**Section 662.120 Safe Drinking Water Act Requirements**

a) The Public Water Supply Loan Program is administered by the Agency in accordance with the Safe Drinking Water Act and the Illinois Environmental Protection Act.

b) The Capitalization Grant Agreement between the Agency and USEPA contains or incorporates by reference the following:

1) the Operating Agreement between USEPA and the Agency that contains the organization, administrative framework, and procedures of the PWSLP that are not expected to change annually;

2) the Agency's Intended Use Plan;

3) agreed upon payment schedule between USEPA and the Agency;

4) the Green Project Reserve requirements;

5) the Agency's State environmental review process; and

6) the Agency's agreement to the following:

A) to accept grant payments in accordance with a negotiated payment schedule;

B) to deposit into the State Water Revolving Fund an amount equaling at least 20% of each grant payment;

C) to make binding commitments in an amount equal to the amount of each capitalization grant payment and accompanying State match that is deposited into the Fund within one year after the receipt of each grant payment;

D) to expend all funds in an expeditious and timely manner;

E) to first use funds equaling the amount of the grant, all repayments of principal and payments of interest on the initial loans from the grant, and the State match to assure maintenance of progress, as determined by the Governor, toward compliance with national primary drinking water regulations applicable under SDWA section 1412 (42 USC 300g-1) or otherwise significantly further the public health protection objectives of the SDWA;

F) to comply with the USEPA general assistance regulations in 2 CFR 1500 and the specific conditions of the capitalization grant;

G) to commit or expend each quarterly grant payment in accordance with State laws and procedures regarding the commitment or expenditure of revenue;

H) to use accounting, audit, and fiscal procedures conforming to generally accepted government accounting standards;

I) to require recipients under PWSLP to maintain projects and accounts in accordance with generally accepted government accounting standards, including standards relating to the reporting of infrastructure assets;

J) to complete and submit a biennial report that describes how it has met the goals and objectives of the previous two fiscal years as stated in the Intended Use Plans and capitalization grant agreements;

K) to establish, maintain, invest and credit the State Water Revolving Fund with repayments so that the fund balance will be available in perpetuity for activities under the SDWA;

L) to use fees charged by the Agency to the recipients of assistance that are considered as program income for the purpose of financing of the cost of administering the PWSLP or financing projects or activities eligible for assistance under this Part;

M) to an annual audit of the PWSLP in accordance with the auditing procedures of the General Accounting Office (31 USC 75);

N) to provide USEPA with documentation demonstrating that the Agency has adequate personnel and resources to establish and manage the PWSLP;

O) to promptly deposit PWSLP funds into appropriate accounts as follows:

i) deposit the portion of the capitalization grant to be used for projects into the fund;

ii) maintain separate and identifiable accounts for the portion of the capitalization grant to be used for set-aside activities;

iii) deposit net bond proceeds, interest earnings, and repayments into the fund; and

iv) deposit any fees, which include interest earned on fees, into the fund or into separate and identifiable accounts;

P) to adopt policies and procedures to assure that loan recipients have a dedicated source of revenue for repayment of loans, or in the case of privately-owned systems, assure that recipients demonstrate that there is adequate security to assure repayment of loans;

Q) to use all funds in accordance with an Intended Use Plan that was prepared after providing for public review and comment;

R) to comply with all applicable federal cross-cutting authorities; and

S) to demonstrate how the Agency is complying with the requirements of capacity development authority, capacity development strategy, and operator certification program provisions in order to avoid withholdings of funds under 40 CFR 35.3515(b)(1)(i) through (b)(1)(iii).

c) Intended Use Plan

1) After public review and comment, the Agency must annually prepare an Intended Use Plan and submit that plan to USEPA.

2) The Intended Use Plan must include:

A) a priority system for ranking individual projects for funding that provides sufficient detail for the public and USEPA to readily understand the criteria used for ranking;

B) a listing and description of projects on the Project Priority List to be provided financial assistance and the terms of the financial assistance;

C) a description of the criteria and methods that the Agency will use to distribute all funds including:

i) the process and rationale for distribution of funds between the Fund and set-aside accounts;

ii) the process for selection of projects to receive assistance;

iii) the rationale for providing different types of assistance and terms, including the method used to determine the market rate and the interest rate;

iv) the types, rates, and uses of fees assessed on assistance recipients; and

v) a description of the financial planning process undertaken for the Fund and the impact of funding decisions on the long-term financial health of the fund;

D) a description of the sources and uses of PWSLP funds including: the total dollar amount in the fund; the total dollar amount available for loans, including loans to small systems; the amount of loan subsidies that may be made available to disadvantaged communities; the total dollar amount in set-aside accounts, including the amount of funds or authority reserved; and the total dollar amount in fee accounts;

E) the short and long term goals and objectives of the PWSLP;

F) identification of the amount of funds the Agency is electing to use for set-aside activities. The Agency must also describe how it intends to use these funds, provide a general schedule for their use, and describe the expected accomplishments that will result from their use;

G) for loans made in accordance with the local assistance and other State programs set-aside under 40 CFR 35.3535(e)(1)(i) and (e)(1)(ii), the Intended Use Plan must, at a minimum, describe the process by which recipients will be selected and how funds will be distributed among them;

H) a description of how the Agency's disadvantaged community program will operate including:

i) the Agency's definition in Section 662.110(b) of what constitutes a disadvantaged community;

ii) a description of affordability criteria used to determine the amount of disadvantaged assistance;

iii) the amount and type of loan subsidies that may be made available to disadvantaged communities from the 30% allowance in 40 CFR 35.3525(b)(2); and

iv) to the maximum extent practicable, an identification of projects that will receive disadvantaged assistance and the respective amounts;

I) If the Agency decides to transfer funds between the PWSLP and the WPCLP, the Intended Use Plans for each program must describe the process, including:

i) the total amount and type of funds being transferred during the period covered by the Intended Use Plan;

ii) the total amount of authority being reserved for future transfer, including the authority reserved from previous years; and

iii) the impact of the transfer on the amount of funds available to finance projects and set-asides and the long-term impact on the fund;

J) If the Agency decides to cross-collateralize fund assets of the PWSLP and WPCLP, the Intended Use Plans for the PWSLP and the WPCLP must describe the process, including:

i) the type of monies that will be used as security;

ii) how monies will be used in the event of a default; and

iii) whether or not monies used for a default in the other program will be repaid, and, if they will not be repaid, what will be the cumulative impact on the funds.

3) The priority list of projects, and use of funds, may be amended during the year under provisions established in the Intended Use Plan as long as additions or other substantive changes to the list, except projects funded on an emergency basis, go through public review and comment.

(Source: Amended at 43 Ill. Reg. 11209, effective October 1, 2019)