

SRF FEDERAL LOAN PROGRAM
GUIDANCE FOR LOAN RECIPIENT

March 2021

The Authorization Letter issued by the Drinking Water Board details requirements the Applicant must meet before the loan can be closed. This guidance document is provided to help the Applicant understand those requirements. It lists specific activities that must be completed and documents which must be provided to the Division of Drinking Water (DDW).

This guidance document is not part of the authorization letter and is not an official document for a specific loan. It is supplemental information provided as a courtesy and guide to the Applicant.

The guidance document is intended to help the applicant understand what individual activities are required by federal and state regulations. For a given project some of these activities and/or documents may not be required or at least required to the detail listed. This is not a comprehensive list. Therefore, even if a requirement is not listed below, the applicant must none-the-less comply with that requirement.

DEFINITIONS/CLARIFICATIONS:

1. The terms "applicant", "loan recipient", and "borrower" are synonymous.
2. "SRF" stands for State Revolving Fund.
3. "Engineer" refers to the licensed professional engineer hired by the Borrower to administer the construction project on behalf of the Borrower. The work to be performed by the Engineer includes designing, preparing bid documents, and inspecting construction work.
4. The Borrower is responsible for completing all requirements of the authorization letter. It is anticipated that the Borrower will have:
 - a. Its Attorney(s) perform all legal work and prepare all legal documents required by the authorization letter.
 - b. Its Engineer(s) complete many of the requirements for the loan, including assisting with the environmental requirements.

COORDINATION and MEETINGS:

It is recommended that the Borrower contact the program coordinator at the DDW after receiving the authorization letter to review loan requirements. It is appropriate for the DDW and Borrower to hold an initial coordination meeting to discuss the terms and requirements of the loan. The Borrower is advised to have an attorney, bond counsel, engineer, and others attend the meeting. Additional meetings may be held to discuss the requirements and the Borrower's progress.

ENGINEERING - TECHNICAL WORK:

1. The Borrower shall hire a professional Engineer licensed in the State of Utah to design the project. The contract shall include design and construction inspection services. The Borrower is required to provide a copy of the Engineering Contract to the DDW.
2. The Borrower, or their consulting Engineer, shall provide a copy of the master plan / preliminary engineering report / feasibility study that justifies the need for and priority of the proposed project to the DDW.
3. Plans and Specifications: The following is required:
 - a. The Engineer shall prepare plans, specifications, and other bid documents in compliance with State regulations, and submit them to DDW for review.
 - b. The Borrower/Engineer may not accept bids from Contractors/Vendors on the project until "plan approval" has been received from DDW.
 - c. The Borrower shall have a bid opening. An analysis of the bids must be made to verify that the project can be completed with available funding before DDW will allow a loan closing.
 - d. The bid documents and contractor records must be reviewed by DDW to verify that the low bidder has taken the required "six affirmative steps" and has otherwise complied with 40 CFR Part 33 Subpart C.
 - e. Prior to awarding the Contract the Borrower shall complete Item 3.c., select low bidder according to Item 3.d., and close the loan.

ENVIRONMENTAL AND CULTURAL RESOURCE CLEARANCES:

The Borrower shall have an “**Environmental Assessment**” prepared for the project. A copy of all correspondence, environmental work, reports, permits, changes in the facilities design to accommodate environmental requirements or to mitigate environmental impacts, clearances, etc. must be provided to DDW. All surveys, studies, and other work must be performed by consultants who have the specific qualifications for the required work. The borrower may have the Engineer do the environmental work, if qualified, or assist with the arrangements to have it done. The Environmental Assessment (EA) will be reviewed by the DDW, who has authority to accept or reject it on behalf of EPA and who will make the determination as to whether a full EIS is required or if a Finding of No Significant Impact (FONSI) is warranted. The DDW will prepare the FONSI when appropriate.

The following documents are required:

1. Address the "cross-cutting Federal authorities" listed in the Drinking Water Board (DWB) Authorization Letter.
2. The Borrower must send a letter to each cross-cutting agency listed on the next page and any other appropriate state or federal agencies. All letters may have the same text body but be addressed individually to the head of each office providing notification of the proposed project. The letter must provide a description of the scope of work of the project, its justification and purpose, its location (including Section, Township & Range), other important factors related to the community and project, etc. A location map and site plan showing the location of proposed facilities must be attached, along with any other information that will help the letter's recipient understand what is proposed. Any additional or alternate sites of work selected later must also be included.
3. The Division of Drinking Water will consult with the Utah State Historic Preservation Office. To meet SHPO requirements, the Borrower, or their consulting engineer, shall submit cultural resource survey information to DDW following the General Reporting Guidance or Negative Report Form instructions outlined in the State of Utah Archaeological Compliance Guidance (https://history.utah.gov/wp-content/uploads/2020/06/SHPO-Archaeological-Guidance_6_8_2020_Final.pdf). The report must be accompanied by geospatial data of the area surveyed.

CROSS-CUTTING AUTHORITIES:

All State Agencies

Utah Public Lands Coordinating Office
Resource Development Coordinating
Committee

350 North State Street, Suite 5110
Salt Lake City, UT 84114-1107
801-537-9801

Submit to RDCC Project Management
System:

<http://rdcc.utah.gov> or rdcc@utah.gov

Indian Tribes

Based on project location, please notify
the appropriate tribal nation, band, or
chapter contact(s):

<https://indian.utah.gov/aboutus/ut/>

Endangered Species

Utah Field Office Supervisor
U.S. Fish and Wildlife Service
2369 West Orton Circle, Suite 50
West Valley City, UT 84119
801-975-3330

utahfieldoffice_esa@fws.gov

Floodplain Management

Program Specialist
Federal Emergency Management Agency
Denver Federal Center, Building 710
P.O. Box 25267
Denver, CO 80225-0267
303-235-4812

Prime & Unique Farmlands

State Soil Scientist
USDA Natural Resources Conservation
Service
125 South State Street, Room 4010
Salt Lake City, UT 84138-1100
801-524-4550

Wetlands

US Army Corps of Engineers
Bountiful Field Office
533 West 2600 South, Suite 150
Bountiful, UT 84010-7744
801-395-8842
cespk-regulatory-info@usace.army.mil

Additionally, a copy of the notification letter and packet must be mailed to the following:

- a. Division of Drinking Water
 - b. Any other parties having an *interest* in the project e.g., adjacent property owners
4. All responses to the above referenced letters.
 5. The report for all studies or surveys conducted.
 6. Copy of all required permits (e.g. Corps of Engineers NW- 12 Permit for wetlands).

7. The following issues shall be addressed in the EA, even if no agency has required a specific survey or study of the project area. It shall state why a particular study was not conducted, if not required. If required, it shall state i) what the conclusion(s) of the report are, ii) what the borrower is required to do, and iii) what the borrower intends to do to satisfy the requirement(s) of the EA and when.
- a. Threatened and endangered species
 - b. Other protected species, such as conservation species
 - c. Cultural resources
 - d. Wetlands

PUBLIC INVOLVEMENT:

Federal regulations governing this program require public participation. It is the Borrower's responsibility to guarantee the public is given adequate advance notification of public meetings and hearings held by the borrower and that the public is given the opportunity to be involved in discussions about the project and in the decision-making process. Public notice shall be published in the newspaper, posted at the Post Office, posted at other community buildings, and/or distributed by mail and/or by other methods which are normally used by the borrower to provide public notice. Public Hearings require a 30-day advance notification to allow the public ample time to study the issues and decide to attend said hearings.

1. A minimum of two Public Hearings must be held for the project. A copy of each public notice and minutes of the public hearings and other Council/Board public meetings during which the project was discussed must be provided to the DDW Project Manager.
2. The purposes of the first public hearing are to notify and involve potentially affected users and to discuss the community's drinking water problems, alternative solutions to the problems and their merits and liabilities, their financial impacts on the community, the anticipated impact on water rates and fees, and other related issues. The governing body of the organization also selects which alternative solution to pursue.
3. The principal purposes of the second public hearing are to present the proposed project to the affected community and to discuss it. The discussion should principally focus on the environmental issues but may include other aspects of the project, including financing, proposed changes in water rates and fees, or other impacts on users and the community may be discussed, particularly if additional information has come to light or changes have been made.

LEGAL WORK, BONDING, and FINANCIAL:

The Borrower shall do the following:

1. Consult with its legal counsel and have said counsel review the DWB Authorization Letter. Said counsel shall provide the required documents, including certification that the Borrower has legal title to the rights-of-way, owns the water rights for the water it is using, etc.
2. Hire bond counsel to prepare the bond resolution and do the other related bond work.
3. Pass the bond resolution, after holding a required Bond Public Hearing, take any other required actions, and do any other work required for bonding and financing of the loan as required by the DWB Authorization Letter. This includes preparation of the "rate ordinance" and "collection enforcement procedures."
4. Establish a "debt service reserve account" into which an amount equal to 10% of the annual loan payment will be placed each year for the succeeding ten years.
5. Setup a "replacement reserve account" into which an amount equal to 5% of the annual O&M budget will be placed each year for the succeeding twenty years.
6. Provide all draft legal documents to the assigned Special Assistant Attorney General designated in the DWB Authorization Letter for their review as required by the authorization letter.
7. Provide all legal documents required by the DWB Authorization Letter.
8. Coordinate the scheduling of a bond closing with bond counsel and the DDW staff.

CONSTRUCTION PHASE:

Usually, the Engineer will prepare all the following documents and otherwise serve as the Borrower's agent in administering the construction contracts.

1. Preconstruction Conference: Coordinate and hold a Precon with DDW staff, Engineer, and Contractor(s). Allow time during the Precon for DDW staff to discuss various requirements e.g., Davis-Bacon, American Iron and Steel certification, pay requests, required forms & reports, other state and federal requirements, and technical issues.
2. Change Orders: Submit change orders to DDW. In some cases, DDW may only

require the receipt of copies of small change orders from the Borrower.

3. Progress Payment Requests and Final Payment Request: All payment requests must be submitted to the DDW staff for review and approval before payment will be made.

4. Inspections: The Engineer will provide a qualified inspector to inspect project construction work and oversight of said inspector by the Engineer. DDW staff must be given access to the complete construction project to inspect the work at any time.

5. Final Inspection: When the project is complete the Borrower/Engineer will coordinate a final inspection with DDW Staff, Borrower, Engineer, and Contractor. It must be scheduled in a timely manner such that the DDW staff has adequate notification so arrangements can be made to attend the inspection.

6. Construction Closeout: The Borrower/Engineer will work with DDW staff and provide appropriate documentation to properly closeout/finalize the project.

OTHER SUPPLEMENTAL INFORMATION:

It is the Borrower's responsibility to request clarification on any questions, apparent conflicts, or concerns. DDW will make every attempt to keep the Borrower informed of other requirements or developments as they are recognized. DDW will provide the Borrower with as much information and assistance as time and resources permit. For example, two other resources are available:

1. Timeline: A timeline is available as a scheduling aid. It is only a rough sketch but should be helpful to the Borrower in seeing how the time constraints for environmental work, bonding, project design and bidding, public notices, hearings, etc. fit together.

2. Disadvantaged Business Enterprise (DBE) Procurement Requirements: The Borrower and Engineer must provide language from this document in all bid solicitations for this project. The Borrower and Engineer are required to inform potential bidders of the DBE requirements in the bid documents for this project as shown in this document.