

Drinking Water Loan and Grant Program
N.H. Drinking Water and Groundwater Trust Fund

Rules for Construction Projects
Adopted on March 11, 2019

Applicability¹

These rules apply to applications to the Drinking Water and Groundwater Trust Fund (“DWGTF”) for construction projects. All other funding provided by the Commission shall be in accordance with RSA ch. 485-F and other Commission or State rules as applicable.

Purpose

The purpose of the construction loan and grant program is to provide funding to projects that create drinking water infrastructure, improve water quality, increase the viability or longevity of existing drinking water infrastructure, and enable the State to meet present and future drinking water needs.

Definitions

“**Applicant**” means an entity that files a funding application, a final application, or both, for either a loan or grant from the DWGTF for a construction project.

“**Commission**” means the N.H. Drinking Water and Groundwater Advisory Commission.

“**Community water system**” means “community water system” as defined in RSA 485:1-a, I; specifically, a public water system that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

¹ These rules are not intended to apply to or otherwise limit the statutory duties of the Department set forth in RSA 485-F which include but are not limited to: (a) Investigating, managing, and remediating contaminated groundwater; (b) Assisting local and regional entities in the development and administration of local wellhead protection programs, including delineation of wellhead protection areas and the inventory and management of activities which have a potential effect on groundwater quality; (c) Maintaining a statewide map identifying the classes of groundwater; (d) Measuring levels of contamination statewide and generating maps to show the areas of greatest contamination; (e) Maintaining an inventory of wells serving public water supply systems, and to the extent practicable other wells; and (f) establishing a priority list for delineation of systems that are currently contaminated with MTBE. Processing of loans and grants shall be made in accordance with the Department’s existing Drinking Water State Revolving Loan Fund rules to the extent possible until superseded by rules specific to the DWGTF.

“Construction Project” means any project involving the erection, building, acquisition, alteration, remodeling, improvement, or extension of any component of an eligible construction project.

“Department” means the New Hampshire Department of Environmental Services.

“Eligible applicant” means:

- (a) A State agency, board, or commission or any political subdivision of the State;
- (b) Any person or legal entity, such as a sole proprietorship, partnership, corporation, association, or non-profit organization, that owns a community water system or water distribution system;
- (c) A non-profit organization that owns a non-transient, non-community water system; or,
- (d) Other entities approved by the Commission consistent with RSA 485-F.

Any eligible applicant may submit an application jointly with any other eligible applicant as co-applicants.

“Eligible Construction Project” means:

- (a) Projects related to reducing or eliminating contamination above a Maximum Contaminant Level (“MCL”) or Secondary Maximum Contaminant Level (“SMCL”) or substances for which there are currently no MCLs or SMCLs but which the Commission, in coordination with the Department, determines may potentially pose a risk to human health or for which the creation of MCLs or SMCLs are likely in the future.
- (b) Any drinking water-related construction project not eligible under the Drinking Water State Revolving Loan Fund (“DWSRF”) program including but not limited to:
 - (1) Expansion of existing community water systems or creation of new community water systems to serve an existing need or in anticipation of future need including population growth;
 - (2) Construction or rehabilitation of drinking water reservoir dams; and,
 - (3) Construction, expansion, or rehabilitation of monitoring well systems at well fields.
- (c) Any construction project eligible under the DWSRF program; and,
- (d) Any other construction project fulfilling the requirements of RSA 485-F:4, VII(a).

“Final Application” means the application submitted in the form and manner described by the Commission after the Commission selects a project for funding the purpose of which is to provide all information required by the Commission rules, related Department rules, or reasonably requested by the Department to prepare loan and grant agreements for consideration by the Governor and Executive Council.

“Funding application” means an application submitted in the form and manner described by the Commission, the purpose of which is to provide information to the Commission for project selection.

“Non-community water system” means “non-community water system” as defined in RSA 485:1-a, X; specifically, a public water system that is not a community water system.

“Non-transient non-community water system (NTNC)” means “non-transient non-community water system” as defined in RSA 485:1-a,XI; specifically, a non-community water system which serves the same 25 people, or more, over 6 months per year.

“Public water system” or **“water system”** means “public water system” as defined in RSA 485:1-a, XV; specifically, a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (2) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Any water system which meets all of the following conditions is not a public water system:

- (a) The water system consists only of distribution and storage facilities (and does not have any collection and treatment facilities);
- (b) The water system obtains all of its water from, but is not owned or operated by, a public water system; and,
- (c) The water system does not sell water to any person.

“Recipient” means an applicant that receives financial assistance from the DWGTF.

“Repayment” means the payment of principal or interest, or both, on funds received as a loan by a recipient from the DWGTF.

“Substantial project completion” means that construction of the project, or a discrete part thereof, is sufficiently completed that the project or discrete part can be used for the purposes for which it is intended.

General

Funding shall only be provided to eligible construction projects submitted by eligible applicants. The Commission may grant or deny funding in its discretion consistent with the rules set forth herein and other applicable rules.

Types of Financial Assistance

1. Loan

- (a) There is no guarantee that an applicant will receive a loan. Loan awards will be determined solely by the Commission during the application review.
- (b) Loan terms shall be 5, 10, 15, 20, or 25 years. The loan term must be tied to the useful life of the project. The loan term cannot exceed the useful life of the financed improvement(s).
- (c) Loan rates are locked in at the time the loan agreement is transmitted to the loan recipient.

- (d) The Commission will establish loan rates the first Thursday in August of each year based on the 11 G.O. Bond Index² published weekly by Bond Buyer.
- (e) Loans funded jointly with DWSRF will receive the DWSRF rate as set forth in Env-Dw 1100 et seq.
- (f) Federal provisions shall not apply to DWGTF projects unless the project receives federal funding.
- (g) 1% interest will be charged on funds disbursed until substantial project completion.
- (h) Other loan terms shall include those described in applicable Department rules and in financial assistance agreements.

2. Grant

- (a) There is no guarantee that an applicant will receive a grant. Grant awards will be determined solely by the Commission during the funding application review.
- (b) An applicant does not need to borrow loan funds from the Trust Fund to receive a grant; however, the Commission may deny a project request if it determines that a loan is more appropriate for the project.
- (c) If an award consists of both a grant and a loan, the Commission may require the applicant to use grant and loan funds in the manner deemed most beneficial by the Commission.

Process

1. Potential applicants should visit the Commission's website at <https://www4.des.state.nh.us/nh-dwg-trust/> for general information. In addition, the Commission through the Department will conduct outreach including an optional workshop for prospective applicants.
2. Applicants must submit a funding application in accordance with applicable Department rules.
3. Funding applications must include the information described on the form or forms designated by the Commission and must include information required by Commission rules, related Department rules, or reasonably requested by the Department.
4. To ensure timely review, funding applications should be submitted by the funding application deadline on the Commission's website.
5. The Commission will schedule at least one annual review for loan and grant applications. It is anticipated that this annual review will occur within four months of the funding application deadline.
6. The Commission will consider information included in the funding application, information from other parties, and may request and consider information from the

² The index can be viewed at publicly available websites such as Bond Buyer's Weekly 11-Bond GO Index (<https://www.bondbuyer.com>).

Department.

7. The Commission will determine which eligible construction projects will receive funding during the annual review process. The Commission may make additional funding determinations at other meetings if the Commission determines that doing so is in the public interest and complies with the purposes of these rules and RSA ch. 485-F.
8. If funding is awarded, the recipient will be notified by the Department through a notification of funding award letter and shall thereafter provide the Department with a final application that contains information required by Commission rules, related Department rules, or reasonably requested by the Department.
9. Final applications must be submitted by the deadline stated in the notification of funding award letter by the Department.
10. The Department will review all of the information provided in the final application. If the recipient complies with all applicable Commission and Department rules, the Department will submit the proposed funding award to the Governor & Executive Council for approval. The Commission reserves the right to deny funding to any applicant that does not comply with applicable Commission and Department rules including those related to final applications.
11. Notwithstanding the funding application process described above, funding applications may be submitted at any time; however, the Commission will determine whether funding applications submitted outside of the routine application schedule will be considered at its next meeting or deferred until the next annual review. All applications must include the information described on the form or forms designated by the Commission and a justification of why the project should be considered outside of the routine application schedule.
12. The Commission may create sub-committees to assist it in the performance of its duties.
13. The Commission may, through an annual budget or other decision, establish other priorities and goals in order to incentivize projects that fulfill the purposes of RSA ch. 485-F.

Criteria to be considered by the Commission

All projects must be related to groundwater or drinking water. In addition, the Commission may consider the criteria below when determining whether or not to award a loan or grant.

- Whether the proposed project results in the removal, reduction, or mitigation of contamination related to groundwater or drinking water
- Project readiness demonstrated through methods including but not limited to letters of support from local entities, preparation and submittal of preliminary engineering reports, and confirmation of approval of funds from leveraged funding sources
- Consistency with the applicant's established Asset Management Program and proposed management of assets, Capital Improvement Plan, and rate analysis associated with the project

- Impact on economic development
- Energy efficiency
- Water efficiency in ensuring a minimization of water loss
- Enhancement of source water protection or acquisition of water sources for public consumption
- Long term viability of the project
- The fairness of the geographic distribution of project awards
- Distribution system extensions
- Proof of thoroughness with respect to both applications and project development
- Innovation
- Whether the project serves a public water system with a low Median Household Income (“MHI”) or high Affordability Index (“AI”). AI is the project user rate divided by the community or water system’s MHI.

In addition, the Commission may consider any criteria it determines to be appropriate and consistent with RSA ch. 485-F.

Outside Funding Requirements

1. The Commission will endeavor to leverage the DWGTF to the greatest extent possible by taking into consideration, among other things, supplemental funds provided by the applicant or other State or federal funding sources, the available DWGTF balance, and the rate at which the DWGTF will be replenished by the repayment of outstanding loans.
2. Applications for loans or grants that demonstrate that the applicant has exhausted all other possible funding sources for the proposed project may be given priority.
3. There is no match requirement for loans; however, project proposals that provide the greatest amount of funds from sources other than DWGTF grants whenever possible may be given priority.
4. There is no match requirement for grants; however, project proposals that provide the greatest amount of funds from sources other than DWGTF loans whenever possible may be given priority.
5. Projects that first request DWGTF loans whenever possible may be given priority over similar projects that request DWGTF grants.
6. Projects that request a smaller proportion of DWGTF grant as compared to DWGTF loans whenever possible may be given priority.
7. Preliminary design engineering and testing prior to submittal of the funding application used to develop the project and estimated project cost stated in the funding application may not be considered by the Commission as a component of total project cost.

Disbursement of Funds

Disbursement of funds will be conducted in accordance with Commission rules and applicable Department rules as well as the following:

1. Loan and/or Grant agreement(s) must be in place and approved by the Governor and Executive Council before funds can be disbursed.
2. Funds for eligible project costs shall be disbursed in accordance with applicable Department rules and what is stated in the financial assistance agreement.
3. Construction cannot begin until a loan/grant agreement is in place and any required environmental review is complete.
4. Any project-related, non-construction costs included in the scope of work incurred prior to approval by the Governor and Executive Council may be eligible for reimbursement by the Fund; however, such costs shall be incurred at the recipient's own risk.

Other Requirements & Additional Costs

1. An environmental review will be required as part of the final application award process consistent with applicable Department rules. Negative environmental impacts may be a basis for withdrawing loan or grant offers.
2. To the extent possible, final loan and grant procedures will be in accordance with DWSRF rules unless and until superseded by Department rules specific to the DWGTF.
3. For projects currently funded and underway that need additional funds for new components of the project, an applicant may apply for additional funds. An application for existing work covered by current financing will not be eligible.
4. No cost time extensions of scheduled completion dates due to excusable delays can be granted by the Department subject to approval by the Governor and Executive Council when required.

Signage and Publicity

Unless otherwise specified by the Commission, all recipients will be required to place a sign with the program logo as approved by the Commission at the project site. The Commission may also determine appropriate conditions regarding placement and maintenance of signage. Signage specifications will be provided by the Department. Costs associated with required signage shall be considered eligible project costs.

Waiver

The Commission, in its discretion, may waive any of these rules if granting the waiver will result in circumstances that better fulfill the purpose and intent of these rules and RSA ch. 485-F or if strict adherence to the rule being waived would not be in the best interest of the public, the environment, or the DWGTF program. Statutory requirements cannot be waived.