

# **STRATEGY FOR IMPLEMENTING CLEAN WATER STATE REVOLVING FUND FOR EXPANDED USE PROJECTS (STRATEGY)**

## **I. CWSRF PROGRAM OVERVIEW**

The federal Clean Water Act (CWA) provides for the establishment of the Clean Water State Revolving Fund (CWSRF) program. The program is funded by federal grants and various state sources. The purpose of the CWSRF program is to implement the CWA and various state laws by providing financial assistance for the construction of facilities or implementation of measures necessary to address water quality problems, and to prevent pollution of the waters of the State.

As the administrative agency charged with protecting water quality in the California, the State Water Resources Control Board (State Water Board) is committed to promoting projects and programs that will reduce the impact of pollution to the waters the state.

CWSRF financing is intended to fund the following types of projects;

1. Construction of publicly owned wastewater treatment facilities, including water recycling facilities;
2. Implementation of nonpoint source (NPS) projects or programs and;
3. Development and implementation of Estuary Comprehensive Conservation and Management Plans.

## **II. CWSRF ELIGIBLE & INELIGIBLE EXPENSES**

Consistent with governing statutes, the following are expenses that are generally eligible for CWSRF funding: (however, where appropriate, the State Water Board may impose restrictions on funding specific types of projects)

1. Construction of facilities. These are facilities to treat, reduce, or prevent NPS or point source pollution;
2. Program Development. Costs necessary to implement nonstructural components of water quality control projects, including reimbursement of planning, design, and environmental review for facilities construction;
3. Purchase of land or interests in land necessary for the project or for the purposes of protecting or preserving beneficial uses, including necessary mitigation measures and project implementation;

4. Demonstration projects
5. Education and outreach programs, and
6. Project performance monitoring.

Consistent with governing statutes and policies, the following costs are ineligible for CWSRF funding:

1. Administrative and (i.e., overhead), and other associated costs to acquire land or interests in land;
2. Operating and maintenance costs, extended warranties for equipment, acts of God, flood or earthquake insurance costs;
3. Motor vehicles used for employee transportation or for the transportation of materials generated or consumed by the project;
4. Legal Fees; and
5. Expenses associated with anything that is not an eligible project type.

### **III. CWSRF PROJECT PRIORITY LIST**

For a project to receive funding from the CWSRF, the project must be on the CWSRF Project Priority List (PPL). Requests to add projects to the CWSRF PPL are submitted via the [Financial Assistance Submittal Tool \(FAAST\)](#) by submitting a questionnaire under the "Clean Water State Revolving Fund (CWSRF) Project Priority List."

For more information on how to get on the PPL, [click here](#). Projects with complete, submitted questionnaires are then put on a request list that is then submitted to the applicable regional water quality control board (Regional Water Board) for approval. If approved, the projects are added to the CWSRF PPL.

### **IV. CWSRF PROJECT TYPES & APPLICATION PROCESS**

Project types including: implementation of nonpoint source (NPS) projects or programs and development and implementation of estuary Comprehensive Conservation and Management Plans are considered "Expanded Use" projects under the CWSRF Program.

Construction of wastewater treatment facilities, including water recycling facilities, are not considered "Expanded Use" projects and are funded through the traditional wastewater program established prior to the 1987 amendments to the CWA.

Applicants that are applying for funding of wastewater treatment facilities, including water recycling facilities, should refer to the "[Policy for Implementing the State Revolving Fund for Construction of Wastewater Treatment Facilities](#)" adopted by the State Water Board for specific policies and procedures regarding this type of project. All other projects listed above, should follow the guidance set forth in this document, the "Strategy for Implementing State Revolving Fund for Expanded Use Projects" (Strategy).

## V. EXPANDED USE PROGRAM OVERVIEW

Examples of Expanded Use projects include, but are not limited to: construction of demonstration projects; retention/detention basins; wet ponds; infiltration strips; grassy swales and other structures intended to remove pollutants; invasive species control; abandoned mine clean up (reduction of toxic loadings); brownfield cleanup; endangered species recovery actions; Habitat Conservation Development; implementation of Best Management Practices for industrial facilities' intakes and discharges; and prevention of marine debris. Additionally, implementation of watershed plans, which consists of specific actions, measures, or structural improvements to improve, enhance, or protect the beneficial uses of water within a watershed area may also be eligible projects under the Expanded Use Program.

## VI. EXPANDED USE DEFINITIONS

As used in this Strategy:

- (A) "*Anti-degradation Policy*" is the policy specified in [State Water Board Resolution No. 68-16](#) (Appendix 1).
- (B) "*Beneficial Uses*" has the same meaning as defined in [section 13050\(f\)](#) of the California Water Code (CWC).
- (C) "*Comprehensive Conservation Management Plan*" (CCMP) means a plan developed for a national estuary in accordance with the National Estuary Program established under section 320 of the CWA. CCMPs contain recommended actions to: (1) restore and maintain water quality; (2) maintain a balanced indigenous population of shellfish, fish, and wildlife; (3) allow recreational activities in the estuary; and (4) protect the beneficial uses of the estuary.
- (D) "*Demonstration Project*" means any program, device, method, or system that is a

new or innovative technical or institutional approach to water quality problems, which will accelerate the transfer and adoption of new and innovative management practices.

- (E) “*Estuary Enhancement Project*” means a project that implements a CCMP.
- (F) “*Linked Deposit Program*” means an agreement between the State Water Board, a local public agency responsible for watershed planning, and one or more financial institutions to provide commercial loans at below market rates to private parties for water quality benefits.
- (G) “*Mini-Loan Program*” means a loan program administered by a local public agency which uses CWSRF funds to issue loans to private parties for projects that will result in water quality benefits. The local public agency acts as a banker and incurs the risk for the loans. The principal and interest from the mini-loans are used to repay the CWSRF financing.
- (H) “*Nonprofit Organization*” means any California corporation organized under sections 501(c)(3) or 501(c)(5) of the Internal Revenue Code.
- (I) “*Point Source*,” as defined in federal regulations (40 Code of Federal Regulations [CFR] § 122.2), means any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.
- (J) “*Public Agency*” has the same meaning as “municipality as defined in section 502 of the CWA (33 U.S.C. § 1362). Public agency means a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA.
- (K) “*Water Quality Objectives*” has the same meaning as defined in section [13050\(h\)](#) of the CWC.

## **VII. EXPANDED USE LOAN CONDITIONS**

Financial assistance applicants that have received approval for their project at a scheduled State Water Board meeting or from the Deputy Director of the Division of Financial Assistance will enter into a financing agreement with the State Water Board.

Conditions in the financing agreement will include the following rates and terms:

1. Interest rates on direct financing to public agencies and nonprofit organizations will be up to one-half of the interest rate of the most recent sale of State General Obligation Bonds. Interest rates to private parties through lined deposit programs, mini-loans, and similar programs will be established by the lending institution.
2. Financing terms for public agencies and nonprofit organizations will be up to 20 years with the first repayment due one year after the first disbursement of funds. Loan terms for private parties will be established by the lending institution, but shall not exceed 20 years.

## **VIII. BASIC REQUIREMENTS FOR THE EXPANDED USE PROGRAM**

- A. The purpose of the project must be to reduce pollution loading to surface water or ground water or implement an estuary conservation and enhancement program.

The project must address one of the following:

1. Water quality objectives.
2. Protection or enhancement of beneficial uses.
3. Antidegradation Policy.

- B. The project must be placed on the Statewide CWSRF Project Priority List.

- C. The applicant must complete a financial assistance application package in [FAAST](#) that includes, but is not limited to:

1. The application form
2. A resolution authorizing the applicant's representative to sign the financial assistance application and execute the financing agreement.
3. Evidence of compliance with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) by one of the following:
  - a. Categorical Exemption
  - b. Initial Study / Negative Declaration
  - c. Initial Study / Mitigated Negative Declaration
  - d. Environmental Impact Report
4. Identification of one or more dedicated repayment sources for project financing
5. A Planning Study which at a minimum does all of the following:

- a. Identify the water quality, water conservation, estuary enhancement, or beneficial use objectives, (as described in Paragraph VIII A), of the project.
  - b. Discuss alternatives and select the best means of addressing the above problems.
  - c. Discuss the economic benefits of the project.
- D. The applicant must comply with all applicable federal and State laws. These laws include, but are not limited to those listed at the end of this document.

## **IX. BASIC PROCEDURES FOR EXPANDED USE SRF**

Generally, an applicant will have conducted one or more public hearings to discuss the proposed project or program prior to submitting an application for CWSRF financing. The applicant may also have conducted studies that describe the pollution problem, identify the impacts, and recommend remediation steps. Once the applicant identifies a project or program for which it would like financial assistance, the basic procedures are as follows:

1. The applicant contacts the appropriate Regional Water Board to discuss the project.
2. The applicant submits a questionnaire through [FAAST](#) under "Clean Water State Revolving Fund Project Priority List" to get on the Statewide Priority List.
3. The applicant completes a project planning report and environmental review documentation in accordance with CEQA.
4. The applicant completes a [FAAST](#) loan application under "Expanded Use Clean Water State Revolving Fund."
5. The State Water Board staff reviews the financial assistance application as documents become available. State Water Board staff coordinates with the applicant through the submittal process to ensure adequate supporting documentation.
6. The State Water Board staff issues a Project Plan Approval if the project meets the requirements of the Strategy.
7. The State Water Board staff presents the proposed project to the State Water Board or Deputy Director of the Division of Financial Assistance for approval of a CWSRF financing commitment.

8. The State Water Board and the applicant execute the financial assistance agreement.
9. For construction projects, the applicant prepares bidding documents and submits them to the State Water Board for approval.
10. The State Water Board staff approves the bidding documents. The applicant begins bid procedure.
11. The applicant proceeds with the project.
12. The applicant's prepares progress and final reports detailing project performance.
13. The applicant makes annual repayments of principal and interest starting one year after the first disbursement of the financing agreement until final repayment.

## **X. NONPOINT SOURCE PROJECTS**

Nonpoint sources are a major cause of water pollution in California. Various NPS projects and programs may assist in addressing California's water pollution and can be funded through the CWSRF program.

- A. Eligible Applicants. The following applicants are eligible for CWSRF funding for NPS projects:
  1. Nonprofit organizations
  2. Public agencies.
- B. Eligible Projects

Consistent with governing statutes, a project eligible for CWSRF funding under this category must be consistent with the five-year implementation strategy contained within the State's NPS Management Plan developed pursuant to section 319 of the CWA. The "[Plan for California's Nonpoint Source Pollution Control Program](#)" adopted by the State Water Board on December 14, 1999, is the most current version of California's NPS Management Plan. CWSRF funding will be provided only to projects that address a regional or area wide water quality problem.

The following project categories are contained in the 5 year implementation strategy:

1. All or Multiple Land Use Categories
2. Agriculture

3. Forestry (Silviculture)
4. Urban
5. Marinas and Recreational Boating
6. Hydromodification
7. Wetlands, Riparian Areas, and Vegetated Treatment Systems
8. Other Activities (abandoned mines, marine native plant restoration and marine invasive species eradication)

## **XI. ESTUARY ENHANCEMENT PROJECTS**

CWSRF funding for estuary enhancement projects shall be limited to the development and implementation of the CCMP for an estuary designated as an “estuary of national significance” in accordance with CWA section 320. Estuary enhancement projects may include, but are not limited to, addressing point sources.

### **A. Eligible Applicants.**

Same as for NPS projects.

### **B. Eligible Estuaries.**

To date three estuaries in California have been designated as estuaries of national significance. These estuaries are:

1. San Francisco Bay Estuary
2. Morro Bay Estuary
3. Santa Monica Bay Estuary

### **C. Other Estuaries**

Estuaries that are not part of the National Estuary Program do not qualify for funding under section 320 of the CWA. However, projects within these estuaries may receive funding to the extent that they meet the criteria set forth in Section X (Nonpoint Source Projects) of this Strategy.

## **XII. Nonpoint Source and Estuary Enhancement Projects**

Financing to public agencies for NPS or estuary enhancement projects can also fund eligible programs that help provide financial assistance to private parties.

These types of programs include:

- a. Linked Deposit Programs
- b. Mini-Loan Programs

- c. Other intermediary lenders. The State Water Board, at its discretion, may approve another type of partnership agreement with an intermediary that will evaluate credit risk, secure the CWSRF funds, and administer individual loans.

### **XIII. STATE WATER BOARD CONTACT INFORMATION**

An Expanded Use staff person will be assigned as liaison between the State Water Board and the applicant. The assigned staff person will oversee every aspect of the financing process to insure that applications are handled expeditiously. A staff person will also oversee the reimbursement schedule to ensure that financial assistance recipients are paid promptly.

If you have any questions regarding this application or the SRF process, you may contact a loan representative at (916) 327-9979 or email [CleanWaterSRF@waterboards.ca.gov](mailto:CleanWaterSRF@waterboards.ca.gov) (include "Expanded Use CWSRF" in the email subject line).



## **List of Federal Laws and Authorities**

### **Environmental Authorities**

1. Archeological and Historical Preservation Act of 1974, Pub. L. 86-523, as amended, Pub. L. 93-291 16 USC § 469a-1.
2. Clean Air Act, Pub. L. 84-159, as amended.
3. Coastal Barrier Resources Act, Pub. L. 97-348, 96 Stat. 1653; 16 USC § 3501 et seq.
4. Coastal Zone Management Act, Pub. L. 92-583, as amended; 16 USC § 1451 et seq.
5. Endangered Species Act, Pub. L. 93-205, as amended; 16 USC § 1531 et seq.
6. Environmental Justice, Executive Order 12898.
7. Floodplain Management, Executive Order, 11988 as amended by Executive Order 12148.
8. Protection of Wetlands, Executive Order 11990, as amended by Executive Order No. 12608.
9. Farmland Protection Policy Act, Pub. L. 97-98; 7 USC § 4201 et seq.
10. Fish and Wildlife Coordination Act, Pub. L. 85-624, as amended.
11. National Historic Preservation Act of 1966, Pub. L. 89-665, as amended, 80 Stat. 917 (1966) 16 USC § 470 et seq.
12. Safe Drinking Water Act, Pub. L. 93-523, as amended; 42 USC § 300f et seq.
13. Wild and Scenic Rivers Act, Pub. L. 90-542, as amended, 82 Stat. 913; 16 USC § 1271 et seq.
14. Essential Fish Habitat Consultation. Pub. L. 94-265, as amended, 16 USC § 1801 et seq.
15. Recycled Materials. Executive Order 13101; Section 6002 Resource Conservation and Recovery Act – 42 USC § 6962.

### **Economic and Miscellaneous Authorities**

1. Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89-754, as amended, Executive Order 12372/ 42 USC § 3331 et seq.
2. Procurement Prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans; 42 USC § 7606; 33 USC § 1368; 40 CFR Part 31.
3. Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646, as amended; 42 USC §§4601-4655
4. Contractors, Subcontractors, Debarment and Suspension, Executive Order 12549; 2 CFR Part 180; 2 CFR Part 1532. The Excluded Parties List System can be found at <http://epls.gov> . The Recipient represents and warrants that it has included a term or conditions requiring compliance with this provision in all of its contracts and subcontracts. The Recipient acknowledges that failing to disclose

the information as required at 2 CFR 180.335 may result in the termination, delay or negation of this Agreement.

5. Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects, EO 13202, as amended by EO 13208.
6. Hotel and Motel Fire Safety Act of 1990 (PL 101-391, as amended). Recipients may search <http://www.usfa.dhs.gov/applications/hotel/>.
7. Records and financial reporting (40 CFR Part 31).
8. Copyright. 40 CFR Part 31.
9. Prevailing Wage Law, Davis-Bacon Act of 1931 (as amended).

### **Social Policy Authorities**

1. Age Discrimination Act of 1975, Pub. L. 94-135; 42 USC § 6102.
2. Race Discrimination: Title VI of the Civil Rights Act of 1964, Pub. L. 88-352.1; 42 USC § 2000d, 40 CFR Part 7.
3. Sex Discrimination: Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 (the Clean Water Act); 33 USC § 1251, 40 CFR Part 7.
4. Disability Discrimination: Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (including Executive Orders 11914 and 11250); 29 USC § 794, 40 CFR Part 7.
5. Equal Employment Opportunity, Executive Order 11246.
6. Disadvantaged Business Enterprise, Executive Orders 11625, 12138, and 12432; 40 CFR Part 33.
7. Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Pub. L. 100-590.
8. Anti-Lobbying Provisions (40 CFR Part 34). Borrower agrees to submit certification and disclosure forms as requested by the State Water Resources Control Board or the USEPA. In accordance with the Byrd Anti-Lobbying Amendment, any Recipient who makes a prohibited expenditure under 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure. The Recipient shall ensure that no Project Funds provided by the State Water Board under this assistance agreement are used to engage in lobbying of the federal government or in litigation against the United States unless authorized under existing law. The Recipient shall abide by its respective 2 CFR 200, 225, or 230, which prohibits the use of federal grant funds for litigation against the United States or for lobbying or other political activities.
9. Anti-Litigation Provisions (2 CFR 220, 225, or 230).
10. Trafficking Victims Protection Act of 2000.
11. ACORN Prohibition. None of the Project Funds used in this Agreement may be used for contracts or subcontracts to ACORN.