



The recipient must retain all financial and administrative records related to post-construction project financing for a minimum period of four (4) years following full repayment of any assistance on the project.

(25) Conflict of Interest. No employee, officer, or agent of the recipient shall participate in the selection, award, or administration of a subagreement supported by state or federal funds if a conflict of interest, real or apparent, would be involved.

(A) This conflict would arise when—

1. Any employee, officer, or agent of the recipient, any member of their immediate families or their partners have a financial or other interest in the firm selected for a contract; or

2. An organization which may receive or has been awarded a subagreement employs, or is about to employ, any person under paragraph (25)(A)1.

(B) The recipient's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of substantial monetary value from contractors, potential contractors, or other parties to subagreements.

AUTHORITY: sections 644.026 and 644.121, RSMo 2000 and section 644.101, RSMo Supp. 2009. Original rule filed Sept. 13, 1988, effective Feb. 14, 1989. Amended: Filed April 2, 1990, effective Sept. 28, 1990. Emergency amendment filed July 17, 1990, effective July 30, 1990, expired Nov. 26, 1990. Amended: Filed Sept. 4, 1991, effective Feb. 6, 1992. Amended: Filed March 4, 1993, effective Sept. 9, 1993. Amended: Filed April 14, 1994, effective Nov. 30, 1994. Amended: Filed March 1, 1996, effective Nov. 30, 1996. Amended: Filed May 28, 2009, effective Feb. 28, 2010.*

**Original authority: 644.026, RSMo 1972, amended 1973, 1987, 1993, 1995, 2000; 644.101, RSMo 1972, amended 1973, 1982, 1987, 1991, 1993, 1998, 2000, 2009; and 644.121, RSMo 1972, 1973, 1987, 1991.*

10 CSR 20-4.041 Direct Loan Program

PURPOSE: This rule sets forth the requirements for implementation of direct loan programs to be financed through the state revolving fund program contained in 10 CSR 20-4.040 or the State Direct Loan Program.

(1) General. The department may make direct loans by purchasing the general obligation bonds, revenue bonds, short-term notes or other acceptable obligation of any qualified applicant for the planning, design and/or construction of an eligible project. These loans shall not exceed the total eligible project costs

as described in 10 CSR 20-4.040(23) less any amounts financed by any means other than through the applicable direct loan program.

(2) State Revolving Fund (SRF) Direct Loans. Funding for these loans is from SRF loan repayments or federal capitalization grants. The provisions and requirements of the State Revolving Fund General Assistance Regulation, 10 CSR 20-4.040, apply to loans awarded under this regulation.

(3) State Direct Loan Program. Funding for these loans is from state bond funds. The provisions and requirements of the State Revolving Fund General Assistance Regulation, 10 CSR 20-4.040, apply to loans awarded under this regulation unless specifically provided for herein. In addition to those eligible items specified in 10 CSR 20-4.040, loans made under this program may incorporate as an eligible project cost: easements, rights-of-way and land acquisition integral to the project. Eligibility shall be limited to fair market value. Applicants must have submitted a preliminary project proposal to the Missouri Water and Wastewater Review Committee (MWWRC) and received an invitation from the MWWRC to apply for financial assistance.

(4) Letter of Intent. The department may issue a letter of intent to make a direct loan when the application documents are approved and the commission approves the project for receipt of loan funds. The letter of intent shall state the amount of funds reserved for the project, the requirements to qualify for receipt of loan funds and the schedule for the applicant to meet all requirements. The department may terminate this letter of intent for failure to meet the schedule requirements or conditions of the letter of intent. The amount of assistance stated in the letter of intent may be adjusted to reflect actual costs, subject to commission approval and the availability of funds.

(5) Interest Rates.

(A) The interest rate charged by the department on direct loans shall be equal to the target interest rate calculated under section (4) of 10 CSR 20-4.040. Interest on construction loans will begin accruing on the last day of the month in which a construction advance is made and will be compounded at the end of each month after that until such time as the construction loan along with all interest accrued is paid in full.

(B) Direct loans provided as a match to the Hardship Grant Program as provided for in 10 CSR 20-4.043 shall have a zero percent (0%) interest rate.

(6) Construction Loans.

(A) The department may award construction loans to qualified applicants in order to provide interim financing during construction of their project. Construction loans may contain clauses and provisions determined by the department to be necessary to protect the interests of the state.

(B) With exception of substate revolving funds, the construction loan will remain in force throughout the construction period. However, it must be paid in full no later than six (6) months following the initiation of operation of the facility constructed by the project or the closing deadline provided in the construction loan agreement, whichever is earlier.

(C) If the department is to provide long-term financing under this rule, then the construction loan must contain an agreement by the department and the recipient that the department will purchase the recipient's general obligation, revenue bonds or other acceptable debt obligation after construction is completed. If a construction loan is awarded, the permanent financing amount will be limited in amount to the sum of the payments drawn from the construction loan for eligible project costs plus interest accrued on the construction loan plus the reasonable costs of issuance which can be financed under Missouri statutes.

(D) Unless specifically addressed in the loan documents, the recipient may request construction loan payments no more often than monthly. The maximum construction advance shall be the sum of all eligible costs incurred to date. Each payment request shall include the information listed in the following paragraphs (4)(D)1.-3. and other information deemed necessary by the department to insure proper project management and expenditure of public funds:

1. Completed reimbursement request form;

2. Construction pay estimates signed by the construction contractor, the recipient and the resident inspector, if applicable; and

3. Invoices for other eligible services, equipment and supplies for the project.

(E) If the department is satisfied that the payment request accurately reflects the eligible cost incurred to date on the project, the department will request that a state payment check be issued to the recipient.

(7) Trustee or Paying Agent.

(A) The department may require the recipient to contract with a trustee or paying agent to provide all or part of the services listed in the following paragraphs (7)(A)1.-4. of this rule. The department may require recipients of less than thirty thousand (30,000) service



area population to use the services of the trustee, to—

1. Make joint assistance payments to the recipients and their contractors;

2. Ensure that payments are only released to those recipients whose contractors have a project contract approved by the department;

3. Ensure that none of the recipient's contractors receive more in assistance payments than approved by the department; and

4. Maintain financial records of credits and debits for the construction project.

(B) If a SRF or state direct loan is matched with a grant awarded under 10 CSR 20-4.023, the maximum loan amount will be calculated as follows: grant amount divided by four-tenths (.4) less the grant amount plus approved costs of issuance and capitalized interest, as appropriate.

(8) Purchase of Obligations. The department shall purchase revenue bonds, general obligation bonds or other acceptable debt obligations from the recipient no later than six (6) months following initiation of operation of the facilities constructed by the project or by the closing deadline contained in the construction loan agreement, whichever is earlier. In addition to the requirements of this rule, the department may require the recipient to include those assurances and clauses in the loan agreements and bond resolutions as deemed necessary to protect the interest of the state.

(9) Amortization Schedules. The department shall use the guidelines contained in the following subsections (9)(A)–(E) to establish amortization schedules for obligations purchased under this rule:

(A) The bonds, notes or other debt obligations shall be fully amortized in no more than twenty (20) years after initiation of operation;

(B) The payment frequency on any debt obligations shall be no less than annual with the first payment no later than one (1) year after the initiation of operation;

(C) The amortization schedule may either be straightline or declining schedules for the term of the debt obligation;

(D) Repayment of principal shall begin not later than one (1) year after initiation of operation; and

(E) If at any time during the loan period the facility(ies) financed under this rule is sold, either outright or on contract for deed, to other than a political subdivision of the state, the loan becomes due and payable upon transfer.

(10) Loan Fees. The department may charge annual loan fees not to exceed one-half percent (.5%) of the outstanding loan balance of each loan. Those fees are intended to reimburse the department for the cost of loan origination, loan servicing and administration of the program.

(11) Additional Administrative Fees Allowed. Additional administrative fees may be assessed by the department at the time the administration fee is calculated for failure by a recipient to submit approved documents to the department (for example, operation and maintenance manuals, plan of operation, enacted user charge and sewer-use ordinances and executed contract documents) in accordance with the time frames provided under the program agreement entered into by the recipient. The additional fee will be an additional one-tenth percent (.1%) per month that the document remains delinquent. The additional fee will be collected only during the year in which the document is not submitted.

(12) Variations of Structure Permitted. This rule sets out the general format for the direct loan programs. The commission and the department shall have the authority to make specific refinements, variations or additional requirements as may be necessary or desirable in connection with the efficient operation of the direct loan program.

AUTHORITY: sections 644.026 and 644.122, RSMo Supp. 1998. Original rule filed Sept. 13, 1988, effective Feb. 14, 1989. Amended: Filed April 2, 1990, effective Sept. 28, 1990. Emergency amendment filed July 17, 1990, effective July 30, 1990, expired Nov. 26, 1990. Amended: Filed March 4, 1993, effective Sept. 9, 1993. Amended: Filed April 14, 1994, effective Nov. 30, 1994. Amended: Filed March 1, 1996, effective Nov. 30, 1996. Amended: Filed June 24, 1999, effective March 30, 2000.*

**Original authority; 644.026, RSMo 1972, amended 1973, 1987, 1993, 1995 and 644.122, RSMo 1987, amended 1991, 1993, 1998.*

10 CSR 20-4.042 Leveraged Loan Program

PURPOSE: This rule sets forth the requirements for implementation of a leveraged loan program to be financed through a combination of the Water and Wastewater Loan Fund or the Wastewater Revolving Loan Fund administered by the commission and funds made available from the proceeds of revenue bonds issued by the Environmental Improvement and Energy Resources Authority or the

recipient. The leveraged loan program is designed to provide low interest loans to recipients to finance the planning, design and construction of wastewater treatment facilities.

(1) General. The leveraged loan program is designed to maximize the funding available to make loans to recipients for the planning, design and construction of eligible projects. The Environmental Improvement and Energy Resources Authority (EIERA) will participate in the leveraged loan program by issuing its bonds or notes in accordance with its governing statute. The determination as to whether a recipient shall receive a leveraged loan under this rule shall be made in accordance with 10 CSR 20-4.040(3) and shall be subject to the approval of the EIERA.

(2) State Revolving Fund (SRF) Regulation. The provisions and requirements of the SRF regulation, 10 CSR 20-4.040, apply to loans awarded under this regulation.

(3) General Program Description. Under the leveraged loan program, the recipient must obtain construction funds and any needed financing from EIERA. The recipient will receive a loan from the Water and Wastewater Loan Fund (WWLF) or the Water and Wastewater Revolving Loan Fund (WWRLF) in accordance with section (5) of this rule. The recipient will be required to place the proceeds of the WWLF or WWRLF loan in a debt service reserve fund to secure the construction loan. The interest earnings on the debt service reserve fund will provide a subsidy by paying a portion of the interest costs of the EIERA bonds or notes used to provide the construction loan. The principal amount of the WWLF or WWRLF loan, will be repaid to the WWLF or WWRLF.

(4) Additional Application Requirements. In addition to the application requirements contained in 10 CSR 20-4.040(9), applicants for leveraged loans must provide a description of the proposed method of obtaining any necessary financing for costs not to be financed by the SRF including information regarding the applicant's progress toward obtaining the funds and assistance.

(5) WWLF or WWRLF Loans. As each leveraged loan is made, loans from the WWLF or WWRLF will be made to the loan recipient in accordance with section (9) of this rule. The loan from the WWLF or WWRLF will be used to fund a debt service reserve. Payments into the debt service reserve will be made as provided in section