costs are valued at more than \$5,000,000.

(6) The requirements for a pre-construction loan or pre-construction grant project to qualify for a fundable portion listing are such that the project sponsor shall have postmarked or delivered documentation as required under Rules 62-552.600(1) and (2), F.A.C.

(7) Projects or portions of projects shall be placed or retained on the contingency portion during the annual updating under Rule 62-552.600, F.A.C., when the funds expected to be available are insufficient for placement on the fundable portion. The procedures for listing qualifying projects on the contingency portion are described below.

(a) Incompletely funded projects being retained on the contingency portion from the previous fiscal year's project list shall be ranked according to priority score above all other projects. The incompletely funded projects shall be subranked as follows:

1. The unfunded segments of projects limited to the maximum funding under Rule 62-552.500(1)(d) or 62-552.600(1)(b), F.A.C., shall have the highest ranking on the contingency portion. Such projects shall be subranked according to priority score.

2. The unfunded portion of other projects requiring additional funds to carry out the approved scope of work shall be subranked according to priority score and listed immediately after the segmented projects.

(b) Projects receiving a priority score based on a public health risk sub-category and which were included on the preceding year's contingency portion shall advance up the contingency portion in priority score order as higher ranked projects advance to the fundable portion. The advancing projects shall be listed immediately after the unfunded projects described in subparagraph (a)2. above.

(c) Other qualifying projects shall be included, in priority score order, on the contingency portion behind the advancing projects described in paragraph (b) above.

(8) All projects that cannot be listed on the fundable or the contingency portion shall be listed on the planning portion in alphabetical order.

Specific Authority 403.8532 FS. Law Implemented 403.8532 FS. History—New 4-7-98, Amended 8-10-98.

62-552.680 Project List Management.

(1) The fundable portion of the project list shall be modified as the result of a public hearing held by the ERC when grant assistance for a financially disadvantaged community is involved or as the result of a public hearing held by the Secretary or designee when loan assistance is involved as described in paragraph (a) below or as a result of an administrative action as described in paragraph (b) below. The fiscal year's small community set-aside and financially disadvantaged community grant set-aside shall be available to add projects to the fundable portion of the project list. Such additions shall be made on a priority score basis,

regardless of the characteristics of the community to be served. However, the total funding under each set-aside provided to all qualifying projects that have been listed on the fundable portion of the current fiscal year's project list shall not exceed the original amount of each set-aside at the time of project list adoption. The amount of the set-aside for small communities and for financially disadvantaged communities is addressed in Rules 62-552.500(1) and 62-552.300(8), F.A.C., respectively. When the funds expected to be available will not fully finance the lowest-ranked project being considered for addition or advancement to the fundable portion and the project sponsor seeking funding will not commit to building the entire project without an assurance of additional funding from the Department, the project shall be listed on the contingency portion immediately below incompletely funded projects. The amount of funds assigned to any project sponsor which has already received the maximum funding assignment allowed for the fiscal year shall not be increased unless additional state or federal appropriations have been made available which increase the estimate of the funds allocated each year by the Department.

(a) Upon receipt of a written request to conduct a public hearing for the purpose of modifying the project list, the Department shall schedule a public hearing to be held within 90 days for the purpose of assigning additional funds to projects on the fundable portion and adding projects to the bottom of the fundable portion if unassigned funds are available and the requirements of this paragraph are met. Requests shall include the information identified below and shall be submitted to the Department of Environmental Protection, Bureau of Water Facilities Funding, MS 3505, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. Projects categorized in subparagraphs 1. or 2. below and that have equal priority scores shall be subranked in order of the date of postmark or receipt by the Department, whichever is earlier, of the request for additional funds or for the addition of a project to the fundable portion.

1. Additional money first shall be assigned to a project included on the fundable portion of the previous or current fiscal year's project list which requires additional funds to carry out the approved scope of work if an itemized cost breakdown and explanation are submitted that justify the requested increase. The request for inclusion previously submitted to the Department shall be used to re-establish priority scores for such previously funded projects. The previously funded projects shall have funding preference over projects currently on the fundable portion.

2. Other projects shall be added to the bottom of the fundable portion in priority score order only after assignments under subparagraph 1. above have been accomplished and all non-segmented projects receiving a priority score based on a public health risk sub-category that are on the contingency portion have advanced to the fundable portion. Additions to the bottom of the fundable portion shall be made provided that a request for inclusion has been submitted and:

a. All of the conditions under Rule 62-552.655(5), F.A.C., have been met; and

b. The project sponsor has submitted its project schedule establishing a deadline for filing a complete loan application no later than the date below corresponding to the three-month period in which the notification to the project sponsor by the Department of the listing on the fundable portion occurs.

Notification Period	Deadline
January 1 to March 31	May 15
April 1 to June 30	August 15
July 1 to September 30	November 15
October 1 to December 31	February 15

3. No requests for addition to the fundable portion of the project list shall be considered unless the request has been received by the Department of Environmental Protection, Bureau of Water Facilities Funding, MS 3505, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 before the date on which the public notice for the hearing appears in the Florida Administrative Weekly.

(b) Projects receiving a priority score based on a public health risk sub-category and which are not segmented projects currently listed on the contingency portion of a project list shall be administratively advanced in order of listing on the contingency portion to the fundable portion without a public hearing when unassigned funds become available. When such an advancement occurs, the deadline for filing a complete loan application shall be no later than the date given in sub-subparagraph (1)(a)2.b. above corresponding to the three-month period in which the notification to the project sponsor by the Department of the advancement occurs.

(2) The contingency portion of the project list shall be modified by assigning additional funds to projects or adding projects only as the result of a public hearing. Additional money shall be assigned to a project currently on the contingency portion if an itemized cost breakdown and explanation are submitted justifying the requested increase. Projects shall be added to the contingency portion in priority score order if a request for inclusion has been submitted, and all of the conditions under Rule 62-552.655(5), F.A.C., have been met. However, no project shall be placed above an incompletely funded project or a project receiving a priority score based on a public health risk sub-category already on the contingency portion. The timeframe for requesting an addition to the contingency portion shall be limited as set forth for the fundable portion under subparagraph (1)(a)3. above.

(3) A project shall be added to the planning portion of the project list if a request for inclusion on the planning portion is received. Additions to the planning portion shall not require a public hearing.

(4) A project shall be assigned to the planning portion of a project list when the assignment of the project to the fundable portion has been withdrawn. If a target date deadline or a deadline for submitting a complete financial assistance application is not met, the project status shall be scheduled for review at a public hearing to be held by the ERC when a grant for a financially

disadvantaged community is involved or by the Secretary or designee when a loan is involved no sooner than 30 days after the deadline. If, as a result of the hearing, it is determined that the activity at issue has not been completed, the project shall be removed from the fundable portion.

(5) Projects shall be rescheduled for implementation in a future fiscal year or removed from a project list at the request of the project sponsor without a public hearing. Rescheduled projects shall be listed on the planning portion.

Specific Authority 403.8532 FS. Law Implemented 403.804, 403.8532 FS. History—New 4-7-98, Amended 8-10-98.

62-552.700 Planning, Design, Construction, and Post-Construction Requirements.

Special federal requirements under subsection (1) below shall be met for equivalency projects. When projects cease to be equivalency projects, the special federal requirements shall not be mandatory. However, the requirements of subsections (2) through (11) below shall be met for all projects. Federal regulations incorporated by reference shall be read so that the terms "United States," "federal," "EPA," and "officials of EPA" mean "the state" unless the context clearly indicates otherwise. These federal regulations also shall be read so that "grants" also means "loans."

(1) Equivalency projects shall be subject to the requirements of federal cross-cutting authorities identified in "Drinking Water State Revolving Fund Program Guidelines," EPA 816-R-97-005, February 1997.

(2) A project that develops an alternative drinking water supply and management technique in an area where existing source water is limited or threatened by saltwater intrusion, excessive drawdown, contamination, or other problems shall be given a 10% present worth or uniform annual cost preference. To be given such a preference, a project shall provide for a safe, dependable supply of drinking water throughout the proposed service area and the project shall contribute to the sustainability of regional water sources.

(3) The Department shall perform an environmental review for each project to be funded. The environmental review shall establish the environmental significance of a proposed project and whether the planning of the project meets the requirements of this rule chapter. The environmental review also shall establish the Department's intention to make funding available for a project after the project sponsor has met the appropriate requirements of this rule chapter. A notice of availability to announce the results of the Department's environmental review shall be published in the Florida Administrative Weekly. The notice of availability shall include instructions about the procedures for accessing project information and the Department's findings. The Department shall provide a 30-day period, commencing as of the date of the notice of availability, for public comment about the environmental impacts of proposed projects. Written comments from the public shall be postmarked or delivered, within the 30-day comment period, to the Department of Environmental Protection, Bureau of Water Facilities Funding, 2600 Blair Stone Road, MS 3505, Tallahassee, Florida 32399-2400.

(a) When an environmental review is performed for a component or portion of the planned public water system in advance of completing the review for the entire system of facilities, the environmental review process is partitioned. Partitioning shall not imply further approvals for the remainder of the public water system, and the environmental review for the remainder of the facilities shall conform to the applicable requirements of this subsection. A partitioned environmental review, if requested by the project sponsor, shall be performed only if all the following conditions are met:

1. The component will immediately remedy a public health, drinking water standards violation, or environmental problem or advance completion will achieve a demonstrable cost savings;

2. All environmentally sound, implementable alternatives for the overall public water system of which the component is a part have been identified, and the component does not foreclose any of the alternatives; and

3. The component will not cause adverse environmental impacts, including impacts that will be minimized or eliminated only by completing the entire system.

(b) The Department shall consult with project sponsors during the preparation of water facilities plans to assist in the preparation of environmental information. The project sponsor shall document cultural, historical, archaeological, and biological aspects of a project during the planning process. Conditions shall be placed on a financial assistance agreement to enhance the compatibility of the project with the existing environment when such conditions will satisfy environmentally based objections to the project. The Department shall document the results of its environmental reviews as described in paragraphs (c) through (f) below. When an environmental review document is amended in lieu of issuing a new document to reflect proposed project changes that potentially have environmental impacts, the same basic procedures as were used to produce the original document shall be used.

(c) A Florida Categorical Exclusion Notice (FCEN) shall be used for certain projects that are not expected to generate controversy over potential environmental effects. An FCEN shall not be used where there are environmental objections to a project at the public hearing held, under subsection (4) below, before the project sponsor adopted the water facilities plan provided that such objections have a basis in statute, rule, or ordinance. An FCEN shall not be used where a project will result in the inability of existing facilities to meet permit conditions or drinking water standards or where the project would provide capacity to service previously undisturbed areas such that more than 30% of the total design population for the project is attributed to the undisturbed areas.

1. In issuing an FCEN, the Department shall:

a. Briefly describe the project, the justification for the categorical exclusion, and the proposed loan funding.

b. Conclude the environmental review only after the 30-day public comment period, under subsection (3) above, has expired and: no information is received about adverse environmental impacts; information is received about adverse environmental impacts and the objections either are without a basis in statute, regulation, or ordinance or are resolved; or information is received about adverse environmental impacts and the FCEN is rescinded.

2. Projects categorically excluded from further environmental review are:

a. Rehabilitation of existing facilities or replacement of structures, wells, waterlines, or equipment;
b. Facilities that will not result in more than a 50% increase of existing public water system capacity and there is no acquisition of land other than easements and rights-of-way where streets have been established, underground utilities installed, building sites excavated, or where such lands have otherwise been disturbed from a natural condition;

c. Facilities for the disinfection of public water supplies;

d. Back-up supply wells where, after disinfection, existing water quality meets drinking water standards and there is no acquisition of land; and

e. Facilities that will result solely in the provision of adequate public water system pressure.

(d) A Florida Finding of No Significant Impact (FFONSI) shall be used when a project sponsor proposes a project not categorically excluded from a detailed environmental review and not requiring a Florida Environmental Impact Statement. In issuing a FFONSI, the Department shall:

1. Record the basis for the decision to provide financial assistance for the project, addressing:

a. The existing and future environmental conditions without the project and the environmental consequences of the project;

b. The purpose of, and the need for, the project;

c. The alternatives to, and the cost-effectiveness of, the project;

d. Environmental enhancement measures to be implemented;

e. The public participation process;

f. The interdisciplinary review of the project; and

g. Compliance with rules of the Department.

2. Consider public comments about environmental impacts of a project if the comments are received within 30 days after the publication date of the notice of availability under subsection (3) above.

3. Conclude the environmental review for the project only after the 30-day comment period has expired and:

a. No information is received about previously unconsidered adverse environmental impacts;

b. Information is received about previously unconsidered adverse environmental impacts and the objections are resolved; or

c. A re-evaluation of the project is made as a result of the comments and the Department takes action to confirm the original decision, require additional analysis and environmental enhancement measures before implementing the project, or rescind the original decision.

(e) A Florida Environmental Impact Statement (FEIS) and a Florida Record of Decision (FROD) shall be used for a project for which there is an adverse direct, or indirect, impact on land use and population patterns, the quality of the environment, cultural or environmental resource areas, or the habitats of endangered or threatened species. An FEIS and FROD also shall be used when there is unresolved public controversy over the environmental impacts of a project provided that the objections to the project have a basis in statute, rule, or ordinance. An FEIS shall be prepared by the Department or, at the direction of the Department and in accordance with the Consultants' Competitive Negotiation Act, Section 287.055 of the Florida Statutes, by others with no conflicting interest in the outcome. In completing the environmental review, the Department shall:

1. Issue a notice of intent to prepare an FEIS for the project;

2. Develop a plan of study and convene a meeting of government, including EPA, and other interested parties to determine the scope of the FEIS;

3. Identify and evaluate project alternatives;

4. Provide for public participation and review by federal and state environmental regulatory agencies;

5. Ensure that adverse impacts of the project are minimized or eliminated;

6. Document the findings of the environmental review using both the FROD and FEIS;

7. Announce the funding eligibilities using a FROD and consider public comments about environmental impacts if received during the 30-day period beginning on the date of publication of the notice of availability under subsection (3) above; and

8. Conclude the environmental review only after a 30-day public comment period has expired without receipt of comments about adverse environmental impacts or if, after receipt of such comments, the Secretary takes action to:

a. Confirm the original decision;

b. Require additional analysis and environmental enhancement as a condition of confirmation of the original decision; or

c. Rescind the original decision.

(f) A Florida Reaffirmation Notice (FRAN) shall be used to establish the Department's continuing intention to make funds available for unimplemented projects, the planning for which was previously documented by the Department in an FCEN, FFONSI, FROD, or analogous documents issued by EPA, or amendments to any of the foregoing. In issuing a FRAN, the Department shall:

1. State the findings being reaffirmed.

2. Consider public comments about changed conditions altering the environmental impacts since the previous FCEN, FFONSI, FROD, or analogous documents issued by EPA, or amendments to any of the foregoing. Comments shall be considered if received during the 30-day period beginning on the date of publication of the notice of availability of the FRAN under subsection (3) above.

3. Conclude the environmental review only after the public comment period has expired and:

a. No information is received about changed conditions resulting in adverse environmental impacts;

b. Information is received about previously unconsidered adverse environmental impacts or about changed conditions altering the environmental impacts and the objections are resolved; or

c. Information is received about adverse environmental impacts and the FRAN is rescinded.

(4) A water facilities plan shall include documentation of the following:

(a) Identification of the planning area and the existing and future project service areas;

(b) Cost-effectiveness of feasible alternatives, including consolidation and regionalization of facilities, over a planning period of at least five years based on a discount rate projected to be in effect during that planning period;

(c) Implementability of the selected facilities from legal, institutional, financial, technical, and management perspectives;

(d) Environmental effects and other non-monetary considerations, if any, associated with the selected facilities;

(e) Identification of the water quality, treatment, storage, distribution, or supply problems associated with the public water system and the local physical conditions associated with those problems;

(f) Identification of the facilities needed to comply with federal and Florida rules and identification of the facilities needed to provide adequate quantities of safe drinking water throughout the future project service area over the planning period;

(g) Public participation process carried out by the project sponsor;

(h) Capital improvements financing information addressing the following for projects to be funded with loans:

1. The source of funds or revenues to be dedicated to repaying the loan and the expenses, charges, and liens against such dedicated funds or revenues;

2. All capital improvements, including those to be financed using any type of debt instrument, that will be implemented over a period of five (5) years beginning with the projected year of the first annual loan repayment and that will be financed from the same funds or revenues dedicated to repaying the loan;

3. Proposed system of charges, rates, fees, and other collections that will generate the revenues to be dedicated to loan repayment demonstrating that the public water system is to be financially self-sufficient;

4. Proposed rate ordinance or other enforceable schedule for charges, rates, fees, and other collections associated with loan repayment;

5. Public water system operating and non-operating expenses and revenues for the most recent audited operating year and projected to be in effect for the first full year after the project has been constructed and is in operation;

(i) Capital improvements financing information addressing the following for projects to be funded with grants:

1. All capital improvements to the public water system, including those to be financed using any type of debt instrument, that will be implemented over a period of five (5) years beginning with the year after the project has been constructed and is in operation;

2. Proposed system of charges, rates, fees, and other collections that will generate the revenues that will be dedicated to making the public water system financially self-sufficient;

3. Proposed rate ordinance or other enforceable schedule for charges, rates, fees, and other collections associated with the revenues that will be dedicated to making the public water system financially self-sufficient;

4. Public water system operating and non-operating expenses and revenues for the most recent audited operating year and projected to be in effect for the first full year after the project has been constructed and is in operation; and

5. When the project sponsor owns or operates more than one public water system, a demonstration that the benefits of the grant will exclusively accrue to the defined service jurisdiction for the financially disadvantaged community.

(j) Affirmation that the selected facilities are consistent with local comprehensive plans;

(k) Responses generated by a multi-disciplined intergovernmental review, if appropriate;

(l) Executed and fully implementable contractual agreements whenever facilities or services beyond the project sponsor's jurisdiction are involved;

(m) Identification of the technical, financial, and managerial resources needed to ensure compliance with the Act when a project sponsor owns a public water system in significant noncompliance with any federal or Florida drinking water rule or variance;

(n) Identification of local wellhead protection and source water protection programs or activities in the planning area; and

(o) Identification of the source water protection area and the characterization of pollution sources potentially affecting sources of drinking water in the project planning area as follows:

1. The source water protection area for a public water system that uses ground water as its source of drinking water shall be established as the composite area having a 500 foot radius around each of the project sponsor's drinking water wells. At the project sponsor's option, the source water protection area may be established under the programs and activities described in paragraph (n) above if such area provides for, at a minimum, a 500 foot radius around each of the project sponsor's drinking water wells;

2. The source water protection area for a public water system that uses surface water as its source of drinking water shall be established as the watershed upstream of the intake structure. The watershed in which the intake is located shall be as delineated on the U.S. Geological Survey Hydrologic Unit Map – 1974, State of Florida; and

3. Characterization of pollution sources shall be accomplished using the guidance provided in Appendix E of the U.S. Environmental Protection Agency's "State Source Water Assessment and Protection Programs Guidance," EPA 816-R-97-009, August 1997.

(5) The project sponsor shall hold a public hearing, consistent with the requirements contained in "Drinking Water State Revolving Fund Program Guidelines," EPA 816-R-97-005, February 1997, before formal adoption of its water facilities plan. The purpose of the hearing shall be to enable public participation in the final evaluation of project alternatives and costs. The project sponsor shall publish a notice of the hearing. The notice requirement may be met by publication in a local newspaper of general circulation before the date of the hearing or in other documented communications to the public such as mass mailing of the hearing notice throughout the planning area. The project sponsor shall mail copies of the notice, prior to the intended date of publication, to persons having made a previous written request for information about the project. The water facilities plan shall be made available to the public before the hearing. The project sponsor shall have a complete record of the hearing and shall make the record available to interested parties on request.

(6) Biddable plans and specifications shall be complete to the point where they can be distributed for competitive bidding. Plans and specifications shall be in conformance with the water facilities plan.

(7) A value engineering report shall be submitted for operationally related project facilities for which the adjusted post-allowance project costs are valued at more than \$5,000,000.

(8) One or more of the following permitting related conditions shall be demonstrated to exist for the project:

(a) The use of a general permit under Rule 62-555.410, F.A.C., has been authorized;

(b) An intent to issue a permit under Rules 62-555.520 and 62-555.530, F.A.C., has been established;

(c) The Department has issued other authorization for project construction; or

(d) The Department has determined that its authorization is not required prior to construction.

(9) A certification of availability of all project sites necessary for the purposes of construction, operation, and maintenance over the useful life of the facilities shall be made.

(10) Reasonable financial assurance shall be made that project construction will be completed. Such assurance may be in the form of a commitment to maintain adequate reserve funds dedicated throughout the construction period to ensuring project completion. Other forms of such reasonable assurance include requirements for contractors to provide performance and payment bonds under Section 255.05, F.S., and insurance covering workers' compensation, comprehensive general liability, vehicle liability, and property damage to the extent that coverage is available for construction activities.

(11) Procurement of construction contractors, equipment and materials, and service providers shall be conducted according to the competitive or noncompetitive negotiation procurement methods or the formal advertised competitive bidding method. Procurement requirements shall be as set forth in the following sections of Title 40 of the Code of Federal Regulations Part 33, Procurement Under Assistance Agreements (1995), incorporated herein by reference: 33.230(c) and (d) (except that the references to architects and engineers shall be interpreted to mean the offerors of technical services, the procurement of which is not subject to Chapter 287.055, F.S.), 33.255(c) (except that the salient requirements of the named brand need not be stated and the reference to 40 C.F.R. Part 35 is deleted), 33.305, 33.310, 33.315, 33.405, 33.410, 33.415, 33.420(a) through (d) and (f) (except for references to Section 33.295 and form 5720-4), 33.425, 33.430 (except that bid rejection shall be based solely on sound documented business reasons), 33.505, 33.510 (except for references to Section 33.295 and form 5720-4), 33.515, 33.520, and 33.605(a) through (c) as supplemented by the provision that noncompetitive negotiated procurement also shall be deemed justified when a material, product, or service provides for necessary interchangeability of parts and equipment or promotes innovative technologies.

(12) Project changes after advertising for bids and before bid opening shall be made by addendum to plans and specifications. Changes after bid opening shall be made by change order. The project sponsor shall submit all addenda and change orders to the Department.

(a) The Department shall perform an eligibility determination to establish the justification for all change orders to construction contracts funded with grants.

(b) The Department shall not perform an eligibility determination to establish the justification for change orders to construction contracts funded with loans unless change orders involve one or more of the following:

1. Additional cost of the changes covered by a single change order exceeds \$100,000;

2. Change in project scope or work outside the approved project scope;

3. Procurement methods involved would not be consistent with those approved by the Department before contract award; or

4. Deletion or substantive modification of any requirement of Chapter 62-552, F.A.C.

Specific Authority 403.8532 FS. Law Implemented 403.8532 FS. History—New 4-7-98, Amended 8-10-98.

62-552.800 Audits Required.

(1) Beginning with the fiscal year in which the loan agreement is executed and continuing for each year thereafter until the loan is retired, the loan recipient shall submit annual audit reports to the Department. Audits shall address the loan recipient's financial condition; accounts of water and sewer systems or other sources generating the pledged revenues; loan disbursements received, if any; project expenditures, if any; and compliance with loan agreement covenants. The loan recipient shall cause its auditor to notify the Department immediately if anything comes to the auditor's attention during the annual examination of the loan recipient's records that would constitute a default under the loan agreement. Reports shall be submitted within one (1) year after the end of each audited fiscal year.

(2) Beginning with the fiscal year in which the grant agreement is executed and continuing for each year thereafter the final grant disbursement is received, the grant recipient shall submit annual audit reports to the Department. Audits shall address the grant recipient's financial condition; accounts of the water system; grant disbursements received, if any; project expenditures, if any; and compliance with grant agreement covenants. Reports shall be submitted within one (1) year after the end of each audited fiscal year.

(3) Within 12 months after the effective date of a financial assistance agreement amendment establishing final project costs, the project sponsor shall submit to the Department a separate audit report for the project revenues, including receipt of disbursements under all financial assistance agreements with governmental entities, and expenditures. The audit report also shall address compliance with financial assistance agreement covenants under this rule chapter. The audit findings shall set aside or question any costs for which a financial assistance agreement disbursement under this rule chapter was made and is unallowable. A final determination of the allowability of such costs shall be made by the Department.

(4) The Department may conduct an audit at any time within three (3) years after the effective date of the financial assistance agreement amendment establishing final project costs. Situations that could result in necessitate such an audit include financial assistance agreement covenant compliance problems; record keeping deficiencies; and unusual, questioned, or apparently irregular costs. The Department of Environmental Protection, Bureau of Water Facilities Funding and the Inspector General jointly shall be responsible for determining whether an audit is to be performed.

(a) The Department shall mail a notice that an audit will be performed to the project sponsor no later than 30 days prior to the audit.

(b) The Department, the State of Florida, or their authorized representatives shall have access to records for audit purposes. The project sponsor shall similarly require its contractors and lower tier subcontractors to maintain and allow access to such records for audit purposes.

(c) The Department shall prepare a written report on its audit and shall provide a copy of the report to the project sponsor. The project sponsor shall respond, in writing, to the findings and recommendations within 30 days after receipt of a written request from the Department.

Specific Authority 403.8532 FS. Law Implemented 403.8532 FS. History—New 4-7-98, Amended 8-10-98.

62-552.900 Forms for the State Revolving Fund Program for Drinking Water Facilities.

Each form is listed below by rule number, which is also the form number, and with the title and effective date. Copies of the following forms, which are hereby incorporated by reference and identified by this rule number, may be obtained by writing to the Bureau Chief, Bureau of Water Facilities Funding, 2600 Blair Stone Road, MS 3505, Tallahassee, Florida 32399-2400:

- (1) Request for Inclusion on the Priority List for Drinking Water Facilities, dated July 20, 1999.
- (2) Loan Application, dated July 20, 1999.
- (3) Grant Application, dated July 20, 1999.

Specific Authority 403.8532 FS. Law Implemented 403.8532 FS. History—New 4-7-98, Amended 8-10-98, 7-20-99.