

State of Illinois
Water Pollution Control 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 606(c) of Title VI of the Water Quality Act of 1987, which amends the Federal Clean Water Act (CWA) and is a prerequisite for award of a federal grant to the Illinois Environmental Protection Agency (Agency) for capitalization of the State Revolving Fund and the Water Pollution Control Loan Program (WPCLP); 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 WPCLP in federal fiscal year 2010.

The IUP requirements under the CWA 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 WPCLP;
3. Information on the types of financial activities to be supported including a description of project classes, discharge requirements, terms of financial assistance and units of local government 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, this IUP will serve as a planning document in outlining the anticipated and intended uses of the SRF and the WPCLP in federal FY 2010 extending from October 1, 2009 through September 30, 2010. In past years, this initial or “first cut” IUP for the WPCLP 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 POTWs, collection systems and other eligible projects in the State and to commit all available loan resources to those eligible loan applicants;
2. To provide financing for municipal wastewater treatment facilities to attain and maintain compliance with State and federal wastewater treatment requirements;
3. To provide financial assistance to all types of projects eligible under the Clean Water Act and the State enabling legislation;
4. To provide financial assistance to local government units at interest rates significantly below those offered on the open market;
5. To maintain the integrity of the Water Revolving Fund;
6. To continue the development of the Water Revolving Fund as a major financial vehicle for achieving compliance with State and federal law;
7. To explore the expansion of eligibility to address issues of water efficiency, energy efficiency, green infrastructure and non-point source pollution projects and to develop new eligibility requirements to accommodate expanded eligibilities in the base SRF program; and
8. 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 wastewater treatment works projects;
6. To increase staffing levels commensurate with increases in loan demand; and

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

D. Program Characteristics

1. Water Pollution Control Loan Program – The Illinois program will continue to consist of loans to units of local government for construction of new wastewater collection and treatment facilities, upgrade and expansion of existing facilities, replacement, upgrade or extension of collection systems and interceptors, and separation or upgrade of combined sewer systems to eliminate surcharges, overflows or flooding.

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 primarily to activities in 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 606(c)(4) of the CWA, 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. The IEPA has met first use requirements; and
4. 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 State Priority List (Attachment A) and other projects that may gain eligibility for inclusion on the State Priority List 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 CWA, the enabling legislation and other requirements promulgated through guidance or regulations issued by the USEPA.
3. The IEPA will expend all monies available under the WPCLP 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 WPCLP financial assistance provided to any single entity to a maximum of \$20,000,000, with the sole exception being the Metropolitan Water Reclamation District of Greater Chicago (MWRDGC), which will be limited to a maximum amount of \$100,000,000. By permanent rule (35 IAC, 366.105), the MWRDGC service area, which is comprised of an 872 square-mile area in northeastern Illinois, including virtually all of Cook County, is entitled to an equal division of “loan funds available from State and federal appropriations during the capitalization period” with “the geographical balance of the State”. In recognition of that fact, this IUP directs a somewhat more proportionate share of funding to the MWRDGC and the MWRDGC service area; in total \$130 million, or 41.5%, of the total of \$313.5 million in funds available for new loan projects. This division reflects both the intent of the State to fund as many worthwhile projects as practicable from limited available resources, and to recognize the service population of the MWRDGC and its service area.

Notwithstanding financial assistance limitations imposed under program regulations, project costs above those limitations will be eligible for assistance under the WPCLP 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 Facilities Planning approval in the WPCLP prior to September 30, 2009 have been ranked and scored in accordance with the provisions of 35 Illinois Administrative Code Part 366, “Procedures and Requirements for Determining Loan Priorities for Municipal Wastewater Treatment Works” within four project categories, including: Service Continuation Projects that improve, upgrade, rehabilitate, renovate, and/or replace wastewater treatment works; Service Expansion Projects that propose to expand the capacity of existing wastewater treatment works; New Service Projects which will provide wastewater collection, transportation and treatment for an unsewered local government unit; and Combined Sewer Service Projects involving construction in a combined sewer service area to reduce or eliminate basement flooding.

All other projects for which a pre-application was submitted between April 1, 2008 and March 31, 2009, and for which Facilities 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 Facilities 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 allocated to each project class and currently qualifying pre-applications. In accordance with the provisions of 35 Illinois Administrative Code Part 365, “Procedures for Issuing Loans from the Water Pollution Control Loan Program”, and the emergency rules established to govern the implementation of the WPCLP 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 WPCLP/ARRA programs that have been extended from FY 2009 and are currently ongoing. Funding reserved for projects that achieve WPCLP/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 between 40% and 50% of 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 \$130 - \$155 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 for Municipal Wastewater Treatment Works as contained in 35 Ill. Adm. Code Part 366 considered to the maximum extent practicable in cases where funding availability may be limited.

Per State rule (35 Ill Adm Code, Part 366), a project may be added to the Project Priority List (Attachment A) at any time during the year upon obtaining Agency approval of its Facilities Plan, provided a pre-application has been submitted for the project. Eligible projects with approved Facilities 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 WPCLP 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 366 will be considered to the maximum extent practicable in cases where funding availability may be limited.

3. Funding Allocations – Loan funds available during the capitalization period will be divided between the service area of the Metropolitan Water Reclamation District of Greater Chicago (MWRDGC) and the geographical balance of the State. By permanent rule (35 Ill Adm Code, 366.105), the MWRDGC service area is entitled to an equal division (50%) of “loan funds available from State and federal appropriations during the capitalization period” relative to the geographical balance of the State, and while no such division was in place in FY 2009 due to the unique demands of that program, this IUP directs a more proportionate share of funding to the MWRDGC and the MWRDGC service area in recognition of that permanent rule. \$130 million, or 41.5%, of the total of \$313.5 million in available loan funds is directed to the MWRDGC in this IUP, with this division reflecting both the intent of the State to fund as many worthwhile projects as practicable from limited available resources, and to recognize the service population of the MWRDGC and its service area, which consists of an 872 square-mile area in northeastern Illinois, including virtually all of Cook County.

This funding allocation is a target, with project readiness to proceed taking precedence during the bypass funding timeframe (April 1, 2010 through September 30, 2010) regardless of the location of the applicant. Available funds for development of the reserved IUP funding list are allocated to the four classes of projects in the MWRDGC service area and the remainder of the State (possible eight project classes) in proportion to the relative needs for each project class as reflected by the percentage of unfunded project costs in each class of IUP eligible projects. Attachment C shows the allocation formula for FY2010.

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 – Attachment D indicates that the IEPA will need the letter of credit ceiling raised by USEPA based on the schedule for binding commitments.

F. Available Loan Resources

The FY 2010 reserved IUP funding list is based on a projected \$2.1 billion national allocation to the Clean Water State Revolving Fund and water pollution control loan programs in \$93,790,600. The 20% State match is \$18,758,120, making the total of new capitalization funds available \$112,548,720. In addition, Illinois has repayment monies of \$125,000,000 available for obligation and will utilize the existing Fund balance to increase monies available for obligation in FY 2010 by an additional \$92,451,280. The total of available loan dollars for FY 2010 is \$330,000,000 based on those preliminary allocations.

In accordance with the Agency’s standard practice, 5% of those funds (\$16,500,000) will be initially reserved for cost increases and amendments, leaving a total of \$313,500,000 available for new Intended Use Plan projects. A summary of available FY 2010 funding is as follows:

Anticipated Funding Available for WPCLP Projects

FY 2010 Capitalization Funds*	\$93,790,600
FY 2010 State Match*	\$18,758,120
FY 2010 Loan Repayments	\$125,000,000
FY 2010 Fund Equity	<u>\$92,451,280</u>
SUBTOTAL	\$330,000,000
Less 5%: For Cost Increases on Subtotal	<u>(\$16,500,000)</u>
TOTAL	\$313,500,000

*Prospective

Administrative funding for the program will be withheld from Fund equity, and will total \$3,751,624 based on 4% of FY 2010 capitalization funds. This amount will be factored into the calculation of future available loan repayment funding.

In accordance with WPCLP practice and regulation, available funds (\$313,500,000) for new loan awards are divided between the service area of the Metropolitan Water Reclamation District of Greater Chicago (MWRDGC) and the geographic balance of the State. By permanent rule, an equal division of available funding is required; however downstate demand in recent years has dictated a shift of loan funds from the MWRDGC service area to downstate projects, a situation that was further exacerbated by loan limitations established to accommodate the unique requirements of the ongoing (FY2009) ARRA programs. With this IUP, the Agency announces its intention to partially restore the required division of WPCLP funds between the MWRDGC service area and the

geographic balance of the State. That allocation of funds is reflected in Attachment C, while the IUP Reserved Funding List for FY 2010 is detailed in Attachment B.

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 \$20,000,000, with the sole exception being the MWRDGC, which will be limited to a maximum amount of \$100,000,000. 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.

G. CWSRF Benefits

The IEPA will report the data required by the USEPA into the Clean Water Benefits Reporting System for each funded project.

H. 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 Title VI 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.

I. Administrative Costs

As noted previously, \$3,751,624 will be reserved from Fund equity for program administration. This amount is based on and equal to 4% of the projected federal capitalization grant.

J. 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>

List of Attachments

- Attachment A - Project Priority List in Rank and Alpha Order
- Attachment B - IUP Reserved Funding List in Rank Order
- Attachment C - FY 2010 Allocation of Loan Funds
- Attachment D - Source of Funds for FY2010
- Attachment E - Glossary of Wastewater Abbreviations for Project Priority List

Attachment C
Water Pollution Control Loan Program
Allocation of Loan Funds for FY2010 IUP by Project Class

	<u>MWRDGC Service Area</u>	<u>Downstate</u>	<u>Total</u>
A) Service Continuation	108,050,000	42,403,000	150,453,000
B) Service Expansion	- 0 -	50,813,240	50,813,240
C) New Service	- 0 -	58,872,050	58,872,050
D) Combined Sewer Service	<u>20,000,000</u>	<u>30,374,000</u>	<u>50,374,000</u>
Totals	128,050,000	182,462,290	310,512,290
5% Cost Increase Funds			<u>16,500,000</u> 327,012,290

Attachment D

Source of Loan Funds for FY2010
Water Pollution Control Loan Program Obligations
(October 1, 2009 through September 30, 2010)
(\$1000's)

Source of Funds	<u>Qtr. 1</u>	<u>Qtr. 2</u>	<u>Qtr. 3</u>	<u>Qtr. 4</u>	<u>Total</u>
FY10 WPCLP Capitalization	- 0 -	- 0 -	- 0 -	93,791	93,791
FY10 State Match	- 0 -	- 0 -	- 0 -	18,758	18,758
FY10 Repayments	125,000	- 0 -	- 0 -	- 0 -	125,000
Fund Balance Drawdown	92,451	- 0 -	- 0 -	- 0 -	92,451
FY09 Carry Over	<u>- 0 -</u>	<u>- 0 -</u>	<u>- 0 -</u>	<u>- 0 -</u>	<u>- 0 -</u>
Totals	217,451	- 0 -	- 0 -	112,549	330,000

Attachment E

FY 2010 Wastewater Project Priority List Glossary of Terms

The wastewater Project Priority List has letter designations that signify the type of project that has been scored:

- Category A projects are projects that satisfy existing wastewater needs and serve existing populations. They include sewage treatment plant renovations, including the rehabilitation, replacement and upgrade of treatment capabilities. Other projects are the rehabilitation and replacement of sewers to remove inflow and infiltration (I&I) and to maintain structural integrity or construction of relief sewers to transport existing flows in excess of the transport capabilities of the existing sewers. Finally, there are some Category A projects that are required to satisfy recognized combined sewer overflow compliance needs.
- Category B projects are projects that extend service or provide additional sewage treatment or transport capacity. These projects include the construction of additional sewage treatment plants or the expansion of existing sewage treatment plant capacities. They also include the extension of sewage collection systems and the construction of additional sewage transport capabilities.
- Category C projects are projects to provide an unsewered municipality with a sewage collection system and a sewage treatment plant or the connection to a regional sewage treatment facility.
- Category D projects are projects that provide additional combined sewage transportation and/or treatment, combined sewer separation projects or combined sewage detention projects.

Glossary of Wastewater Abbreviations

- | | | |
|---|-----------------|----------------------------|
| • | STP | Sewage treatment plant |
| • | CS | Combined Sewer |
| • | CSO | Combined Sewer Overflow |
| • | L S | Lift Station |
| • | LS & FM | Lift Station and Forcemain |
| • | Sludge Handling | Sludge Handling Facilities |
| • | Ext | Extension |
| • | Rehab | Rehabilitation |
| • | Exp | Expansion |