

CWSRF ANNUAL REPORT

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Prepared by the
Clean Water State Revolving Loan Fund Program
Municipal Facilities Division
North Dakota Department of Environmental Quality

For EPA Region VIII



**CWSRF 2020 ANNUAL REPORT
TABLE OF CONTENTS**

I.	INTRODUCTION.....	1
II.	EXECUTIVE SUMMARY.....	1
III.	GOALS AND OBJECTIVES	2
A.	LONG-TERM OBJECTIVES	2
B.	SHORT-TERM OBJECTIVES	3
IV.	ACCOMPLISHMENTS	4
V.	GRANT CONDITIONS AND CERTIFICATIONS	4
A.	PROVIDE A STATE MATCH	4
B.	ENVIRONMENTAL REVIEWS (SECTION 602(B)(6) AND 511(C)(1))	5
C.	BINDING COMMITMENTS WITHIN ONE YEAR (SECTION 602(B)(3))	5
D.	EXPEDITIOUS AND TIMELY EXPENDITURES (SECTION 602(B)(4)).....	5
E.	FIRST USE OF FUNDS FOR ENFORCEABLE REQUIREMENTS (SECTION 602(B)(5))	5
F.	ELIGIBLE ACTIVITIES.....	5
G.	MBE/WBE REQUIREMENTS	5
H.	GREEN PROJECT RESERVE	6
I.	ADDITIONAL SUBSIDIZATION.....	6
J.	DAVIS-BACON PREVAILING WAGE REQUIREMENTS (SECTION 602(B)(6) AND SECTION 513)	6
K.	AMERICAN IRON AND STEEL REQUIREMENTS (SECTION 608)	6
L.	COMPLIANCE WITH TITLE II REQUIREMENTS.....	6
M.	GENERALLY ACCEPTED ACCOUNTING PRINCIPLES (GAAP) (SECTION 602(B)(9)).....	7
N.	COST AND EFFECTIVENESS ANALYSIS (SECTION 602(B)(13))	7
O.	ARCHITECT/ENGINEER (A/E) PROCUREMENT (SECTION 602(B)(14)).....	7
P.	FISCAL SUSTAINABILITY PLANNING (SECTION 603(D)(1)(E))	7
Q.	SIGNAGE	7
R.	SINGLE AUDIT ACT	7
S.	OTHER FEDERAL AUTHORITIES.....	7
T.	REPORTING REQUIREMENTS.....	8
VI.	PROGRAM CHANGES	8
VII.	PROPOSED IMPROVEMENTS	8

ATTACHMENTS

- Attachment A - Summary of Loans Awarded
- Attachment B - Summary of Payments
- Attachment C - Capitalization Grant Requirements Status Summary and Details
- Attachment D - CBR Benefits Reporting

I. INTRODUCTION

The State of North Dakota hereby submits its 2020 Clean Water State Revolving Fund (CWSRF) Annual Report. The Annual Report is prepared in adherence with the Operating Agreement, negotiated between the state and the Environmental Protection Agency (EPA), governing the administration of the CWSRF. The Annual Report is intended to summarize the activities of the CWSRF over a one-year period beginning January 1, 2020. Information concerning the use of CWSRF funds, accomplishments of the program, and adherence with the stated goals of the program will be provided.

II. EXECUTIVE SUMMARY

The Clean Water State Revolving Fund (CWSRF) Program was established by Title VI of the Federal Water Pollution Control Act (FWPCA) a.k.a. the Clean Water Act (CWA), as amended in 1987. The CWSRF Program is a financial assistance program for water pollution control projects. Under the CWA, the U.S. Environmental Protection Agency (EPA) awards annual capitalization grants to each state to capitalize a state revolving fund, which the state can then use to provide financing for statewide eligible projects. The state CWSRF was established under North Dakota Century Code (NDCC) Section 61-28.2 and is administered in the state by the North Dakota Department of Environmental Quality (NDDEQ), following North Dakota Administrative Code (NDAC) Section 33.1-35. Assistance is provided by the North Dakota Public Finance Authority (PFA) through formal agreement to manage the financial portion of the program.

During the reporting period, 9 project loans were made to provide financial assistance for eligible program activities. The total amount of project loans was \$19,468,000. The summary of loans awarded is in Attachment A of this report. Disbursements from the CWSRF base program to the recipients and program administration totaled \$35,774,697 during the reporting period. The summary of payments is in Attachment B of this report.

Section 302 of the Safe Drinking Water Act Amendments of 1996 provides that, at the governor's discretion, a state may transfer up to an amount equal to 33 percent of the Drinking Water State Revolving Fund (DWSRF) capitalization grants to the CWSRF Program, or an equal amount from the CWSRF to the DWSRF. In addition to transferring grant funds, states can transfer state match, investment earnings, principal and interest repayments, unrestricted cumulative excess, restricted cumulative excess, or Federally Capitalized Loan Account (FCLA) funds between SRF Programs. A combined total of \$53 million has been transferred from the CWSRF to the DWSRF, and \$29.1 million was transferred back from the DWSRF to the CWSRF. The net transfer between programs is \$24 million from the CWSRF to the DWSRF.

The main sources of CWSRF funds are net principal repayments and interest payments that the program has received from prior SRF loans and are considered non-federal funds.

The interest rate for CWSRF loans originating in 2020 is 1.5 percent for a maximum term of 30 years. In addition, there is an administrative fee of 0.5 percent paid in conjunction with loan repayments. The administrative fee is deposited in the SRF Administration Fund and will be used to augment the administration set-aside and other eligible activities as needed and to assure that the CWSRF will have sufficient funds to administer the program in perpetuity, as required by law. The balance in the State Administration Fund was approximately \$20 million at the end of 2020.

III. GOALS AND OBJECTIVES

The Intended Use Plan (IUP) prepared for the CWSRF identifies the long- and short- term goals and objectives of the state in managing the program. The state has achieved progress towards meeting these goals and objectives.

The long-term goal of the CWSRF is to maintain or restore and enhance the chemical, physical, and biological integrity of the state's waters for the benefit of the overall environment, the protection of public health, and the promotion of economic well-being. The short-term goal is to continue to improve the quality of the state's waters, meet the wastewater treatment needs of the state, and to eliminate any public health hazards related to the discharge of inadequately treated wastewater.

A. Long-term Objectives

1. Maintain a permanent, self-sustaining CWSRF Program that will serve in perpetuity as a financing source for wastewater treatment and water pollution control activities, including nonpoint and groundwater projects.
2. Fulfill the requirements of applicable federal, state, and local laws and regulations pertaining to water pollution control activities, while providing the state and local project sponsors with maximum flexibility and decision-making authority regarding such activities.
3. Encourage a range of practices that support sustainable wastewater infrastructure and overall system sustainability.

The *SRF Internal Operations Manual* was developed to ensure that all state and federal laws governing the technical aspects of the

project are satisfied. The PFA ensures that laws regarding the financial aspects of the program are satisfied.

B. Short-term Objectives

1. Continue to administer the current CWSRF Program, providing low interest financing for municipal wastewater facilities (CWA Section 212) and eligible nonpoint source (CWA Section 319) projects.

The program is established, and the state match has been provided. At 1.5 percent plus 0.5 percent administration fee, the effective 2.0 percent interest rate is below market rates.

2. Ensure the technical integrity of CWSRF projects through the review of planning, design, and construction activities.

The trained staff of the NDDEQ is utilizing the *SRF Internal Operations Manual* and knowledge gained through the Construction Grants Program to ensure that this objective is met.

3. Ensure compliance with all pertinent federal, state, and local water pollution control laws and regulations.

The trained staff of the NDDEQ is utilizing the *SRF Internal Operations Manual*, and knowledge gained through the Construction Grants Program to ensure that this objective is met.

4. To the extent possible, obtain maximum capitalization of the fund for the state.

To meet this objective, the NDDEQ has aggressively addressed expanded uses of CWSRF funds. Bonds were issued in 2018 but not issued in 2019 or 2020. Depending upon demand, bonds may be issued in 2021.

5. Apply for available appropriated federal funds contingent upon federal legislation.

The NDDEQ applied for and received the FY2020 Cap Grant.

6. Continue to complete an EPA environmental benefits spreadsheet for each project.

The trained staff of the NDDEQ ensure that this objective is met.

7. All required reporting information will be entered into respective federal databases including Federal Funding Accountability and Transparency Act (FFATA), CWSRF National Information Management System (NIMS), and the CWSRF Benefits Reporting System (CBR).

The trained staff of the NDDEQ ensure that this objective is met.

IV. ACCOMPLISHMENTS

The North Dakota CWSRF provided 9 loans to fund projects during the reporting period totaling \$19,468,000. Sources of funds for these projects were from capitalization grants and the FCLA. Of the projects funded, one included wastewater treatment, six included sewer rehabilitation/replacement, four included storm water control and drainage improvements, and one included recycled water distribution. Disbursements from the CWSRF base program to loan recipients totaled \$34,834,590 during the reporting period. The Summary of Loans Awarded and the Summary of Payments are in Attachments A and B of this report.

V. GRANT CONDITIONS AND CERTIFICATIONS

The State of North Dakota agreed to a number of conditions in the Operating Agreement and Capitalization Grant. The following conditions have been met and need no further description.

- Agreement to Accept Payments
- State Laws and Procedures
- State Accounting and Auditing Procedures
- Use of the Letter of Credit (LOC)
- Repayments
- Annual Audit
- Annual Report
- Annual Review

The following narrative discusses additional requirements and how they were addressed by the state. Relevant sections of the Clean Water Act are provided in parenthesis beside the requirement title where applicable.

A. Provide a State Match

The program is currently over-matched. Leveraged and state match bonds were sold in 2018. The required 20% state match has been provided through approximately FY2025. Payments were made using 100% state match funds until all the match funds were disbursed. If state match bonds are not issued, it is anticipated that up to \$10,000,000

will be transferred from the SRF state administrative account in FY2021 for state match funds. This will provide the 20% state match through approximately 2030.

B. Environmental Reviews (Section 602(b)(6) and 511(c)(1))

The state certifies that it will conduct environmental reviews of each Section 212 project receiving assistance from the CWSRF. North Dakota will either follow National Environmental Protection Agency procedures or equivalent state procedures in conjunction with such environmental reviews.

C. Binding Commitments Within One Year (Section 602(b)(3))

The state agreed to enter into binding commitments to provide assistance from the CWSRF in amounts equal to at least 120 percent of each quarterly capitalization grant payment within one year after receipt of each payment. The state met this requirement by the end of the one-year period.

D. Expeditious and Timely Expenditures (Section 602(b)(4))

The state disbursed all cash draws and other available CWSRF funds in a timely manner. The Summary of Payments in Attachment B details the project payments made during the reporting period.

E. First Use of Funds for Enforceable Requirements (Section 602(b)(5))

North Dakota does not have any projects on the National Municipal Policy list; therefore, the “first use” requirement does not apply.

F. Eligible Activities

Section 212 and Section 319 projects were funded during the reporting period.

G. MBE/WBE Requirements

Loan recipients are required to comply with all Disadvantaged Business Enterprise (DBE) utilization requirements. The fair share objective for North Dakota during the reporting period was 2 percent Minority Business Enterprise (MBE) and 3 percent Women’s Business Enterprise (WBE) participation. The actual participation achieved was 0 percent for MBE and 4.5 percent for WBE. The NDDEQ will continue in its efforts to promote and obtain additional DBE participation in the CWSRF Program.

H. Green Project Reserve

The state has met the GPR requirements for all capitalization grants through FY2020. In the future, the state will continue to seek GPR-eligible projects by prominently soliciting all four categories of GPR projects and working with those projects on the project priority list to proceed using SRF funding.

The lists of GPR-related project loans, as well as the corresponding summary of GPR requirements are in the Capitalization Grant Requirements Status Table in Attachment C.

I. Additional Subsidization

The CWSRF Program provides additional subsidies as loan forgiveness which is allocated based on the Relative Future Wastewater Cost index (RFWCI). The RFWCI is defined as the ratio of expected average annual residential user charge for wastewater service resulting from the project to the local annual median household income from the American Community Survey 5-year estimate.

A summary of additional subsidization requirements and a listing of project loans is included in Attachment C.

J. Davis-Bacon Prevailing Wage Requirements (Section 602(b)(6) and Section 513)

Loan recipients are required to comply with all Davis-Bacon Prevailing Wage Requirements. Recipients agree to this in their loan agreements with the state.

K. American Iron and Steel Requirements (Section 608)

Loan recipients that were required to comply with the American Iron and Steel Requirements did so. Recipients agree to this in their loan agreements with the state.

L. Compliance with Title II Requirements

The State of North Dakota certifies that it will ensure that sufficient financial assistance is provided from the fund to treatment works projects with eligible construction costs. This satisfies the Title II equivalency requirements in an amount equal to the funds directly made available by the federal capitalization grant, if required by federal law.

M. Generally Accepted Accounting Principles (GAAP) (Section 602(b)(9))

The state requires assistance recipients to complete SFN7804, SRF Request for Payment and record in their financial records, so their project accounts are maintained according to Generally Accepted Accounting Principles (GAAP) as issued by the Governmental Accounting Standards Board.

N. Cost and Effectiveness Analysis (Section 602(b)(13))

The state requires assistance recipients and their consulting engineer to certify that they have studied and evaluated the cost effectiveness and water/energy efficiency of the project.

O. Architect/Engineer (A/E) Procurement (Section 602(b)(14))

Equivalency loans are required to meet the elements of the procurement processes for A/E services. Equivalency loans are identified in the Capitalization Grant Requirements Status Table in Attachment C.

P. Fiscal Sustainability Planning (Section 603(d)(1)(E))

A recipient of a loan for a project that involves the repair, replacement, or expansion of a publicly owned treatment works is required to develop and implement a fiscal sustainability plan (FSP) or certify that it has developed and implemented such a plan. This is not required of the state at this time.

Q. Signage

The state required assistance recipients to comply with SRF Signage Guidance. Press releases are issued by the program to meet the signage requirement.

R. Single Audit Act

Equivalency loans are required to meet the Single Audit Requirements. Equivalency loans are identified in the Capitalization Grant Requirements Status Table in Attachment C.

S. Other Federal Authorities

The State of North Dakota and recipients of CWSRF funds directly made available by the capitalization grant have complied with applicable

federal authorities. Recipients agreed to this in their loan agreements with the state.

T. Reporting Requirements

The state agreed to comply with CWSRF Benefits Reporting (CBR) requirements. The state will endeavor to meet the reporting requirements as outlined in the grant condition. Printouts of all CBR reports for projects with reportable activities in 2020 are in Attachment D.

VI. PROGRAM CHANGES

Any minor changes in procedures recommended in the Annual Review will be incorporated into the program.

VII. PROPOSED IMPROVEMENTS

We expect to continue improving the operation of the CWSRF Program in the areas of payment and cash draw projections, DBE utilization, and full compliance with federal requirements.