

Chapter NR 127

FINANCIAL ASSISTANCE RULES FOR MUNICIPAL WATER SUPPLIES

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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.

History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

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 or acquired under chapter 197 and municipal water districts created under chapter 198. ✓

(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 ten or more premises of mixed ownership. Institution means a public institution as defined in s. 49.10 (12) (f) (1), Wis. Stats.

(4) "PROJECT" means: (a) *New public water supply systems.* A "project" includes the water source, housing and pumping facilities, the distribution system (excluding service laterals), storage facilities and any other appurtenances necessary for an operational system.

(b) *Existing public water supply systems.* A "project" will consist of 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.

History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

NR 127.03 Eligibility for a state grant. (1) ELIGIBLE PROJECTS. Municipal water supply 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 water 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 fluoridation equipment, water softening facilities where softening is the major treatment objective, booster pumps on private service lines, water main extensions to serve new developments and that portion of any project which will exclusively provide fire protection to industrial areas. Facilities for treating water treatment plant process wastes are ineligible except in cases where these facilities are being constructed in conjunction with a new water treatment plant which is being funded under this chapter. Projects commenced without department approval of plans and specifications shall be ineligible.

History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

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.

(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. 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. 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 s. 62.15, Wis. Stats.

History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

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

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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.

History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

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 with accompanying documents (b), (c), (f) and (i) as listed in NR 127.07. 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 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, January, 1975, No. 229, eff. 2-1-75.

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. (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) Description of project, including maps and/or layouts.

(c) Current engineering reports containing information as outlined in NR 111.11 (3).

(d) Final approvable plans and specifications for the project as described in 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. Specify statutory requirements and authority affecting acquisition procedures.

(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, January, 1975, No. 229, eff. 2-1-75.

NR 127.08 Departmental processing of applications. (1) PROJECT NUMBER ASSIGNMENT. Upon receipt of an application, the department will assign a project number in chronological order of receipt. The project number 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.

History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

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

(a) *Health need.* Health hazards and undesirable water quality and quantity conditions of existing facilities. A project shall be assigned points from only *one* of the following categories. If a project

does not fit any of the following categories, the department will determine the number of points the project will be assigned.

1. 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 does not meet the bacteriological limits described in NR 111.22 for three consecutive sampling periods where the three sampling periods can be expected to be representative of continuing conditions. ----- 150 points

2. Facilities required to eliminate public health hazards due to bacteriological contamination of private wells as evidenced by a minimum of two samplings of the private wells in which at least 20% of the wells in the municipality produce unsafe water during the two samplings and where the geologic and soil conditions create a high potential for groundwater contamination. Evidence must be furnished that the construction of a public water system is a more economical alternative than providing safe water from private wells. ----- 150 points

3. 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 NR 111.22. ----- 150 points

4. Construction of new water storage facilities to replace existing municipal water storage facilities that have deteriorated or are so constructed that public health hazards exist. ----- 100 points

5. The provision of new storage or source facilities to eliminate a public health hazard created by existing municipal waterworks facilities that are deficient in capacity for uses other than fire protection. This will usually be considered to be primary storage facilities with capacities less than one-half of the daily average usage or pumps that operate in excess of 12 hrs/day to meet the average daily usage or 18 hrs/day to meet the maximum daily usage. ----- 100 points

6. Construction or provision of additional municipal source facilities where adequate capacity exists, but reliability of service cannot be assured. ----- 50 points

Note: This category is intended to assist in the construction of a second well for those systems which have only one well.

7. Replacement or reconstruction of an existing municipal waterworks facility which is essential to the system and creates a potential for a public health hazard through deterioration or non-compliance with appropriate design standards contained in NR 111. ----- 40 points

Note: Examples are dug wells, single cased wells, ungrouted wells or ground storage reservoirs.

8. Construction or provision of any other eligible municipal waterworks project for new or existing waterworks 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 1 for the municipality in question and totaling the points allocated in each of the five columns.

(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 200 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 150 points or more 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 s. 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 the statutory indebtedness limit will be exceeded without the additional grant.

Table 1
FINANCIAL NEED EVALUATION

Points Applicable to Each Column	A Per Capita Cost (excluding any costs paid by federal grants)	B Per Capita Income (% of state average)	C Anticipated Indebtedness (% of indebtedness limit)	D General Property Full Value Per Capita (% of state average)	E 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%		

Column A: "Per Capita Cost" means the total allowable cost of the project, divided by the present population served.

Column 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.

Column C: "Anticipated Indebtedness" means the sum of total current indebtedness of the municipality (excluding school indebtedness) and anticipated indebtedness from the project (not to exceed 75% of the project cost) expressed as a percentage of the statutory indebtedness limit. 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.

Column 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.

Column 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. For new systems, the anticipated water rate shall be used.

History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

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 eval-

uated 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 three quarters of each fiscal year, beginning in July, October and January, not more than 30 percent of the annual appropriation will be offered to municipalities having eligible projects in the order of priority with the final 10 percent offered in the fourth quarter. This limitation will be waived in cases involving eligible projects receiving a point rating of greater than 150 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 within 60 days and submit the results of the bidding and a tentative contract award to the department so that a formal grant offer can be extended. Failure of the applicant to bid the project within 60 days of notice of funding allocation will result in the project not being considered again until funding for the next fiscal year is available and at least two quarters have elapsed since the quarter in which the offer was made. For projects which have already been bid or an estimated price agreed to in the event force account procedures are being used, the formal grant offer will be made in lieu of the notice of funding allocation.

History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

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, Wisconsin Statutes, or in the event of force account procedures an estimated price agreed to by the municipality and the department. 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 NR 127.09 (3). 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 grants received by a municipality will not exceed 80% of the allowable project cost. Where a project is to receive a federal grant, the allowable costs shall be the project cost less the amount of the federal grant.

(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. Two signed copies of the form shall be returned to the department with a certified copy of a resolution authorizing the represen-

tative 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 not considered again until funds are available for the next fiscal year and at least two quarters have elapsed since the offer was made.

History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

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

(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, January, 1975, No. 229, eff. 2-1-75.

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, January, 1975, No. 229, eff. 2-1-75.