

Commonwealth of Massachusetts Department of Environmental Protection

Clean Water State Revolving Fund Program Policy on Eligible Project Costs

Introduction

This document establishes MassDEP's guidelines for determining the eligible project costs of clean water projects financed through the Clean Water State Revolving Fund Program (CWSRF).

Applicability

This Guidance is intended for use by SRF loan applicants and their consultants in the preparation of applications for CWSRF financing, and by MassDEP SRF Program staff in reviewing loan applications.

Users of this guidance are strongly encouraged to review the regulatory provisions that address eligibility of costs (310 CMR 44.08). For information on the types of projects eligible for financing through the CWSRF, refer to 310 CMR 44.04. These CWSRF program regulations can be found at the following link: <https://www.mass.gov/doc/310-cmr-4400-the-clean-water-state-revolving-fund/download>

Applicants should also refer to the relevant Intended Use Plan (IUP) on which their project appears, since the annual IUP may limit which stages of project implementation (i.e., planning, design, or construction) are eligible for that calendar year. **Because the demand for construction financing has significantly surpassed available funding, since the late 1990s, MassDEP has excluded from SRF eligibility design stage costs and design projects.**

Purpose

This policy summarizes how MassDEP distinguishes *eligible* costs (those necessary for the completion of a water pollution abatement project) from *ineligible* costs (those which are not necessary for the completion of the project or have been otherwise deemed ineligible by MassDEP). The guidance is provided primarily in the form of examples and includes separate listings for eligible and ineligible costs. Eligible borrowers should contact MassDEP for further guidance concerning any other categories of costs not clearly appearing on either list. In general, in addition to being **necessary**, eligible costs must be (a) **reasonable**, (b) **allocable** to the project, (c) **not a general expense** of carrying out the overall responsibilities of the eligible borrower or LGU; and, (d) **not funded** under another state or federal financial assistance program.

MassDEP determines eligible costs of each project after reviewing the eligible borrower's loan application. This determination is incorporated within the Project Approval Certificate issued by MassDEP to the Massachusetts Clean Water Trust. Issuance of the Project Approval Certificate is contingent upon an applicant satisfying the criteria and procedures set forth in the DWSRF program regulations, 310 CMR 45.00.

I. Eligible Costs

A. Planning Phase Eligible Costs

The costs of wastewater planning directly related to the water pollution abatement project are eligible costs. Examples of eligible planning projects include:

1. Integrated Water Resource Management Planning;
2. Comprehensive Wastewater Management Planning;
3. Storm Water Management Planning; and,
4. Project Evaluation Reports (PER).

Eligible project costs include:

1. The costs of professional and consulting services including necessary travel to meet project objectives;
2. The costs incurred to comply with the requirements of the National Environmental Policy Act (NEPA), and/or the Massachusetts Environmental Policy Act (MEPA);
3. The costs of infiltration/inflow (I/I) analysis, sewer system evaluation survey (SSES), hydrogeological studies, and activities incidental thereto; and.
4. Pilot studies.

B. Construction Phase Eligible Costs

The costs of construction and related activities necessary to build the water pollution abatement project are eligible costs and include but are not be limited to:

1. The costs of professional and consulting services including necessary travel to meet project objectives
2. The construction contract including a 5 % construction contingency
3. Costs of start-up services for on-site training of operating personnel in operation and control of specific treatment processes, laboratory

procedures, and maintenance and records management

4. The cost of developing an operation and maintenance (O & M) manual or revisions to an existing O & M manual for drinking water treatment facilities.
5. The cost for post construction certification.
6. The costs of groundwater monitoring facilities necessary to determine the possibility of groundwater deterioration, depletion, or modification resulting from building the project.
7. The cost (including associated legal, administrative, and engineering costs), of land that will be an integral part of land application treatment acquired in fee simple or by lease or easement, including:
 - a. Costs of a reasonable amount of land, considering irregularities in application patterns, and the need for buffer areas, berms, and dikes;
 - b. Cost of land acquired for a soil absorption system for a group of two or more homes or municipal buildings;
 - c. Cost of land acquired for storage of treated wastewater in land treatment systems before land application. Only the volume necessary for storage that is greater than the volume necessary for treatment is eligible. The eligible cost will be determined by the ratio of the storage volume to the total volume of the pond; and,
 - d. Cost of land appraisals.
8. Relocation costs associated with wastewater treatment plant construction.
9. Costs of acquiring all or part of an existing publicly or privately owned wastewater pollution abatement works provided all the following criteria are met:
 - a. The acquisition, in and of itself, considered apart from any upgrade, expansion or rehabilitation, provides new pollution control benefits;
 - b. The acquired pollution abatement works was not built with previous federal or state financial assistance;
 - c. The primary purpose of the acquisition is not the reduction, elimination, or redistribution of public or private debt; and,
 - d. The acquisition does not circumvent the requirements of 310 CMR 44.00, or other state or local requirements.
10. Costs of a reasonable inventory of laboratory chemicals and supplies necessary to initiate plant operations and laboratory equipment necessary to conduct tests required for plant operation.

11. Costs for purchase and/or transportation of biological seeding materials required for expeditiously initiating the treatment process operation.
12. Cost of permanently fixed shop equipment (i.e., lathes, drill press other power shop equipment) installed at the pollution abatement works necessary for the operation of the works.
13. Costs of necessary safety equipment to be used exclusively at the pollution abatement facility provided the equipment meets applicable federal, state, local or industry safety requirements.
14. Costs of a reasonable inventory of necessary maintenance equipment (such as lawn mowers, snow blowers, and power and shop tools) and customary furniture and office equipment for new treatment works, provided these purchases are to be used exclusively for that treatment facility. These purchases should receive prior MassDEP approval, be appropriate for the facility's size and usage and should be limited in cost.
15. Vehicles having as their purpose the transportation of liquid or dewatered wastes from the collector point (including individual or on-site systems) to the treatment facility or disposal site, or other purposes for which MassDEP agrees is a necessary part of the project
16. Computers and ancillary software necessary for efficient operation of the water pollution abatement facility.
17. Costs of royalties for the use of or rights in a patented process or product.
18. Costs allocable to the water pollution control purpose of multiple purpose projects.
19. Costs necessary to mitigate direct, adverse, physical impacts resulting from building pollution abatement works.
20. Change orders and the costs of meritorious contractor claims for increased costs under sub agreements provided the costs are within the scope of the project, not caused by the borrower's mismanagement; and not caused by the borrower's vicarious liability for the improper actions of others. Eligible costs include:
 - a. Building costs resulting from defects in the plans, design drawings and specifications, or other sub agreement documents only to the extent that the costs would have been incurred if the sub agreement documents had been free of defects, and excluding the costs of any rework, delay, acceleration, or disruption caused by such defects.
 - b. Costs of equitable adjustments for differing site conditions. Settlements, arbitration awards, and court judgments which resolve

contractor claims shall be eligible only to the extent that they meet the requirements of 310 CMR 44.00, are reasonable, and do not attempt to pass on to the state the cost of events that were the responsibility of the borrower, the contractor, or others.

21. The costs (including legal, technical, and administrative costs) of assessing the merits of or negotiating the settlement of a claim by or against a borrower under a sub agreement provided the claim arises from work within the scope of the project, a formal amendment to the loan agreement is executed specifically covering the costs before they are incurred, and the costs are not incurred to prepare documentation that should be prepared by the contractor to support a claim against the awardee.
22. The cost associated with the preparation of the pollution abatement works site before, during and, to the extent agreed on in the loan agreement, after building, including the cost of demolition of existing structures on the pollution abatement works site (including rights-of-way) if building cannot be undertaken without such demolition.
23. The cost of removal, relocation or replacement of utilities, if the borrower is legally obligated to pay such costs under state or federal law.
24. The cost of restoring streets and rights-of-way to their original condition. The need for such restoration must result directly from the construction and will generally be limited to those costs of temporary and permanent paving and repaving of sewer trenches and road surfaces.
25. The cost of mobile stand-by generator necessary to supply power for the transmission of wastewater or residuals from small low pressure (STEP or grinder pumps 5 horsepower or under) systems or small pumping stations where permanently installed generators are not feasible, not cost effective, nor have been required by MassDEP.
26. Purchase and installation of equipment for permanent monitoring of flow in sewer systems.
27. Costs for removing, and assuring elimination of infiltration or inflow that is cost-effective or value-effective to remove and may be for any or all the following:
 - a. Joint testing and sealing;
 - b. Manhole sealing;
 - c. Manhole cover raising and cover and frame replacement to prevent inflow;
 - d. Service lateral repair and replacement and lining;

- e. Pipe and manhole replacement and lining;
 - f. The costs of services incurred during the rehabilitation to ensure work was accomplished in accordance with the design drawings and specifications;
 - g. Studies and investigations on private property to determine sources of infiltration and inflow;
 - h. Work related to storm drainage systems where it is demonstrated that the work is essential to the permanent removal of inflow;
 - i. Development of an I/I manual which shall include, at a minimum, improvements to sewer use ordinances, user charge systems and collection system operation and maintenance programs;
 - j. Post rehabilitation certification;
 - k. Sewer separation in partially combined systems.
28. Abatement of combined sewer overflows (CSO), including sewer separation, storage, and treatment. The eligibility of replacements with larger pipe sizes and/or additional catch basins may be eligible only with prior consultation with MassDEP.
29. Purchase and installation of grinder pump systems or septic tank effluent pump (STEP) systems and piping to the sewer main, provided the LGU has obtained an easement (including a blanket easement) and the community is responsible for the maintenance of the grinder or STEP pump system. In general, electrical work and piping from the house to grinder and or STEP pump system is ineligible, however electrical work from the grinder pump to any necessary control/alarm panels is eligible.

C. Miscellaneous and Administrative Eligible Costs

Other costs necessary to plan or implement a drinking water project include, but are not limited to:

1. The costs of police traffic details during construction.
2. Preliminary and or final Plan of Operation.
3. Costs of force account work provided the borrower demonstrates to the satisfaction of MassDEP that the work can be accomplished more economically by the use of the force account method, or that emergency circumstances dictate its use, and that it possesses the necessary competence required to accomplish, document, and audit such work.

II. Ineligible Costs

Ineligible Project Costs are those costs MassDEP determines are the borrower's responsibility and or are not necessary for the completion of the project.

MassDEP has determined that ineligible costs include, but are not limited to, the following:

1. Costs that are incurred in excess of the approved project costs shall not be eligible for a subsidy under the loan unless MassDEP has approved the increase through an amendment to the project approval certificate and the loan has been amended to include the increased amount.
2. The operational costs of drinking water projects shall be ineligible for SRF assistance.
3. Costs which are incurred in violation of applicable federal and state statutes, regulations, or requirements;
4. Bonus payments, not legally required, for completion of building before a contractual completion date.
5. Costs of basin or area wide planning which is not directly related to the project.
6. Removal, relocation, or replacement of utilities located on land by privilege, such as franchise or privilege of sufferance.
7. The cost of vehicles for the transportation of the recipient's employees.
8. Items of routine "programmed" maintenance such as ordinary piping, air filters, couplings, hose, bolts, to major system components.
9. Ordinary operating expenses of the borrower including salaries and expenses of elected and appointed officials and preparation of routine financial reports and studies.
10. Personal injury compensation, claims related to wrongful deaths, or property damages arising out of the project.
11. Fines and penalties due to violations of, or failure to comply with, federal, state or local laws, regulations or procedures.
12. Costs outside the scope of the approved project, as defined in the Project Evaluation Form.
13. Costs for capacity beyond the design life of the project.
14. Costs for which payment has been or will be received from another federal or state agency.

15. The cost of pollution abatement works that would provide capacity for new habitation or other establishments to be located in environmentally sensitive land such as wetland or floodplain.
16. The pro-rata portion of the costs for utilities that cannot be dedicated for the sole purpose of the drinking water project.
17. The costs of solutions to aesthetic problems, including design details which require expensive building techniques and architectural features and hardware, that are unreasonable or substantially higher in cost than approvable alternatives.
18. Preparation of applications, plans of study, and permits required by federal, state or local regulations or procedures.
19. Architectural or engineering services or other services necessary to correct defects in a comprehensive wastewater management plan, design drawings and specifications, or other sub-agreement documents *except meritorious contractor claims as allowed in section II, Construction Eligible Cost, #15.*
20. The costs of acquisition (including associated legal, administrative, and engineering etc.) of sewer rights-of-way, waste treatment plant sites (including small system sites), or sanitary landfill sites.
21. Any amount paid by the borrower for eligible land in excess of just compensation, based on the appraised value, the borrower's record of negotiation or any condemnation proceeding, as determined by the Commissioner;
22. Rehabilitation, enlargement or replacement of an existing pumping station or construction of a new pumping station not associated with or necessary for servicing the collection system to be built as part of the project shall not be an eligible portion of the project.
23. Costs associated with service connections outside the public way or easement; no more than one service connection per occupied lot or more than a Y fitting per vacant buildable lot.
24. Costs of electrical work and piping from the house to the grinder pump or STEP system.
25. Costs of non-technical services (legal or administrative) for development of a municipal pretreatment program, user charge system, sewer use ordinance, or inter-municipal agreement.
26. The cost (including associated legal, administrative and engineering costs) of land acquired in fee simple or by lease or easement.
27. Buy-in cost to another community's system.
28. Corrective Action Reports and related corrective action construction for conventional technology.

29. Costs of issuance including administrative, legal and financial costs of the Trust or the local governmental unit associated with the approval, preparation, issuance and use of bonds as required by the Water Pollution Abatement Trust.
30. Design phase costs such as the costs for preparation of construction drawings, specifications, pre-design reports, estimates, and construction contract documents related to the water pollution abatement project are ineligible costs, including the costs of professional and consulting services including necessary travel to meet project objectives and the costs of survey and borings.
31. Any costs that are prohibited by the U.S. EPA, including but not limited to: 2 CFR 200.216 - Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment (https://www.ecfr.gov/cgi-bin/text-idx?SID=2312b40f5181614169488e0699a25e61&mc=true&node=se2.1.200_1216&rqn=div8)