

Chapter NR 127

FINANCIAL ASSISTANCE RULES FOR MUNICIPAL
WATER SUPPLIES

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Note: Chapter NR 127 as it existed on June 30, 1976 was repealed and a new Chapter NR 127 was created effective July 1, 1976.

NR 127.01 Purpose. The purpose of this chapter is to establish rules under section 144.22, Wis. Stats., for administration of a financial assistance program for the construction or modification of municipal public water supply systems serving municipalities.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

NR 127.02 Definitions. (1) "Department" means the department of natural resources.

(2) "Municipality" means a city, town, village, county, county utility district, town sanitary district, metropolitan sewerage district, school district and, for the purposes of these rules, municipal public utilities created under chapter 66, Wis. Stats., or acquired under chapter 197, Wis. Stats., and municipal water districts created under chapter 198, Wis. Stats.

(3) "Public water supply system" means a facility serving a county, town, town sanitary district, city, village, institution, utility district, jointly owned systems or privately owned utilities serving 10 or more premises of mixed ownership. "Institution" means a public institution as defined in subsection 49.10 (12) (f) 1., Wis. Stats.

(4) "Project" means: (a) *New public water supply systems.* For a new public water supply system a "project" means the water source, housing and pumping facilities, the distribution system (excluding service laterals), storage facilities and any other appurtenances necessary for an operational system. All of the facilities included in a new public water supply system shall be considered as one project even though all portions of the project may not be installed concurrently.

(b) *Existing public water supply systems.* For an existing public water supply system, a "project" means the facilities necessary to correct an existing problem in a public water supply system. (Note: As an example, where there is an unsafe well, a project would include the well, pump, pump controls, pumphouse and a water main to connect to existing facilities. Storage or distribution system improvements are not included unless necessary, in addition to the well, to correct the problem.)

(5) As used in this chapter: (a) "Per capita cost" means the total allowable cost of the project, divided by the present population served.

(b) "Per capita income" means adjusted gross income per capita in the municipality as defined in the latest edition of the publication "Taxes, Aids & Shared Taxes" published by the Wisconsin department of revenue expressed as a percentage of the state average. The values used shall be those given in the latest edition of the above publication unless the municipality can provide more specific information.

(c) "Anticipated indebtedness" means the sum of total current indebtedness of the municipality and anticipated indebtedness from the project expressed as a percentage of the statutory indebtedness limit. Current indebtedness shall not include school indebtedness or mortgage revenue bonds, but anticipated indebtedness from the project may include long term notes, general obligation bonds and mortgage revenue bonds. The values for current indebtedness and the statutory indebtedness limit shall be those given in the latest edition of the Wisconsin department of revenue publication "Long Term Indebtedness of Wisconsin Political Subdivisions" unless more recent data is provided by the municipality.

(d) "General property full value per capita" means the full value of general property in the municipality divided by the population of the municipality. The value shall be that given in the latest edition of "Taxes, Aids & Shared Taxes" published by the Wisconsin department of revenue unless the municipality can provide more specific information.

(e) "Water rate" means the municipality's present net water bill per quarter for 1,000 cubic feet expressed as a percentage of the state average. The values used shall be from the most recent edition of the Wisconsin public service commission rates and research division bulletin no. 25 "Comparison of Quarterly Water Bills for All Incorporated Wisconsin Communities" unless more recent data is provided by the municipality. The anticipated water rate (calculated in accordance with procedures outlined by the department) may be used in lieu of the existing water rate if the additional points make the project eligible for an additional 25% grant under section NR 127.09(3). ✓

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

NR 127.03 Eligibility for a state grant. (1) **ELIGIBLE PROJECTS.** A project is eligible if it is municipally owned or is constructed under a franchise or contract entered into by a municipality to provide potable water for human consumption and use within the municipality. Projects in areas developed prior to July 1, 1973 and for which construction contracts are signed after July 1, 1973 are eligible. State grants may be made for the construction, modification or extension of existing systems, as well as the construction of new systems, including facilities for the production, transmission, purification, storage, delivery or furnishing of water to or for the public.

(2) **INELIGIBLE PROJECTS.** Projects not eligible for grants shall include:

(a) Water softening facilities where softening is the major treatment objective.

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- (b) Booster pumps on private service lines.
- (c) Water main extensions to serve areas developed after July 1, 1973.
- (d) That portion of any project which will exclusively provide fire protection to industrial areas.
- (e) Facilities for treating water treatment plant wastes except in cases where these facilities are being constructed in conjunction with a new water treatment plant which is being funded under this chapter. Facilities funded under Wis. Adm. Code chapter NR 125 are not eligible under this chapter.
- (f) Maintenance projects.
- (g) Projects commenced without department approval of plans and specifications.
- (h) Projects not competitively bid in accordance with the requirements of chapters 59, 60, 61 and 62, Wis. Stats.
- (i) Projects not municipally owned or constructed under a franchise or contract by the municipality to provide potable water for human consumption and use within the municipality.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

NR 127.04 Allowable costs. (1) **PRELIMINARY PLANNING.** Costs of studies, investigations, surveys, planning and other steps necessary to determine the economic and engineering feasibility of a proposed project are allowable.

(2) **ENGINEERING, ARCHITECTURAL, INSPECTION AND OTHER FEES FOR TECHNICAL SERVICES.** Costs of services including preparation of preliminary and final engineering reports, design of facilities, preparation of plans and specifications, inspection and supervision of the construction and any other services necessary for construction of the project are allowable. Where technical services are provided by regularly employed personnel of a municipality, actual recorded costs are allowable, provided they do not exceed costs determined by the department to be reasonable if the work were performed privately on a fee basis.

(3) **LEGAL COSTS.** Costs including fees and expenses for legal services rendered in connection with the project, costs incurred in the development of the information necessary for the bond issue, including preparation of the prospectus, the bond advertising, the printing of the bonds and other similar costs are allowable. When bond counsel and attorney fees cover all the steps from the drafting of the bond resolution through the final sale of the bonds, no additional financing costs will be allowed. A reasonable amount of the time of the municipal attorney may be included when applicable.

(4) **CONSTRUCTION COSTS.** Costs incurred under competitively bid contracts and the actual cost of purchased equipment and materials and labor costs incurred under force account procedures consistent with the provisions of section 62.15, Wis. Stats., as allowable. Reasonable construction costs which may include costs for aesthetic considerations are allowable. If a project cost is unreasonably high because of aesthetic considerations and an alternate design would

accomplish the same purpose for a substantially lower cost, only the cost of the alternate design is allowable.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

NR 127.05 Costs not allowable. The following costs are not allowable for state participation:

(1) **INELIGIBLE WORK.** The cost of any work not included in the eligible portion of the project as approved by the department.

(2) **COST OF SITE.** The cost of the site or easements or any estate or interest therein, and any cost associated with acquisition thereof.

(3) **REBATES, REFUNDS, TAX EXEMPTIONS.** Only the actual net cost of materials or services to the applicant is allowable. Where a rebate or refund is received from a firm or individual from whom the material, equipment or services were purchased, only the net cost will be allowed. Similarly, applicants exempt from the payment of sales taxes and excise taxes may not include the amount of such taxes as allowable cost even though such taxes are to be or may have been paid.

(4) **FEES NOT RELATED TO CONSTRUCTION.** Any portion of a fee which covers services performed in staffing of the facility, training of personnel or other functions not directly related to the actual project.

(5) **ADMINISTRATIVE COSTS.** Costs such as provision of extra office space, telephone service and additional municipal personnel, including accountants, bookkeepers and clerks.

(6) **LEGAL COSTS.** Costs of legal services rendered in connection with ineligible parts of a project.

(7) **INTEREST.** Interest on bonds (including discounts below par) or on any other form of indebtedness.

(8) **DAMAGE AWARDS.** Damage awards arising out of the construction, equipping or operation of the project, whether such awards are determined by judicial procedure, arbitration, negotiation or otherwise.

(9) **BONUS PAYMENTS.** Bonus payments made by the applicant to the contractor for completing work in advance of a specified time.

(10) **COSTS IN EXCESS OF BID PRICE-** When a bid is rejected and later reinstated in the contract, its eligible cost may not exceed the original bid price.

(11) **NORMAL GOVERNMENT COSTS.** Costs incident to normal operating costs of government, such as bond election costs and salaries and expenses of statutory government officials such as the mayor, city manager, city council members, etc.

(12) **FEDERAL ASSISTANCE.** Costs for which the municipality receives federal assistance other than loans which must be repaid by the municipality.

(13) **UNNECESSARY OR UNREASONABLE COSTS.** Any costs found by the department to be unreasonable or unnecessary to construction of the approved project.

(14) **SERVICE LATERALS.** Costs for furnishing and installing corporation stops, curb stops, service pipes, meters and other appurtenances on the service line.

(15) **NON-MUNICIPAL COSTS.** For those eligible projects which are not municipally owned, the allowable costs shall include only those costs incurred by or assessed to the municipality.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

(2) **NR 127.06 Preliminary project evaluation.** Municipalities desiring a preliminary point rating and eligibility determination prior to the submission of an application or plans and specifications may submit a written request accompanied by documents enumerated in NR 127.07(b), (c) and (f). The department will review the project and notify the municipality of the eligibility status and preliminary point rating of the project. The project will not be placed on the priority list until final approvable plans and specifications as described in Wis. Adm. Code sections NR 108.04 and NR 111.11, and the completed application and accompanying documents as described in NR 127.07 are submitted to the department.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

NR 127.07 Grant applications. (1) **APPLICATION FORMS.** Municipalities shall submit applications in accordance with instructions and on forms supplied by the department. Applications shall be updated by the applicant as necessary to keep the information current.

(2) **DOCUMENTS TO ACCOMPANY APPLICATIONS.** The following documents shall accompany an application: (a) A certified copy of the recent authorization by the applicant's governing body authorizing the filing of the application and appointing a municipal official as the authorized representative.

(b) A description of project, including maps and/or layouts.

(c) Current engineering reports containing information as outlined in Wis. Adm. Code section NR 111.11 (3).

(d) Final approvable plans and specifications for the project as described in Wis. Adm. Code sections NR 108.04 and NR 111.11 unless they have been previously submitted to or approved by the department.

(e) Contracts or agreements applicable to engineering and other technical and legal services and information concerning the basis upon which fee or costs for such services were determined.

(f) An itemized estimate of construction costs or bid tabulation, if available.

(g) If the site has been acquired, a copy of the site title opinion showing municipal ownership and a description of the site which has been acquired.

(h) If the site has not been acquired, a statement of the nature and extent of interest in lands, easements and rights-of-way which are to be acquired and the proposed method and time required for acquisition. Statutory requirements and authority affecting acquisition procedures must be specified.

(i) If the project is located within an area served by a regional or county planning agency, then that agency's evaluation and comment on conformance of the project with the comprehensive plan developed or in process of development for the metropolitan or regional area.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

NR 127.08 Departmental processing of applications. (1) **PROJECT NUMBER ASSIGNMENT.** The department will assign a project number which will be used on all documents and correspondence relating to the project.

(2) **INITIAL REVIEW.** The department will review the application and accompanying supporting documents in sufficient detail to assure completeness and that the proposed project is eligible as described in NR 127.03. Applications which are incomplete will be returned to the applicant for the appropriate information. Applicants having projects which are determined to be ineligible will be notified of such determination.

(3) **OBSOLETE APPLICATIONS.** If a project has not been funded within one year of the date the application was received by the department, the municipality will be notified that the application is obsolete. The project will not be considered for funding until a revised and updated application is received.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

NR 127.09 Priority determination. (1) **POINT RATING SYSTEM.** In ranking projects for priority for grants, the following factors shall apply:

(a) *Health need.* A project shall be assigned points from only one of the following categories. If the severity of the problem is not reflected in any of the following categories, the department will determine the number of points the project will be assigned.

1. **Unsafe municipal source.** Facilities that are required to replace an existing municipal water supply source that is a primary source for a system and which has been found to be incapable of providing bacteriologically safe water. Unsafe water is that which has a history of testing bacteriologically unsafe. 200 points

2. **Unsafe private wells.** Facilities required to eliminate public health hazards due to bacteriological contamination of private wells as evidenced by a minimum of 2 samplings of the private wells in which at least 20% of the wells in the municipality produce unsafe water during each of the 2 samplings and where the geologic and soil conditions create a high potential for groundwater contamination. 200 points

3. **Chemical standards exceeded.** Facilities required to replace a municipal water supply source or private wells or treat water from a municipal source in cases where the department determines that a health hazard exists because of constituents in the water exceeding the chemical health standards of Wis. Adm. Code section NR/111.22. 200 points

4. **Insufficient source capacity.** The provision of new source facilities to eliminate a public health hazard created by existing municipal waterworks source facilities that are deficient in capacity for uses

other than fire protection. Deficient source facilities are those with pumps that cannot supply the daily usage with the largest unit out of service and which operate in excess of 12 hours/day to meet the average daily usage or 18 hours/day to meet the maximum daily usage. 150 points

5. Dug well or spring. Replacement of an existing municipal dug well or spring which is essential to the system and is so constructed that it creates a significant potential public health hazard. 125 points

6. Deteriorated ground storage. Replacement or reconstruction of an existing municipal ground storage reservoir that is essential to the system and creates a significant potential public health hazard through deterioration or noncompliance with the appropriate design standards contained in Wis. Adm. Code chapter NR 111. 115 points

7. Second well. Construction or provision of additional municipal source facilities where adequate capacity exists, but reliability of service cannot be assured. (Note: This category is intended to assist in the construction of a second well for those systems which have only one well.) 100 points

8. No elevated storage. The provision of a new elevated storage facility for an existing municipal system which is not presently served by elevated storage facility for an existing municipal system which is not presently served by elevated storage. 100 points

9. Substandard well. Replacement or reconstruction of a municipal well which is essential to the system and creates a significant potential public health hazard because of constructional or locational features of the well. (Note: An example is a well with the protective casing not surrounded by cement grout as required by Wis. Adm. Code chapter NR 111.) 90 points

10. Inadequate fire flows. Installation of reinforcing mains in an existing municipal water distribution system to provide adequate flows where the existing system cannot supply the minimum fire flow requirements of Wis. Adm. Code section NR 111.71 (1). 60 points

11. Inadequate pressure. Installation of booster pumping facilities to increase pressures in areas where the minimum static pressure required in Wis. Adm. Code section NR 111.24 (2) cannot be provided. 50 points

12. New source. New wells or surface water treatment facilities to serve an existing public water supply system where there is a demonstrated need for such facilities. 30 points

13. New storage. New storage facilities or reconstruction of existing storage facilities to serve an existing public water supply system where there is a demonstrated need for such facilities. 30 points

14. New system. Installation of a new public water supply system in an area presently served by private wells where there is a demonstrated need for the system but where the criteria of (2) or (3) cannot be met. 30 points

15. Other eligible projects. Construction or provision of any other eligible municipal waterworks project where there is a demonstrated need for such a facility. 20 points

(b) *Financial need.* Projects will be granted additional points based on the capability of the municipality to finance the project. The number of points will be determined by evaluating columns A through E in Table I or columns A through D in Table II for the municipality in question and totaling the points allocated in each of the 5 columns. Table I shall be used for projects involving improvements to existing municipal water systems and Table II shall be used for new systems.

TABLE I
Financial Need Evaluation for
Improvements to Existing Systems

| | A | B | C | D | E |
|--|--|--|--|---|--|
| Points Applicable to Each Column | Per Capita Cost (excluding any costs paid by federal grants) | Per Capita Income (% of state average) | Anticipated Indebtedness (% of indebtedness limit) | General Property Full Value Per Capita (% of state average) | Water Rate (% of state average for 1,000 cu. ft.) |
| 0 | under \$60 | over 150% | under 10% | over 150% | under 50% |
| 1 | \$60-120 | 135-150% | 10-18% | 132-150% | 50- 66% |
| 2 | \$120-180 | 122-135% | 18-26% | 116-132% | 66- 83% |
| 3 | \$180-240 | 110-122% | 26-34% | 102-116% | 83- 99% |
| 4 | \$240-300 | 99-110% | 34-41% | 90-102% | 99-116% |
| 5 | \$300-360 | 89-99% | 41-48% | 80- 90% | 116-132% |
| 6 | over \$360 | 80-89% | 48-55% | 71- 80% | 132-149% |
| 7 | | 72-80% | 55-62% | 63- 71% | 149-166% |
| 8 | | 65-72% | 62-69% | 56- 63% | 166-183% |
| 9 | | 59-65% | 69-76% | 50- 56% | 183-200% |
| 10 | | 54-59% | 76-83% | under 50% | over 200% |
| 11 | | 50-54% | 83-90% | | |
| 12 | | under 50% | over 90% | | |

TABLE II
Financial Need Evaluation for
New Water Systems

| | A | B | C | D |
|--|---|--|---|--|
| Points Applicable to Each Column | Per Capita Cost (excluding any costs paid by federal grants) | Per Capita Income (% of state average) | Anticipated Indebtedness (% of Indebtedness Limit) | General Property Full Value Per Capita (% of state average) |
| 0 | under \$180 | over 150% | under 50% | over 150% |
| 1 | \$180-360 | 142-150% | 50-100% | 132-150% |
| 2 | \$360-540 | 134-142% | 100-150% | 116-132% |
| 3 | \$540-720 | 126-134% | 150-200% | 102-116% |
| 4 | \$720-900 | 119-126% | 200-250% | 90-102% |
| 5 | \$900-1,080 | 112-119% | 250-300% | 80- 90% |
| 6 | \$1,080-1,260 | 106-112% | 300-350% | 71- 80% |
| 7 | \$1,260-1,440 | 100-106% | 350-400% | 63- 71% |
| 8 | \$1,440-1,620 | 94-100% | 400-450% | 56- 63% |
| 9 | \$1,620-1,800 | 89- 94% | 450-500% | 50- 56% |
| 10 | over \$1,800 | 84- 89% | over 500% | under 50% |
| 11 | | 79- 84% | | |
| 12 | | 75- 79% | | |
| 13 | | 71- 75% | | |
| 14 | | 67- 71% | | |
| 15 | | 63- 67% | | |
| 16 | | 59- 63% | | |
| 17 | | 56- 59% | | |
| 18 | | 53- 56% | | |
| 19 | | 50- 53% | | |
| 20 | | under 50% | | |

(2) **PROJECT PRIORITY.** Projects shall be rated for priority for 25% grants in descending order of the sum of the points allocated under the health need (a) and financial need (b) in subsection (1). A maximum of 250 points may be assigned to any project. In the case of a tie in the priority rating, the project with final detailed approvable construction plans received for approval at the earlier date shall be given preference.

(3) **ADDITIONAL 25% GRANTS.** Those projects assigned 200 points in the health need in subsection (1) (a) shall be deemed to have an urgent and vital need on the basis of present health hazards as described in section 144.22(2) (b), Wis. Stats., and may be eligible for an additional 25% grant where the financial capacity of the municipality is inadequate to secure financial credit on reasonable terms and conditions. The additional 25% grant will be offered in cases where the point total of the financial need is at least 35 or where other financing is not available on reasonable terms and the statutory indebtedness limit will be exceeded without the additional grant.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

NR 127.10 Priority ranking and notice of funding allocation.

(1) **PRIORITY RANKING.** During January, April, July and October, all complete project applications (for which plans and specifications have been submitted to or approved by the department) submitted in the preceding quarter, in addition to all pending applications, will be evaluated as outlined in NR 127.09 to determine priority of the projects and the applicants notified of their ranking.

(2) **DISTRIBUTION OF FUNDS.** During the first 3 quarters of each fiscal year, beginning in July, October and January, not more than 30% of the annual appropriation will be offered to municipalities having eligible projects in the order of priority with the final 10% offered in the fourth quarter. This limitation will be waived in cases involving eligible projects receiving a point rating of greater than 200 points. These projects will be funded (within the limits of the annual appropriation) in order of priority in the quarter that the project is placed on the priority list. Funds not allocated in a quarter may be offered in the following quarters.

(3) **NOTICE OF FUNDING ALLOCATION.** The department will determine which projects, in accordance with the priority list, can be funded with the available funds and notify the respective applicants. If the project has not been bid, the applicant will be advised to bid the project and submit the results of the bidding and tentative contract award to the department within 60 days so that a formal grant offer can be extended. Failure of the applicant to bid the project and submit the results within 60 days of notice of funding allocation will result in the project not being placed on the next priority list.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

NR 127.11 Offer and acceptance. (1) **GRANT OFFER.** All grant offers shall be made after bids have been received and the municipality has made tentative contract awards conditional upon state approval and a state grant under section 144.22, Wis. Stats., or in the event of force account procedures an estimated price agreed to by the municipality and the department. If a project includes a new well, the municipality may accept a grant offer based on the estimated costs of the well

pump and pumphouse if those items could not reasonably be bid at the same time as the well. The well pump and pumphouse should then be bid upon completion of the well, but the amount of the grant offer may not be increased if the bid costs are higher than the estimated costs. No grant offer shall be made for any project unless such project conforms with department requirements and has been determined by the department as entitled to priority over other eligible projects. All grant offers shall be made on forms prepared by the department. The grant offer shall be signed by the authorized administrator of the department and will set forth the terms and conditions of the offer.

(2) **AMOUNT OF GRANT OFFER.** The state grant offer shall be up to 25% of the allowable costs except in cases where an additional 25% is allocated as provided in section NR 127.09 (3), Wis. Adm. Code. The total state grant shall not exceed 10% of the annual appropriation available for this purpose and will be limited so that the total of the state and federal grants received by a municipality will not exceed 80% of the project cost. Where a project is to receive a federal grant, the allowable cost shall be the project cost less the amount of the federal grant. No municipality may receive more than 10% of the annual appropriation for this purpose during any fiscal year regardless of the number of eligible projects.

(3) **ACCEPTANCE OF GRANT OFFER.** Acceptance of a grant offer shall be made by signature of the authorized representative of the applicant in the designated place on all copies of the offer and acceptance form. The form shall be returned to the department with a certified copy of a resolution authorizing the representative to sign the acceptance. If a grant offer is not accepted within 30 days from the date of offer, the offer will be withdrawn, the funds offered to another applicant and the project will not be placed on the priority list in the following quarter.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

NR 127.12 Payment procedure. (1) **AGREEMENTS FOR PAYMENTS.** The department will enter into agreements to make payments under section 144.22 (5), Wis. Stats.

(2) **PARTIAL PAYMENTS.** Partial payments in proportion to the percent of the project completed will be made after inspection at the 25, 50, 75 and 90 percent stages of completion of the project.

(3) **FINAL PAYMENT.** Final payment will be made only after final inspection and audit and evidence of satisfactory operation and maintenance. The total state grant will be based on the audited allowable costs.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

NR 127.13 Severability. If any section, paragraph, phrase, sentence, clause or word of this chapter is invalid or unconstitutional, the remainder of this chapter shall not be affected thereby.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.