

State of Illinois
Public Water Supply Loan Program
Draft Intended Use Plan
FY 2010
October 1, 2009 – September 30, 2010

A. Introduction

The purpose of this Intended Use Plan (IUP) is twofold: 1) to fulfill the requirements of Section 1452(b) of the federal Safe Drinking Water Act of 1996 (SDWA) and as a prerequisite for award of a federal grant to the Illinois Environmental Protection Agency (Agency) for capitalization of the State Revolving Fund and the Public Water Supply Loan Program (PWSLP); and 2) to provide loan applicants, potential loan applicants and the general public with direction regarding the intended uses of the State Revolving Fund (SRF) and the PWSLP in federal fiscal year 2010.

The IUP requirements under the SDWA are as follows:

1. A list of the projects proposed for construction on the State Priority List, including a description of the project and the expected terms of financial assistance;
2. A description of the short and long term goals associated with the State Revolving Fund and the PWSLP;
3. Information on the types of financial activities to be supported including a description of projects, and the size of communities and local governments served;
4. A description of the financial status of state loan funds, along with assurances and specific proposals for meeting certain requirements of the capitalization grant agreements; and
5. The criteria and methods established for the distribution of state funds.

In addition, Section 1452(b)(3) requires that an Intended Use Plan shall provide to the maximum extent practicable that priority for the use of funds is given to projects that:

- Address the most serious risk to human health;
- Are necessary to ensure compliance with the requirements of the SDWA; and
- Assist systems most in need on a per household basis, according to affordability criteria established by each state.

This IUP will also serve as a planning document in outlining the anticipated and intended uses of the SRF and the PWSLP in federal FY 2010 extending from October 1, 2009 through September 30, 2010. In past years, this initial or “first cut” IUP for the PWSLP has been considered approximately six weeks prior to the beginning of the subject fiscal year, with this year’s first cut document delayed due to ongoing activity associated with the influx of 2009 funding via the

American Recovery and Reinvestment Act of 2009 (ARRA). With ARRA activities winding down and ARRA (2009) funds expected to be fully committed prior to the end of the calendar year 2009, this IUP is designed to assure a smooth transition to FY 2010 in the wake of unprecedented WPCLP loan activity under the ARRA programs.

B. Long Term Goals (5-Year Timeframe)

1. To provide a stable and perpetual financing source for eligible public water supply systems within the State and to commit all available loan resources to those eligible loan applicants;
2. To provide financial assistance to all types of projects eligible under the Safe Drinking Water Act (SDWA) and the State enabling legislation;
3. To provide financial assistance to local government units and certain privately owned water utilities at interest rates significantly below those offered on the open market;
4. To maintain the integrity of the Water Revolving Fund;
5. To continue the development of the Water Revolving Fund as a major financial vehicle for achieving compliance with State and federal law;
6. To explore the expansion of eligibility to address issues of water efficiency, energy efficiency and green infrastructure and to develop new eligibility requirements to accommodate expanded eligibilities in the base SRF program; and
7. To contribute to the long-term recovery of the economy by creating and preserving sustainable jobs in communities across the state.

C. Short Term Goals (FY 2010)

1. To provide funding for as many eligible projects as possible, to the extent that applications are completed and funds are available;
2. To commit all available loan resources to eligible loan applicants;
3. To provide financial assistance for projects necessary to achieve or maintain compliance;
4. To continue support for projects or project components focused on “green infrastructure, water or energy efficiency improvements or other environmentally innovative activities”, and to commit not less than 20% of capitalization funds provided to projects meeting the definitions developed there under;
5. To manage a program that provides applicants with a streamlined approach to financing public water supply projects;
6. To increase staffing levels commensurate with increases in loan demand; and

7. To further the administrative capabilities of the PWSLP, including conversion of the current computer system from D-Base to a Windows based system.

D. Program Characteristics

1. Public Water Supply Loan Program – The Illinois program will continue to consist of loans to units of local government and to those classes of privately owned community water supplies determined by the Illinois General Assembly to be acting as water utilities. These include not-for-profit and co-operative water utilities, and commercial water utilities regulated by the Illinois Commerce Commission.

Monies available will be managed under emergency rules established to govern the distribution of those funds. Under permanent rule, the fixed loan rate is established at 50% of the market interest rate, computed as the mean rate of the 20 General Obligation Bond Buyer Index for the time period July 1 through June 30, with a minimum rate of 2.50%. The fixed loan rate is traditionally established each July 1, and for State FY 2010 would normally have been established at 2.50% on July 1, 2009. In recognition of the continuing economic downturn, loan recipients will repay loans provided at a fixed loan rate less than 2.5%, as determined by the Director of the IEPA, with establishment of the fixed loan rate for FY 2010 pending final Congressional action on appropriations for FY 2010.

A final decision on principal forgiveness terms that could potentially be offered for FY 2010 is also pending final federal action on appropriations for FY 2010. Under the ongoing ARRA programs, 50% of principal disbursed directly from ARRA funds will be forgiven pursuant to additional subsidization requirements contained in the Act, resulting in net principal forgiveness of 25% on projects funded with ARRA and current program funds under the ARRA programs. While there is some support in Congress for continuing the additional subsidization requirements first contained in the ARRA legislation, the amount of principal forgiveness required by Congressional action or offered independently in the program by the Agency is not expected to approach amounts made available for this purpose under the ARRA programs. The use of principal forgiveness terms, if made available in FY 2010 and future fiscal years will be managed judiciously and targeted specifically to disadvantaged communities and/or innovative clean water technologies.

Loan awards will have a maximum term of 20 years from the initiation of operation, with initial repayments of principal to commence within one year of the initiation of operation as determined by the terms of each Loan Agreement.

2. Loan Support Program – The State of Illinois, via the Illinois EPA, has operated and maintained a Loan Support Program (LSP) outside the Federal SRF since 1996. The LSP is financed by the loan support portion of the fixed loan rate (not more than 50%), with that portion currently established at 50% of the fixed loan rate in both the Water Pollution Control Loan Program (WPCLP) and Public Water Supply Loan Program (PWSLP). To date, the LSP has been used primarily to finance the reasonable costs incurred by the

Illinois EPA in managing the Water Revolving Fund, which is the financial mechanism used in administering Illinois' SRF programs.

Receipts for the Loan Support Program in the most recent full State fiscal year (year ending 6/30/09) totaled \$19.6 million, with outlays totaling \$10.9 million dedicated to direct support of the SRF programs, including compliance, permitting and field operations activities in both the Public Water Supply and the Water Pollution Control divisions of the Agency. Funds not utilized in any given State fiscal year are carried forward for use in future State fiscal years, and the current balance (as of 6/30/09) is \$39.4 million. While the LSP is maintained as a single entity in Illinois statute, the Illinois EPA has accounted separately for funds attributable to PWSLP and WPCLP loans, and the \$39.4 million balance reflects the accumulation of monies earned through both the WPCLP (\$37.0 million) and PWSLP (\$2.4 million) programs.

3. State Match – In accordance with the 1987 Amendments, the State must deposit in the Fund an amount equal to at least 20% of the total amount of all capitalization agreements on or before the draw- down of cash from the letter of credit. Appropriations totaling \$110 million were approved for this purpose in Public Act 96-35 (effective July 13, 2009), with authorization for the sale of State General Obligation Bonds provided in Public Act 96-36 (effective July 13, 2009) to support those appropriations.
4. Leveraged Bond Proceeds – The resources of the existing loan program may be utilized as security for the sale of bonds, the proceeds from which would be deposited into the Fund to supplement State and federal capitalization funds and repayment funds or to serve as the source for State matching funds for federal capitalization grants. The Agency does not expect to participate in a leveraged bond sale that would impact program resources in FY 2010.

E. Assurance of Specific Proposals

Pursuant to Section 1452 of the Safe Drinking Water Act (SDWA) Amendments of 1996, the Illinois Environmental Protection Agency (IEPA) has provided the necessary assurances and certifications as part of the official Operating Agreement between the IEPA and USEPA

Pursuant to that section, the IEPA certifies that:

1. The IEPA will enter into binding commitments equal to at least 120% of the amount of each quarterly grant payment within one year after receipt of the payment;
2. The IEPA will expend all monies in the Fund in an expeditious and timely manner;
3. Additionally, the IEPA certifies that it will perform an environmental review of all loan projects in accordance with the Illinois State Environmental Review Procedures as contained in the Operating Agreement and in emergency rules established to govern eligibility for funds.

The IEPA hereby provides additional assurance and certification that:

1. To the extent that there are sufficient eligible applications, the IEPA will utilize not less than 20% of capitalization funds provided to provide continued support for projects or project components focused on “green infrastructure, water or energy efficiency improvements or other environmentally innovative activities”, and will commit not less than 20% of those capitalization amounts to projects meeting the definitions developed under developing guidance provided by the USEPA. The IEPA will evaluate projects on the Project Priority List (Attachment A) and other projects that may gain eligibility for inclusion on the PPL to determine which ones qualify, in whole or in part, to be included in the Green Project Reserve. This includes the evaluation of stand-alone applications that have been received to determine eligibility.
2. The IEPA will comply with all statutory requirements of the SDWA, other enabling legislation and requirements promulgated through guidance or regulations issued by the USEPA.
3. The IEPA will expend all monies available under the PWSLP in an expeditious and timely manner.

F. Criteria and Method for Distribution of Funds

1. Financial Assistance Limitation – In recognition of the continuing economic downturn and the unprecedented project demand associated with the ongoing ARRA programs, emergency rules established to govern the distribution of funding amounts will restrict the amount of PWSLP financial assistance provided to any single entity to a maximum of \$10,000,000. This limitation reflects the intent of the State to fund as many worthwhile projects as practicable from limited available resources.

Notwithstanding financial assistance limitations imposed under program regulations, project costs above those limitations will be eligible for assistance under the PWSLP as funds are available in future fiscal years. In those instances where total project needs exceed the limitations of available funding, applicants will be encouraged to break a project into multiple segments for phased loan assistance, constructing first those project elements most significant in attaining or maintaining compliance objectives and reserving eligibility for future years as loan funds become subsequently available.

2. Project Priority List (PPL) Development – The IEPA has developed and will maintain a Project Priority List (Attachment A) that identifies eligible applicants for assistance under this Intended Use Plan and is based on and includes all projects that submitted pre-applications between April 1, 2008 and March 31, 2009. Projects that have achieved Project Planning approval in the PWSLP prior to September 30, 2009 have been ranked and scored in accordance with the provisions of 35 Ill Adm Code Part 663, “Procedures and Requirements for Determining Loan Priorities of Projects in the Public Water Supply Loan Program”.

That priority system is heavily weighted to primarily rank projects in order of their relative public health significance based on violations of state public health criteria and of

the federal Safe Drinking Water Act. The primary factor for prioritizing projects is the “A2”, or Project Need factor, which groups projects together in relative order of the seriousness of the compliance need. At the top of the list are any projects to correct a public health emergency situation, followed by those with a need to correct Acute Maximum Contaminant Level (MCL) violations, followed then by all projects with a need to correct Chronic MCL violations. The next grouping of projects is those required to correct potential public health threats caused by violations of State standards relating to pressure, transmission, and storage, followed by those projects intended to extend water service to rural areas served by defective private wells. At the bottom of the list are those projects which do not correct existing compliance or public health problems but are still necessary and desirable to maintain an adequate and safe public water supply.

Within each of these major compliance groupings, projects are further ranked in priority order by various other factors such as local financial hardship (a consideration required under the SDWA), numbers of persons directly benefited by the proposed construction, and project schedule. Additional bonus points are awarded if a community has a population of less than 10,000 persons, again in recognition of the intent of the SDWA. These additional factors are vital to the function of the priority system in that they serve to provide a differentiation of project rank order within each of the major compliance groupings.

All other projects for which a pre-application was submitted between April 1, 2008 and March 31, 2009, and for which Project Planning approval has not been achieved, have been added to the PPL by virtue of limited priority scoring and are listed on the PPL in alphabetical order. All projects in this category are ranked equally in the project priority system and will be afforded full priority scoring and ranked according to that score upon achieving approval of a Project Plan.

A subset of the PPL is incorporated as the IUP List (Attachment B) for purposes of this Intended Use Plan. Projects included on the IUP List must have a construction start date prior to March 31, 2010 and given that proviso are simply those that have the highest priority rank relative to other eligible projects within the limits of available funds and currently qualifying pre-applications. In accordance with the provisions of 35 Illinois Administrative Code Part 663, “Procedures and Requirements for Determining Loan Priorities of Projects in the Public Water Supply Loan Program”, and the emergency rules established to govern the implementation of the PWSLP for FY 2010, loan funds will be reserved for projects included on the IUP List until they either complete loan applications or demonstrate that they will not complete loan applications prior to March 31, 2010. In the latter case, a project for which funding was originally reserved may be bypassed for funding. A project that is bypassed does not lose its position or eligibility for funding from the PPL; however funds for a bypassed project are no longer held in reserve and may thereafter, during the bypass funding period (April 1, 2010 through September 30, 2010), be awarded to any other project on the PPL that completes a loan application. Projects will be funded in the order in which applications are completed.

Please note that many of the projects for which funding is initially reserved for FY 2010 by virtue of their inclusion on the IUP List (Attachment B) are working toward funding in the PWSLP/ARRA programs that have been extended from FY 2009 and are currently ongoing. Funding reserved for projects that achieve PWSLP/ARRA loans (FY 2009

ongoing programs) will be released from reserve and available for other projects on the Project Priority List that achieve Project Plan approval. It is currently estimated that approximately 2/3 of the funding commitments reflected on the IUP List will be satisfied under the ongoing PWSLP/ARRA programs over the balance of this calendar year, freeing approximately \$65 - \$70 million for commitment to other projects on the PPL.

Funds may be awarded to any project on the Project Priority List that accomplishes a full and complete loan application, and projects will be funded in the order in which applications are completed, with provisions included in the Procedures and Requirements for Determining Loan Priorities of Projects in the Public Water Supply Loan Program as contained in 35 Ill. Adm. Code Part 663 considered to the maximum extent practicable in cases where funding availability may be limited.

Per State rule (35 Ill Adm Code, Part 663), a project may be added to the Project Priority List (Attachment A) at any time during the year upon obtaining Agency approval of its Project Plan, provided a pre-application has been submitted for the project. Eligible projects with approved Project Plans will be scored and ranked for priority and added to the Project Priority List from time to time. These belated additions will be eligible for assistance under the PWSLP and funds may be awarded to any project on the Project Priority List that accomplishes a full and complete loan application, subject to the availability of funds. Provisions included in 35 Ill Adm Code, Part 663 will be considered to the maximum extent practicable in cases where funding availability may be limited.

3. Set-Asides – In the upcoming fiscal year, the Agency will set-aside 4% of the capitalization grant, totaling \$2,049,468, for direct loan program administration, as provided for under Section 1452(g)(2) of the SDWA. These funds will be used to manage the Fund and loan projects in accordance with requirements of the SDWA.

Aside from the above, the Agency plans no use of other elective set-asides in FY2010. However, in a guidance memorandum dated February 9, 1999, USEPA announced that states have an option of “banking” certain set-asides for possible use in future years by announcing that possibility in the IUP. This “banking” does not impact the availability or use of loan funds in the current year, but does give the State the flexibility to utilize set-aside funds for other eligible purposes for the present and past fiscal years (FY1997-2010). In accordance with this federal policy identified above, the Agency is hereby announcing that it reserves the right to “bank” and utilize to the maximum extent deemed necessary the full amount of authorized FY1997-2010 set-asides for the purposes outlined in Section 1452(g)(2) of the Safe Drinking Water Act (2.0% of federal capitalization). The extent to which this reserved authority may or may not be used by the State shall be at the discretion of the Agency.

4. Letters of Commitment – When an application for loan assistance is completed to the satisfaction of the IEPA, the IEPA may issue a Letter of Commitment to reserve existing or anticipated available funds for a project pending completion of the bidding process by the loan applicant. Letters of Commitment for projects funded from the Project Priority List shall not extend beyond August 15, 2010.

5. Binding Commitments and Quarterly Payment Schedule – Binding commitments for loan awards are entered into at the time a loan applicant accepts a loan offer and issues a Notice to Proceed on a construction contract identified in the Loan Agreement. Attachment C indicates that the IEPA will need the letter of credit ceiling raised by USEPA based on the schedule for binding commitments.

G. Available Loan Resources

The FY 2010 reserved IUP funding list is based on a projected \$1.39 billion national allocation to the Drinking Water State Revolving Fund and public water supply programs in all fifty states and two U.S. territories. The State of Illinois share of that amount based on the current allocation formula applied by Congress is \$51,236,700. The 20% State match is \$10,247,300, making the total of new capitalization funds available \$61,484,000. In addition, Illinois has repayment monies of \$20,000,000 available for obligation, will utilize the existing Fund balance to increase monies available for obligation in FY 2010 by an additional \$8,516,000, and will execute a transfer of program funding in the total amount of \$20,000,000 from fund equity available in the Water Pollution Control Loan Program to the Public Water Supply Loan Program for binding commitments and obligations under the PWSLP. This proposed transfer reflects recognition by the State of the relative inequity in the State’s two SRF programs relative to the level of project need and demand currently being experienced in the programs. The total of available loan dollars for FY 2010 is \$110,000,000 based on those preliminary allocations.

In accordance with the Agency’s standard practice, 4% of the federal capitalization grant amount (projected to be \$2,049,468) will be reserved for administration in the PWSLP and 5% of total loan funds (\$5,500,000) will be initially reserved for cost increases and amendments on PWSLP agreements. A total of \$102,553,005 is available for new loan obligations and Intended Use Plan projects. A summary of available FY 2010 funding is as follows:

Anticipated Funding Available for PWSLP Projects

FY2010 Capitalization Funds *	\$51,236,700
FY2010 State Match *	\$10,247,300
FY2010 Loan Repayments	\$20,000,000
FY2010 Fund Equity	\$ 8,516,000
FY2010 Transfer (from WPCLP)	\$20,000,000
Less 4%: FY2010 Administration	(\$2,049,468)
SUBTOTAL	\$107,950,532
Less 5%: For Cost Increases on Subtotal	<u>(\$5,397,527)</u>
TOTAL	\$102,553,005

*Prospective

The demand for loan funds in FY 2010 will far exceed available funding and the IEPA will establish restrictions on the amount of financial assistance available to any single entity: a maximum of \$10,000,000. This restriction reflects the intent of the State to fund as many worthwhile projects as practicable from the limited available resources. In those instances where total project needs exceed the limitation, applicants will be encouraged to break a project into multiple segments for phased loan assistance, constructing first those project elements most significant in attaining or maintaining compliance objectives.

H. Output/Outcome Measures

In accordance with the requirements of EPA Order 5700.7, the following are the output/outcome measures for FY 2010 funds:

1. Output: There will be 6 to 8 projects financed to replace and/or rehabilitate drinking water treatment facilities throughout the State.

Outcome: The funding of these projects will stimulate the economy, promote jobs growth for new and sustainable jobs, and result in higher quality drinking water for thousands of people throughout the State.

2. Output: There will be 10 to 12 projects financed to construct/rehabilitate/upgrade drinking water transmission and distribution systems throughout the State.

Outcome: The funding of these projects will stimulate the economy, promote jobs growth for new and sustainable jobs and result in improved access to drinking water from existing water treatment systems throughout the State.

3. Output: There will be 10 to 12 projects financed to construct/rehabilitate/upgrade drinking water storage facilities throughout the State.

Outcome: The funding of these projects will stimulate the economy, promote jobs growth for new and sustainable jobs and result in improved access to drinking water, better distribution system pressures and improved aesthetics for communities and people around the State.

4. Output: There will be 4 to 6 projects financed to provide new/additional source water for public water supplies throughout the State.

Outcome: The funding of these projects will stimulate the economy, promote jobs growth for new and sustainable jobs and result in improved community access to public water supplies meeting all applicable permit and SDWA requirements.

I. Reporting Requirements

The IEPA will provide the USEPA on an annual basis with information on units of local government that receive loans in accordance with SDWA requirements. In addition, the

IEPA will comply with the required frequency of reporting requirements included in additional guidance that may be provided by the USEPA.

J. Administrative Costs

As noted previously 4% of the capitalization grant amount, or \$2,049,468, will be set aside for direct loan program administration, as provided for under Section 1452(g)(2) of the SDWA. These funds will be used to manage the Fund and loan projects in accordance with requirements of the SDWA.

K. Public Review and Comment on the Intended Use Plan

This Intended Use Plan and the accompanying Project Priority List (Attachment A) and IUP Reserved Funding List (Attachment B) are made available on this date of October 20, 2009 on the IEPA website for public comment through a public notification process, followed by a 21 day comment period. The IEPA website can be accessed through the following link:

<http://www.epa.state.il.us/water/financial-assistance/economic-stimulus/index.html>

The Agency has sought public participation in the development of the PWSLP from the moment it was clear that Congress would pass the 1996 SDWA amendments. Agency technical and financial assistance personnel have spoken on the provisions of the SDWA and the State's intent to implement the new provisions at a variety of statewide and local conferences involving local government leaders and public water supply administrators, and have invited suggestions from the public. Representatives of professional, governmental, and trade associations involved in public water supplies in Illinois have participated on an ad hoc Advisory Committee and have been very instrumental in formulating present State policies regarding this loan assistance program. The Advisory Committee will have a major role in the development of future State policy for the PWSLP.

List of Attachments

Attachment A – Project Priority List (PPL) in Rank and Alpha Order

Attachment B – IUP List in Rank Order for PWSLP projects

Attachment C - Source of Loan Funds for FY 2010

Attachment D - Glossary of Terms for PWSLP Project Priority List

Attachment D

Glossary of Terms for PWSLP Project Priority List

The public water supply loans are intended to solve existing drinking water needs. There are several general types of projects that appear on the State Funding List:

- Compliance projects to correct a drinking water quality problem, including projects that address Maximum Contaminant Level violations, projects that address Treatment Technique Requirements, projects that address violations of the Agency's Technical Policies, 35 Ill. Adm. Code Part 653, as they relate to adequate pressure, transmission and storage of drinking water.
- Projects that provide drinking water service to an existing population that has no community water service;
- Projects that satisfy existing drinking water needs and serve existing populations. They include water treatment plant renovation, rehabilitation, replacement and upgrade of facilities. Additionally, this category includes the rehabilitation or replacement of watermains, construction of loop lines, addition or rehabilitation of storage or distribution capacity to ensure adequate storage volumes and system pressure.

Glossary of Drinking Water Standard Abbreviations

- WTP - Water Treatment Plant
- PS - Pump Station
- Ext - Extension
- Rehab - Rehabilitation
- Exp - Expansion
- Ba - Barium
- Fe - Iron
- NO₃ - Nitrate
- Ra - Radium
- TTHM - Total Trihalomethane
- Twp - Township
- TP - Technical Policies
- PbCu - Lead and Copper
- TT - Treatment Technique
- As - Arsenic