

## VDH Drinking Water Funding Program Guidance Package #1

### ELIGIBILITY OF EXPENSES

The program has been designed so that any cost determined to be reasonable and necessary in the planning, design and/or construction of needed waterworks improvements is eligible. Funds can be requested to cover most of the needed expenses for the Recipient's approved system improvement program. VDH may reduce eligibility and the scope and size of a project to insure the greatest financial benefit to as many communities as possible.

#### Sizing

It is extremely important that the proposed size of the treatment facilities, distribution systems, or other waterworks appurtenances be supported and justified in the planning stage of the project. Sizing of a system and its appurtenances should be in conformance with established procedures as outlined in the *Waterworks Regulations* and with generally accepted engineering practices. VDH will reduce the amount of funding for any project proposing unreasonable growth.

#### Pre-Closing

Expenses incurred on an approved project prior to the execution of a loan agreement are eligible costs under the program; provided they meet the following conditions:

- *Costs are necessary and attributable to the project approved for assistance.*
- *Refinancing of a municipality's debt that was incurred after July 1, 1993.*
- *Procurement was carried out in conformance with the Virginia Public Procurement Act and other EPA requirements (MBE/WBE solicitation).*

Prior expenditures will be considered on a case-by-case basis. The work performed or accomplished must be in conformance with the requirements governing the program or brought into compliance before it can be allowed.

#### Waterworks Eligible for Funding

Waterworks that are eligible for assistance are community waterworks, both privately and publicly owned and nonprofit noncommunity waterworks. Federally-owned systems are not eligible to receive assistance.

Waterworks that have components of their waterworks in a State other than Virginia are eligible to receive funding. However, the waterworks can only apply to receive loan or other assistance for the portion of the waterworks that provides service in Virginia.

## Projects Eligible for Funding

### **1. Compliance and Public Health**

The VDH may provide assistance for expenditures (not including monitoring, operation, and maintenance expenditures) of a type or category which the VDH has determined will facilitate compliance with national primary drinking water regulations applicable to the waterworks under the Safe Drinking Water Act (SDWA) or otherwise significantly further the health protection objectives of this title.

Capital investments to upgrade or replace infrastructure in order to continue providing the public with safe drinking water are eligible for assistance.

Projects which address an exceedance of SDWA health standards or prevent future violations of the rules are eligible for funding. These include projects to maintain compliance with existing regulations for contaminants with acute health effects (i.e., the Surface Water Treatment Rule, the Total Coliform Rule, and nitrate standard) and regulations for contaminants with chronic health effects (i.e., Lead and Copper Rule, Phases I, II, and V rules, and safety standards for total trihalomethanes, arsenic, barium, cadmium, chromium, fluoride, mercury, selenium, combined radium-226, -228, and gross alpha particle activity).

Projects to replace aging infrastructure are also eligible. Examples of these include projects to:

- rehabilitate or develop sources to replace contaminated sources;
- install or upgrade treatment facilities if the project would improve the quality of drinking water to comply with primary or secondary standards;
- install or upgrade storage facilities, including finished water reservoirs, to prevent microbiological contaminants from entering the water system; and,
- install or replace transmission and distribution pipes to prevent contamination caused by leaks or breaks in the pipe, or improve water pressure to safe levels.
- Replace lead service lines (LSL).

Projects to consolidate waterworks -- for example, when individual homes or other waterworks have a water source that is contaminated, or the waterworks is unable to maintain compliance for financial or managerial reasons -- are eligible for assistance.

The purchase of a portion of another waterworks capacity is eligible for funding assistance, if the system to be purchased is a small waterworks which is part of a consolidation plan to bring the system into compliance, and it is the most cost-effective solution for that small waterworks, when considering the buy-in fee and user fees.

### **2. Land acquisition**

Land is eligible only if it is integral to a project. In this instance, integral is defined to include only the land needed to locate eligible project. In addition, the acquisition has to be from a willing seller who receives not less than fair market value for the land. Land that is necessary for

source water protection may be eligible to receive funding assistance under section 1452(k) of the SDWA.

The cost of complying with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (the Uniform Act) is an eligible cost to be included in the VDH assistance.

### **3. Planning and design of a drinking water project**

The VDH may provide assistance for the costs of project planning, design and other related costs. The provision of assistance for design and planning costs does not guarantee a waterworks that the VDH program will provide funding for the construction of the project. VDH may choose to combine the funding for planning and design with the funding for construction.

### **4. Restructuring of waterworks that are in noncompliance or that lack the technical, managerial and financial capability to maintain the waterworks**

The VDH may provide assistance to an eligible waterworks to consolidate with other waterworks only if the assistance will ensure that the waterworks returns to and maintains compliance with SDWA requirements.

If the waterworks does not have the technical, managerial, and/or financial capability to ensure compliance, or is in significant noncompliance, the waterworks may receive assistance only if (1) the assistance will ensure compliance, or (2) the owner or operator of the waterworks agrees to undertake appropriate changes in operations. These changes include consolidation or management changes that will ensure that the waterworks has the technical, managerial, and financial capability to ensure and maintain compliance with SDWA requirements.

**Costs associated with consolidation, such as legal fees and water buy-in fees, are eligible for funding.**

### **Projects Not Eligible For Funding**

The VDH's federally funded SRF cannot be used to fund the following projects and activities; however VDH, from time to time, may have other funds usable for some of these activities.

- Laboratory fees for monitoring.
- Operation and maintenance expenses.
- Projects needed mainly for fire protection.
- Waterworks that lack adequate technical, managerial and financial capability, unless the project will ensure compliance.
- Waterworks in significant noncompliance, unless funding will ensure compliance.
- Projects primarily intended to serve future growth.
- Construction of dams or reservoirs, except for finished water reservoirs.
- Land necessary for the construction or storage of water related to reservoirs or dams, except for finished water reservoirs.
- Water rights.

### **Lack of technical, managerial, and financial capability**

The VDH may not provide any type of assistance to a waterworks that lacks the technical, managerial or financial capability to maintain SDWA compliance, unless the VDH determines that the financial assistance from the VDH will allow the waterworks to maintain long-term capability to stay in compliance.

### **Significant noncompliance**

The VDH may not provide assistance to any waterworks that is in significant noncompliance with any national drinking water regulation or variance unless the VDH conducts a review and determines that the project will enable the waterworks to return to compliance and the waterworks will maintain an adequate level of technical, managerial and financial capability to maintain compliance.

### **Growth**

The VDH cannot provide assistance to finance the expansion of any waterworks in anticipation of future population growth, if the primary purpose is to supply or attract growth. If the primary purpose is to solve compliance or public health problems, the entire project including the portion necessary to accommodate a reasonable amount of growth over its useful life, is eligible.

### **Interest**

Interest costs associated with funds borrowed for the planning, design, or construction of the project will not be reimbursed by VDH.

### **Changes in Project Scope**

Unapproved changes in the approved project scope or change orders not attributable to the waterworks improvement project or involving duplication of effort or work will be disallowed construction costs. Any cost or expenditure that is determined to be unnecessary and/or unreasonable will be disallowed.

### **Roadwork**

Costs for roadwork will be limited to access roads necessary for and directly associated with access to the facilities and minimum repair work directly associated with the installation of water lines.

### **Water User Agreements**

Water User Agreements are required for projects in which the scope of work involves adding new service connections to a water system.