

265—26.5(16) WPCSRF/DWSRF infrastructure construction loans.

26.5(1) *Loan agreements.* The authority will prepare a loan agreement when the application has been determined to be in compliance with the requirements of the CWA/SDWA and applicable state rules for SRF funding. The loan shall be accompanied by an enforceability opinion in a form acceptable to the authority and, if applicable, a bond counsel opinion as to the status of interest on the obligation, in a form acceptable to the authority. A copy of the current form of the loan agreement shall be provided to the applicant upon request.

26.5(2) *Loan rates and terms.* Loan terms for point source projects shall include the following:

a. Interest rates. Loan interest rates shall be established in the IUP and shall be established by taking into account factors including, but not limited to, the following:

- (1) Interest rate cost of funds to the SRF;
- (2) Availability of other SRF funds;
- (3) Prevailing market interest rates of comparable non-SRF loans; and
- (4) Long-term SRF viability.

b. Loan initiation fee. The loan initiation fee shall be established in the IUP. The fee shall be payable on the closing date of the loan agreement.

c. Annual loan servicing fee. The annual loan servicing fee shall be established in the IUP. The fee shall be due at the time of each annual principal repayment.

d. Revenue pledge. The recipient shall establish sufficient revenue sources that are acceptable to the director for the repayment of the loan. To ensure repayment of obligations according to the terms of the loan agreement, the recipient shall agree to impose, collect, and increase, if necessary, user charges, taxes, or other dedicated revenue sources identified for the loan repayment in order to maintain annual net revenues at a level equal to at least 110 percent of the amount necessary to pay debt service on all revenue obligations during the next fiscal year, provided, however, that, at the discretion of the director, the authority may allow other revenue sources and coverage of less than 110 percent as security. In case of loan default, the authority shall have authority to require revenue adjustment, through the manner described above, to collect delinquent loan payments.

e. Security. The loan shall be secured by a first lien upon the dedicated source of repayment which may rank on a parity basis with other obligations. The dedicated source of repayment is expected to be the net revenues of the recipient's system and the loan is expected to be secured by a first lien on said net revenues. Loans secured by revenues of a system may rank on a parity basis with other outstanding obligations or, with the approval of the director, may be subordinate in right of payment to the recipient's other outstanding revenue obligations. Loans may also be secured by a general obligation of the recipient through the provision for a levy of taxes to repay the loan.

f. Construction payment schedules. An estimated construction drawdown schedule provided by the recipient shall be part of the loan agreement.

26.5(3) *Loan commitments.* A loan agreement shall be a binding commitment of the recipient.

26.5(4) *Purpose of payments.* The recipient shall use the proceeds of the WPCSRF/DWSRF loan solely for the purpose of funding the approved project.

26.5(5) *Costs.* All eligible costs must be documented to the satisfaction of the authority and the department before proceeds of the loan will be disbursed.

26.5(6) *Loan amount and repayment period.* All loans shall be made contingent on the availability of funds and shall be for a minimum of \$50,000, the maximum loan term will be that allowed by EPA, and repayment of the loan must begin no later than one year after the project is completed or by the date specified in the loan agreement.

26.5(7) *Prepayment.* The loan may be prepaid, in whole or in part, on any date with the prior written consent of the authority.