

CHAPTER 62-503
STATE REVOLVING LOAN PROGRAM

TABLE OF CONTENTS

	PAGE
62-503.100 Scope of the Rule. (Repealed)	1
62-503.101 Scope of the Rule.	1
62-503.200 Definitions.	1
62-503.300 General Program Information.	4
62-503.350 Preconstruction Loan Funding. (Repealed)	
62-503.400 Program Administration Costs. (Repealed)	
62-503.410 Construction Loan Applications. (Repealed)	
62-503.415 Preconstruction Loan Applications. (Repealed)	
62-503.420 Project Allowances. (Repealed)	
62-503.430 Loan Agreements.	12
62-503.435 Preconstruction Loan Agreements. (Repealed)	
62-503.500 Funds Reserved for Specific Purposes.	16
62-503.600 Priority List Information.	17
62-503.620 Preconstruction Loan Priority List Information. (Repealed)	
62-503.650 Priority Determination. (Repealed)	
62-503.655 Ranking Projects for Priority List Development. (Repealed)	
62-503.660 Ranking Projects for Preconstruction Loan Priority List Development. (Repealed)	
62-503.680 Priority Lists Management. (Repealed)	
62-503.700 Planning, Design, Construction, and Procurement Requirements.	21
62-503.750 Design, Construction, and Post-Construction Requirements. (Repealed)	

62-503.751	Environmental Review.	30
62-503.800	Audits Required.	34
62-503.850	Exceptions to Program Requirements.	36
62-503.900	Program Forms. (Repealed)	

1 62-503.200 Definitions. **Note that definitions currently numbered 4, 11, 13, 17, and 23**
2 **are to be deleted as part of the rule review process. If this rule revision goes**
3 **forward prior to the deletion of these rules in that process, they need to be**
4 **included and struck through. Either way, these definitions will have to be**
5 **renumbered.**

6 For purposes of this rule chapter:

7 (1) “Act” means the federal Water Pollution Control Act, 33 USC § 1251-1387~~Pub. L. 92-500~~, as amended,
8 also known as the amended Clean Water Act.

9 (2) “Affordability Index” – ~~User Manual Affordability Index, March 2003~~ Updating the Department of
10 Environmental Protection’s Affordability Index, 2011 August 9, 2011, Economics Department, Florida State
11 University, Tallahassee, Florida, is hereby incorporated by reference and the term “Affordability Index” means the
12 empirical number that is generated for a local government project sponsor using the computer model entitled “Final
13 Report Statistical Wt. – No Sales,” which is based on a combination of the most recent median household income,
14 poverty, and unemployment census statistics for local governments.

15 (3) through (7) No change.

16 (8) “Construction loan” means an assistance agreement to fund a wastewater, stormwater, or non-point source
17 construction project or equipment purchase. To be eligible for a construction loan, a planning document and plans
18 and specifications must be accepted by the Department, the environmental review process described in Rule 62-
19 503.751, F.A.C., must be complete, all required Department permits and authorizations must have been obtained,
20 and all necessary site certifications must have been submitted to the Department. The requirements for planning
21 documents are described in subsection 62-503.700(2), F.A.C., and the requirements for plans and specifications are
22 described in subsection 62-503.700(3), F.A.C.

23 (8) through (10) renumbered (9) through (11) No change.

24 (12) ~~(11)~~ “Design/build” means a contracting procedure whereby a firm or other single entity contracts with
25 the project sponsor for a fixed price for the work and is responsible for both design and construction of the project.
26 Design/build projects shall not be eligible for a design loan.

1 (13) “Design loan” means an assistance agreement to fund design activities that will result in biddable,
2 permittable plans and specifications for an eligible construction project. To be eligible for a design loan, a project
3 sponsor must qualify as a small community with a financial hardship. Additionally, a planning document defining the
4 scope of the project to be funded must have been accepted by the Department. The requirements for an acceptable
5 planning document are described in subsection 62-503.700(2), F.A.C.

6 (14) (12) “Direct loan” means a loan from the state revolving fund monies ~~other than~~ excluding monies
7 deposited with the Florida Water Pollution Control Financing Corporation ~~proceeds from tax exempt bonds.~~

8 (13) through (20) renumbered (15) through (22) No change.

9 (23) “Green project” means a project that demonstrates water or energy efficiency, uses an environmentally
10 innovative approach to treat wastewater or stormwater, or constructs green infrastructure. The requirements for
11 meeting one or more of these categories are provided in Attachment 2 Part A of EPA’s “Procedures for
12 Implementing Certain Provisions of EPA’s Fiscal Year 2010 Appropriation Affecting the Clean Water and Drinking
13 Water State Revolving Fund Programs”, April 2010, hereby incorporated and adopted as a reference. This document
14 is available from the Department’s Bureau of Water Facilities Funding, MS 3505 Blair Stone Road, Tallahassee,
15 Florida 32399-2400.

16 (a) To qualify as a water efficiency project, the project shall provide an alternative water supply using treated
17 stormwater or wastewater to offset a demand on a potable water system.

18 (b) To qualify as an energy efficiency project, the project sponsor must provide a certification by a certified
19 energy manager or a certified energy auditor that the accepted project was designed to maximize energy efficiency.
20 Energy managers and energy auditors must be certified through the Association of Energy Engineers.

21 (c) To qualify as an innovative project, the sponsor must use non-structural treatment methods such as rain
22 gardens, green roofs, or pervious pavement parking lots, or for wastewater projects, it must be a decentralized
23 system.

24 (d) To qualify as a green infrastructure stormwater project, the project shall manage and treat stormwater in a
25 manner that maintains and restores the natural hydrology by improving infiltration, promotes a higher level of
26 evapotranspiration, or captures and uses stormwater as an alternative water supply.

1 (24) “Inflow/infiltration project” means a project to reduce excessive inflow or infiltration into the collection
2 system. Inflow/infiltration (I/I) projects shall be two (2) phases. The first phase is the sewer system evaluation study
3 (SSES) to quantify the amount of I/I that can be reduced and the cost of such reduction on a sub-system basis. This
4 phase is eligible for a SSES loan. The second phase is the rehabilitation of the collection system based on the results
5 of the SSES. This phase is eligible for an I/I rehabilitation loan. A SSES loan is not required to obtain an I/I
6 rehabilitation loan.

7 (25)(24) “Leveraged loan” means a loan from the proceeds of bonds issued by the Florida Water Pollution
8 Control Financing Corporation.

9 (26)(22) “Loan interest rate” means a percentage of the financing rate as determined under subsection 62-
10 503.300(9)(8), F.A.C.

11 (23) renumbered (27) No change.

12 (28) “Planning loan” means an assistance agreement to perform the initial planning and administration for a
13 project. A project sponsor must qualify as a small community with a financial hardship to be eligible for a planning
14 loan. The deliverable for this loan shall be a planning document. The requirements for the planning document are
15 described in subsection 62-503.700(2), F.A.C.

16 (24) through (30) renumbered (29) through (35) No change.

17 (36) “Segment cap” means the maximum amount available to any one sponsor during a fiscal year. The segment
18 cap amount shall be established at the annual list adoption hearing. Adjustments to the segment cap amount shall be
19 made if additional funds become available and all projects eligible for placement on the fundable list at the most
20 recent list adoption or list management hearing have been funded.

21 (31) renumbered (37) No change.

22 (38) “Septic tank failure” means a condition existing within an onsite sewage treatment and disposal system
23 which prohibits the system from functioning in a sanitary manner and which results in the discharge of untreated or
24 partially treated wastewater onto ground surface, into surface water, into ground water, or which results in the failure
25 of building plumbing to discharge properly. However, for the purposes of this rule, failures resulting from improper
26 maintenance of the system or lack of maintenance shall not be considered a septic tank failure.

1 (39)(32) "Service Area" means that area currently served by the project sponsor and any additional ~~the~~ area
2 proposed to be served by the sponsor's project sponsor.

3 (40)(33) "Small community" means a municipality or unincorporated community with a total population of
4 10,000~~20,000~~ or less as of the most recent decennial census.

5 (34) renumbered (41) No change.

6 Rulemaking Specific Authority 403.1835(10) FS. Law Implemented 403.1822(3), 403.1835 FS. History—New 4-17-89.
7 Amended 12-4-91, 2-23-94, Formerly 17-503.200, Amended 1-4-98, 7-1-99, 2-6-02, 7-29-04, _____.

8
9 62-503.300 General Program Information.

10 (1) Steps involved in obtaining a planning, design, pre-construction or construction loan.

11 (a) Request for Inclusion. The project sponsor shall submit a request for inclusion on the priority list to the
12 Department to establish project ranking on the priority list as outlined in Rule 62-503.600, F.A.C., and to determine
13 the financing rate on the loan, as outlined in subsection (8)~~(9)~~, below.

14 1. The Department shall review requests for inclusion ~~shall be reviewed~~ to verify eligibility and accuracy of
15 the information provided such as census tract numbers, service area boundaries, population, public health risk,
16 system boundaries, project costs, and to determine the project scope.

17 2. Additional information shall be requested by the Department when the data provided by the project sponsor
18 are incomplete or unclear. ~~Data remaining incomplete or unclear after thirty (30) days from receipt of the~~
19 ~~Department's written request for additional information shall result in the minimum priority score.~~

20 (b) Documentation required for priority listing. ~~The sponsor shall have postmarked or delivered to the~~
21 ~~Department all required documentation on or before June 1 preceding the first priority list hearing for the upcoming~~
22 ~~fiscal year. To be added to the priority list at a subsequent hearing for that year, documentation shall be submitted at~~
23 ~~least thirty (30) days prior to the hearing. All documentation must be complete as required by this chapter fifteen(15)~~
24 ~~days prior to the hearing date. For planning loans and SSES loans preconstruction projects, the completed Request
25 for Inclusion form is the only documentation required. For design loans, the Request for Inclusion form and all
26 documentation required in subsection 62-503.700(2), F.A.C., must be submitted and complete. For construction
27 loans and I/I rehabilitation loans projects, the Request for Inclusion form and all documentation ~~required under Rule~~~~

1 referenced in subsections 62-503.700(2) through 62-503.700(5), F.A.C.; and Rule 62-503.751, F.A.C., is also
2 required to be submitted.

3 (c) List project on priority list. The sponsor shall have postmarked or delivered to the Department all
4 documentation as required in paragraph (b) above no later than 45 days before the priority list hearing at which the
5 project competes for funding. All Department comments related to the required documentation must be addressed at
6 least 15 days prior to the hearing date.

7 1. Except as provided in subparagraph 2., if funds are available for new projects, a priority list adoption
8 hearing shall be held on the second Wednesday in August, or as otherwise noticed by the Department at least 60 days
9 in advance of the hearing.

10 2. If the contingency list from the previous fiscal year exceeds twice the anticipated available funds, no
11 hearing shall be held, unless it is necessary to add projects to meet federal requirements. If such a hearing is held,
12 only those projects necessary to comply with the federal requirements shall be considered. For purposes of this
13 paragraph, anticipated available funds means federal capitalization grants and State matching funds expected to be
14 received in the current fiscal year, loan repayments minus of debt service payments in the current fiscal year, and
15 anticipated interest earnings in the current fiscal year.

16 3. If additional funds become available after the list adoption hearing, one or more priority list management
17 hearings shall be scheduled to allocate the additional funds.

18 (d) Loan Application.

19 1. A complete loan application, Form 62-503.900(2), F.A.C., State Revolving Loan Program for Point Source
20 Water Pollution Control Loan Application, effective (7-29-04), or Form 62-503.900(3), State Revolving Loan
21 Program for Non-Point Source Water Pollution Control Loan Application, effective (7-29-04), hereby incorporated
22 by reference, shall be submitted to the Department within 120 days after the project is listed on the fundable portion
23 of the priority list. The project sponsor may incorporate into the loan application, by reference, any information
24 previously submitted to the Department.

25 2. If ~~a~~ a loan application is not received within this 120-day period, the project is subject to removal from the
26 priority list at the next scheduled hearing.

27 (e) Loan Agreement. A more detailed discussion is located in Rule 62-503.430, F.A.C.

1 1. In order to receive consideration for a loan, the project sponsor must achieve a fundable portion listing for
2 the project, satisfy the appropriate requirements under Rules 62-503.700 and 62-503.751, F.A.C., and submit a
3 complete loan application to the Department.

4 2. Projects that qualify for funding under section 212 of the Act may be eligible for direct loans or leveraged
5 loans. However, a project sponsor that has previously financed any stormwater project or wastewater project using
6 tax-exempt bond proceeds shall not qualify for a direct loan for construction as long as the net proceeds of bonds
7 issued by the Florida Water Pollution Control Financing Corporation are available and sufficient.

8 3. Projects that qualify for funding under section 319 or 320 of the Act shall be eligible for direct loans only.

9 ~~4. A preconstruction loan agreement shall provide for an amendment to fund the construction activities when
10 the preconstruction activities are completed as required under the loan agreement. Preconstruction loan recipients
11 shall complete the requirements under Rules 62-503.700, and 62-503.751, F.A.C., no later than the time set forth in
12 the loan agreement.~~

13 (2) Allowable project costs. Costs incurred before execution of a loan agreement shall be ineligible for
14 reimbursement upon execution of the agreement unless the project sponsor receives prior written authorization to
15 incur such costs. The Department shall issue an authorization to incur costs only after the requirements of Rules 62-
16 503.700 (except for land purchase) and 62-503.751, F.A.C., have been met. Categories of allowable project costs
17 include the following water pollution control activities subject to such limitations for leveraged loans as are
18 necessary to maintain the tax-exempt status of bonds issued by the Florida Water Pollution Control Financing
19 Corporation:

20 (a) Land that will be used for the ultimate disposal of wastewater or stormwater. Funding shall be limited to the
21 fair market value of the acreage of land necessary for and integral to the treatment process, including the zone of
22 discharge. If additional land is purchased, the eligible amount shall be the acreage of land necessary for treatment
23 divided by the total area purchased times the purchase price;

24 (b) Construction and related procurement and other arrangements used to implement planned activities (such as
25 a best management practice or brownfield remedial action plan);

26 (c) Demolition and removal of existing structures;

27 (d) Contingency for project cost overruns under subsection 62-503.300(4), F.A.C.;

1 (e) Legal and technical services after bid opening or receipt of proposals for design/build projects, and legal
2 services resulting directly from the requirements of the Supplementary Conditions required in bid documents by the
3 Department;

4 (f) Allowable costs when a project sponsor has financed construction through other means prior to availability
5 of funding from the Department and for which the sponsor has received prior written authorization from the
6 Department;

7 (g) Capitalized interest;

8 (h) Allowance for costs under subsection 62-503.300(5), F.A.C.;

9 (i) Technical services for ~~specialized field studies and tests such as~~ soil and hydrogeological tests, geotechnical
10 evaluations, sewer system evaluations, and value engineering services performed by a SAVE International Certified
11 Value Specialist, if written Department authorization is given prior to incurring these costs. ~~surveys, wetland~~
12 ~~delineations, environmental impact statements, and appraisals for eligible land;~~

13 (j) Costs for design under design/build procurement; ~~and~~

14 (k) Project costs, excluding operational costs, to implement best management practices for agricultural
15 nonpoint source water pollution control;-

16 (l) For SSES loans, technical services for generating a sewer system evaluation survey, inflow corrections and
17 the televising/cleaning.

18 (m) For I/I rehabilitation loans, construction and related procurement used to implement the Department
19 approved planned activities for an I/I rehabilitation project.

20 (n) Costs for the preparation and implementation of an asset management plan. To be eligible for
21 reimbursement, the asset management plan must meet the requirements of subsection 62-503.700(7), F.A.C.; and

22 (o) Wetland treatment systems.

23 (3) Unallowable project costs.

24 (a) Acquiring all or part of existing stormwater, wastewater, or water pollution control management systems;

25 (b) Project facilities or activities not included within the approved project scope;

26 (c) Costs for the ~~projects~~ sponsor's personnel in constructing project facilities or implementing of agricultural
27 best management or conservation practices;

1 (d) Costs, ~~such as~~ for pending construction claims, ~~yet to be~~ that have not been incurred at the time of the on-
2 site administrative action taken by the Department to document project completion;

3 (e) Project facilities or services for which the planning, design, construction and procurement requirements of
4 Rule 62-503.700, F.A.C., are not met;

5 (f) Water pollution control systems or components thereof, under a leveraged loan, that service a private use to
6 the extent that the tax status of bonds issued by the Florida Water Pollution Financing Corporation is jeopardized;
7 ~~and~~

8 (g) Site acquisition of sewer rights-of-way, sewage treatment plant sites, sanitary landfills, and other site
9 acquisition that is not necessary for and integral to the treatment process, residuals disposal areas.

10 (h) Service connections on private property unless the project qualifies for funding as a result of Section 319 or
11 320 of the Act.

12 (i) Costs associated with the collection of liquidated damages or other law suits against the contractor;

13 (j) For I/I rehabilitation loans, construction work involving lift station modification, repair or replacement.

14 (k) Costs, excluding those associated with allowances, incurred before execution of a loan agreement unless the
15 Department has provided written authorization to incur costs.

16 (l) Any portion of a project funded by an executed agreement from another regional, state, or federal funding
17 agency, and

18 (m) ~~(h)~~ Any other cost not listed as allowable under subsection (2) above.

19 (4) Project contingency.

20 (a) ~~At the time of loan approval and when actual costs are unknown, The~~ project contingency shall not exceed
21 ~~five ten~~ percent (5%) (10%) of the estimated sum of the construction costs for accepted contracts and costs for
22 allowable land. The contingency shall be adjusted by the Department to not more than five percent (5%) of the
23 construction costs for accepted contracts after land costs are known, after procurement contracts have been executed.
24 ~~There shall be no contingency for land when the costs are known.~~

25 (b) The contingency remaining after accounting for contract change orders shall be eliminated by the
26 Department when project closeout occurs.

1 (c) Contingency funds shall not be used to purchase equipment or pay for construction work or other activities
2 not described in the loan agreement.

3 (5) Allowance. Allowances are intended to defray the cost of administering, planning, and designing the
4 project. They may not cover all non-construction costs and are not to be used to determine the costs of planning or
5 design services. The expenditure of allowance disbursements is at the discretion of the project sponsor. The
6 allowance is initially based on estimated costs of construction and shall be adjusted to as-bid costs after all contracts
7 are bid. No allowance shall be included in SSES and I/I rehabilitation loans. All disbursements for these loans shall
8 be based on invoiced costs.

9 (a) For construction loans, the maximum allowance shall be (25.00 – Natural Logarithm of the construction
10 costs) times the construction costs divided by 100. This amount can be requested by the project sponsor after the
11 loan agreement has been executed. An allowance for project administration, planning, and engineering costs shall be
12 included in the approved project cost. The allowance is initially based on estimated costs of construction and shall be
13 adjusted to as-bid costs after all contracts are bid. For design/build projects, the allowance shall be thirty percent of
14 the allowance calculated under paragraph 62-503.300(5)(c), F.A.C., below.

15 (b) Costs funded with other federal and state grants or appropriations shall not be eligible for reimbursement
16 through the State Revolving Fund. Sponsors shall not be eligible to receive an allowance for the same work funded
17 as an allowance under other federal and state grants or appropriations.

18 (c) The maximum allowance for a planning loan shall be established as follows: (25.00 – Natural Logarithm of
19 construction costs) times the construction costs divided by 1000 400, up to a maximum of \$100,000.

20 (d) The maximum allowance for a design loan shall be (25.00 – Natural Logarithm of construction costs) times
21 the construction costs divided by 111, or \$3.275 million whichever is less. An allowance shall be disbursed on
22 request of the sponsor as follows:

23 1. ~~For a construction funding agreement under a direct loan or an allowance agreement under a leveraged loan,~~
24 ~~the allowance shall be disbursed in two (2) draws. Up to seventy percent (70%) of the estimated allowance shall be~~
25 ~~disbursed after a loan agreement is signed. The remainder of the allowance shall be disbursed after all procurement~~
26 ~~contracts are executed and shall be adjusted to reflect as-bid costs. For direct loans, if the sponsor agrees to an~~

1 ~~allowance adjustment once all contracts have been bid, the Department shall disburse the entire estimated allowance~~
2 ~~after a loan agreement is signed.~~

3 (e) ~~2.~~ For a planning loan ~~preconstruction funding~~ agreement, the allowance shall be disbursed in two ~~three~~
4 draws. Up to fifty percent of the allowance ~~twenty percent (20%)~~ shall be disbursed after a loan agreement is signed
5 and an agreement to provide planning services has been submitted to the Department. This agreement includes the
6 scope of work stated in the Request for Inclusion form. The remainder ~~Up to fifty percent (50%)~~ of the allowance
7 shall be disbursed after the planning documentation under Rules 62-503.700, and 62-503.751, F.A.C., has been
8 completed and accepted. ~~The remainder of the allowance shall be disbursed after all procurement contracts are~~
9 ~~executed and shall be adjusted to reflect as bid costs. For preconstruction loans that are being rolled into a direct~~
10 ~~loan for construction, if the sponsor agrees to an allowance adjustment once all contracts have been bid the~~
11 ~~Department shall disburse the entire estimated allowance amount after acceptance of the plans and specifications or~~
12 ~~completion of the request for proposals.~~

13 (f) For a design loan agreement, the allowance shall be disbursed in three draws. Up to fifty percent shall be
14 disbursed after the design loan agreement has been executed and an engineering agreement for the design of the
15 project stated in the Request for Inclusion form has been submitted to the Department. Up to forty percent shall be
16 disbursed after the plans and specifications for the project have been accepted and revised construction cost
17 estimates have been provided. The remainder of the allowance shall be disbursed after the project sponsor certifies
18 that all required Department permits and authorizations have been obtained and all necessary site certifications have
19 been submitted to the Department.

20 (6) SSES and I/I rehabilitation loans must provide documentation of excessive I/I. Infiltration is considered
21 excessive when the total flow exceeds 120 gallons per capita per day during periods of dry weather. Inflow is
22 considered excessive when the total flow exceeds 275 gallons per capita per day during a rain event. These
23 documents shall include effluent flow rates, rainfall records and population of units connected to the treatment
24 system/transmission line.

25 (6) through (7) renumbered (7) through (8) No change.

26 (9)(8) Financing rate.

27 (a) The financing rate shall be calculated as follows up to a maximum financing rate equal to the market rate:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

FR = MR - 3 + (3/(1+(125/AI)⁴)) + Log(P)/20.

Where:

FR = financing rate

MR = Market Rate

AI = Affordability Index

P = Population served or to be served by the sponsor

Except that for projects on the fundable or contingency list as of December 21, 2010, the financing rate shall be the (affordability index divided by 200) times the market rate for interest. The market rate shall be established as the most recent rate at which bonds are sold by the Florida Water Pollution Control Financing Corporation (FWPCFC), or as established using the Thomson Publishing Corporation’s “Bond Buyer” 20-Bond GO Index whichever is higher, except that the bond rate shall not apply in quarters after all bond proceeds have been encumbered. The maximum financing rate shall be limited to eighty percent the market rate. When using the “Bond Buyer” (The market rate (20-Bond GO Index), is established by the Department as of January 1, April 1, July 1, and October 1 of each year and it is the average weekly yield during the three (3) months immediately preceding the date of determination. The average weekly yield is derived from the yields reported in the “Bond Buyer” for the full weeks occurring during the three-month period.

(b) The financing rate shall be fixed for the principal amount of the loan and for the duration of the loan repayment period. The financing rate shall be established separately for each amendment resulting from a project cost increase or new segment. The affordability index shall be adjusted when a design loan is rolled over to a construction loan to account for changes in project service area or for changes in the census data, but shall remain the same for all construction amendments. The financing rate shall be further adjusted by each of the following for which the project qualifies:

1. Projects with a Department accepted and implemented asset management plan that meets all requirements in subsection 62-503.700(7), F.A.C., shall be eligible for a reduction in the financing rate if implementation has been

1 verified at least three (3) months prior to the first scheduled repayment. The financing rate shall be as calculated in
2 paragraph 62-503.300(9)(a), F.A.C., minus 0.1 percent.

3 2. Projects that qualify as green projects as defined in subsection 62-503.200(23), F.A.C., shall also be eligible
4 for a reduction in the financing rate. The financing rate shall be as calculated in paragraph 62-503.300(9)(a), F.A.C.,
5 minus 0.1 percent. For projects with components that do not qualify as green, the financing rate reduction shall be
6 prorated so only the green construction cost receives the reduction.

7 3. The financing rate for loans that include a requirement for Davis Bacon wage rates shall be reduced by 0.1
8 percent.

9 ~~(c)(b)~~ For non-capitalization grant project loans made after June 30, 1997, the financing rate has two (2)
10 parts, a loan interest rate component and a grant allocation assessment rate component. The Department shall
11 determine the proportions of the components annually.

12 ~~(d)(e)~~ The financing rate for a non-governmental sponsor of a project that qualifies for funding as a result of
13 Section 319 or 320 of the Act shall be sixty percent (60%) ~~fifty (50%) percent~~ of the market rate as established in
14 paragraph 2(a), above.

15 ~~(10)(9)~~ Debt Coverage for non-governmental sponsors. A non-governmental sponsor of a project that qualifies
16 for funding as a result of section 319 or 320 of the Act shall document that it has a current term debt and capital lease
17 coverage ratio of at least 1.15. This ratio shall have, as its numerator, net operations income plus non-operating
18 income plus depreciation plus interest on term debt (multi-year debt) minus payroll and income taxes minus owner
19 withdrawals; and, as its denominator, the sum of scheduled payments on term debt and long-term leases.

20 (11)The maximum amount a project sponsor can have on the contingency and fundable lists combined shall not
21 exceed \$50 million.

22 ~~Rulemaking Specific~~ Authority 403.1835(10) FS. Law Implemented 403.1835 FS. History - New 4-17-89, Amended 12-4-91, 2-
23 23-94, Formerly 17-503.300, Amended 1-4-98, 7-1-99, 2-6-02, 7-29-04,_____.

24
25 62-503.430 Loan Agreements.

26 (1) General.

27 (a) To receive a loan, a project sponsor must submit a complete loan application, provide reasonable assurance
28 that it has the financial capability to complete the project and repay the loan, and enter into a negotiated written

1 agreement. Loan agreements shall be offered to project sponsors for projects listed on the fundable portion in the
2 order of receipt of a complete loan application irrespective of priority score, project rank, or qualification for the
3 small-community reserve funds.

4 (b) If a project sponsor does not submit a complete loan application within 120 days, or a loan agreement is not
5 executed within 210 days after a project is added to the fundable portion, the project is subject to removal from the
6 priority list at the next scheduled hearing ~~shall be subject to placement on the bottom of the contingency portion at~~
7 ~~the next priority list management hearing.~~

8 (c) Project sponsors shall provide reasonable financial assurance that project activities will be completed
9 including requirements for service providers and equipment suppliers or manufacturers to provide performance
10 guarantees; and insurance covering workers' compensation, comprehensive general liability, vehicle liability, and
11 property damage to the extent that coverage is available for project activities.

12 (d) ~~For loans to implement preconstruction projects, all~~ Planning and SSES loan agreement prerequisites shall
13 be met upon submittal of a complete loan application.

14 (e) Financial hardship loans shall not be ~~available for loan agreements~~ awarded with funds from the Florida
15 Water Pollution Control Financing Corporation using bond proceeds.

16 (f) The Department shall have the primary responsibility for drafting the loan agreement and settling its terms.
17 The loan agreement shall have reasonable and necessary terms to meet program requirements. Loan agreement
18 covenants may vary for direct and leveraged loans. Projects being funded as a result of different sections of the Act
19 or as a result of different sources of pledged revenues may have different loan agreement covenants.

20 ~~(2) Financing Rate.~~

21 ~~(a) The financing rate shall be fixed for the principal amount of the loan and for the duration of the loan~~
22 ~~repayment period. For segmented projects the financing rate shall be established separately for each amendment in~~
23 ~~accordance with subsection 62-503.300(8), F.A.C.~~

24 ~~(b) The affordability index shall remain the same for all construction amendments. The affordability index may~~
25 ~~be adjusted when a loan is rolled over from preconstruction to construction to account for changes in project service~~
26 ~~area.~~

1 ~~(2)~~(3) Pledged Revenues. The loan recipient shall make deposits of pledged revenues to a restricted or
2 assigned debt service account and shall be responsible for the maintenance of that account.

3 (a) Pledged revenues for projects sponsored by a local government shall be a minimum of 1.15 times the
4 amount required to make each semiannual loan repayment unless the project sponsor establishes a restricted or
5 assigned reserve account in an amount not less than the equivalent of two semiannual loan repayments. The pledged
6 revenue coverage for the loan from the Department shall not be transferred or derived from coverage required by
7 senior lien debt instruments.

8 (b) Pledged revenues for projects sponsored by other than a local government shall be secured with collateral
9 having an appraised market value not less than 125% of the loan principal. The appraisal must be less than 12
10 months old at the time the loan application is received.

11 (4) through (5) renumbered as (3) through (4) No change.

12 ~~(5)~~(6) Assurance of Compliance. The project sponsor shall provide assurance that:

13 (a) Records will be kept using generally accepted accounting practices. The Department, the Auditor General,
14 and their agents shall have access to all records pertaining to the loan.

15 (b) Project facilities will be properly operated and maintained and best management practices shall be
16 continued, as appropriate.

17 (c) Loan funds will not be used for the purpose of lobbying ~~the Legislature, the judicial branch, or a state~~
18 ~~agency.~~

19 ~~(6)~~(7) Disbursements. Disbursements to the project sponsor shall be for allowable costs. ~~For direct loans,~~
20 ~~disbursements shall be for costs paid or incurred and an allowance. For loans made from bond proceeds,~~
21 ~~disbursements shall be only for costs paid or incurred.~~ Disbursements shall be subject to the following requirements:

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

26 (b) The materials, labor, and services shall be part of the approved project scope;

1 (c) The disbursement shall be due under the terms of the loan agreement, and there shall be money available
2 under the loan agreement for payment;

3 (d) Disbursement for SSES and I/I rehabilitation loans shall be for allowable invoiced costs. Requests for
4 disbursements shall include an itemized summary of the material, labor or services to identify the nature of the work
5 performed.

6 ~~(e)(4)~~ Requests for disbursements for allowance draws shall be subject to the limitations imposed by
7 subsection paragraph 62-503.300(5)(d), F.A.C.

8 ~~(7)(8)~~ Repayments. Repayment shall begin as specified herein and is limited to no more than 20 years unless
9 the project qualifies for an extended term as allowed in paragraph (8)(a). The project sponsor shall begin repaying a
10 loan no later than the date scheduled under the loan agreement. The scheduled date shall be six (6) months after the
11 estimated completion date or, for projects using interim financing that complete the project prior to receiving a SRF
12 loan refinancing loans or segmented projects, six (6)-months after the first available interim loan payoff date
13 estimated for the final disbursement by the Department.

14 ~~(8)(9)~~ Loan Repayment Term.

15 (a) ~~Construction loan and preconstruction~~ Loan repayment periods for projects sponsored by a local
16 government shall be limited to twenty (20) years or the useful life of the project, whichever is less. Loan repayment
17 periods shall be extended to a maximum of thirty (30) years as allowed under the Act and Section 403.1835, F.S., for
18 projects to benefit a small community with a financial hardship.

19 (b) Repayment periods for loans sponsored by other than a local government shall be limited to ten (10) years
20 or the useful life of the project, whichever is less.

21 ~~(9)(10)~~ Annual Certification. No later than three (3) months prior to the first loan repayment and annually
22 thereafter until the final loan repayment is made, the project sponsor's authorized representative or its chief financial
23 officer shall submit a certification that:

24 (a) Pledged revenue collections satisfy the rate coverage requirement;

25 (b) The restricted or assigned pledged revenue account contains the funds required;

26 (c) The loan repayment reserve account for a direct loan contains the funds required, if applicable; and

1 (d) Insurance, including that issued through the National Flood Insurance Program authorized under 42 U.S.C.
2 secs. 4001-4128, when applicable, in effect for the facilities generating the pledged revenues, adequately covers the
3 customary risks to the extent that such insurance is available.

4 (e) For loans awarded after June 2010, that the revenue generation system is in conformance with subparagraph
5 62-503.700(2)(h)3., F.A.C.

6 (11) renumbered (10) No change.

7 Rulemaking Specific Authority 403.1835(10) FS. Law Implemented 403.1835 FS. History - New 4-17-89, Amended 12-4-91, 6-
8 21-93, 2-23-94, Formerly 17-503.430, Amended 1-4-98, 7-1-99, 2-6-02, 7-29-04, _____.

9
10 62-503.500 Funds Reserved for Specific Purposes.

11 (1) Small community reserve. Fifteen ~~(15%)~~ percent of the funds allocated each year by the Department less the
12 amount of any bonds issued or to be issued by the Florida Water Pollution Control Financing Corporation shall be
13 reserved to fund projects that will serve small communities. The Department shall administer the small-community
14 reserve funds as follows:

15 (a) A project serving a small community shall retain eligibility for funding from the small-community reserve
16 regardless of the population of the project sponsor seeking funding for the project. However, a project shall not be
17 eligible for funding from the small-community reserve if more than half of the population of the community to be
18 served by the project is located within an incorporated jurisdiction that is not a small community.

19 (b) When the priority list is adopted, any part of the reserved amount not needed for small-community projects
20 shall become available for all projects.

21 ~~(2) Service fee. Service fees collected for loan program administration under Rule 62-503.400, F.A.C., shall be~~
22 ~~deposited in the Department's Grants Trust Fund. Fee proceeds, including investment earnings, shall be reserved to~~
23 ~~pay for the administration of the financial assistance programs of the Bureau of Water Facilities Funding.~~

24 ~~(2)(3) Grant allocation assessment. Grant allocation assessments shall be deposited in the Grants and~~
25 ~~Donations Trust Fund. Grant allocation assessments and earnings that have been released from any lien securing any~~
26 ~~bonds thereon shall be used solely for making wastewater management project grants to financially disadvantaged~~
27 ~~small communities under Section 403.1838, F.S.~~

1 (3) Green project reserve. If required in the federal capitalization grant, funds shall be reserved for green
2 projects as defined in subsection 62-503.200(23), F.A.C., if sufficient green projects are submitted to use the funds.

3 (4) Funds reserved for principal forgiveness. If required in the federal capitalization grant, funds shall be
4 reserved for providing loan principal forgiveness to projects that qualify for grants under Section 403.1838, F.S. The
5 percentage of the loan principal forgiven shall be determined as described in subsection 62-505.350(5), F.A.C., and
6 shall be applied at the time each disbursement is made.

7 Rulemaking Specific Authority 403.1835(10) FS. Law Implemented 403.1835 FS. History - New 4-17-89, Amended 12-4-91, 2-
8 23-94, Formerly 17-503.500, Amended 1-4-98, 7-1-99, 2-6-02, 7-29-04,_____.

9
10 62-503.600 Priority List Information.

11 (1) General. Each year, a priority list shall be developed by the Department. After the ranking of projects the
12 proposed list shall be posted on the Department’s website not later than fourteen (14) days before the list adoption
13 hearing to be held under this rule section and shall be mailed to anyone who submits a written request to the
14 Department. The priority list shall be adopted at a public hearing held by the Department. ~~The list becomes effective~~
15 ~~after adoption, but not before July 1 of the fiscal year for which it is developed.~~

16 (2) Priority List. The priority list comprises the following three portions:

17 (a) Fundable portion. A project shall be added to the fundable portion when funds allocated each year by the
18 Department are assigned to the sponsor. ~~If additional funds are available, T~~ the available funds shall first be assigned
19 to projects that were previously already on the fundable list which require additional funds to complete the project
20 and portion provided the segment cap is not exceeded, to segmented projects advancing from the contingency
21 portion of the list. The order in which these projects shall be ranked shall be determined by the order in which they
22 were first placed on the fundable list for the construction project. Funds shall then be assigned to other contingency
23 listed projects in rank order. to the fundable portion, and to Finally, new projects shall be added to the bottom of the
24 fundable portion in priority score order, if unassigned funds are available. Projects that must be added to meet
25 federal capitalization grant requirements shall be listed on the fundable list, bypassing projects that would otherwise
26 be on the fundable list. Such projects shall be added in priority score order until the grant requirements are met. After
27 all available funds have been assigned, projects or portions of projects not funded shall be listed on the applicable
28 contingency or planning portion of the priority list.

1 (b) Contingency portion. For project sponsors with a project or projects on the fundable list, any costs in excess
2 of the annual segment cap shall be placed on the contingency list subject to the limitation in subsection
3 62-503.300(11), F.A.C. New A projects with a priority score of 350 points or more that are is ready to proceed shall
4 be added to the contingency portion of the list when sufficient funds are not available for placement on the fundable
5 portion at the time of the list adoption hearing. Projects with a priority score of less than 350 points shall be placed
6 on the planning list regardless of readiness to proceed and must compete for funds with new projects at a subsequent
7 hearing. If funds become available, projects on the contingency list shall advance to the bottom of the fundable
8 portion of the priority list in rank ~~priority score~~ order without a public hearing until the available funds are
9 committed. Projects that have an existing preconstruction loan (rolling over into a construction loan with no change
10 in scope) with the Department or an authorization to incur costs prior to adoption of this rule, shall be exempt from
11 these provisions and shall be eligible to be added to the contingency list.

12 (c) Planning portion. A project shall be added to the planning portion when a complete request for inclusion is
13 received by the Department but the readiness-to-proceed requirements have not been met or when funds are not
14 available as described in paragraph (b). Additions to the planning portion shall not require a public hearing. The
15 projects shall be listed alphabetically.

16 (3) Getting on the list. A public hearing shall be held to add projects to the ~~contingency or fundable or~~
17 contingency portions of the priority list. Projects that meet the appropriate provisions of paragraphs 62-
18 503.300(1)(b), 62-503.600(2)(a), 62-503.600(2)(b), and Rules 62-503.700, and 62-503.751 F.A.C., thirty (30) days
19 prior to the hearing shall be added to the bottom of the appropriate list in the order of priority score below projects
20 listed at previous hearings. Projects that do not meet the these requirements appropriate provisions of Rules 62-
21 503.700 and 62-503.751, F.A.C., after the above deadline shall be added to the appropriate list in order of priority
22 score below those that meet the deadline shall be added to the planning list. The scope of a fundable or contingency
23 portion project described on the priority list shall not be increased ~~to encompass additional costs.~~

24 (4) Removal from priority list. Projects shall be rescheduled for implementation in a future fiscal year or
25 removed from a priority list upon request of the project sponsor or if the project sponsor fails to comply with the
26 provisions of this chapter, the rule.

1 (5) Annual funding limit. The amount of funds available to a project sponsor in any one fiscal year for projects
 2 to be listed on the fundable portion of the priority list shall be limited to no more than twenty five (25%) of available
 3 funds or the segment cap whichever is less. ~~There shall be no limitation imposed on the amount of funding assigned~~
 4 ~~to contingency portion projects. A project shall be segmented for deferred funding of the unavailable funds when a~~
 5 ~~Project sponsors qualifying qualifies~~ for funding in excess of that available to it in any one (4) fiscal year shall have
 6 that excess amount segmented or deferred for funding in future fiscal years, subject to subsection 62-503.300(11),
 7 F.A.C.

8 (6) Priority score determination. Eligible projects shall be given priority according to the extent each project is
 9 intended to remove, mitigate, or prevent adverse effects on surface or ground water quality and public health. The
 10 final priority score, calculated to the nearest .01 point, for each project shall be determined as described in
 11 paragraphs (a) through (d) below. ~~the base priority score multiplied by 1.2 if the pollution control is directly related~~
 12 ~~to the special waters of the state as defined in paragraph (b), below, multiplied by a cost to benefit index as defined~~
 13 ~~in paragraph (c), below, and then increased for economic hardship as defined in paragraph (d), below, if appropriate.~~

14 (a) Base priority score. Each project shall receive a base priority score (BPS) based on the weighted average be
 15 categorized by the highest single base score justified by any one of its components or facilities. The BPS shall be
 16 determined based on the following formula where CPS means the component priority score and CCC means
 17 component construction costs:

$$\text{BPS} = [\text{CPS}_1 \times \text{CCC}_1 + \dots + \text{CPS}_n \times \text{CCC}_n] / \text{Total Construction Cost}$$

21 A ~~P~~project components shall be assigned component a ~~base~~ priority scores according to one of the categories in
 22 Table 1. as follows:

23 Table 1

<u>Project Component</u>	<u>Priority Points</u>
<u>1. Eliminate a documented acute or chronic public health hazard</u>	<u>500 points</u>
<u>2. Implement a project included in an adopted Basin Management Action Plan or a</u> <u>Reasonable Assurance Plan approved pursuant to section 403.067, F.S.</u>	<u>450 points</u>

<u>3. Protect surface or ground water by reducing a documented source of pollution, pollution reductions necessary to meet regulatory requirements, or repairs by local governments or on-site system management entities, under section 319 of the Act, and that correct septic tank failures in springsheds of first-magnitude springs</u>	<u>400 points</u>
<u>4. Address a compliance problem documented in an enforcement action by the Department of Environmental Protection</u>	<u>375 points</u>
<u>5. Correct excessive inflow/infiltration</u>	<u>350 points</u>
<u>6. Promote the reuse of reclaimed water by reducing an existing demand for potable water</u>	<u>325 points</u>
<u>7. Scheduled rehabilitation, replacement, or repair described in an approved asset management plan</u>	<u>300 points</u>
<u>8. Projects that construct other reclaimed water systems that do not meet the criteria of component 6. above or residuals reuse systems</u>	<u>250 points</u>
<u>9. Ensure compliance with other enforceable standards or requirements</u>	<u>225 points</u>
<u>10. All other</u>	<u>100 points</u>

1

2

~~1. Reduce documented public health hazards (500 points);~~

3

~~2. Protect surface or ground water (400 points);~~

4

~~3. Promote reclaimed water or residuals reuse (300 points);~~

5

~~4. Compliance with enforceable standards or requirements (200 points);~~

6

~~5. All other (100 points).~~

7

(b) Special waters of the state factor. A project base score assigned under paragraph (6)(a), above, shall be

8

multiplied by 1.2 if the project is a construction project that will assist in the restoration or protection of special

9

surface waters as follows:

10

1. Outstanding Florida Waters;

11

2. Water bodies identified under the National Estuary Program;

12

3. Wild and Scenic Rivers;

1 4. An impaired water body on the state's adopted verified list of impaired waters.

2 (c) Construction projects that document any of the following shall have bonus points added to the priority score
3 after the adjustment under paragraph (b) above, as indicated. ~~Cost to benefit index. The relative costs of achieving~~
4 ~~environmental and public health benefits shall be reflected in the priority score. The ratio of the total cost for each~~
5 ~~project to the score (benefit) for that project shall be computed. The cost data used shall be expressed in units of one~~
6 ~~thousand dollars (e.g., \$1,000,000 shall become \$1,000 for purposes of determining the cost to benefit index). The~~
7 ~~benefit ratio shall be indexed at not less than 1.00 nor greater than 1.20. The cost to benefit index (multiplier) for a~~
8 ~~specific project shall be established to the nearest 0.01 value as follows: $1.20 - 0.021 \times \text{Natural Logarithm of}$~~
9 ~~(Project Cost to Benefit Ratio).~~

10
11 1. Elimination of Ocean Outfalls (20 points);

12 2. Projects that qualify as green projects as defined in subsection 62-503.200(23), F.A.C. (15 points);

13 3. Projects identified in a regional water supply plan developed pursuant to Section 373.709, F.S. (10 points).

14 (d) Economic hardship. The extent of the economic hardship existing in a small community to be served by the
15 project shall be reflected in the priority score. For a sponsor that qualifies as a small community with a financial
16 hardship, Ten (10) points shall will be added to the priority score; using the formula, 1000 divided by the
17 affordability index, after adjustment under paragraphs (b) and (c), above, when the small community's affordability
18 index is less than 100.

19 Rulemaking Specific Authority 403.1835(10) FS. Law Implemented 403.1835 FS. History - New 4-17-89, Amended 12-4-91, 2-
20 23-94, Formerly 17-503.600, Amended 12-26-96, 1-4-98, 7-1-99, 2-6-02, 7-29-04,_____.

21
22 62-503.700 Planning, Design, Construction, and Procurement Requirements.

23 (1) No change.

24 (2) Project planning documentation, including SSES, shall include the following:

25 (a) Sufficient illustrative detail of the local area to identify where the project or activity would be located.

26 Landmarks and other readily identifiable features shall be noted.

27 (b) A description of the existing and recommended facilities, estimated capital costs, and estimated operation
28 and maintenance costs, if applicable.

1 (c) The need or justification for the project or activity and the environmental and economic impacts and
2 benefits of the project.

3 (d) A cost comparison of at least two alternatives, which shall be in addition to no action, except for projects in
4 paragraph (e), below. ~~Alternatives may include no action.~~

5 (e) For projects qualifying for funding as a result of section 319 or section 320 of the Act, conformance with
6 one of the following:

7 1. Conservation practices listed in Natural Resource Conservation Service’s “Field Office Technical Guide,
8 Section IV.”

9 2. Best management practices established in statute or rule.

10 3. Best management practices and related activities addressed in the Department’s “Florida Nonpoint Source
11 Management Program Update.”

12 4. Agricultural practices implemented to carry out a nutrient management plan prepared by the National
13 Resource Conservation Service or a Florida licensed Professional Engineer.

14 5. Remedial action plan for brownfield clean-up.

15 (f) Resolution of comments received by the Florida State Clearinghouse during its intergovernmental review of
16 the project.

17 (g) The public participation process used to explain the project and the financial impacts to affected parties.

18 1. When a project is eligible for funding as a result of section 212 of the Act, the public participation process
19 shall include the project sponsor’s public meeting held before the project sponsor’s acceptance of the planning
20 recommendations. The public meeting shall provide for public participation in the evaluation of project alternatives
21 and shall inform the public of the capital cost of the proposed project and the long term financial impacts on the
22 customers. Notice of the public meeting shall be in accordance with local requirements.

23 2. When an agricultural practice identified in subparagraphs (e)1. through 4. above, is selected for
24 implementation on the project sponsor’s property and it is eligible for funding as a result of section 319 or section
25 320 of the Act, the public participation requirement shall be deemed to have been met as a result of the
26 environmental review process if there are no other affected parties. Otherwise, the public participation requirement
27 shall be as described in subparagraph (g)1, above.

1 3. When an agricultural practice identified in subparagraphs (e)1. through 4., above, is selected for
2 implementation on property the project sponsor will acquire, and it is eligible for funding as a result of section 319
3 or section 320 of the Act, the public participation requirement shall be as described in subparagraph (g)1, above.

4 (h) Financial feasibility information addressing the following:

5 1. The sources and amounts of revenues to be dedicated to repaying the loan and the expenses, charges, and
6 liens against or to be paid from such dedicated funds or revenues. The information shall demonstrate the ability to
7 repay the loan with a margin of safety. Examples of a margin of safety are as follows:

8 a. Pledged revenue coverage ratio of at least 1.15 for projects sponsored by a local government;

9 b. A current term debt and capital lease coverage ratio of at least 1.15, as explained in subsection 62-
10 503.300(10), F.A.C., for projects sponsored by other than a local government.

11 2. Capital improvements that will be financed from the same funds or revenues dedicated to repaying the loan.
12 For projects qualifying for funding as a result of section 212 of the Act, information must include capital
13 improvements that will be implemented over at least a two-year period commencing with the first semiannual loan
14 repayment.

15 3. The proposed system of charges, rates, fees, and other collections that will generate the revenues to be
16 dedicated to loan repayment. The rate structure of the revenue generation system shall be adopted at least six months
17 before the first State Revolving Fund loan repayment is due or before the project is administratively closed out,
18 whichever occurs first. The rate structure shall be implemented timely to ensure the generation of sufficient revenues
19 dedicated to loan repayment and may be implemented in phases to the extent timely and sufficient revenue
20 generation will be accomplished. The revenue generation system shall be revised, as necessary, to satisfy the pledged
21 revenue requirements of the loan.

22 (i) An updated request for inclusion to include the schedule, scope, and costs for implementing the
23 recommended facilities or activities and any changes to the census tracts to account for project changes if necessary.

24 (j) An adopting resolution or other action establishing a commitment to implement the planning
25 recommendations;

26 (k) For projects that are to be listed as green projects, documentation of how the project is categorically green
27 or a business case detailing how the project meets the federal requirements for green projects in Attachment 2 Part A.

1 of EPA’s “Procedures for Implementing Certain Provisions of EPA’s Fiscal Year 2010 Appropriation Affecting the
2 Clean Water and Drinking Water State Revolving Fund Programs”, April 2010.

3 (3) through (4) No change.

4 (5) Permit. The project sponsor shall submit evidence that one or more of the following permitting related
5 conditions, as necessary, exist for the project:

6 (a) The use of a general permit under Rule 62-620.705, F.A.C., has been authorized;

7 (b) An intent to issue a permit under Rule 62-620.510, F.A.C., has been issued ~~established~~;

8 (c) The Department has issued other authorization for project construction (includes design/build); ~~or~~

9 (d) The Department has determined that its authorization is not required prior to construction, or-

10 (e) An intent to issue a permit for construction under Part IV, Chapter 373, F.S., has been issued ~~established~~.

11 (6) Procurement (Reference: 40 CFR 31.36). When procuring property and services under a SRF loan, a
12 project sponsor shall follow the policies and procedures it uses for procurements from its non-SRF funds provided
13 that the procurement conforms to applicable federal, State and local laws and regulations, and the following
14 requirements:

15 (a) All procurement transactions shall be conducted in a manner providing full and open competition. For small
16 purchases that do not cost more than \$100,000, price or rate quotations shall be obtained from a minimum of two
17 qualified sources.

18 (b) Construction contractors shall be selected according to a recognized procurement method such as formal
19 advertised competitive bidding, competitive or noncompetitive proposals, design/build agreements or construction
20 manager at risk agreements.

21 (c) Requirements for the formal advertised competitive bidding method of procurement shall be as follows:

22 1. All solicitations shall incorporate a clear and accurate description of the technical requirements for the
23 materials, products, or services to be procured.

24 a. Such description shall not contain features that unduly restrict competition.

25 b. The description shall include a statement of the qualitative nature of the materials, products or services to be
26 procured, and when necessary, shall set forth those minimum essential characteristics and standards to which they
27 must conform to satisfy their intended use.

1 c. When it is impractical or uneconomical to make a clear and accurate description of the technical
2 requirements, a “brand name or equal” description may be used as a means to define the performance or other salient
3 requirements of a procurement. The specific features of the named brand which must be met by offerors shall be
4 clearly stated.

5 d. All requirements that the offerors must fulfill and all other factors to be used in evaluating bids or proposals
6 shall be identified.

7 2. Project sponsors shall ensure that all prequalified lists of persons, firms, or products that are used in
8 acquiring goods and services are current and include enough qualified sources to ensure maximum open and free
9 competition.

10 3. The invitation for bids shall be publicly advertised and bids shall be solicited from an adequate number of
11 known suppliers to assure open competition, providing them sufficient time prior to the date set for opening the bids.

12 4. The invitation for bids, which shall include any specifications and pertinent attachments, shall define the
13 items or services in order for the bidder to properly respond.

14 5. All bids shall be publicly opened at the time and place prescribed in the invitation for bids, and a firm-
15 fixed-price contract (lump sum or unit price) awarded to the responsible bidder whose bid conforms to all the
16 material terms and conditions of the invitation for bids.

17 6. Any or all bids may be rejected if there is a sound, documented reason.

18 7. Project changes after advertising for bids or other project proposals and before bid or proposal opening
19 shall be made by addendum. Changes to executed contracts involving construction shall be made by change order.
20 The project sponsor shall submit all addenda and change orders to the Department. The Department shall perform an
21 eligibility determination for each change order.

22 (d) Requirements for the competitive proposals method of procurement shall be as follows:

23 1. Proposals shall be solicited from an adequate number of qualified sources to assure open competition.

24 2. Loan recipients shall have a method for conducting technical evaluations of the proposals received and for
25 selecting awardees;

26 3. Awards shall be made to the responsible firm whose proposal is most advantageous to the loan recipient,
27 with price and other factors considered.

- 1 (e) Requirements for the noncompetitive proposals method of procurement shall be as follows:
- 2 1. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one
- 3 (1) source, or after solicitation of a number of sources, competition is determined inadequate.
- 4 2. Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible
- 5 under small purchase procedures, sealed bids or competitive proposals, and one of the following circumstances
- 6 applies:
- 7 a. The item is available only from a single source;
- 8 b. The public exigency or emergency for the requirement shall not permit a delay resulting from competitive
- 9 solicitation; or
- 10 c. After solicitation of a number of sources, competition is determined inadequate.
- 11 3. A cost analysis verifying the proposed cost data and an evaluation of the specific elements of costs and
- 12 profits, is required.
- 13 4. Loan recipients shall submit the proposed procurement to the Department for pre-award review.
- 14 (f) Design/build and construction manager at risk (CMR) procurement:
- 15 1. Requests for proposals shall be used in the selection process.
- 16 2. The request for proposals shall describe the work eligible for a loan, the requirements with which the
- 17 successful respondent shall comply, and the evaluation process to be used in selecting the successful respondent.
- 18 3. Advertising shall include announcement in a publication having general circulation on a statewide basis, in
- 19 a construction trade journal, in a professional journal, or in an ~~the~~ electronic plan room.
- 20 4. The time allowed for development of proposals shall be commensurate with the complexity and extent of
- 21 the work and with the extent of the conceptual documents provided with the request for proposals.
- 22 5. Both the qualifications of the respondents and the price for completing the advertised work shall be
- 23 considered in the selection process.
- 24 6. The project sponsor shall demonstrate that the competition solicited is sufficient for the complexity and
- 25 extent of the work.
- 26 7. Requests for proposals shall be submitted to the Department prior to advertising for a determination of
- 27 compliance with loan program requirements.

1 8. Procurement of construction contractors:

2 a. For CMR contracts: Self performing construction work by the construction manager at risk shall be limited
3 to 30% of the guaranteed maximum price (GMP). Requests to exceed this amount shall be submitted and approved
4 by the Department. For any construction work that will performed by the CMR, bids or request for proposals shall be
5 submitted to and reviewed by the sponsor or any other neutral party as determined by the sponsor to avoid a conflict
6 of interest.

7 b. For design/build contracts: The design/build team will be identified as part of awarding the GMP. If the
8 construction contractor is not identified as part of the award, procurement shall follow steps to ensure a competitive
9 process as described in subsections 62-503.700(6)(a) through 62-503.700(6)(d), F.A.C.

10 (g) Loan recipients shall maintain a contract administration system that ensures that contractors perform in
11 accordance with the terms, conditions, and specifications of their contracts or purchase orders.

12 (h) Loan recipients shall maintain a written code of standards of conduct governing the performance of their
13 employees engaged in the award and administration of contracts. No employee, officer, or agent of the loan recipient
14 shall participate in selection, or in the award or administration of a contract supported by SRF funds if a conflict of
15 interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer, or agent, any
16 member of his immediate family, his or her partner, or an organization that employs, or is about to employ, any of
17 the above, has a financial or other interest in the firm selected for award. The loan recipient's officers, employees, or
18 agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential
19 contractors, or parties to subagreements. Loan recipients may set minimum rules where the financial interest is not
20 substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law
21 or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for
22 violations of such standards by the loan recipient's officers, employees, or agents, or by contractors or their agents.

23 (i) Loan recipients are encouraged to use value engineering clauses in contracts for construction projects of
24 sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative
25 analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

26 (j) Loan recipients shall make awards only to responsible contractors possessing the ability to perform
27 successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters

1 as contractor integrity, compliance with public policy, record of past performance, and financial and technical
2 resources.

3 (k) Loan recipients shall maintain records sufficient to detail the significant history of a procurement. These
4 records shall include the following: ~~R~~ationale for the method of procurement, selection of contract type, contractor
5 selection or rejection, and the basis for the contract price.

6 (l) Loan recipients alone shall be responsible, in accordance with good administrative practice and sound
7 business judgment, for the settlement of all contractual and administrative issues arising out of procurements.

8 (m) Retention of all required records for five (5) ~~three (3)~~ years after loan recipients or subloan recipients make
9 final payments and all other pending matters are closed.

10 (n) For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition
11 threshold, the Department shall ~~will~~ accept the bonding policy and requirements of the loan recipient when the
12 Department has made a determination that the Department's interest is adequately protected. If such a determination
13 has not been made, the minimum requirements shall be as follows:

14 1. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall
15 consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid
16 as assurance that the bidder shall, upon acceptance of his bid, execute such contractual documents as may be
17 required within the time specified.

18 2. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance
19 bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under
20 such contract.

21 3. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is
22 one executed in connection with a contract to assure payment as required by law of all persons supplying labor and
23 material in the execution of the work provided for in the contract.

24 (o) A loan recipient's contracts shall contain provisions for:

25 1. Administrative, contractual, or legal remedies in instances where contractors violate or breach contract
26 terms;

27 2. Such sanctions and penalties as may be appropriate; and

1 3. Termination for cause and for convenience by the loan recipient including the manner by which it shall be
2 effected and the basis for settlement.

3 4. Access by the loan recipient, the Department, or any of their duly authorized representatives to any books,
4 documents, papers, and records of the contractor that are directly pertinent to that specific contract for the purpose of
5 making audit, examination, excerpts, and transcriptions.

6 5. Incorporating the Department's Supplementary Conditions into its bid or request for proposals documents.
7 These conditions contain the following provisions:

8 a. Equal Employment Opportunity compliance;

9 b. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air
10 Act, section 508 of the Clean Water Act, and Executive Order 11738; and

11 c. Contracting with small and minority firms, women's business enterprise, and labor surplus area firms (if
12 applicable).

13 (7) Asset Management Plans. To be accepted for the financing rate adjustment and to be eligible for
14 reimbursement, an asset management plan must be adopted by ordinance or resolution and written procedures must
15 be in place to implement the plan and it shall be implemented timely. The plan must include each of the following:

16 (a) Identification of all assets within the project sponsor's system;

17 (b) An evaluation of the current age, condition, and anticipated useful life of each asset;

18 (c) The current worth of the assets;

19 (d) The cost to operate and maintain all assets;

20 (e) A capital improvement plan based on a survey of industry standards, life expectancy, life cycle analysis, and
21 remaining useful life;

22 (f) An analysis of funding needs;

23 (g) An analysis of population growth and wastewater or stormwater flow projections, as applicable, for the
24 sponsor's planning area, and a model, if applicable, for impact fees; commercial, industrial and residential rate
25 structures; and industrial pretreatment fees and parameters;

26 (h) The establishment of an adequate funding rate structure;

1 (i) A threshold rate set to assure the proper operation of the utility, if the sponsor transfers any of the utility
2 proceeds to other funds, the rates must be set higher than the threshold rate to facilitate the transfer and proper
3 operation of the utility; and

4 (j) A plan to preserve the assets, renewal, replacement, and repair, as necessary, including a risk-benefit
5 analysis to determine the optimum renewal or replacement time.

6 ~~Rulemaking Specific~~ Authority 403.1835(10) FS. Law Implemented 403.1835 FS. History - New 4-17-89, Amended 8-1-90, 12-
7 4-91, 6-21-93, 2-23-94, Formerly 17-503.700, Amended 1-4-98, 7-1-99, 2-6-02, 7-29-04, _____.

8
9 62-503.751 Environmental Review.

10 (1) General.

11 (a) The Department shall perform an environmental review for each project to be funded. The environmental
12 review shall establish the environmental significance of a proposed project and whether the planning of the project
13 meets the requirements of this ~~chapter rule~~. The environmental review also shall establish the Department's intention
14 to make funding available for a project after the project sponsor has met the applicable requirements of this rule. The
15 results of the Department's environmental review for each project shall be issued as an environmental information
16 document which shall be valid for five years from the date of issue. The different environmental information
17 documents are described in subsections (2) through (5) below. A notice of availability of an environmental
18 information document shall be published ~~in the Florida Administrative Weekly on the Department's website~~
19 www.dep.state.fl.us (under "Official Notices" or similar link) to announce the results of the Department's
20 environmental review. The notice of availability shall include instructions about the procedures for accessing the
21 project information and the Department's findings. The Department shall provide a ~~thirty (30)-day~~ period,
22 commencing as of the date of the notice of availability, for public comment about the environmental impacts of
23 proposed projects. Written comments from the public shall be considered by the Department before approving a
24 project for funding if postmarked or delivered within the ~~thirty (30)-day~~ comment period to the Department.

25 (b) Review procedures, identical to those described in this subsection, shall be used when the Department
26 amends an environmental information document to announce project changes that have potentially significant
27 environmental impacts.

1 (2) Florida Categorical Exclusion Notice (FCEN). A FCEN shall be used for certain projects that are not
2 expected to generate controversy over potential environmental effects. A FCEN shall not be used when there are
3 documented environmental objections to a project before the local government adopted the planning
4 recommendations provided that such objections have a basis in statute, regulation, or ordinance.

5 (a) In issuing a FCEN, the Department shall:

- 6 1. Briefly describe the project, the justification for the categorical exclusion, and the proposed loan funding.
- 7 2. Conclude the environmental review only after the ~~thirty~~ (30)-day public comment period, under subsection
8 (1) above, has expired and:

9 a. No information is received about adverse environmental impacts;

10 b. Information is received about adverse environmental impacts and the objections either are without a basis in
11 statute, regulation, or ordinance or the objections are resolved; or

12 c. Information is received about adverse environmental impacts, the FCEN is rescinded, and an environmental
13 review is undertaken according to subsection (3) or (4) below.

14 (b) Projects potentially eligible for categorical exclusion are:

15 1. Rehabilitation of existing water pollution control system components or replacement of structures, materials
16 or equipment;

17 2. Water pollution control systems that do not change the existing discharge point or permitted pollutant
18 concentration limits and that do not involve acquisition of undisturbed land;

19 3. Water pollution control systems that serve less than 10,000 people in unsewered communities that involve
20 self-contained individual or cluster systems providing both treatment and disposal of wastewater that will take place
21 near the buildings from which the wastewater is to be discharged;

22 4. Water pollution control systems in areas where streets have been established, underground utilities installed,
23 or building sites excavated; and

24 5. Treatment plant upgrades that are solely to enable reclaimed water reuse if the treatment level enables
25 unrestricted public access.

26 (3) No change.

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

9 (a) Issue a notice of intent to prepare a FEIS for the project;

10 (b) Develop a plan of study and convene a meeting of government, including EPA, and other interested parties
11 to determine the scope of the FEIS;

12 (c) Identify and evaluate project alternatives;

13 (d) Provide for public participation and review by federal and state environmental regulatory agencies;

14 (e) Ensure that adverse impacts of the project are minimized or eliminated;

15 (f) Document the findings of the environmental review using both the FROD and FEIS;

16 (g) Announce the funding eligibilities using a FROD and consider public comments about environmental
17 impacts if received during the ~~thirty~~ (30)-day period beginning on the date of posting of the notice of availability in
18 the *Florida Administrative Weekly* on the Department's website; and

19 (h) Conclude the environmental review only after a ~~thirty~~ (30)-day public comment period has expired without
20 receipt of comments about adverse environmental impacts or if, after receipt of such comments, the Department
21 takes action to:

22 1. Confirm the original decision;

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

25 3. Rescind the original decision.

26 (5) Florida Reaffirmation Notice (FRAN). A FRAN shall be used to establish the Department's continuing
27 intention to make funds available for unimplemented projects, the planning for which was previously documented as

1 accepted by the Department in a FCEN, FFONSI, FROD, or analogous documents issued by EPA, or amendments to
2 any of the foregoing that are no longer valid after five (5) years have elapsed since issuance. In issuing a FRAN, the
3 Department shall:

4 (a) State the findings being reaffirmed.

5 (b) Consider public comments about changed conditions altering the environmental impacts since the previous
6 FCEN, FFONSI, FROD, or analogous documents issued by EPA, or amendments to any of the foregoing. Comments
7 shall be considered if received during the thirty (30)-day period beginning on the date of posting of the notice of
8 availability of the FRAN in the *Florida Administrative Weekly* on the Department's website.

9 (c) Conclude the environmental review only after the public comment period has expired and:

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

11 2. Information is received about changed conditions resulting in adverse environmental impacts and one of the
12 following occurs:

13 a. The objections are resolved;

14 b. A re-evaluation of the project is made as a result of the comments and the Department confirms the original
15 decision or requires environmental enhancement measures before implementing the project; or

16 c. The FRAN is rescinded.

17 (6) No change.

18 (7) Project Revision Memoranda (PRM). For a project that requires modifications to the selected alternative
19 that do not alter its environmental effects, a PRM shall be written by the Department to document the changes.

20 Rulemaking Specific Authority 403.1835(10) FS. Law Implemented 403.1835 FS. History – New 7-29-04, Amended .

21

22 62-503.800 Audits Required.

23 (1) Federal or State Audit Required.

24 (a) In the event that the Local Government expends \$500,000 or more in Federal awards in its fiscal year, the
25 Local Government must have a single or program-specific audit conducted in accordance with the provisions of

26 OMB Circular A-133, as published in the *Federal Register*, June 27, 2003. Beginning with the fiscal year in which

27 an agreement for a loan is executed and continuing for each year thereafter until the loan is retired, the local

28 government shall submit annual audit reports to the Department. Audits shall address the local government's

1 ~~financial condition; accounts of water and sewer systems or other sources generating the pledged revenues; loan~~
2 ~~disbursements received, if any; project expenditures, if any; and compliance with loan agreement covenants. The~~
3 ~~local government shall cause its auditor to notify the Department immediately if anything comes to the auditor's~~
4 ~~attention during the annual examination of the local government's records that would constitute a default under the~~
5 ~~loan agreement. Reports shall be submitted within one year after the end of each audited fiscal year.~~

6 (b) In the event that the Local Government expends \$500,000 or more in State awards in its fiscal year, the
7 Local Government must have a State single or project-specific audit conducted in accordance with Section 215.97,
8 Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental
9 entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

10 ~~(2) Within the later of 12 months after the effective date of a loan agreement amendment establishing final~~
11 ~~project costs or the date upon which deposits of pledged revenues under subsection 62-503.430(2)(3), F.A.C., are~~
12 ~~first required, the project sponsor shall submit to the Department a report for a state project specific audit of the loan~~
13 ~~related revenues and expenditures. Audits of both direct loans and leveraged loans shall address the project sponsor's~~
14 ~~financial condition; accounts of the sources generating the pledged revenues; loan disbursements received, and~~
15 ~~project expenditures; and compliance with loan agreement covenants. The project sponsor shall cause its auditor to~~
16 ~~notify the Department immediately if anything comes to the auditor's attention during the examination of the records~~
17 ~~that would constitute a default under the loan agreement. The audit findings shall set aside or question any costs that~~
18 ~~are unallowable under this rule chapter. A final determination of whether such costs are allowed shall be made by the~~
19 ~~Department. The above described state project specific audit shall be required unless the only disbursements under~~
20 ~~the loan agreement are for allowances, loan service fee, and loan repayment reserve under a preconstruction loan.~~
21 ~~The definition of a state project specific audit may be found in Section 215.97, F.S.~~

22 (3) renumbered (2) No change.

23 Rulemaking Specific Authority 403.1835(10), 403.1837(9) FS. Law Implemented 403.1835 FS. History - New 4-17-89,
24 Amended 12-4-91, 2-23-94, Formerly 17-503.800, Amended 1-4-98, 2-6-02, 7-29-04,_____.

25
26 62-503.850 Exceptions to Program Requirements.

27 (1) The Department shall consider a requests for an exceptions to the requirements of this chapter rule if the
28 exception does not conflict with state or federal law or federal regulations.

- 1 (2) A request for an exceptions must contain the following information:
- 2 (a) The name of the project sponsor; project number; award date, application date, and the assistance amount
- 3 involved.
- 4 (b) The specific rule to which an exception is requested.
- 5 (c) A complete description of what the exception would accomplish and justification for the exception.
- 6 (d) A statement of whether the same or a similar exception previously has been sought; and, if so, an
- 7 explanation of the reason for that request and the outcome.
- 8 (e) A demonstration that compliance with the specified rules is unnecessary for abatement of pollution and
- 9 protection of public health.
- 10 (f) A demonstration that the economic, social, and environmental costs of compliance exceed the economic,
- 11 social, and environmental benefits of compliance.
- 12 Rulemaking Specific Authority 403.1835(10) FS. Law Implemented 403.1835 FS. History - New 4-17-89, Formerly
- 13 17-503.850, Amended 7-29-04,_____.