

STATE OF DELAWARE

DRINKING WATER STATE REVOLVING FUND

Source Water Protection Loan Fund

SDWA 1452(k) Set-Aside Loans for:

LAND ACQUISITION AND CONSERVATION EASEMENTS

LOAN APPLICATION PROCESS

The material in this package provides information and forms for a loan application to the State of Delaware's Drinking Water State Revolving Fund program which provides low interest loans to qualified applicants to assist in the development and/or implementation of local drinking water protection initiatives.

The proceeds of these loans are to be used in the acquisition of land or the purchase of conservation easements integral to source water protection needs as determined by the Delaware Department of Natural Resources and Environmental Control (DNREC).

I. Eligibility:

Eligible Applicants for this loan program are limited community water systems and non-profit noncommunity systems that are not state or federally owned.

The types of public water systems eligible for a loan include:

Definitions:

- Community water systems are either publicly or privately owned and serve at least 15 service connections or 25 residents year-round. Examples of community water systems include municipalities, housing developments, mobile home parks, long term care facilities, and correctional facilities.
- A nonprofit noncommunity public water system may be transient or non-transient. Evidence of the Internal Revenue Service tax exempt status of a nonprofit noncommunity entity must be included with the organization's application.

- A non-transient nonprofit noncommunity water system serves at least 25 of the same persons over 6 months per year. Examples of a non-transient nonprofit noncommunity water system category include schools and nonprofit day care centers.
- A nonprofit transient noncommunity system must have at least 15 service connections or regularly serve an average of at least 25 individuals daily at least 60 days a year. Examples of a nonprofit transient noncommunity system are campgrounds and parks/recreational areas as well as seasonal housing.

The applicant must have final source water assessment area delineation prior to applying for a loan.

The landowner must be a willing party to the land acquisition or conservation easement.

The Applicant must demonstrate its financial ability to repay the loan.

A significant portion of the proposed purchase/easement site must be located within the applicant's delineated Source Water Protection Area(s).

The public water system must demonstrate how the land acquisition or easement to be purchased will directly promote public health protection and/or compliance with national drinking water regulations.

a). Land Acquisition

- Land purchased through this loan program cannot be resold while the public drinking water source is still in use. If the land is resold, the loan becomes due and payable in full.
- The applicant must enter into a legally binding agreement to manage the land to protect its drinking water quality in conformity with guidelines provided by DNREC and allow for periodic inspections of the property by DNREC personnel.
- Any "fixtures" on the property deemed unacceptable by DNREC during its initial site evaluation must be removed by the seller prior to closing on the loan. A fixture is a term commonly used to define an item of personal property that has been converted to real property by being permanently affixed to the realty.

b). Conservation Easements

- For easement purchases, the public water supply system and the landowner must agree to the conservation practices and land uses specified by DNREC, as acting trustee for the public water supply system.
- Conservation easements and approved DNREC property uses must be recorded in the property deed.
- Any "fixtures" located on the easement deemed unacceptable by DNREC during its initial site evaluation must be removed by the owner prior to loan closing. A fixture is commonly used to define an item of personal property that has been converted to real property by being permanently affixed to the realty.

II. Loan Guidelines:

- Interest rates on the loans are determined as a percentage of prevailing market rates in effect at the time of the loan closing. Interest rates on the loans are set at a maximum of 62.5% of the appropriate bond yield for municipal or corporate borrowers, ten days prior to loan closing. Adjustments to these rates may be applied when the affordability rate for user fees exceeds the current targeted rates of 2% of median household income as indicated by the most current U.S. Census data.
- The term of the loan is a maximum of twenty years.
- All costs associated with a land acquisition or the purchase of a conservation easement may be included in the loan amount. These costs can include but are not limited to purchase price, title search, survey costs, subdivision costs if required, lender's title insurance, attorney and filing fees, as well as bond attorney fees for senior debt instruments.

III. Application Procedures:

For investor and privately owned public water systems, a corporate business credit report will be required. The cost of this report is \$52.00. If the corporate credit report does not contain sufficient information to determine the creditworthiness of the applicant or indicates that the

borrowing entity has a credit score rated less than fair, then personal credit reports may be requested for each of the principal owners of the business at a cost of \$31.50, per report. DNREC will cover the initial cost of these credit reports and may recover the costs by applying them to the loan.

A completed loan application form must be accompanied by an original site appraisal, along with two copies of the appraisal. The appraisal must conform to the Uniform Appraisal Standards for Federal Land Acquisitions and be performed by an approved firm on the Department's List of Approved Appraisers which is included with the application forms in Appendix II.

The date of the appraisal should be within one year of the loan application date. The cost of the appraisal to an approved borrower may be reimbursable at closing and included in the loan.

Each application package shall include:

- Two copies of the Application Form
- A Contract of Sale/ or Conservation Easement Agreement signed by the applicant and the site owner(s);
- A completed Seller's Disclosure Form provided in the loan application package as Appendix I; and,
- Maps indicating the proposed site's proximity with respect to the delineated source water protection area.
- The original and two copies of the site appraisal.

In order for the Drinking Water SRF loan program to evaluate a borrower's ability to repay the loan, the following financial disclosures are required of each applicant. These requirements vary depending upon the type of public drinking water system involved.

- Publicly owned (municipal) drinking water providers must include two copies of each of the following:
 - ◆ Audited financial statements for the three most recent fiscal years;
 - ◆ Current year budget;

- ◆ Town Charter;
 - ◆ Most recent bond rating, if available;
 - ◆ Current and proposed user rates.
- Corporate or privately owned systems shall provide two copies of each of the following with the application package:
 - ◆ Most recent three years audited financial statements;
 - ◆ Current year unaudited financial statements;
 - ◆ Articles of Incorporation;
 - ◆ State of Delaware business license;
 - ◆ Listing of corporate officers.
 - ◆ In addition, sole-proprietorship and Chapter S corporations must include signed IRS and State of Delaware tax filings for the last three fiscal years.

The completed application package is to be remitted to:

**Delaware Department of Natural Resources & Environmental Control
Division of Water Resources
Water Supply Section
89 Kings Highway
Dover, DE. 19901**

Attn: Source Water Assessment and Protection Program

If you have any questions regarding this loan program please call the Source Water Assessment and Protection Program at (302) 739-4793.