

Clean Water State Revolving Fund Loan Handbook



Department of Environmental Quality
Revised March 2013

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Table of Contents

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Department of Environmental Qualityi

Revised May 2011i

Table of Contents.....iii

List of Formsiv

List of Acronyms.....vi

General Policy Statements 1

Overview 3

Chapter 1. Pre-Application Conference.....5

Chapter 2. Application Review7

Chapter 3. Loan Offer9

 General Conditions for All Loan Offers..... 9

 Special Conditions for All Loan Offers..... 9

 Security..... 10

 Suspension or Termination of the Loan..... 10

Chapter 4. Disbursement Requests..... 11

Chapter 5. Review/Approval of Engineering Reports or Facility Plans and Environmental Assessments 13

Chapter 6. Plans, Specifications, and Addenda Review..... 17

Chapter 7. User Charge System and Sewer Use Ordinance 21

Chapter 8. Bid Reviews 23

Chapter 9. Construction Management..... 25

 Pre-Procurement Conferences..... 25

 Pre-Construction Conferences 25

 Disputes..... 26

 Change Orders 26

Chapter 10. Operations and Maintenance Manual 27

Chapter 11. Construction Inspections..... 29

Chapter 12. Project Files and Accounting..... 31

 Project Files..... 31

 Accounting..... 32

 Policy for Determining Annual Clean Water State Revolving Fund Loan Fee 32

 Sample Policy Memo 32

Chapter 13. Project Tracking..... 35

Glossary 37

Index 43

List of Forms

CHAPTER 1. Pre-Application Conference

Form 1-A Pre-Application Conference Checklist

CHAPTER 2. Application Review

Form 2-A Application for State Revolving Loan

Form 2-B Financial Application Form

Form 2-C, Section 1 Financial Capacity Assessment

Form 2-C, Section 2 Managerial Capacity Assessment

Form 2-D Application Review Checklist

Form 2-E Sample Certification of Financial Capability

CHAPTER 3. Loan Offer

Form 3-A Sample DEQ Loan Offer, Acceptance, and Agreement

Form 3-B Sample Loan Project Schedule

Form 3-C Sample Loan Offer Transmittal

CHAPTER 4. Disbursement Requests

Form 4-A Outlay Report and Request for Reimbursement for Clean Water Loans

Form 4-B Checklist for Reviewing Disbursement Requests

CHAPTER 5. Review/Approval of Engineering Reports or Facility Plans and Environmental Assessment

Form 5-A Outline and Checklist for Engineering Report/Facility Plan

Form 5-B, Tier I Outline and Checklist for Environmental Information Documents

Form 5-B, Tier II Outline and Checklist for Environmental Information Documents

Form 5-C DEQ Environmental Review Procedure for Projects Funded through the Clean Water State Revolving Fund (CWSRF) Loan Program

Form 5-D Sample Categorical Exclusion Determination

Form 5-E Sample Public Notice of Categorical Exclusion

Form 5-F Sample Finding of No Significant Impact (FONSI) Transmittal Letter

Form 5-G Sample Finding of No Significant Impact (FONSI) Public Notice

Form 5-H Review Checklist for Sewer System Evaluation Survey

Form 5-I Review Checklist for Infiltration/Inflow Analysis

CHAPTER 6. Plans, Specifications, and Addenda Review

Form 6-A Checklist for Plans and Specifications Review

Form 6-B Plans and Specifications Review Approval Letter

Form 6-C Idaho Clean Water State Revolving Fund (CWSRF) Specifications Insert

Form 6-D Certification of Compliance with Anti-Lobbying Act

Form 6-E Project Sign

Form 6-F Requirements for Disadvantaged Business Enterprise Utilization and Equal Employment Opportunity

Form 6-G Disadvantaged Business Enterprises to be Utilized

Form 6-H Sworn Statement of Compliance with Disadvantaged Business Enterprise Utilization Requirements

Form 6-I Contractor's Compliance Statement (Executive Order 11246)

Form 6-J Certification of Non-Segregated Facilities

Form 6-K Notice of Worker Non-Discrimination in Employment

<i>Form 6-L</i>	41 CFR 60-1.4(b) Federally Assisted Construction Contracts (Prime Contractors and Subcontractors)
<i>Form 6-M</i>	Equal Employment Opportunity Standard Form 100
<i>Form 6-N</i>	Affirmative Action Program Clauses
<i>Form 6-O</i>	MBE/WBE Utilization under State of Idaho State Revolving Fund
<i>Form 6-P</i>	Public Works Contract Report
<i>Form 6-Q</i>	Affidavit of Payment or Securement of All Taxes
<i>Form 6-R</i>	Contractor for Public Works to Pay or Secure Taxes
<i>Form 6-S</i>	Contractor to Comply with Idaho Executive Order 2009-10
<i>Form 6-T</i>	Disadvantaged Business Enterprise Program DBE Subcontractor Participation Form
<i>Form 6-U</i>	Disadvantaged Business Enterprise Program DBE Subcontractor Performance Form
<i>Form 6-V</i>	Disadvantaged Business Enterprise Program DBE Subcontractor Utilization Form
<i>Form 6-W</i>	Pre-Procurement Information Handout

CHAPTER 7. User Charge System and Sewer Use Ordinance

<i>Form 7-A</i>	Checklist for Review of User Charge System (UCS)
<i>Form 7-B</i>	Sample Approval Letter for User Charge System and Sewer Use Ordinance

CHAPTER 8. Bid Reviews

<i>Form 8-A</i>	Checklist for Reviewing Bid Documents
<i>Form 8-B</i>	Sample Construction Approval Start-Up Letter

CHAPTER 9. Construction Management

<i>Form 9-A</i>	Checklist for Pre-Construction Conference
<i>Form 9-B</i>	Suggested Agenda and Points of Discussion for Pre-Construction Meeting with Contractor
<i>Form 9-C</i>	Checklist for Construction Dispute Review
<i>Form 9-D</i>	Evaluation of Change Orders
<i>Form 9-E</i>	Checklist for Change Order Review
<i>Form 9-F</i>	Sample Letter Explaining DEQ Involvement with Acquisition of Professional Services and Need for Certificate of Negotiation

CHAPTER 10. Operations and Maintenance Manual

<i>Form 10-A</i>	Checklist for Review of Operations and Maintenance (O&M) Manual
<i>Form 10-B</i>	Sample Operations and Maintenance (O&M) Manual Review Transmittal Letter

CHAPTER 11. Construction Inspections

<i>Form 11-A</i>	Interim Construction Inspection Report
<i>Form 11-B</i>	Request for Final Construction Inspection and Disbursement
<i>Form 11-C</i>	Submittals Required Prior to Final Inspection
<i>Form 11-D</i>	Documents to Have Available at the Time of Final Inspection
<i>Form 11-E</i>	Final Construction Inspection Report

CHAPTER 12. Project Files

<i>Form 12-A</i>	Checklist for Major Milestone Dates
<i>Form 12-B</i>	Change Order Summary

List of Acronyms

The following acronyms are used in this handbook and the accompanying forms.

AA	affirmative action
A/E	Architectural/Engineering – Contract, Costs
CWSRF	Clean Water State Revolving Fund
DBE	disadvantaged business enterprise
DEQ	Idaho Department of Environmental Quality
DWTP	domestic wastewater treatment plant
EDU	equivalent dwelling unit
EEO	equal employment opportunity
EID	environmental information document
EPA	U.S. Environmental Protection Agency
EIS	environmental impact statement
FONSI	finding of no significant impact
IDAPA	A numbering designation for all administrative rules in Idaho promulgated in accordance with the Idaho Administrative Procedures act.
I/I	infiltration/inflow
IUP	intended use plan
MBE/WBE	minority and women’s business enterprise
NOI	notice of intent
OA	operating agreement
O&M	operations and maintenance
O, M & R	operating, maintenance and replacement costs

OSHA	Occupational Safety and Health Administration
RCO	responsible charge operator
Region 10	U.S. Environmental Protection Agency, Region 10
RFP	request for proposal
ROD	record of decision
SBRA	small business in a rural area
SHPO	State Historic Preservation Officer
SIP	state implementation plan
SRCO	substitute responsible charge operator
SRF	State Revolving Fund
SSES	sewer system evaluation survey
SUO	sewer use ordinance
THPO	Tribal Historic Preservation Officer
Title VI	Title VI of the Water Quality Act
UCS	user charge system
WPCA	Water Pollution Control Account

General Policy Statements

- I. Loans from Wastewater Facilities Loan Account may be offered for up to 100% of eligible project costs under state and federal regulations, subject to availability of loan funds.
- II. The length of the loan repayment period may vary according to the expected life of the project being financed. However, all loans, except for disadvantaged loans, must be fully paid off (amortized) within 20 years from project completion. Disadvantaged loans (“disadvantaged” is defined in IDAPA 58.01.20.021) must be fully amortized within 30 years of project completion. Interest will accrue from the date funds are disbursed.
- III. Long-term commitments for future funding will not be made. When deemed necessary to meet state water quality and/or funding objectives, partial or phased funding may be offered for a project without guarantee of future funding.
- IV. Available resources will be committed to new loans in a timely manner.
- V. Without formal written advance approval, costs incurred by an applicant before a loan agreement is entered into will not be considered loan eligible.
- VI. No disbursements will occur until all application requirements are met.
- VII. The Idaho Department of Environmental Quality (DEQ) has established a policy for determining the rate of interest to be charged on loans from the wastewater loan accounts. The PM12-01: Policy for Determining Interest Rates on Loans from the Water Pollution Control and Drinking Water Loan Accounts can be found on DEQ’s website at www.deq.idaho.gov. From the left-hand menu on the main page, select “Laws, Rules, Etc.” then “DEQ Policies,” and then under “Water Quality,” select the policy titled “Water Pollution Control and Drinking Water Loan Accounts, Interest Rate on Loans from, Policy for Determining.”

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Overview

Using funds provided by the U.S. Environmental Protection Agency (EPA), the Idaho Department of Environmental Quality (DEQ) offers loans to qualified municipalities to improve their wastewater facilities. These loans come from the Clean Water State Revolving Fund (CWSRF) Loan Program, which is administered by DEQ.

The list below outlines the steps a municipality goes through to receive a CWSRF loan.

1. Pre-application meeting
2. Loan application received
3. Environmental review process initiated
4. Environmental determination issued and published
5. Engineering contract approved
6. Viability certified through technical, financial, and managerial capacity assessment
7. Operator licensure verified
8. Final environmental determination is approved
9. Facility plan approved
10. Loan offer made
11. Loan offer accepted
12. Plans and specifications approved
13. Water system protection ordinance and sewer user ordinance approved
14. Pre-procurement conference
15. Bid review checklist completed
16. Authorization to award bid
17. Pre-construction conference
18. Notice to proceed
19. Plan of operation approved
20. Operations and maintenance manual approved
21. Final inspection
22. Closeout package
23. Final project review
24. Final payment

This handbook explains what needs to be accomplished at each step in the loan process. In addition, 58 forms accompany the handbook to assist DEQ representatives and the borrower. Some forms are sample letters in Microsoft Word format, which DEQ or the borrower may

download and customize to fit their individual situations by simply inserting the appropriate content where indicated in the letter. The remaining forms are in PDF format, and most are interactive—users can fill out the form electronically by opening the form with the free Adobe Acrobat reader and print a hard copy to submit.

Chapter 1. Pre-Application Conference

Form 1-A, the Pre-Application Conference Checklist, accompanies this chapter.

The purpose of a pre-application conference is to provide the potential loan applicant and the Idaho Department of Environmental Quality (DEQ) an opportunity for a face-to-face meeting to discuss the loan program and its requirements. Appropriate government representatives should attend the pre-application conference.

DEQ shall be represented by its regional office project officer. Other attendees may include DEQ legal, financial, administrative, and public works staff.

Topics of discussion at the pre-application conference should include the following:

- wastewater grant and CWSRF loan programs
- status of the proposed loan on the current priority list of projects approved by DEQ
- probability of funding for the project
- roles and responsibilities of all parties
- necessity for compliance with federal requirements

If the potential applicant intends to submit an application, the requirements and a timetable should be discussed.

The project officer should complete Form 1-A, the Pre-Application Conference Checklist. The original should be kept on file in the DEQ regional office, with a copy transmitted to the DEQ state office for filing. A list of attendees at the pre-application conference should be attached to the checklist.

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Chapter 2. Application Review

Three forms accompany this chapter:

- Form 2-A, Application for State Revolving Loan
- Form 2-B, Financial Capacity Assessment
- Form 2-C, Application Review Checklist

Application review includes the following actions:

1. Upon receipt of the completed Application for a State Revolving Loan (Form 2-A) from an applicant, the project officer will review the application for accuracy and completeness.
2. The project officer should complete the Financial Capacity Assessment (Form 2-B).
3. The project officer should complete the Application Review Checklist (Form 2-C) and provide a recommendation for funding.
4. The project officer should submit the following to the state office:
 - a) the completed Application for a State Revolving Loan (Form 2-A)
 - b) the completed Financial Capacity Assessment (Form 2-B), and Financial Capability Assessment (Form 2-C)
 - c) the completed Application Review Checklist (Form 2-C)
 - d) a completed recommendation for funding
5. The state office will make the final loan determination and will prepare the loan offer in consultation with the regional office project officer.

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Chapter 3. Loan Offer

Three forms accompany this chapter:

- Form 3-A, Sample DEQ Loan Offer, Acceptance, and Agreement
- Form 3-B, Sample Loan Project Schedule
- Form 3-C, Sample Loan Offer Transmittal

After review of the technical documents, the project officer in the DEQ regional office should submit a recommendation for funding to the loan officer in the state office.

If, after further review by the loan officer, the application is determined to be accurate and complete and the loan applicant is assessed to be a good credit risk, a loan offer (see Form 3-A for a sample) will be prepared. Once a loan offer is made, the loan applicant will generally have sixty (60) days in which to accept the loan offer, as evidenced by the signature of an authorized representative. A copy of the resolution authorizing the representative to sign the offer must be on file at the DEQ state office.

General Conditions for All Loan Offers

The borrower shall agree to expeditiously initiate and complete the project work for which the loan is made, in accordance with applicable DEQ rules. For purposes of the agreement, DEQ inspection, review, and approval are only for the purposes of compliance with applicable rules. DEQ approval is not a warranty or guarantee.

Approval of plans and design for the project means only that plans are complete. DEQ will bring to the borrower's attention any obvious defects in the project's design, materials, or workmanship, but all such defects and their correction shall be the responsibility of the borrower and its agents.

Any questions raised by DEQ should be resolved exclusively by the borrower and its contractors, who shall remain responsible for the completion and success of the project. The borrower shall agree that it and its agents, employees, and representatives will comply with DEQ rules and other conditions set forth in the loan agreement or any amendment that may be made to the loan agreement.

Special Conditions for All Loan Offers

The proceeds of the loan will be used only for the described wastewater project.

The borrower shall agree to comply with applicable state and federal requirements including, but not limited to, the "cross-cutting" authorities.

The borrower should provide evidence in the form of fee simple title or long-term lease and right of access or easements for real property on which facilities are to be constructed. Clear title, long-term lease, easement, or access to all real property necessary for the successful operation of the facilities should be guaranteed by the borrower for the useful life of the facilities.

The borrower shall retain and utilize the services of an engineer currently licensed by the State for all project planning, design, and construction oversight, who has liability indemnification in accordance with IDAPA 58.01.12, Rules for Administration of Water Pollution Control Loans.

The borrower shall permit DEQ, or its authorized agents, access to the project work. Additionally, the borrower will ensure that the contractor will provide adequate facilities for access and inspection.

The borrower shall agree to provide DEQ, or its authorized agents, access to all files, records, accounting, and books relating to the management and accountability of the project.

The borrower shall agree to indemnify and hold harmless DEQ, its agents, and its employees from any and all claims, actions, damages, liabilities, and expenses directly or indirectly connected to the borrower or its agents', employees', contractors', or assignees' actions related to the location, design, construction, operation, maintenance, repair, failure, or deactivation of the project or any part of the project.

Security

The loan offer will identify the type of security instrument (either a bond or promissory note) that will be issued by the borrower. Such bond or promissory note will be held as security for the loan until the loan has been fully paid. The borrower may negotiate with DEQ to issue multiple instruments. If complete financing for the project has not been secured at the time of the loan request, a complete discussion of how the financing will be finalized (to include impact on user rates) should be included.

All debt instruments received by DEQ must be transmitted to the State Treasurer's Office for safekeeping. Upon receipt of the final loan repayment from the borrower, DEQ will issue instructions to the Treasurer's Office for the return of the debt instrument to the borrower.

Suspension or Termination of the Loan

Pursuant to DEQ rule IDAPA 58.01.12.080, the DEQ director may, for cause, suspend or terminate, as appropriate, any loan prior to final disbursement.

Chapter 4. Disbursement Requests

Two forms accompany this chapter:

- Form 4-A, Outlay Report and Request for Reimbursement for Clean Water Loans
- Form 4-B, Checklist for Reviewing Disbursement Requests

DEQ will supply borrowers with disbursement requests (Form 4-A). Loan disbursements will be made as costs are incurred.

Requests for disbursement will be processed as quickly as possible by DEQ. Requests must be reviewed to determine eligibility and to assure that costs are adequately documented. Project officers should review each request in accordance with criteria on the Checklist for Reviewing Disbursement Requests (Form 4-B) and sign the request as indicated.

Upon receipt of the borrower's request, the project officer will ensure appropriateness of the request and then transmit the request and appropriate supporting documents to the senior accountant in the DEQ fiscal office, with a copy to the loan officer in the state office. The documents will be reviewed for content and accuracy by the accounting staff and, upon approval, a payment will be prepared and issued. All related documents will become a permanent part of the project file.

Disbursement of the final 10% of the loan funds will not be made until a responsible charge operator (RCO) has been designated who is licensed at or above the classification level of the system. When the RCO is not available, a substitute RCO who is licensed at or above the classification level of the system shall be designated to replace the RCO.

Disbursement of the final 5% of loan funds will not be made until a final review is conducted by DEQ and the following documents are in the project files maintained by DEQ:

- final construction inspection reports
- approved final operations and maintenance (O&M) manual
- engineer's certification that construction was completed in accordance with approved plans and specifications
- borrower's acceptance of construction
- project review by DEQ
- a final loan repayment schedule

Note: In some instances, the final 10% of loan funds may be withheld, dependent upon the importance of unfinished loan requirements.

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Chapter 5. Review/Approval of Engineering Reports or Facility Plans and Environmental Assessments

Nine forms accompany this chapter:

- Form 5-A, Outline and Checklist for Engineering Report/Facility Plan
- Form 5-B, Outline and Checklist for Environmental Information Documents
- Form 5-C, DEQ Environmental Review Procedure for Projects Funded through the Clean Water State Revolving Fund (CWSRF) Loan Program
- Form 5-D, Sample Categorical Exclusion Determination
- Form 5-E, Sample Public Notice of Categorical Exclusion
- Form 5-F, Sample Finding of No Significant Impact (FONSI) Transmittal Letter
- Form 5-G, Sample Finding of No Significant Impact (FONSI) Public Notice
- Form 5-H, Review Checklist for Sewer System Evaluation Survey
- Form 5-I, Review Checklist for Infiltration/Inflow Analysis

DEQ will review and approve, as appropriate, engineering reports or facility plans and associated documents that should be developed in accordance with professional standards and federal and state requirements. The major objective of this review is to ensure that compliance with the requirements of the following are achieved: the Clean Water Act (CWA), as amended; IDAPA 58.01.04, Rules for Administration of Wastewater Treatment Facility Grants; and IDAPA 58.01.12, Rules for Administration of Water Pollution Control Loans. DEQ will strive to assure that the end product of the planning effort complies with the requirements of the applicable law.

As the wastewater system representatives work to complete their engineering report or facility plan, it is their responsibility to:

1. Consult with DEQ on the engineering report or facility plan requirements, including environmental review responsibilities. The applicant should use the DEQ-approved Outline and Checklist for Engineering Report/Facility Plan (Form 5-A), the Outline and Checklist for Environmental Information Documents (Form 5-B), and any other applicable guidance materials.
2. Include a discussion of system alternatives for resolution of the system problems and/or deficiencies and recommend a cost-effective and environmentally sound alternative as part of the engineering report or facility plan.
3. Ensure that as project alternatives are developed, environmental impacts and associated mitigation costs are considered and become part of the public participation process leading to selection of an alternative.

4. Fulfill the environmental review requirement (following consultation described in item 1 of this list) by either requesting a categorical exclusion with submittal of appropriate support documentation or by submitting an EID prepared in accordance with DEQ procedures.

DEQ should take the following steps:

1. Review and take action on any state-funded planning grant or State Revolving Fund (SRF) loan application-related planning work that may be developed by systems undertaking an engineering report or facility plan. DEQ should also work with the system to assure that adequate resources are available to assist the system in meeting the requirements of producing an approvable engineering report or facility plan.
2. Encourage use of an effective public participation program throughout the engineering report or facility plan process, including a full, early public disclosure of sensitive environmental issues. This should include, as a minimum, a public process whereby the applicant ensures the affected community is informed about the alternatives and is provided the opportunity to submit comments prior to selection of a preferred alternative by the governing authority.
3. Monitor progress on preparation of the engineering report or facility plan and hold meetings with the engineer and system to identify and resolve problems at an early point in the process. As work on the engineering report or facility plan progresses, DEQ should encourage the community to identify important environmental issues and to take whatever steps are necessary to resolve them.

DEQ shall take the following actions:

1. Review the state-funded planning grant, or SRF loan application-related draft engineering report, or draft facility plan and draft Environmental Information Document (EID) for conformance with federal and state requirements. The Outline and Checklist for Engineering Report/Facility Plan (Form 5-A) and the Outline and Checklist for Environmental Information Documents (Form 5-B) should be used during review to ensure completeness of information. The review will confirm that the report is in conformance with pertinent regulatory requirements.
2. Transmit written comments to the system, informing them of deficiencies in the draft engineering report or draft facility plan and draft EID, and requesting any necessary revisions. Review responses to such comments to determine final compliance with federal and state requirements. Meet with the system representatives, if necessary, to resolve outstanding issues.
3. Direct the environmental review process using the DEQ Environmental Review Procedure (Form 5-C).
4. Review and approve the infiltration/inflow (I/I) analyses and the sewer system evaluation survey (SSES), when necessary, for completeness and for technical and administrative adequacy. An SSES is required to be conducted following the I/I analysis for those projects where the I/I is in excess of 120 gallons per capita per day. DEQ shall conduct the following I/I analysis and SSES activities:
 - a) Complete the Review Checklist for I/I Analysis (Form 5-I) in determining adequacy pursuant to 40 CFR Part 35.2120,

- b) Complete the Review Checklist for Sewer System Evaluation Survey (Form 5-H) to determine adequacy pursuant to 40 CFR Part 35.2120(2)(i). Certify the need for SSES and sewer system rehabilitation.
 - c) Notify the community of the approval of the I/I analysis and the SSES.
5. Evaluate projects to ensure that low-cost and environmentally sound alternative treatment, reuse, and collection technologies are considered.
 6. Ensure that sludge handling and disposal practices necessary to meet present and future requirements through the design life of the facility are adequately addressed in the facility plan or engineering report.
 7. Evaluate the importance and relevancy of any comments received during the public comment period of the EID and environmental determination. Facilitate the resolution and mitigation of any environmental issues prior to approval of the final environmental determination. Once the environmental determination has been finalized, the engineering report or facility plan can be approved and the loan can be awarded.
 8. Enter information into the project tracking system, if applicable.

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Chapter 6. Plans, Specifications, and Addenda Review

Nineteen forms accompany this chapter:

- Form 6-A, Checklist for Plans and Specifications Review. This is the standard checklist for DEQ project officers (engineers in each DEQ regional office) to review SRF-related plans and specifications. Consulting engineers will find this helpful, as it is a good indication of what DEQ's expectations will be.
- Form 6-B, Plans and Specifications Review Approval Letter. This is the template for the letter that will be sent out after the review for plans and specifications (Form 6-A) is performed.
- Form 6-C, Idaho Clean Water State Revolving Fund (CWSRF) Specifications Insert. This is the standard source document for DEQ project officers (engineers in each DEQ regional office) to inform prospective DEQ loan recipients of the range of legal requirements. Consulting engineers will find this helpful, as it is a good indication of what DEQ's expectations will be.
- Form 6-D, Certification of Compliance with Anti-Lobbying Act. This is a certification required of each contractor, attesting to adherence with restrictions on lobbying.
- Form 6-E, Project Sign. This is an informational document, providing guidance on how to design project funding signage.
- Form 6-F, Disadvantaged Business Enterprise Utilization Requirements and Equal Employment Opportunity Requirements. This is a policy and procedure document explaining requirements to comply with federal disadvantaged business entity laws.
- Form 6-G, Disadvantaged Business Enterprises to be Utilized. This is a form that contractors submit with each bid.
- Form 6-H, Sworn Statement of Compliance with Disadvantaged Business Enterprise Utilization Requirements. This certification (acknowledging that contractors will comply with Disadvantaged Business Enterprise requirements) is required with each bid proposal.
- Form 6-I, Contractor's Compliance Statement (Executive Order 11246). This certification (acknowledging that contractors will comply with Disadvantaged Business Enterprise requirements) is required with each bid proposal.
- Form 6-J, Certification of Non-Segregated Facilities. This certification (acknowledging that contractors will not keep segregated facilities) is required with each bid proposal.
- Form 6-K, Notice to Labor Unions or Other Organizations of Worker Non-Discrimination in Employment. This is a nondiscrimination compliance certification required of each successful bidder.
- Form 6-L, 41 CFR 60-1.4(b) Federally Assisted Construction Contracts (Prime Contractors and Subcontractors). This is a nondiscrimination compliance certification required of each successful bidder.

- Form 6-M, Equal Employment Opportunity Standard Form 100. This is a sample of an EEO form and instructions on where to obtain blank forms (for successful bidders).
- Form 6-N, Affirmative Action Program Clauses. This is an affirmative action certification for successful non-construction bidders.
- Form 6-O, MBE/WBE Utilization under State of Idaho State Revolving Fund. This is the form that borrowers submit on a quarterly basis (for those loans entered into prior to May 27, 2008) or on a semi-annual basis (for those entered into on or after May 27, 2008).
- Form 6-P, Public Works Contract Report. This is a sample of a tax report that successful bidders must submit to the Idaho State Tax Commission.
- Form 6-Q, Affidavit of Payment or Securement of all Taxes. This is a certification that each successful bidder must submit to the borrower.
- Form 6-R, Contractor for Public Works to Pay or Secure Taxes. This is a certification that each successful bidder must submit to the borrower.
- Form 6-S, Contractor to Comply with Idaho Executive Order 2009-10. This is the certification that successful bidders must submit, verifying the eligibility of their employees to legally work in the U.S.

Copies of all documentation required in Chapter 6 of this handbook shall be provided to the loan recipient, who shall maintain the records until three years of loan repayments will have occurred.

DEQ will review and approve construction plans, specifications, and addenda for completeness, adequacy, and ease of maintenance and operability of the facility. When necessary, a value engineering analysis and final report may be requested pursuant to state requirements. DEQ staff will:

1. When the planning portion of the project begins, identify those projects that require a value engineering analysis and assist the community in the value engineering consultant selection process to assure compliance with federal procurement criteria. Preferably, the selected consultant should not be the same firm retained for detail design, unless expressly approved by DEQ.
2. Conduct in-progress design reviews at 10% and 50% levels, if required, thereby ensuring that preparation of the plan and specifications is in accordance with the approved facility plan and applicable federal and state requirements.
3. Review the plans and specifications to ensure facilitation of project construction and compliance with applicable procurement requirements. Bids must be advertised as required by Idaho Code for municipalities and political subdivisions of the state. The review may be documented by the Checklist for Plans and Specifications Review (Form 6-A). This process ensures that the comments resulting from the review are considered and that appropriate changes are incorporated in the documents.
4. Retain deficient or incomplete plans and specifications and addenda until they are corrected. In the event that a value engineering analysis is performed, obtain additional information or hold discussions if there are discrepancies between the initial and final reports. DEQ will work with the community to resolve discrepancies

- between the value engineering team coordinator and the community's consultant, and will seek full consideration of the value engineering proposals.
5. Notify the applicant, by letter, of plans and specifications approval (Form 6-B) and advise it of any additional procurement requirements for the construction of the project.
 6. Provide information and participation requirements regarding minority and women's business enterprises (MBE/WBE) for inclusion in specifications.
 7. In the plans and specifications approval letter, clearly identify the performance standards that will have to be certified one year after initiation of operation.
 8. Ensure that minority business development agencies are notified of the project.
 9. Review the community's user charge system and sewer use ordinance requirements. Approve the community's user charge system and sewer use ordinance before the construction contract is awarded.

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Chapter 7. User Charge System and Sewer Use Ordinance

Two forms accompany this chapter:

- Form 7-A, Checklist for Review of User Charge System and Sewer Use Ordinance
- Form 7-B, Sample Approval Letter for User Charge System and Sewer Use Ordinance

The user charge system (UCS) should be designed to distribute costs equitably among all users and produce sufficient revenue to fund costs of operation, maintenance, replacement, and debt retirement. If bonds are issued to finance construction of the facilities, a covenant for an adequate user charge must be included in the bond documents.

DEQ will review and approve the sewer use ordinance to ensure prohibition of new connections of inflow sources to the system and to ensure that new sewers and connections are properly designed and constructed.

Additional assurances must be provided that toxics or pollutants that could endanger public safety and the physical integrity of the effluent or water quality limitations are not introduced into the treatment works.

Reviews should be completed in accordance with the Checklist for Review of User Charge System and Sewer Use Ordinance (Form 7-A). Based upon such a review, appropriate revisions will be recommended. When it is determined that the UCS and sewer use ordinance comply with all federal and state requirements, a letter of certification (see Form 7-B for a sample) will be sent by the project officer. The UCS and sewer use ordinance must be approved before final loan disbursement.

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Chapter 8. Bid Reviews

Two forms accompany this chapter:

- Form 8-A, Checklist for Reviewing Bid Documents
- Form 8-B, Sample Construction Approval Start-Up Letter

Bid solicitations and contract documents should be reviewed by DEQ prior to the award of the construction contract. Bid documents may be reviewed to determine conformance with state and federal requirements. Form 8-A, Checklist for Reviewing Bid Documents, should be completed during each review. Notification should be provided for deficiencies, and inadequate or incomplete documents may be retained until all deficiencies are corrected. If the borrower rejects bids, the rejection should be based on the following criteria:

- Acceptance of bids may be based on either the technical review or the MBE/WBE review. Acceptable bids should meet minimum specifications and be from the lowest-priced responsible submission.
- Rejection of bids and solicitation of new bids is permitted, contingent upon the demonstration of good cause for such action. The approval of the project officer must be obtained for rejection and solicitation of new bids. A good cause rejection proposal must be based on one or more of the following:
 - Ambiguous or deficient specifications make an addendum to the initial bid proposal difficult to implement.
 - The project needs have changed, and such change could not be imposed on bidders within the procurement requirements.
 - A specification in the contract documents adversely influences competitive bidding.
 - The borrower is unable to afford its share of costs associated with the lowest acceptable bid, and the project scope must be amended.
 - The bid amount from the lowest-priced responsible submission exceeds budget limitations.
 - Bids were not arrived at through fair competition, were collusive, or were not submitted in good faith.
 - Applicable laws or policies required delay.
- Good cause rejection may not be based on any of the following:
 - Litigation over contract award.
 - Relaxation of specification requirements not materially affecting compensation.

- Omissions or ambiguities not adversely affecting competition or the needs of the project.
- The lack of a local or Idaho-based firm as low bidder.

DEQ will ensure that no prime contracts are awarded to debarred or suspended firms. Assistance will be provided to accomplish the following:

- help borrowers establish MBE/WBE goals
- verify that the dollar amounts and scope of work that the MBE/WBE are to perform have been agreed to by both parties
- ensure that the selected MBE/WBE firm(s) were certified and bona fide

After reviewing the bids and determining that all regulatory requirements have been satisfied, DEQ may authorize award of the contracts. The authorization may be in the form of a letter, which should contain instructions for arranging a pre-construction conference (see Form 8-B). Verbal authorization may be given; however, in all cases, written authorization will be provided prior to the specified last day to award.

Chapter 9. Construction Management

Seven forms accompany this chapter:

- Form 9-A, Pre-Procurement Information Handout
- Form 9-B, Checklist for Pre-Construction Conference
- Form 9-C, Suggested Agenda and Points of Discussion for Pre-Construction Meeting with Contractor
- Form 9-D, Checklist for Construction Dispute Review
- Form 9-E, Evaluation of Change Orders
- Form 9-F, Checklist for Change Order Review
- Form 9-G, Sample Letter Explaining DEQ Involvement with Acquisition of Professional Services and Need for Certificate of Negotiation

To plan, direct, and track the progress of construction, DEQ will be involved in various construction management activities. These may include pre-procurement conferences, pre-construction conferences, pre-construction management, construction claims, in-process construction inspections, disputes, and change order reviews.

Pre-Procurement Conferences

Pre-procurement conferences may be held at the option of the borrower, and DEQ should advise the borrower of this option. The project officer may assist in the preparation of the agenda for the pre-procurement conference. Pre-procurement information (see Form 9-A) should be distributed to all prospective contractors, and the information should be discussed during the conference. If questions are raised by prospective contractors that cannot be readily answered by DEQ at the conference, the borrower may request that DEQ provide a response at a later date. The borrower may notify prospective contractors in accordance with procurement requirements. Copies of the pre-procurement agenda and Form 9-A may be kept in the official project file, along with any meeting notes.

Pre-Construction Conferences

The borrower shall schedule a pre-construction conference as soon as possible after the borrower awards the construction contract. The pre-construction conference should be conducted in two sessions:

1. DEQ will conduct the first session, using the Checklist for Pre-Construction Conference (Form 9-B) to ensure that the borrower is aware of the requirements that govern construction activity.
2. The borrower should conduct the second session in an effort to ensure that the contractor is aware of the state and federal requirements that govern the project. The borrower, consulting engineer and/or inspectors, contractors, and DEQ staff may attend the second session.

The borrower should notify all appropriate parties regarding time, date, and location of the pre-construction conferences. In addition, a suggested agenda (see Form 9-C) should be sent to all parties.

The borrower, utilizing the suggested agenda, should provide to all appropriate parties a written report of the conference sessions, including a list of persons attending, items discussed, and conclusions reached.

Disputes

To prevent disputes regarding the construction of the project, DEQ will assist borrowers by helping to facilitate clear communication on the project, providing inspections, and offering assistance with the items listed in the Checklist for Construction Dispute Review (Form 9-D).

DEQ will closely monitor the resolution of disputes, consult with the borrower concerning the eligibility of settlements and resulting fees, and promptly review documentation regarding the disputed issues. DEQ, in fulfilling its fiduciary-related responsibility in the effective use of CWSRF funds, is an interested participant in SRF-related dispute resolution.

Change Orders

DEQ will review change orders to determine technical and administrative adequacy pursuant to all applicable state and federal requirements as outlined in Form 9-E. Incomplete or deficient change orders will be returned to the borrower for correction, and notification of change order approval will be provided to the borrower in writing. The Checklist for Change Order Review (Form 9-F) may be completed to document change order review.

Chapter 10. Operations and Maintenance Manual

Two forms accompany this chapter:

- Form 10-A, Checklist for Review of Operations and Maintenance (O&M) Manual
- Form 10-B, Sample Transmittal Letter for Review of Operations and Maintenance (O&M) Manual

DEQ will review O&M manuals to ensure compliance with applicable state and federal requirements. Review activities include, but are not limited to, the following:

1. Review the draft and final versions of the O&M manual, utilizing the Checklist for Review of O&M Manual (Form 10-A), and provide review comments to the borrower.
2. Ensure that disbursements will not exceed 95% until the O&M manual has been approved by DEQ.
3. Upon final approval, stamp three copies of the O&M manual as “approved” and take the following steps:
 - a) provide one stamped copy to the borrower with an approval letter (see Form 10-B)
 - b) provide one stamped copy to the DEQ state office’s SRF group
 - c) retain one copy for the official project file.

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Chapter 11. Construction Inspections

Five forms accompany this chapter:

- Form 11-A, Interim Construction Inspection Report
- Form 11-B, Request for Final Construction Inspection and Disbursement
- Form 11-C, Submittals for Final Inspection
- Form 11-D, Documents to Have Available at the Time of Final Inspection
- Form 11-E, Final Construction Inspection Report

DEQ may conduct interim inspections of the construction of the project at the discretion of the DEQ project engineer. The frequency of interim inspections will be determined by the size and complexity of the project. The DEQ project engineer will complete an interim inspection report, using Form 11-A. DEQ will issue copies of the report to the borrower, the borrower's project engineer, and the resident inspector, and retain a copy in the project file.

A final inspection will be conducted upon completion of construction. The final inspection is meant to determine that the project has been satisfactorily constructed in accordance with the loan authorization, approved plans and specifications, and applicable federal and state requirements.

When approximately 80% of the loan funds have been disbursed, the DEQ project officer may send Form 11-B to the borrower with instructions for completion and distribution.

Within sixty (60) days of notification from the borrower of project completion, the final construction inspection should be conducted. Form 11-E, the Final Construction Inspection Report, may be completed and a copy provided to the borrower. The final inspection should include a review of the following items:

- The facility is complete, operating, and meets effluent limitations.
- The facility conforms to the approved construction drawings, specifications, and change orders.
- Construction and accounting records are adequate and available.
- Construction impact mitigation measures and all special conditions of the loan authorization have been met.

Any deficiencies discovered during the final inspection will be discussed with the borrower, and provisions will be made for correction of problems.

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Chapter 12. Project Files and Accounting

Three forms accompany this chapter:

- Form 12-A, Checklist for Major Milestone Dates
- Form 12-B, Change Order Summary

Project Files

DEQ will be responsible for maintaining and storing the official loan project file in a six-part folder. The DEQ state office maintains general project files and fiscal records, while the DEQ regional offices maintain complementary project oversight-specific files. The State Treasurer's Office maintains any negotiable instruments used to secure loans. DEQ will not be required to send copies of documents to EPA except as specifically covered by separate agreement.

DEQ may maintain a summary of major project milestone dates (see Form 12-A) in each project file.

DEQ may maintain a summary sheet in each project file for change order information (see Form 12-B). The information may include change order number, amount, amended contract time, and amended contract amount.

DEQ will provide a central location for project files. At a minimum, DEQ will:

- Establish a system for efficient filing and retrieval of the project files.
- Restrict entry to the file location to authorized DEQ personnel.
- Establish a check in/out system for removal of project folders. This will establish a continuous monitoring of the location and possession of the project files.
- Maintain a copy of the project files for 30 years. Hard copies of original loan agreements, bond documents, and loan repayment files will be maintained until after final loan repayment. The original hard copy file will be stored in DEQ archives.

DEQ is subject to the Idaho Public Records Law (Idaho Code §9-337 through 9-350), which requires DEQ to provide the public access to all public records maintained by the agency. Generally, all project files are available to the public upon request, unless the file or document is exempt from release under the Idaho Public Records Law.

Exceptions to public records disclosure are described in Idaho Code §9-340 through 9-348, and requests for public records are evaluated according to the Idaho Public Records Law and DEQ's Policy for Handling Public Records Requests.

Each project file will contain documentation to explain any changes to the original amortization schedule. Generally, prepayments and late payments will be netted over time, and the adjustment to the original schedule will be made at the very end of the payment term. This approach is similar to a standard home mortgage, with the exception that payments will be applied based upon when they are received rather than when they are due. Should the loan recipient request an amended amortization schedule and DEQ agrees to the change, the project officer and loan officer will provide in the project file the supporting documentation to explain DEQ action.

Accounting

Accounting practices for borrowers will follow generally accepted accounting practice guidelines. The project officer and loan officer will document generally accepted accounting practice activities in the project file. This handbook is designed to assist in this activity.

Policy for Determining Annual Clean Water State Revolving Fund Loan Fee

Under the Rules for Administration of Water Pollution Control Loans (IDAPA 58.01.12.032), DEQ may elect to impose a loan fee to offset administrative costs. DEQ considers the imposition of such a fee on new loans prudent, if it is expected that at the beginning of the year, loan fee reserves will be less than 100% of expected annual fee related costs.

The maintenance of a 100% floor is to provide for continued funding of the loan program in the event that loan fees are unable to meet administrative costs and capitalization funds have been exhausted and to meet other costs associated with fees in the Intended Use Plan. To the extent that loan fee reserves and expected fee revenues on existing loans exceed the 100% floor, excess fees may be transferred to the Loan Fund.

Sample Policy Memo

The memo below can be used as the DEQ policy to set interest rates on loans from the water pollution control and drinking water loan accounts. The policy would be posted on the DEQ's website.

DEQ POLICY MEMORANDUM

PMXX-01

POLICY FOR DETERMINING INTEREST RATE ON LOANS FROM THE WATER POLLUTION CONTROL AND DRINKING WATER LOAN ACCOUNTS

PURPOSE

To establish a method for determining the rate of interest to be charged on loans from the Water Pollution Control and Drinking Water Loan Accounts.

RATIONALE

DEQ has been given direction from both the Governor's office and the Legislature to maintain the purchasing power of the loan programs over time. To do that, we have to set the interest rate to address inflation, while at the same time making the rate attractive enough to be able to lend all of the funds. Additionally, there could be some "disadvantaged loans" where the interest rate will be 0% and a possibility that some of the principal forgiven in order to make loans affordable. We will need to offset those loans to some degree.

STATEMENT OF POLICY:

For loans issued during state fiscal year 2008, the interest rate DEQ will charge for loans awarded for water pollution control and drinking water projects will be determined as follows:

The interest rate for the following State fiscal year will be 75% of the "State and local bonds" entry reported in "Federal Statistical Release, H.15," lowered to the nearest quarter percent. This entry is quoted by the Federal Reserve from the "Bond Buyer Index" for general obligation bonds (20 years to maturity, mixed quality). For FY2008, the rate for all loans from the Water Pollution Control Loan Account will be 3.00%, except loans to the Idaho Soil Conservation Commission, which will be at 1.75%. There will be a loan fee of 1.0% assessed on the declining balance of the

new loans issued. To the extent that fees are assessed, the interest rate will be reduced by the same percent; e.g., a standard loan with a 1% fee will have a 2.25% interest rate.

For FY2008, the rate for loans from the Drinking Water Loan Account will be 3.00%, except that portions of projects that are being constructed solely to comply with federal rules imposed by the Safe Drinking Water Act will be 1.75%. In those cases, the interest rate will be blended between the two rates. The actual loan rate will be determined at the time the loan is awarded. Projects that are consolidating one or more public water systems will also be eligible for 1.75% loans.

These rates are subject to available funds and only apply to the fiscal year(s) mentioned. The interest rate may be adjusted if it is determined that the rate of inflation is higher than the interest rate charged, thereby causing the loan funds to lose purchasing power.

IMPLEMENTATION

This policy shall be effective immediately.

Dated: March 5, 2007.

Toni Hardesty
Director

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Chapter 13. Project Tracking

DEQ will collect, edit, code, enter, maintain, and utilize data in computerized systems to track loan projects and enhance program management. At a minimum, the data will include the following:

- project name
- loan number
- loan amount
- interest rate
- regional office
- project officer
- project description
- award date
- outside project funding
- engineer(s) and contractor(s)
- project closeout date
- National Information Management System data elements
- disbursements
- environmental benefits reporting data elements

This information is distinct and separate from the information that is kept in the Wastewater Information Management System (WWIMS). In addition, DEQ may collect, check, and code data elements into a federal data collection system(s) as required by EPA.

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Glossary

100-Year Flood. A flood that has a 1% chance of occurring or being exceeded in magnitude in any given year. The 100-year flood is based upon a statistical analysis of stream flow records available for the watershed or an analysis of rainfall and runoff characteristics in the watershed.

Amortization Schedule. A table showing the remaining payments on a loan, including principal and interest.

As-Built Drawings/Record Drawings. Drawings of the completed wastewater system by an engineer after construction is complete.

Bidding. See “Procurement Requirements.”

Capital Budget. A financial statement of estimated capital expenses for a period of time, usually including proposed methods for financing those expenses. Capital includes accumulated assets and resources used to accomplish a goal.

Capital Improvements Plan. A long-range plan, usually four to six years, that identifies capital projects and equipment purchases, provides a planning schedule, and identifies options for financing the plan. For a wastewater system, the capital improvements plan provides a link between the wastewater system, its comprehensive and strategic plans, and its annual budget.

Categorical Exclusion. A category of actions that do not individually or cumulatively have a significant effect on the human environment and for which neither an environmental information document (EID) nor an environmental impact statement (EIS) is required.

Change Order. A document that authorizes changes to the original construction contract. Some causes for construction change orders include, but are not limited to, changed site conditions; requests by the borrower, engineer, or contractor; omissions in the plans and specifications; differences between contract amounts and installed quantities; and regulatory changes.

Clean Water Act (CWA). The main federal law that protects the quality of surface water in the U.S. Under the CWA, EPA uses a variety of regulatory and non-regulatory tools to reduce direct pollutant discharges into surface waters, finance municipal wastewater treatment facilities, and manage polluted runoff.

Clean Water State Revolving Fund (CWSRF). Many wastewater systems find it difficult to obtain affordable financing for infrastructure improvements that would enable them to comply with water quality standards and protect public health. Recognizing this fact, Congress established the CWSRF as part of the Amendments to the Clean Water Act in 1987. The CWSRF program combines federal and state capitalization funds with other resources to provide low-interest loans for eligible projects, such as secondary and advanced treatment works, sewage collection systems, sanitary and combined sewer overflow correction, and stormwater management.

Loans made under the program can have interest rates between 0% and market rate and repayment terms of up to 20 years. Loan repayments to the state will provide a continuing source of infrastructure financing into the future.

Cross-Cutting Authorities. The requirements of federal laws and executive orders that apply to all federal financial assistance programs.

Disadvantaged Business Enterprise (DBE). An entity owned, controlled, or both, by an individual who is socially and economically disadvantaged under either EPA's 8% or 10% statutes, as well as a small business enterprise, a labor surplus area firm, or a small business in a rural area.

Disbursement. The paying out of loan funds from DEQ to the borrower.

Effluent. Treated wastewater discharged from a wastewater treatment facility.

Environmental Impact Statement (EIS). The Responsible Official will prepare an environmental impact statement (EIS) (see 40 CFR 1508.11) for major federal actions significantly affecting the quality of the human environment, including actions for which the EA analysis demonstrates that significant impacts will occur that will not be reduced or eliminated by changes to or mitigation of the proposed action.

Environmental Information Document (EID). During the environmental review process, if a proposed wastewater construction project is determined to be ineligible for a categorical exclusion, an EID shall be prepared. The EID is a written environmental assessment prepared by an applicant or consultant describing the environmental impacts of the proposed project. The EID must be of sufficient scope to enable the responsible official to assess the environmental impacts of the proposed project and ultimately determine if an environmental impact statement (EIS) is warranted.

Environmental Review. For each potential state revolving fund (SRF) loan project, "Environmental review" means the overall process undertaken by DEQ on each potential grant project and potential CWSRF loan project to determine whether the project may have a significant impact on the environment, requiring implementation of mitigation measures and possible preparation of an EIS.

Equal Employment Opportunity (EEO). EEO refers to six federal laws that prohibit job discrimination: 1) Title VII of the Civil Rights Act of 1964, 2) the Equal Pay Act of 1963, 3) the Age Discrimination in Employment Act of 1967, 4) Title I and Title V of the Americans with Disabilities Act of 1990, 5) Sections 501 and 505 of the Rehabilitation Act of 1973, and 6) the Civil Rights Act of 1991. The U.S. Equal Employment Opportunity Commission enforces these laws.

Equivalent Dwelling Unit (EDU). Used to provide a common measurement basis for communities that have a variety of customers.

Fee Simple Title. Full and unrestricted ownership of real estate.

Finding of No Significant Impact (FONSI). A document prepared by DEQ briefly presenting the reasons why an action not otherwise categorically excluded will not have a significant effect on the human environment and for which an environmental impact statement (EIS) is not prepared. The FONSI shall include the environmental assessment or a summary of it, will generally detail mitigation measures, and shall note any other environmental

documents related to it. If the environmental assessment is included, the finding need not repeat any of the discussion in the assessment but may incorporate it by reference.

Flood Insurance Rate Map (FIRM). The official map of a community on which the Federal Emergency Management Agency (FEMA) has delineated both the special hazard areas and the risk premium zones applicable to the community. Lending institutions and federal agencies use the FIRM to locate properties and buildings in relation to mapped flood hazards and to determine whether flood insurance is required when making loans or providing grants following a disaster for the purchase or construction of a building.

Force Account. Labor directly employed by the borrower (for example, a city's public works department staff).

IDAPA. A numbering designation for all administrative rules in Idaho promulgated in accordance with the Idaho Administrative Procedures act.

Idaho Department of Environmental Quality (DEQ). The state agency responsible for administering wastewater loans from the Clean Water State Revolving Fund.

Indemnification. The act of restoring a victim of a loss, in whole or in part, by payment, repair, or replacement.

Infiltration/Inflow (I/I). Refers to storm water (infiltration) or ground water (inflow) that enters a wastewater collection system designed for sewage. By increasing the total amount of waste a wastewater system must treat, I/I can increase treatment costs and cause sewer overflows.

Minority Business Enterprise (MBE). A business that is owned and controlled by at least 51% minority member(s). Minority group members are citizens of the United States who are Black, Hispanic, Asian Pacific Islanders, American Indians, or Alaskan Natives. EPA carries out the MBE/WBE program to assure that MBEs and women's business enterprises (WBEs) are given the opportunity to participate in contract and procurement for supplies, construction, equipment, and services under any EPA grant or cooperative agreement.

Mitigation Measures. Actions taken to avoid, minimize, remedy, reduce, eliminate, or compensate for the impact of a wastewater construction project.

No-Action Alternative. The option of not undertaking the proposed construction project.

Notice of Intent. A notice distributed by DEQ that an environmental impact statement (EIS) will be prepared and considered. The notice briefly describes the proposed action and possible alternatives; the proposed scoping process including whether, when, and where related meetings will be held; and the name and address of a person within DEQ who can answer questions about the proposed action and the EIS.

National Pollutant Discharge Elimination System (NPDES) permit. Permits granted by the U.S. Environmental Protection Agency to control water pollution by regulating point sources that discharge pollutants into U.S. waters. (Point sources are discrete conveyances such as pipes or human-made ditches.)

Operations and Maintenance (O&M) Manual. Provides technical guidance on how a wastewater system is operated, including guidance for monitoring and reporting of

samples and testing results. The O&M manual is likely to be a system's most detailed guidance document and helps to ensure continuity of quality service in the event of staff turnover.

Outlay. A payment or expenditure.

Plan of Operations. A planning document developed by the owner or operator of a wastewater facility detailing the facility's life cycle, in other words, how it is to be operated during its active life and during closure.

Plans and Specifications. The engineering description of a project, including engineering drawings, maps, technical specifications, design reports, and construction contract documents in sufficient detail to allow contractors to bid on and construct the work.

Priority List. A list prepared by DEQ that ranks the Clean Water projects interested in receiving loans. Loans are offered to eligible communities based on their ranking on the priority list. Priority is given to those eligible projects that: (1) address the most serious risk to human health and (2) are necessary to ensure compliance with the requirements of the Clean Water Act.

Procurement Requirements. The legal requirements (commonly referred to as "bidding") under which borrowers acquire goods and services.

Record of Decision (ROD). A document prepared and issued by DEQ in response to the successful completion of the appropriate environmental review process. RODs are associated with the EIS process.

Request for Proposals (RFP). A document that solicits competitive proposals from prospective contractors for particular work or services. A contract is typically awarded to the winning bid.

Responsible Charge Operator (RCO). A person designated by a wastewater system owner to supervise and take responsibility for operating the wastewater system. The RCO must be licensed at the type and class equal to or greater than the classification of the wastewater system and have an active daily on-site or on-call presence at the system.

Sewer Use Ordinance (SUO). A regulatory tool implemented by local jurisdictions (such as city or county governments) to define the uses of a wastewater treatment facility and how those uses are enforced.

Substitute Responsible Charge Operator (SRCO). A person designated by a wastewater system owner to operate the wastewater system when the responsible charge operator (RCO) is unavailable. The SRCO must be licensed at the type and class equal to or greater than the classification of the wastewater system.

U.S. Environmental Protection Agency (EPA). The federal agency responsible for distributing wastewater state revolving fund funds allocated by Congress as part of the amendments to the Clean Water Act. These funds are used by each state to provide loans to wastewater systems.

User Charge System (UCS). A written description of the methodology by which a municipality will recover the costs of building, operating, and maintaining the wastewater system. A UCS should be designed to distribute costs equitably among all users and produce

sufficient revenue to fund costs of operation, maintenance, replacement, and debt retirement.

Value Engineering. An analysis of a wastewater treatment plant or system designed to maximize performance and minimize life-cycle and up-front construction costs without sacrificing quality, reliability, or efficiency.

Wastewater Information Management System (WWIMS). A computer application that tracks statewide information about wastewater collection and treatment systems and operators.

Wastewater Rules (IDAPA 58.01.16). State of Idaho rules that govern wastewater systems in Idaho. The rules are available online at <http://adminrules.idaho.gov/rules/current/58/0116.pdf>.

Women's Business Enterprise (WBE). A business that is at least 51% owned and controlled by a woman or women who are citizens of the United States. EPA carries out the MBE/WBE program to assure that MBEs and women's business enterprises (WBEs) are given the opportunity to participate in contract and procurement for supplies, construction, equipment, and services under any EPA grant or cooperative agreement.

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Index

- acceptance of construction, 11
- affirmative action, 18
- amortization schedule, 31, 32
- bids, 18, 23, 24
- categorical exclusion, 13, 14
- change order, 25, 26, 29, 31
- Clean Water Act, 13
- debt retirement, 21
- design reviews, 18
- disbursement, 10, 11, 21, 27, 35
- Disbursement Review Checklist, 11
- dispute, 25, 26
- environmental information document (EID), 14, 15
- Environmental Protection Agency (EPA), 35
- facility plans, 13, 14, 15, 18
- filing guide, 31
- finding of no significant impact (FONSI), 13
- future funding, 1
- hold-back
 - loan funds, 11
- inspections, 9, 10, 26
 - construction, 11, 25, 29
 - final, 29
 - interim, 29
- loan agreement, 9
- loan authorization, 29
- loan fees, 33
- loan offer, 7, 9, 10
- loan officer, 9, 11
- loan repayment schedule, 11
- minority and women’s business enterprises (MBE/WBE), 19, 23, 24
- operations and maintenance (O&M)
 - manuals, 11, 27
- plans and specifications, 11, 18, 19, 29
- pre-application conference, 5
- pre-bid conference, 25
- pre-construction conference, 24, 25, 26
- priority list. *See*
- project file, 11, 25, 27, 29, 31
- project officer, 5, 7, 9, 11, 21, 23, 25, 29
- project sign, 17
- public comment, 15
- public notice, 13
- recommendation for funding, 7, 9
- right of access, 9
- sewer system evaluation survey (SSES), 15
- sewer use ordinance, 21
- solicitations, 23
- State Revolving Fund (SRF), 14, 27
- State Treasurer’s Office, 10, 31
- suspended firms, 24
- suspension of loan, 10
- termination of loan. *See* suspension of loan.
- user charge system (UCS), 19, 21
- value engineering analysis, 18