



New York Clean Water State Revolving Fund

SHORT-TERM FINANCING POLICY

Effective October 1, 2015

Purpose:

This document is intended to provide applicants with information and guidance regarding the Clean Water State Revolving Fund (CWSRF) Short-Term Financing (STF) Program. It summarizes, in general terms, policies and requirements governing the program.

Description:

The CWSRF STF Program includes two options for eligible municipal and non-municipal recipients to finance water quality protection and improvement projects. The CWSRF Short-Term Interest-Free Financing (STIFF) Program provides interest-free financing. The Short-Term Market-Rate Financing (SMRF) Program provides low-interest financing. These programs complement the CWSRF Subsidized-Interest Long-Term Financing Program and Long-Term Market-Rate Program by providing interim financing for projects that have completed planning, but are not ready for long-term financing.

NOTE: Third-party loan sources, such as USDA Rural Development loans, which may be refinanced through the CWSRF program, may be pre-financed with either of the SRF Short-Term Programs. Awarded grants may be pre-financed only with the SMRF Program.

Definitions:

Start of Construction shall be defined as:

- i. the date on which the contractor is directed to commence construction as specified in the Notice to Proceed issued by the Recipient following execution of the contract between the Recipient and such contractor for the erection, building, acquisition, alteration, reconstruction, improvement, enlargement or extension of the project, or
- ii. in the event that the project will be built by municipal/system employees (technical work force) in lieu of a contractor, the first day that a work crew occupies the project site, or
- iii. in the event that the project is a contract to purchase supplies, material or equipment, the date that a binding purchase agreement is executed between the contracting parties.

Construction Completion shall be defined as:

- i. (a) the completion date of the last major construction contract as indicated in the Notice to Proceed, issued by the recipient to the contractor, or (b), if one is not given, the date calculated by adding the contract completion time as specified in the executed contract between the recipient and contractor to the Notice to Proceed date, or (c) the

date construction was actually completed, if prior to (a) and (b) above. The completion date may be extended by the recipient by executing a CWSRF-allowable change order to the contract, which formally extends the contract completion date, or by written notice, which provides justification for a time extension, or

- ii. in the event that the project was built by recipient employees (technical work force) in lieu of a contractor, the last day that a work crew occupied the project site, or
- iii. in the event that the project is a contract to purchase supplies, material or equipment, the date on which the supplies, material or equipment is delivered to the recipient and the warranty period, if any, begins, or
- iv. in the event that the project is for land acquisition (defined below), the closing date on which the last parcel was purchased. However, for purposes of converting the short-term financing to long-term financing, each annual conversion year shall have a construction completion date that is the last parcel purchased in that annual period)

Construction Costs are defined as all costs associated with competitively bid contracts, technical work force, and/or contracts for the purchase of supplies, material or equipment.

Major Construction Contracts mean the contracts for a project which make up approximately 85% of the total aggregate construction costs.

Financial Hardship means a municipality that has qualified for a CWSRF reduced-interest rate or interest-free long-term direct financing, in accordance with the current CWSRF Hardship Policy and has been notified of such in writing by EFC.

Technical Work Force means recipient employees performing engineering and construction tasks, and the associated equipment and material costs used for planning, design, and/or construction of the project.

Land Acquisition includes outright or fee simple purchase or purchase of conservation easements.

Limitations and Restrictions:

- Unless eligible for financial hardship, CWSRF STIFF is limited to an amount not to exceed one-half of the project's Annual PPL IUP amount (the long-term reserve allocation for projects above the subsidy line) or one-half of the CWSRF eligible amount as identified in the project's approved engineering report or latest documented costs, whichever is less.
- Projects on the Final IUP Annual PPL with scores below the published Final IUP -subsidy lines may receive STIFF if they can be reached for subsidized financing through project by-pass.
- Projects in the Category D Annual PPL (projects determined to be a financial hardship) may receive STIFF up to 100% of the current Annual IUP PPL amount or 100% of the

CWSRF eligible amount as identified in the project's approved engineering report or latest documented costs, whichever is less.

- The SMRF Program is available for municipal projects with a minimum score of 10 points and listed on the Final IUP Annual PPL. SMRF is available to fund projects:
 - Above the Annual List subsidy line that need short-term financing in excess of the amount available under the STIFF Program;
 - Below the subsidy line that have applied for Long-Term Market-Rate financing; or
 - Above and below the subsidy line to pre-finance third-party grants.
- The SMRF Program is available for non-municipal nonpoint source projects listed on the Final IUP Annual Category E PPL.
- Short-term financing cannot be used for advance refunding or for the refunding of long term debt (bonds). Only current refinancings will be allowed (e.g., notes that are callable or have a maturity date less than three months from the closing).
- The STIFF Program will not be available for projects that, in the opinion of the EFC, have started construction on all major construction contracts and which are more than 50% complete. These projects should proceed with long-term financing, or consider the SMRF Program, if appropriate.
- Short-term financing will not be available for land acquisition of parcels already purchased by the applicant.
- Short-term financing cannot be provided solely for the acquisition of wastewater treatment and/or conveyance facilities.
- The closing of a STIFF in the specified time frame will qualify as meeting the closing date stated within a CWSRF hardship confirmation letter.
- In all cases, a short-term financing will become due and payable upon 60 days' notice from EFC if the project is abandoned.
- If the recipient did not apply for long-term financing when applying for short-term financing, the recipient will need to submit an application for long-term financing by the application deadline indicated in the current IUP. If an application is not received or the recipient elects not to utilize CWSRF long-term financing, the short-term financing will become due, as described in the financing agreement.

Special Limitations for Short-term Financing of Land Acquisition Projects:

- Subsidized short-term financing for land acquisition projects will only be available to those projects which are reachable and determined to be environmentally significant by the Commissioner of the DEC.

- The amount of the STIFF for a municipal land acquisition project above the published subsidy line, or reachable through project by-passing, will be limited to one-half of the project's Annual IUP PPL amount or \$15 million, whichever is less, for each IUP financing year. (SMRF financing may be used to finance the balance).
- For municipal land acquisition projects which do not include third-party funding, land purchased and short-term financing disbursements made prior to March 1 or October 1 of any year (as specified in the Project Financing Agreement) need to be converted into long-term financing in the next leveraged financing.
- For non-municipal not-for-profit land acquisition projects in the Category E Annual IUP PPL, the amount of the STIFF will be limited to one-half of the IUP amount or up to one-half of the per project cap pursuant to the final IUP, whichever is less. (SMRF Financing may be used to finance the balance).
- If a municipal or not-for-profit land acquisition project is financed through the SMRF program, the SMRF cannot exceed the project's IUP amount as set forth in the Final IUP Annual PPL.

Term of Short-Term Financings:

- Short-term financings for non-hardship projects will be issued for a term of three (3) years or as otherwise determined by EFC. Short-term financings for hardship projects will be issued for a term of five (5) years or as otherwise determined by EFC.
- Conversion of the short-term financing to long-term financing may occur earlier than the expiration of the term ("maturity date") as required by the "CWSRF Short-term Financing Sizing and Conversion Requirements" as set forth below.

Bonus Points for CWSRF Short-Term Financings:

- Projects for which funds have been committed in an executed Project Financing Agreement for STIFF, or have been approved by the Public Authorities Control Board (PACB) to receive STIFF, will be assigned 1,000 points in addition to their total project priority ranking system core scores for subsequent IUP financing periods.
- Projects below the Annual List subsidy line that receive SMRF will not be assigned the 1,000 bonus points; however, the project can remain on the Annual List until the project's priority ranking system core score becomes reachable for subsidized financing in a subsequent IUP financing period.
- The 1,000 points will not be included with the IUP project core score and rank for hardship confirmation evaluation purposes.

Fees for CWSRF Short-Term Financings:

- Fees will not be charged for CWSRF short-term financings.

CWSRF Short-Term Financing Structure:

- An applicant may apply for short-term financing, long-term financing, or both. While short-term financing recipients are not required to utilize long-term CWSRF financing, a long-term financing plan is required to be submitted to EFC to close on a short-term financing. A short-term recipient will need to submit updated financial and project cost information prior to the conversion to long-term CWSRF financing.
- Each short-term recipient will issue a “grid note” to EFC to evidence its obligation to repay its short-term financing. Also known as a “statutory installment note,” a “grid note” allows the recipient to borrow only what it needs during the term of the short-term financing, up to a stated maximum principal amount. Debt is incurred by the recipient as “disbursements” are made under the “grid note,” without having to close a new financing each time proceeds are advanced.
- Applicants other than municipalities or public benefit corporations will borrow through the short-term financing program by issuing a promissory note to EFC, secured in accordance with EFC’s Security Requirements. EFC will provide a line of credit not to exceed the amount of the promissory note. Upon maturity, the note may be refinanced with a long-term CWSRF financing or other non-SRF funding.
- The short-term financing will be refinanced as part of the next available leveraged financing or as a direct long-term financing after final project costs are known and the amount of permanent financing can be determined. The recipient is not required to utilize the CWSRF Long-Term Financing Program, but instead can pay off the short-term financing with non-SRF funding.

Questions regarding the CWSRF Short-Term Financing Program should be addressed to:

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