

**Sec. 22a-482-2. Requirements for funding project agreements**

(a) **Types of Projects.** The Commissioner is authorized to award assistance for the following types of projects:

- (1) Planning: the preparation of engineering reports;
- (2) Design: the preparation of contract plans and specifications; and
- (3) Construction: the building of pollution abatement facilities and sewers.

(b) **Level of State Assistance.** The amount of state funding assistance shall be based on the Commissioner's determination of eligibility and the provisions of sections 22a-475 to 22a-483, inclusive, of the General Statutes.

(c) **Applications for Funding Assistance.** A municipality applying for funding assistance shall file properly executed forms and applications prescribed by the Commissioner. In addition, the following supporting documentation shall be submitted as appropriate:

- (1) An Application for Engineering Report Funding Assistance which shall include:
  - (A) a Plan of Study including:
    - (i) the proposed planning area;
    - (ii) an identification of the entity or entities that will be conducting the planning;
    - (iii) the nature and scope of the proposed planning project and public participation program, including a schedule for the completion of specific tasks; and
    - (iv) an itemized description of the estimated engineering report costs;
  - (B) proposed subagreements, or an explanation of the intended method of awarding subagreements, for performance of any substantial portion of the project;
  - (C) a resolution adopted by the municipality's Water Pollution Control Authority authorizing a specific person to file the application and execute the agreement. The resolution shall be certified and sealed by the Town/City Clerk; and
  - (D) a cash flow projection.
- (2) An Application for Design Funding Assistance which shall include:
  - (A) an engineering report meeting all the requirements set forth in section 22a-482-3 (a) of the Regulations of Connecticut State Agencies.
  - (B) proposed subagreements, or an explanation of the intended method of awarding subagreements, for performance of any substantial portion of the project;
  - (C) a resolution adopted by the municipality's Water Pollution Control Authority authorizing a specific person to file the application and execute the agreement. The resolution must be certified and sealed by the Town or City Clerk;
  - (D) a value engineering (VE) commitment in compliance with section 22a-482-3 (d) of the Regulations of Connecticut State Agencies for all design funding assistance applications for projects with a projected total building cost of \$10 million or more, including the cost for interceptor and collector sewers. For those projects requiring VE, the municipality may propose, subject to the Commissioner's approval, to exclude interceptor and collector sewers from the scope of the VE analysis;
  - (E) proposed or executed (as determined appropriate by the Commissioner) inter-municipal agreements necessary for the construction and operation of the proposed pollution abatement facility for any facility serving two or more municipalities;
  - (F) a schedule for initiation and completion of the project work;

(G) evidence that local authority to construct the facilities has been obtained; and

(H) a cash flow projection.

(3) An Application for Construction Assistance which shall include:

(A) all requirements for design funding assistance as specified in subdivision (c) (2) of this section;

(B) a final legal opinion stating that the acquisition of all sites, easements or rights-of-way necessary to assure undisturbed construction and operation and maintenance of the proposed project have been acquired. The cost of any real property eligible for funding assistance must reflect fair market value as determined by standard recognized appraisal methods;

(C) two copies of contract plans and specifications for the review and approval of the Commissioner;

(D) a schedule for submission of a proper operation and maintenance program including a preliminary plan of operation;

(E) an approved user charge system developed in accordance with the requirements set forth in section 22a-482-3 (e) of the Regulations of Connecticut State Agencies;

(F) a cash flow projection; and

(G) amounts and terms of any other financial assistance.

(d) **Terms of Funding Assistance.**

(1) No financial assistance shall be made for a pollution abatement facility that would provide capacity for new connections or other developments to be located in environmentally sensitive land such as wetlands, floodplains, prime agricultural lands, or regulated coastal zones. Appropriate and effective funding conditions (e.g. restricting sewer hook-ups) should be used where necessary to protect these resources from new development.

(2) The prime purpose in the award of construction assistance is to solve existing pollution problems and not intended to assist in new development.

(3) For engineering reports and design, no financial assistance will be allowed for any engineering work performed before award without the prior written approval of the Commissioner.

(4) Except as otherwise provided in this subsection, no assistance for construction may be awarded for any construction which is initiated prior to the date of award. Preliminary construction work, such as advance acquisition of major equipment items requiring long lead times, acquisition of an option for the purchase of eligible land, or advance construction of minor portions of a pollution abatement facility, including associated engineering costs, in emergencies or instances where delay could result in significant cost increases, may be approved by the Commissioner after the completion of an environmental review, but only if the municipality submits a written and adequately substantiated request.

(5) The approval of a plan of study, an engineering report, plans and specifications, advance acquisition of equipment or advance construction will not constitute a commitment or approval of assistance for a subsequent phase of the project. In instances where such approval is obtained, the applicant proceeds at its own risk, since payment for such costs cannot be made unless assistance for the project is awarded.

(6) The municipality shall notify the Commissioner that it has complied or will comply

with the applicable procurement provisions of subsections (f), (g) and (h) of 22a-482-4 of the Regulations of Connecticut State Agencies before the award of any assistance.

(7) Within ninety (90) days after receipt of a completed application (excluding suspension periods for submission of supplemental information), the Commissioner will take one of the following actions: (A) approve for award; (B) defer due to lack of funding; or (C) disapprove the application. The applicant shall be promptly notified, in writing, of any deferral or disapproval. A deferral or disapproval of an application shall not preclude its reconsideration or a reapplication.

(8) The Commissioner will transmit the funding agreement to the applicant for execution. The agreement must be executed by the applicant and returned within three (3) calendar weeks after receipt. The agreement shall set forth the approved project scope, budget (cash flow analysis), total project costs, and the approved commencement and completion dates for the project or major phases thereof.

(9) The project funding agreement shall set forth the amount of funding assistance. The amount may not exceed the amount of funds available.

(10) The amount and term of funding assistance shall be determined at the time of award. The time period is subject to extension for excusable delay, at the discretion of the Commissioner.

(11) The amount of financial assistance shall not exceed 100% of the cost eligible for grant and loan. Calculation of a grant or loan available shall first include a deduction of financial assistance available from other sources.

(12) The municipality may finance short term debt through the marketplace or from the Clean Water Fund.

(A) Accrued interest on funds borrowed from the marketplace shall be paid at the time of borrowing.

(B) Accrued interest on amounts borrowed from the Clean Water Fund may be either paid at the time of such borrowing or become part of the principal to be repaid over the term of the project and shall be determined by the Commissioner at the time of issuance of the project funding obligation. Short term interest shall be charged at the rate of 2% per year compounded annually for all outstanding loan balances. Interest on short term obligations shall be computed on the basis of a year of 360 days and the number of days elapsed. Interest shall be charged from the date a check is issued from the fund to the municipality.

(13) Grant proceeds shall be disbursed only upon a determination by the Commissioner that satisfactory documentation of eligible grant costs have been received.

(14) The Commissioner shall establish a procedure for disbursement of grant and loan proceeds to the municipalities.

(15) The municipality shall use the proceeds of the project loan and the project grant solely for the purpose of funding the project. The municipality shall promptly disburse to all contractors the proceeds of such project loan and project grant on the same day that it receives proceeds from the state.

(16) The municipality shall agree and covenant in the project funding agreement that it shall, at all times, do and perform all acts and things reasonably requested by the state to insure interest paid on any tax exempt obligations issued by the state to fund the Clean

Water Fund shall, for the purposes of federal income taxation, be excludable from the gross income of the recipients thereof under the Internal Revenue Code of 1986, as amended.

(17) The municipality shall have all project costs, loans, and grants audited by an auditor approved by the Commissioner.

(18) The municipality shall repay to the Clean Water Fund all outstanding loan balances, including principal and interest accrued, within twenty years from the scheduled completion date of the project.

(19) The municipality shall establish a dedicated source of repayment of the loan satisfactory to the Commissioner.

(20) Each project loan obligation shall be paid in substantially equal monthly installments of principal and interest or in monthly installments of principal plus interest which shall be substantially equal and which shall be arranged such that no principal installment payable in any month shall be less than the amount of any installment payable in any subsequent month.

(21) Payments on long term loans shall begin one year from the scheduled completion date of the project. Should excusable delay cause the actual completion to go beyond scheduled completion the Commissioner and the municipality shall enter into a project funding agreement to cover project cost incurred after the specified date.

(22) The Commissioner shall make loans to the municipalities at an interest rate not to exceed two percent compounded annually.

(23) Interest on the loan shall be computed on the basis of 360 days and the actual number of days elapsed.

(24) The Commissioner may provide short term loans to municipalities for planning and design, as applicable, of an eligible water quality project. The municipalities may not be required to begin repaying its short term loan for planning or design, as applicable, until six months after the date of completion of such planning or design provided the municipality must commence design or construction, as applicable, within six months.

(25) The municipality shall comply with the following federal laws and Executive Orders:

- (A) Archeological and Historic Preservation Act of 1974, P.L. 93-291;
- (B) Coastal Barrier Resources Act, 16 U.S.C. 3501 et seq.;
- (C) Coastal Zone Management Act of 1972, P.L. 92-583;
- (D) Endangered Species Act, 16 U.S.C. 1531, et seq.;
- (E) Executive Order 11593, Protection and Enhancement of the Cultural Environment;
- (F) Executive Order 11990, Protection of Wetlands;
- (G) Farmland Protection Policy Act, 7 U.S.C. 4201 et. seq.;
- (H) Fish and Wildlife Coordination Act, P.L. 85-624;
- (I) National Historic Preservation Act of 1966, P.L. 89-665;
- (J) Safe Drinking Water Act, section 1424 (e), P.L. 92-523;
- (K) Wild and Scenic Rivers Act, P.L. 90-542;
- (L) Demonstration Cities and Metropolitan Development Act of 1966, P.L. 89-754;
- (M) Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738;
- (N) Brooks Murkowski Act, P.L. 100-202;

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- (O) Age Discrimination Act, P.L. 94-135;
- (P) Civil Rights Act of 1964, P.L. 88-352;
- (Q) Section 13 of P.L. 92-500, prohibition against sex discrimination;
- (R) Executive Order 11246, Equal Employment Opportunity;
- (S) Executive Orders 11625 and 12138, Women's and Minority Business Enterprise;
- (T) Rehabilitation Act of 1973, P.L. 93-112, including Executive Orders 11914 and 11250;
- (U) Uniform Relocation and Real Property Acquisition Policies Act of 1970, P.L. 91-646;
- (V) Executive Order 12549, Debarment and Suspension;
- (W) Executive Order 11988, Flood Plain Management; and
- (X) Clean Air Act, 42 U.S.C. 7506 (c).

(Effective March 5, 1992)