UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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OFFICE OF WATER

MEMORANDUM

SUBJECT: Financing Terms Greater Than 30 Years in the Drinking Water State Revolving Funds

FROM: Jennifer L. McLain, Director
Office of Ground Water and Drinking Water

TO: Water Division Directors
Regions 1-10

This memorandum addresses financing terms greater than 30 years in Drinking Water State Revolving Funds (DWSRFs) and replaces the "*Financing Terms Greater than 20 Years in the Drinking Water State Revolving Funds*" memorandum issued on April 14, 2014. This revision is in accordance with changes to the Safe Drinking Water Act (SDWA) through America's Water Infrastructure Act (AWIA) of 2018. Extended term financing (ETF) is a valuable tool to protect public health and address the drinking water infrastructure investment need. Extending the length of a repayment period reduces a water system's annual repayment cost, making projects more affordable for those communities. ETF may be used in combination with additional subsidization as a supplementary method of reducing the impact on ratepayers. When strategically managed, ETF may result in a significant increase in the volume of lending by DWSRFs.

There are two scenarios under which DWSRFs may provide extended term financing: direct loans and the purchase/refinancing of municipal debt.

Scenario 1: ETF for Direct Loans to All Borrowers and to Disadvantaged Communities
Prior to the passage of AWIA,[1] the maximum loan term was 20 years (or 30 years for a loan to disadvantaged communities). After AWIA, the SDWA now authorizes direct DWSRF loans with repayment terms up to 30 years to all DWSRF-eligible recipients, or up to 40 years for state-defined disadvantaged communities.[2] Disadvantaged communities are eligible for ETF loans without additional or special criteria if the loan does not exceed the lesser of 40 years or the design life of the project. Loan terms for any DWSRF recipient may not exceed the design life of the project (see *Design/Useful Life Determination* section below).

Scenario 2: ETF through Purchase/Refinance of Municipal Debt Obligations
The SDWA authorizes DWSRF programs to purchase or refinance local debt.[3] EPA Regions may approve state proposals for financing for periods greater than 30 years for non-disadvantaged

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[1] P.L. 115-270
[2] AWIA §2015(d); SDWA §1452(f)(1)(C)
[3] SDWA §1452(f)(2)

communities and greater than 40 years for disadvantaged communities for the purchase/refinance of municipal debt obligations. The following criteria must be met in state proposals:

1. ETF greater than 30 years for non-disadvantaged communities and 40 years for disadvantaged communities is allowable only when a state's DWSRF program buys or refinances debt obligations from municipalities and intermunicipal and interstate agencies pursuant to the SDWA section 1452(f)(2). This requirement is based on the EPA's interpretation that the term "buy"—as used in that section—means the purchase of a bond by the DWSRF issued by the municipality or intermunicipal/interstate agency directly to the DWSRF. In addition, the EPA interprets the term "refinance" as used in the SDWA section 1452(f)(2) to mean the purchase of a debt obligation by the DWSRF (either a bond or direct loan) that had been previously issued by the municipality and is currently held by a third party.
2. ETF cannot be used to exceed the state-determined design life of the asset.
3. ETF is available only to borrowers with a dedicated source of revenue or security for bond repayment. A state's DWSRF program should demonstrate that the community has established a dedicated source of revenue for bond repayments (e.g., a general obligation or revenue obligation pledge to guarantee their repayments) or provide some form of security which will guarantee bond repayment in the event of a default (e.g., property lien).
4. All principal and interest received from bond payments must be deposited into the state's DWSRF.
5. The debt must have been incurred for DWSRF-eligible expenses and not earlier than July 1, 1993.

If the above criteria are met, EPA Regions may approve the state's ETF proposal. The Regions should work with states wishing to adopt ETF programs to make changes (as necessary) to grant agreements, the Intended Use Plan, and the Operating Agreement to reference the availability of the new financing agreements.

Design/Useful Life Determination

Though loan terms may now extend up to 30 years for any recipient or up to 40 years for disadvantaged communities, DWSRFs must ensure that loan terms do not exceed the design life of the infrastructure for any community. This principal is fundamental to effective utility management and sound financial capacity.

States make the determination for "design life" of a project using best professional engineering judgement. In practice, design life refers to major components of a water system. If components financed by a DWSRF loan or the purchase of a debt obligation have various design lives, applying a weighted average is a simple way to derive the maturity of the loan or the debt obligation.

The EPA considers the SDWA's DWSRF "design life" terminology to be functionally equivalent to the Clean Water Act's "useful life" terminology used to define maximum loan amortization terms in the Clean Water State Revolving Fund.[4]

[4] Clean Water Act §603(d)(1)(A)

Conclusion

If you have questions on the implementation of this memorandum and the criteria for approving extended term financing, please contact Nick Chamberlain, Acting Associate DWSRF Branch Chief, at (202) 564-1871, or Bradley Raszewski, Financial Analyst, at (202) 564-8902.