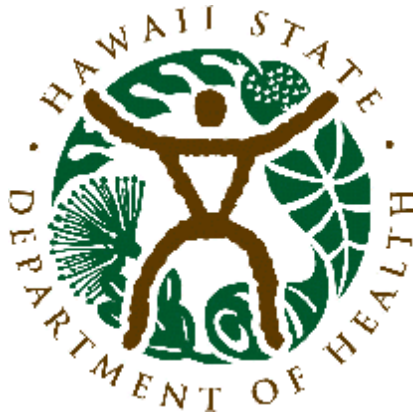


APPLICANT SRF MANUAL

**PROCEDURES TO PARTICIPATE IN
THE HAWAII STATE
WATER POLLUTION CONTROL REVOLVING FUND
LOAN PROGRAM**



**Prepared by the State of Hawaii
Department of Health Wastewater Branch**

**June 1995
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I. INTRODUCTION

The federal Water Quality Act of 1987 (the Act) created the State Revolving Fund Loan Program (commonly known as the SRF). The Act authorized low interest loans for the construction of publicly owned wastewater treatment works (POTWs), for implementation of a nonpoint source (NPS) pollution control management program, and for implementation of an estuary conservation and management program.

In 1988, the Hawaii State Legislature passed Act 365 establishing a State Water Pollution Control Revolving Fund to receive the federal capitalization grant. This Act was later superseded by HRS Chapter 342D-Part V.

The SRF Program provides low interest loans to county and state agencies, and other Applicants to construct point source and nonpoint source water pollution control projects. The SRF is to be maintained in perpetuity.

This manual presents the policies and procedures of the SRF Program. It is intended to guide county, state, and other Applicants in obtaining SRF loans and complying with all the applicable requirements. Appendix C contains a flow chart of the SRF loan process with questions and answers regarding the SRF Program.

Other documents available at the Department of Health (DOH), Wastewater Branch provide explanation of the various activities and requirements of the SRF Program. These documents include the federal regulations in 40 CFR 35 Subpart K, the Operating Agreement between the State of Hawaii and EPA, and the annual Intended Use Plan (IUP).

II. PROGRAM PURPOSE

The purpose of the SRF Loan Program is to implement the Water Quality Act and various state laws and rules including Chapter 342D-Part V of the Hawaii Revised Statutes (HRS) and Chapters 11-62 and 11-65 of the Department of Health Administrative Rules (HAR). The Program assists in financing the construction of water pollution control projects necessary to prevent contamination of our groundwater and coastal water resources and to protect and promote the health, safety and welfare of the citizens of the State of Hawaii.

III. OVERVIEW OF THE SRF LOAN PROGRAM

A. Federal and State Funds

The Water Quality Act of transferred the responsibility for financing point source and nonpoint source water pollution control projects from the federal government to the State of Hawaii. The authority for EPA to make grants to the States to provide seed capital for the SRF was initiated in 1989. Federal funds are matched with a 20% State contribution as required by the Act.

The 2000 Clean Water Needs Survey, Report to Congress, which reports on the future water pollution control needs of the country, indicated that our state needed over \$1.7 billion of new wastewater treatment works constructed in the future to allow for economic growth, to improve the quality of the environment and to meet federal water quality standards. The SRF Program can be pivotal in financing projects addressing these needs.

The sources of nonpoint source (NPS) pollution are many and can be categorized as follows:

- urban runoff (*stormwater)
- construction site runoff
- agricultural site runoff
- animal waste site runoff
- individual waste system (cesspools & septic systems) leaks and runoff
- storage tank site leaks and runoff
- waste storage site leaks and runoff
- landfill site leaks and runoff

(*stormwater projects required to have Stormwater Permits issued by the DOH Clean Water Branch are considered point source projects. Projects not required to have Stormwater Permits are considered nonpoint source (NPS) projects. Pollution control projects addressing any of these sources are eligible for SRF funding consideration.)

B. Federal and State Fund Requirements

All SRF are required to comply with the state or federal Requirements outlined within this manual.

C. Premises of SRF Program Funding

SRF program policy is as follows:

1. Loans will be made from the currently available federal and State funds at 100% of allowable project costs;
2. An administration fee of one percent (1%) of the outstanding loan balance shall be collected annually by the SRF program;
3. Each loan shall bear a simple interest at a rate of two thirds (2/3) of the bond market prime rate as indicated in the most recent publication of "The Bond Buyer", less the one percent administrative fee;
4. The interest rate will remain fixed over the life of a loan;
5. The principal amortization on loans will begin one year after the Notice To Proceed (NTP) or the date of the final loan agreement, whichever is later;
6. Projects will be funded on a first-need. However, when funds are limited, compliance projects will receive priority over new capacity projects.
7. The maximum loan repayment period is 20 years. Repayments shall be made at least semi-annually.

For the construction of point source pollution control projects, SRF loan financing will be available for the construction phase only. A design cost allowance may be provided for the project. However, design-build projects accepted for SRF funding will be funded at 100% of allowable design and construction project costs.

For NPS pollution control projects, SRF funding will be decided on a case-by-case basis. SRF funding may also be considered for linked-deposit loan programs to fund other NPS pollution control programs.

IV. SRF LOAN PROGRAM FLOWCHART

The SRF loan program requires that a series of phases be followed to obtain a loan. These phases are illustrated

with a flowchart in Appendix C. The required phases for the SRF loan program are listed in sequential order below to introduce the entire process. Specific guidance for each phase is presented in the discussion that follows.

1. PRIORITY LIST PHASE:

- A. Applicant requests project ranking
- B. DOH ranks projects (via Priority List)
- C. DOH develops the Intended Use Plan (IUP) to present for public notice the future projects selected for SRF funding for the coming fiscal year

2. PLANNING PHASE:

- A. Applicant submits Project Report
- B. DOH reviews/approves Project Report
- C. Applicant submits Environmental Assessment Documents (EAD's) to OEQC and DOH
- D. DOH oversees the environmental review process via the State Environmental Review Process (SERP)
- E. Applicant submits Plans & Specifications
- F. DOH reviews/approves Plans & Specifications
- G. DOH reviews/approves State and Federal Requirements (if applicable)
- H. DOH completes Planning Documents review (Project Report, SERP, Plans & Specifications, State and Federal Requirements), and sends a Planning Documents approval letter to Applicant

3. LOAN AGREEMENT PHASE:

- A. Applicant submits SRF loan application
- B. DOH approves loan application

- C. DOH completes the Planning Documents review (see Planning Phase), sends Planning Documents approval letter to Applicant
 - D. DOH sends loan offer, interim loan agreement, and Pre-Award Package to Applicant
 - E. Applicant and DOH sign interim loan agreement
 - F. Applicant advertises/opens bids
 - G. Applicant submits Pre-Award Package with the contracts and agreements it proposes to accept
 - H. DOH reviews/approves Pre-Award Package and proposed contracts and agreements. DOH sends final loan agreement (deleting interim conditions that are satisfied) to Applicant
 - I. Applicant and DOH sign final loan agreement
4. CONSTRUCTION PHASE:
- A. Applicant initiates construction
 - B. DOH conducts interim construction inspections
 - C. DOH conducts final construction inspection and establishes construction cut-off date with the Applicant
5. LOAN PAYMENT PHASE:
- A. Applicant submits all remaining documents required before payment can be processed
 - B. Applicant requests payment every month based on costs incurred
 - C. DOH reviews/approves/processes payments
6. OPERATIONS PHASE:
- A. Applicant initiates project operation
 - B. Applicant certifies one-year operation (if

required)

7. LOAN REPAYMENT PHASE:

- A. Applicant repays loan, beginning one year after the Notice to Proceed (NTP) date or the date of the final loan agreement, as stated in the final loan agreement.

8. LOAN CLOSE-OUT PHASE:

- A. DOH revises loan amortization schedule and sends loan amendment to Applicant
- B. DOH and Applicant sign loan amendment
- C. Applicant makes repayments

Three annual requirements are the Single Audit (completed by the Applicant), the Sewer User Charge System review, and the Financial Capability Review, both completed by the DOH.

The listing above presents eight major phases that are required to complete the SRF loan process. It is imperative the Applicant and the DOH act in concert so that the SRF loan process can be a success.

V. PRIORITY LIST PHASE

The Applicant's first step in the SRF process is to submit a Proposed Project For SRF Funding Form (Appendix D) for each project it wants DOH to consider for SRF funding within the next five years. The Applicant must submit these forms to DOH by the fifteenth day of October of each year, to ensure that all proposed projects will be considered during the preparation of the Priority List. SRF loans can be awarded only to projects listed on the annual Priority List.

The DOH will rank all the proposed projects, in accordance with the Priority System Policies (Appendix E). The DOH will prepare the Priority List of all proposed projects. A separate Priority List will be created for all proposed NPS projects.

DOH will prepare an Intended Use Plan (IUP) that will include projects that the DOH has committed to fund during the next fiscal year. The public will have at least 30 days

to comment on the draft IUP. Each Applicant will also be provided an opportunity to comment on the draft IUP. If warranted by public comments, DOH will schedule a public meeting. After taking into consideration all comments received, DOH will prepare the final IUP for EPA and send a copy to each Applicant. (Appendix E contains a time-line of critical dates during this process.)

Once a project is identified in the IUP, the Applicant should proceed with the planning phase of the project. In the event that a project identified for funding in the IUP is unable to proceed, DOH may bypass this project and substitute it with another project from the Priority List.

VI. PLANNING PHASE

The Planning Phase involves the completion of all planning documents. The two most important documents are the Project Report and the Environmental Assessment Documents.

A. Project Report:

The Project Report for point source pollution control projects addresses and analyzes the project area water quality needs (including collection, transmission, treatment and disposal). It describes in depth how the proposed project best meets the local problems and needs, and selects a cost-effective alternative for fulfilling these needs.

For NPS projects, the Project Report addresses and analyzes the project area NPS pollution problems and their effects on water quality and the general public health of the area. It describes in depth how various pollution control methods best meet these problems and needs, and selects a cost-effective alternative for fulfilling these needs.

Appendix F describes the DOH Project Report criteria that should be addressed for each project. DOH will review the Project Report to assess the scope of the proposed project. Approval of the Project Report will set the stage for the Applicant to submit the project Plans and Specifications and other required documents.

B. Environmental Assessment Documents:

The Environmental Assessment Documents (EADs) provide an assessment of the impact of the proposed project on the

local environment. The EADs will consist of an Environmental Assessment (EA) and the EA Checklist and Certification form. In addition to the current EA, prior EA's and decision documents (EIS, FNSI, Reaffirmations, Negative Declarations) may be submitted. The prior EA's or decision documents may include the proposed project as part of a larger "parent" project.

Any prior decision document submitted must contain information applicable and pertinent to the proposed project, and have logical relevancy to and bearing on the action being proposed. In particular, the scope of the proposed project must be substantially similar to the project identified in the prior decision document. (Prior decision documents five years old or older must be reaffirmed by the Applicant. A public notice of this reaffirmation should also be prepared.)

When prior decision documents are submitted, a review of the current environmental impacts of the proposed project must be conducted, and new impacts must be addressed in the current EA. If it is determined there are no new impacts, then the current EA need not be an extensive document.

To prepare and submit the EAD's, the Applicant shall follow the procedures and requirements of HRS Chapters 343 (Environmental Impact Statements) and the HAR Chapter 11-200. Reference should be made to A Guidebook for the Hawaii State Environmental Review Process, August 1992, prepared by the Office of Environmental Quality Control (OEQC). Appendix G describes the EAD's criteria that should be addressed and contains the EA Checklist and Certification form necessary for each project. The EAD's must be submitted to the OEQC and DOH.

The first step is the preparation of the EA that is necessary for each proposed project. If the proposed project and its environmental impacts do not differ significantly from a project previously assessed by an EIS, FNSI, or NEG DEC, then the EA should state this fact. The EA (addressing the impacts of the specific project not assessed by the prior decision document), the EA Checklist and Certification form, plus a copy of the prior decision document will then constitute the EAD's for the project.

Federal and state regulations require that each SRF project undergo an environmental assessment process. (Projects or

actions which will have minimal or no significant effect on the environment are exempted from this requirement - see HAR sec. 11-200-8.) The DOH will oversee this process via the environmental review process, which is described in the following Section C.

C. Environmental Review Process:

The DOH will oversee the environmental review process for all SRF proposed projects so that they are in compliance with all state and federal requirements. All environmental review procedures by the Applicant will be based upon the State requirements as outlined in HRS Ch. 343 and HRS Ch. 11-200. The OEQC Guidebook should be used as a guide. This assessment of the possible impacts of the project on the present and future environment is required for all projects. Appendix H outlines the procedures for the State Environmental Review Process (SERP).

For the SERP process, the Applicant must complete a number of steps that are required by federal regulation. These steps are outlined in Appendix H. A copy of all the documents sent to the OEQC for the environmental review process shall be sent to the DOH no later than the day the documents are provided to the OEQC.

To encourage public participation in all projects, the Applicant must give public notice of all environmental assessment determinations either in the community newspaper or in the OEQC newsletter. For projects whose environmental documents were developed within the past five years, the notice within the OEQC newsletter is an acceptable public notice. For any EIS, the Applicant must hold a public meeting for the project.

The DOH reserves the right to refuse any SRF loan to any Applicant if, for any reason, DOH feels that the proposed project has the potential to impact on the environment in ways that the Applicant has not considered or has not prepared mitigation measures for.

D. Plans and Specifications:

Following submittal of the Project Report and the EAD's, the County should submit the design documents for the project, specifically the plans and specifications (P&S) and the project performance standards.

The DOH will review and approve the P&S. The review will focus on the scope of work of the project, whether it will meet the design requirements as applicable, any concerns of the environmental review process, and whether the project will comply with the federal and state loan program requirements. The Applicant is encouraged to submit as early as possible preliminary engineering design reports and P&S to the DOH for review and comments if so desired. However, the final P&S and the project performance standards are required for DOH review and approval prior to the approval of the final loan agreement by both parties.

An important aspect of the DOH P&S review is the determination of the costs of the project that are "allowable" for SRF funding. Project cost items will be classified as either "eligible" or "ineligible" for loan funding. (See Appendix I for Allowable Cost Criteria and Design Allowance Table). When the P&S are approved and the allowable costs have been determined, the DOH will notify the Applicant by letter, listing any conditions that apply to the project.

E. State and Federal Requirements:

State regulations require that any County receiving SRF loan funds shall take specific steps to reduce polluted runoff into state waters through educational and regulatory programs.

Federal regulations require that the Applicant meet certain conditions for SRF loan monies prior to the approval of the loan agreement by the DOH. These conditions apply to all SRF projects.

In signing the loan application and the loan agreement, the Applicant certifies that they have complied or will comply with all the federal regulations applicable to the project and the "cross-cutter" authorities that involve applicable environmental, social, economic and miscellaneous federal regulations that may apply to the proposed project.

Appendix M (Federal Requirements for SRF Loan Agreements) contains the "Construction Contract Documents ("Boiler Plate")" which must be inserted into all federally funded SRF construction contracts and subcontracts.

F. Planning Documents Approval:

At the completion of the planning phase review, the DOH will send a Planning Documents Approval letter to the Applicant.

VII. LOAN AGREEMENT PHASE:

Concurrent with the Planning Phase, the Applicant should complete the Loan Agreement Phase, including the following items:

A. Loan Application:

When the Project Report (or Preliminary Engineering Report if applicable) is completed and sent to the DOH, the Applicant can submit a loan application (Appendix J).

B. Loan Offer:

Once DOH has reviewed and approved the loan application, it will send a loan offer to the Applicant. The loan offer will include the interim loan agreement (Appendix K).

The Applicant must submit the following documents and forms, as required in the interim loan agreement, before the final loan agreement can be signed:

1. A resolution or ordinance passed by the County Council that authorizes the SRF loan application and identifies the dedicated source(s) of revenue (i.e., general obligation bonds) which will fund the project and repayment of the loan with interest. (This must be submitted before the first loan payment to the Applicant is made.)
2. For all real property, including easements required for the project, attach an opinion from a title counsel certifying that sufficient interest or rights to all property have been obtained to ensure undisturbed use and possession for the useful life of the project. (This must be submitted before the first loan payment to the Applicant is made.)
3. Any inter-governmental or Applicant-private agreements relative to this project.

4. The project environmental review documents.
5. The Applicant must also submit: a Compliance Report form (EPA form 4700-4); and Certification Regarding Debarment, Suspension, and Other Responsibility Matters (EPA form 5700-49) (Appendix J).

In addition, the Planning Phase must be complete and the Planning Documents approval letter sent by the DOH to the Applicant.

If the above requirements and other terms of the interim loan agreement are acceptable to both parties, the Applicant and DOH will sign the final loan agreement.

C. Bid Advertisement:

Upon signing the interim loan agreement, the Applicant should advertise for bids to construct the project and negotiate any A/E agreements. The state procurement requirements (Chapter 103D of the Hawaii Revised Statutes) apply to the SRF program.

During the procurement process for all projects, the Applicant must comply with the federal regulations governing the participation of Minority Business Enterprises and Women's Business Enterprises (see Appendix O). Also, the federal "boiler plate" requirements must be included in the proposed contract(s) for all projects (Appendix M).

D. Pre-Award

After the Applicant has selected the contract(s) and agreement(s) it proposes to accept, it should submit the following documents to DOH.

1. Pre-Award Form (Appendix L).
2. The proposed A/E agreement(s) - all agreements must include the "boiler plate" requirements.
3. For the construction portion of the project (if applicable):
 - a. Construction contract(s) which the Applicant proposes to accept, with the bid tabulation. (All construction contracts must include the

"boiler plate" requirements.)

- b. A summary of all bidders' proposals received, with an identification of the lowest, responsive, responsible bidder;
- c. Evidence of bid advertisement; and,
- d. The engineer's estimate of project costs.

Neither EPA nor DOH will be involved in resolving bid disputes. DOH will not disburse any loan amount until all bid disputes have been resolved by the loan recipient.

DOH will review and approve the Pre-Award packet and all the contracts and agreements. Based on this review, DOH will determine the amount of the loan and will initiate the execution of the final loan agreement.

E. Final Loan Agreement Terms:

The final loan agreement will be sent to the Applicant for signature. If the Applicant chooses to sign the agreement, it must comply with the following terms:

1. The Applicant must promptly proceed with construction of all significant elements of the project (if applicable).
2. The Applicant must maintain its accounting records for this project in accordance with the "Fiscal Records to be Maintained by Applicants" (See Appendix N).
3. The Applicant must submit to DOH the executed construction contracts, the executed A/E agreements, and the Notice to Proceed. The Applicant must also submit the Certifications Regarding Debarment and Suspension completed by each contractor and A/E firm, and a completed MBE/WBE Utilization form for the project. No payments will be processed until these documents are received. (See Appendix M).

Once the Applicant signs the final loan agreement, it must be returned to DOH for signatures. The final loan agreement is executed once it has been signed by all parties. DOH

will send the Applicant one executed copy of the agreement, with original signatures.

VIII. CONSTRUCTION PHASE: (if applicable)

The Applicant initiates this phase by conducting the pre-construction conference. The Applicant should notify DOH of the conference date.

During the construction of the project, DOH engineers will perform construction inspections to ensure that the facility is being constructed in accordance with the scope of work of the project, the P&S, and the loan agreement. The inspections will be conducted on a quarterly basis at a minimum.

If funds are available, a contingency of up to 10% of the original eligible construction costs, shall be provided to fund eligible change orders. The Applicant should submit to DOH only those construction change orders which it wants DOH to review for eligibility. DOH will review these change orders in accordance with the Allowable Cost Criteria and the guidance on change order requirements and eligibility, provided in Appendix Q. DOH will notify the Applicant of the change order eligibility. The Applicant shall request payment only for change orders which DOH has determined are eligible.

When the construction of the project is complete, the Applicant will request a Final Construction Inspection from the DOH. DOH engineers will conduct this inspection to see that the project has been constructed in accordance with the scope of work of the project, the plans and specifications, and the loan agreement. A final construction inspection report will be written by DOH and sent to the Applicant.

The DOH, in consultation with the Applicant representatives, will determine the construction cut-off date. After this date, no costs incurred by the Applicant on this project are eligible for SRF loan funding.

IX. LOAN PAYMENT PHASE:

As previously noted, before payment can be processed the Applicant must submit the executed construction contracts and A/E agreements, and the Notice to Proceed with construction.

The Applicant must also submit the Certifications Regarding Debarment and Suspension, completed by each contractor and A/E firm, and a completed MBE/WBE Utilization form for the project. If the Applicant identifies an MBE/WBE which is not on DOH's list, then it must submit a self-certification of MBE/WBE status (see Appendix O).

On a monthly basis, the Applicant should request payment for costs incurred. Although costs incurred must be due and payable, the Applicant need not have paid the contractor before submitting a request for payment under the loan agreements. Payment for the loan will be made directly to the Applicant.

The Applicant must request payment by submitting the SRF Progress Payment Request form Appendix P. The payment request (original and two copies) must be accompanied by one set of supporting invoices and a combined voucher register and expenditure distribution journal (commonly referred to as "spread sheet"). The submittal must include a copy of the contractor's pay estimate (signed by both the recipient and the contractor).

DOH may, at any time, review and audit payment requests and adjust for errors or items not eligible for loan assistance. The loan payment will be based on the amount of money currently due and payable to the contractor for eligible bid items, minus any amounts previously paid by DOH. Engineering and project inspection fees will be paid as a percentage of the project completion to date. The Applicant should assure that adequate funding is available to pay the contractor in case the loan payment is not processed before payment to the contractor is due.

X. OPERATIONS PHASE:

The Applicant will notify the DOH of the Project Initiation Date for the constructed facility or project. The Hawaii Administrative Rules (Section 11-62-23(f)) require that after the first year of operation of any wastewater treatment plant releasing effluent into the environment, the applicant must certify to the Department of Health that the plant is meeting the applicable effluent requirements as outlined in Section 11-62-26.

This rule does not apply to other projects constructed with

SRF funding such as sewers, wastewater pump stations, etc.

XI. LOAN REPAYMENT PHASE:

The Applicant shall repay the loan to DOH in semi-annual installments not to exceed 20 years, with the first repayment due one year after the date of the Notice to Proceed with construction of the project or one year after the final loan agreement is accepted and signed by the Applicant, whichever occurs later.

Following the final loan payment, a supplemental loan agreement shall be prepared to reflect the final amortization schedule for the loan repayments. All loan repayments must be sent to the Wastewater Branch. With the Director's prior approval, the recipient may prepay all or any portion of the project loan.

There will be a 1% per month simple interest penalty for late repayments. There is a 15 day grace period. If the payment is not received by the end of the grace period, the penalty will be assessed from the repayment due date. Penalties assessed will not change the principal balance of the loan contract. Such penalties will be treated as a separate amount, in addition to the repayment due.

XII. LOAN CLOSE-OUT PHASE:

When the Applicant submits the final repayment. The DOH will send a letter to the Applicant certifying that the loan has been repaid in full.

XIII. ANNUAL REQUIREMENTS:

The following tasks must be performed every year. It is possible that the results of these annual reviews may affect the eligibility of SRF project costs or even a Applicant's eligibility for SRF loans.

A. Single Audit Requirement:

By December 31 of each year, the loan recipient should submit to DOH the Annual Single Audit Report performed by an independent auditor, in accordance with OMB Circular A-128. This report must contain an audit of the SRF funds received by the Applicant during the state fiscal year. Should the audit report contain a qualified opinion, DOH will take

reasonable and necessary action to resolve any discrepancies with the loan recipient. Should the auditor's determination of the final eligible project costs be less than the total SRF loan amount paid, DOH will request a reimbursement from the recipient and process a loan amendment to reflect the actual eligible project costs.

B. Sewer User Charge System Requirements:

As specified in the loan agreement, the Applicant must ensure that its sewer user charge system (UCS) generates sufficient revenue for adequate operation, maintenance and equipment replacement of the wastewater treatment facilities. Guidance for establishing such a Revenue Program is described in Appendix R. Every year, DOH will request information about the UCS, including completion of a UCS Review Financial Report (Appendix S). DOH shall review annually the Applicant's UCS and issue a report. DOH and the Applicant will work together to resolve any deficiencies.

C. Financial Capability Review:

DOH will conduct a financial capability analysis of State Revolving Fund loan applicants. The purpose of this review is to safeguard against the possibility of default.

The financial capability review shall consist of collecting basic financial indicators about municipal debt, financial operations and socioeconomic conditions. These indicators will be compared with indicators of prior years and any available benchmarks. The financial capability review shall be conducted in a confidential manner.

XIV. Miscellaneous Items:

A. Record Keeping Requirements:

The Applicant must keep and maintain project records, including:

1. Accounts accurately depicting amounts received and expended for the project, including all funds received from the SRF;
2. Total costs of the project, with documentation to support its eligibility for project funding;

3. Planning, design and environmental documents; and
4. Program income data.

These records must be maintained for at least three years after close-out, or until any disputes, such as audit findings, have been resolved. After the three year period, the Applicant must continue to maintain records on principal and interest repayments and loan fee payments of the loan. All records shall be accessible to DOH, EPA and the State Controller.

B. Disputes:

Disputes under this policy are expected to be minimal. Any dispute that is not otherwise resolved shall be referred to the Deputy Director of the DOH, or his designee, for decision. In the event that a DOH decision is not acceptable to a loan recipient, the recipient may appeal to the DOH within 30 days. The Deputy Director will prepare a summary of the dispute and make recommendations relative to its final resolution, which will be provided to the DOH Director to review and resolve the dispute.

APPENDIX A

SRF DEFINITIONS

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SRF DEFINITIONS

allowance - an allowance for eligible design costs which is calculated using Table 2 of 40 CFR 35, Subpart I, Appendix B

annual report - DOH annual report to EPA which contains information on how the State has met the goals and objectives of the previous fiscal year, as stated in the IUP and grant agreement, including the SRF financial statements

binding commitment - an executed loan agreement or other legal obligation to provide a SRF loan

capitalization grant - the grant funds EPA has provided to DOH to capitalize the SRF loan program

Clean Water Act, Title II - the statutory authority for the construction grants program

Clean Water Act, Title VI - the statutory authority for the SRF program

construction cut-off date - the date the project is capable of initiating operation, as determined by DOH

contingency - an allowance for eligible change order costs equal to 10% of the eligible construction costs identified in the Preaward Packet

cross-cutters - requirements of federal laws and executive orders that may not be specifically identified in the Clean Water Act, Title VI, but which apply broadly to the federally funded first round projects and a wide range of other federal financial assistance programs

debt services - the amount of money necessary to pay principal and interest on an outstanding SRF loan(s), as identified in each loan amortization schedule

default - failure to make a loan payment

design-build projects - these projects use one contractor to design and build the project. SRF will reimburse 100% of the eligible design and construction costs of the project. Reimbursement of construction costs will be contingent upon the review and approval of the plans and specifications by the DOH.

DOH - Hawaii State Department of Health

enforceable requirements of the Act - provisions of the federal Clean Water Act that, if violated, could result in an administrative or judicial enforcement action

EPA - the United States Environmental Protection Agency

exempt projects - projects or classes of projects which have minimal or no significant effect on the environment (see the OEQC Guidebook and HAR '11-200-8). These projects are exempt from environmental review requirements.

federal fiscal year - October 1 through September 30

final loan agreement - a binding agreement wherein the State commits to funding the Applicant's project since all conditions, as contained in the interim loan agreement, have been completed.

first use - a Clean Water Act requirement that the State use first all funds in the SRF from the capitalization grant, State match, and first round loan repayments for assuring maintenance of progress toward compliance with the enforceable requirements of the Act

initiation of operation - the date specified by the Applicant on which use of the project begins, for the purpose for which it was planned, designed and built

intended use plan (IUP) - a document prepared by DOH each year which identifies the intended uses of the SRF funds and describes how these uses support the goals of the SRF.

interim loan agreement - an agreement between the State and the Applicant wherein the State commits funding an Applicant's project conditioned upon the completion and submittal of all required State Revolving Fund documents.

National Pollutant Discharge Elimination System (NPDES) - a Program operated by the State under delegation from EPA which involves the issuance of permits with specific limitations for discharges into State waters.

nonpoint source (NPS) Pollution - is caused by rainfall runoff or leakage from various storage facilities or sites (such as

construction sites, animal feeding operations, individual wastewater systems, landfill sites, etc.), either above or underground which carry natural or manmade pollutants into surface and groundwater resources.

operating agreement (OA) - the State's basic framework and procedures of the SRF

payment - loan funds paid to the Applicant based on the Applicant's SRF payment request and DOH's eligibility review

project close-out - the final actions taken by DOH and the Applicant to assure satisfactory completion of project work and fulfill administrative requirements, including: financial settlement, submission of final audit resolution, and resolution of any outstanding issues

Priority List - a list of point source and nonpoint source water pollution control projects which are ranked in accordance with their priority to receive funding from the SRF program

repayment - the loan recipient's payment of principal and interest for an SRF loan

SRF - the Water Pollution Control State Revolving Fund, sometimes called the Clean Water State Revolving Fund

state allotment - that portion of the total amount of money appropriated by Congress each Federal fiscal year for wastewater treatment State Revolving Fund Loans, which is specifically designated for use in the State of Hawaii

state fiscal year - July 1 to June 30

state match - the required state contribution of 20% of the federal capitalization grants

state over-match - any state contributions to the SRF, in excess of the required 20% state match

treatment works - a system or devices for the storage, conveyance, treatment, recycling, reclamation, or disposal of municipal sewage, as further defined by 40 CFR 35.2005

water quality standards - standards established by State regulation classifying beneficial uses and prescribing specific allowable limits of constituents in surface waters

APPENDIX B

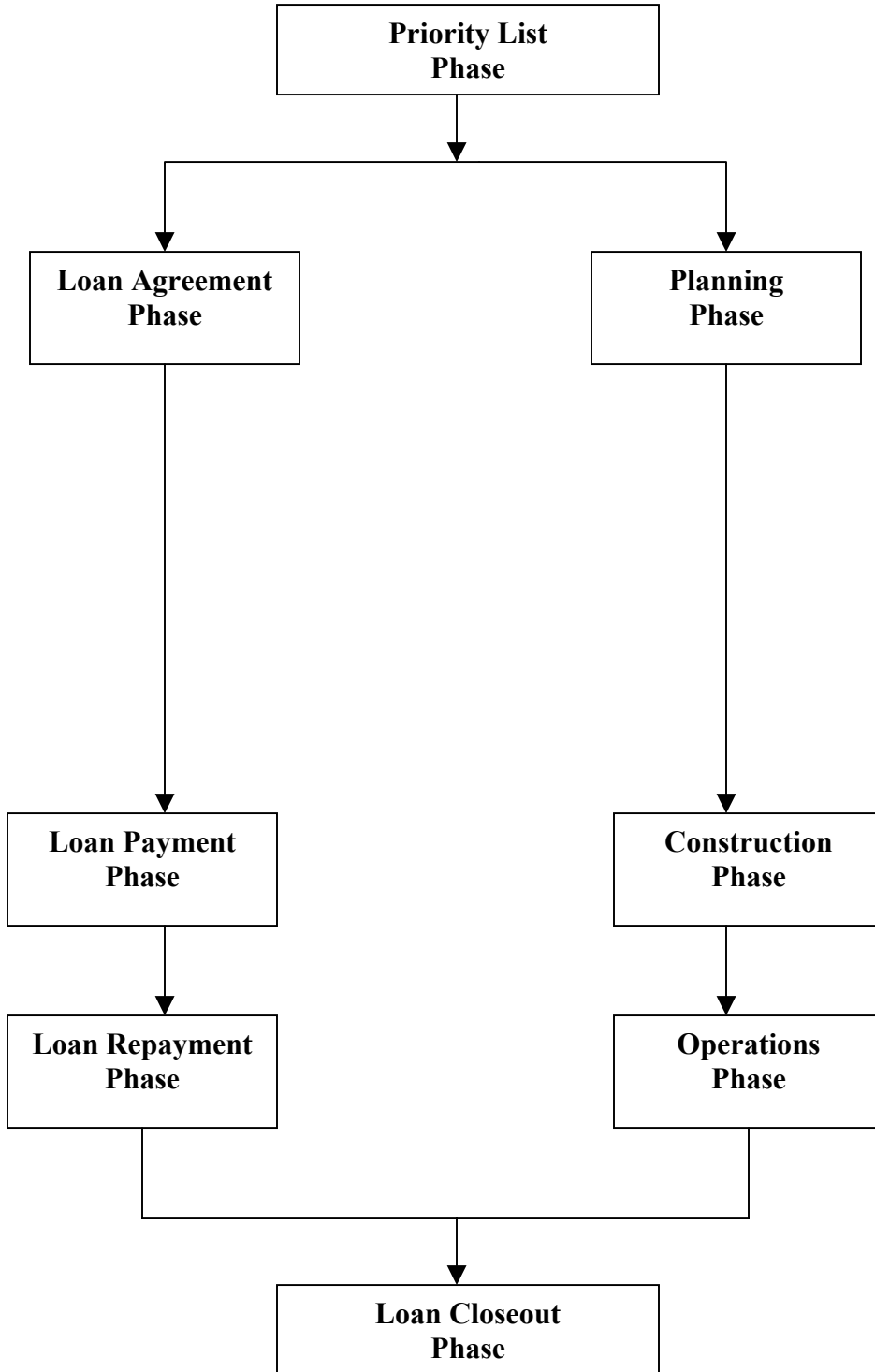
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APPENDIX C

FLOW DIAGRAM OF LOAN PROCEDURES

AND SRF QUESTIONS AND ANSWERS

CWSRF Process Flowchart



SRF QUESTIONS AND ANSWERS

1. **Q** **Where does the State Revolving Fund (SRF) come from?**

A The SRF was established by Congress as part of the 1987 Amendments to the Clean Water Act. The loan program was designed to take the place of Construction Grants Program
2. **Q** **How does the SRF program work?**

A Hawaii's program is designed along the same line as the construction grants program. Projects must be on a Priority List based on pollution abatement needs. SRF loans are executed with selected recipients and payments are made on costs incurred.
3. **Q** **What types of projects are qualified to receive loans?**

A Construction of point source water pollution control projects to include wastewater treatment facilities, sewage systems, are qualified. Also the construction of nonpoint source water pollution control projects such as stormwater projects, sewage systems for failing individual wastewater systems (cesspools, septic tanks), and projects to control runoff or leakage from storage facilities and sites are qualified.
4. **Q** **What is the interest rate?**

A Each loan shall bear a simple interest at a rate of two-thirds (2/3) of the bond market prime rate as indicated in the most recent publication of "The Bond Buyer", less a one percent loan fee.
5. **Q** **What is the Payback period?**

A No more than 20-years, with the first repayment due one year after the Notice to Proceed (NTP) or the date of the final loan agreement, whichever is later.

6. **Q How often must repayments to the loan be made?**
- A** Semiannually, unless specified otherwise in the loan agreement.
7. **Q How is interest compounded?**
- A** Semiannually, unless specified otherwise in the loan agreement
8. **Q Who can apply?**
- A** Counties of the State and State agencies, as well as other private parties may apply.
9. **Q What amount of SRF assistance will be provided?**
- A** Up to 100% of eligible costs will be provided for each project. Future years assistance will be dependent upon the availability of the State and Federal funds and project needs.
10. **Q When does payback start?**
- A** The first principal and interest repayment must be made within one year following Notice to Proceed (NTP) or the date of the final loan agreement, whichever is later. Loan pre-payments may be made only with the Director's prior approval.
11. **Q When does interest start?**
- A** Interest is accrued during project development. Interest starts accruing the day the State issues a warrant or check to the Applicant for the loan project.
12. **Q Is 100 percent of the project cost eligible?**
- A** Only project costs which meet the Allowable Cost Criteria are eligible for SRF loans. 100% of these costs are eligible for SRF funding.
13. **Q Can one year's loan recipient receive a loan in subsequent years?**
- A** Yes.

14. **Q** **Can a loan be made for non-eligible portions of previously funded grant projects?**
- A** No.
15. **Q** **Can an amendment to the loan amount be made?**
- A** The Director may approve an amendment to a loan amount, depending on the availability of funds and the priority of the increase in project costs.
16. **Q** **Is interim financing necessary?**
- A** No, however, loan payments for incurred cost may be made monthly.
17. **Q** **What is "State Match"?**
- A** The State must provide a 20 percent match to Federal dollars received in a Capitalization Grant.
18. **Q** **How will payments be made?**
- A** Payments to the Applicant will be made for eligible costs incurred upon receipt of proper and acceptable monthly payment requests. Requests must include contractor's claims and estimate of percent of completion of the project.
19. **Q** **Which agencies are involved in administering the SRF program?**
- A** The Wastewater Branch of the Environmental Management Division of the Department of Health is responsible for the overall management and implementation of the SRF Program. Financial and fiscal assistance is provided by the Administrative Services Office of the Department of Health. Department of Budget and Finance is responsible for managing the investment of the balance in the State Revolving Fund account. Department of Accounting and General Services is responsible for certification and disbursement of State funds.

20. **Q** Do the sources of funding (i.e., federal or state) determine the requirements that apply to the projects?

A No. All SRF projects must fulfill all the necessary requirements.

21. **Q** What are these additional federal requirements?

A There are some federal cross-cutting as well as environmental review requirements. Also, refer to Title 40 of the Code of Federal Regulations, Part 35, Subpart K.

22. **Q** Do Davis-Bacon wage rates apply?

A At the present time, Davis-Bacon wage rates do not apply to SRF projects. However, this could change and DOH will keep all Applicants up to date on this issue.

23. **Q** Will interagency service agreements be required for SRF projects involving two or more government agencies?

A Yes, for the safety of all parties, including the SRF. For example, should a wastewater project serve the areas which are part of the jurisdictions belonging to a federal agency or a state agency, an interagency agreement is required to delineate the share of project costs and the responsibilities of the operation and maintenance.

APPENDIX D

PROPOSED PROJECT FOR SRF FUNDING FORM

PROPOSED PROJECT FOR SRF FUNDING FORM

State Fiscal Year 2013

Project Title: _____
County/Applicant: _____
Estimated Cost: \$ _____ Estimated Start Date: _____
Project Description: _____

Place an "X" next to each item that applies. The project description must contain information supporting the applicable items.

1. Water Quality Protection		
	Corrects surface water quality impairment or eliminates/prevents ground water contamination.	12 pts.
2. Green Infrastructure		
	a. Water reuse facility providing R1 or R2 water and/or reuse transmission and/or distribution system.	10 pts.
	b. Energy Efficiency or Renewable Energy: Uses energy efficient components (eg: motors, pumps, blowers, photovoltaic panels etc.) that reduce energy consumption of a major component by 20% or more; or provides for renewable energy (methane conversion, etc.) or other environmentally innovative technologies (eg: hydroelectric turbine at outfall line to generate electricity) to reduce energy consumption of the plant or major component by 20% or more.	8 pts.
	c. Promotes sustainable infrastructure to withstand the effects of rising sea levels due to climate change and provides adaptation for coastline inundation.	7 pts.
	d. Provides for wastewater sludge reuse.	7 pts.
	e. Energy audit.	3 pts.
3. Compliance and Enforcement		
	Project necessary to achieve compliance with federal or state compliance issue, consent decree, or court order.	5 pts.
4. Project Need		
	a. Secondary treatment for wastewater treatment plant.	4 pts.
	b. Sewer collection system rehabilitation or replacement, infiltration/inflow correction.	4 pts.
	c. Large capacity cesspool and landfill liner projects.	4 pts.
	d. Stormwater equipment, wastewater facilities.	3 pts.

Total Points (for DOH use):	
-----------------------------	--

APPENDIX E

PRIORITY SYSTEM POLICIES

HAWAII DEPARTMENT OF HEALTH

PROJECT PRIORITY SYSTEM

I. GENERAL POLICY

The State priority system comprises the criteria and method used to rank wastewater pollution control projects considered eligible for SRF funding assistance. The Department of Health (DOH) gives high priority to projects protecting water quality and contributing to the Green Project Reserve and/or sustainability issues such as water reuse, energy efficiency, renewable energy, and environmentally innovative technologies. DOH also funds projects to achieve compliance with enforcement issues and considers the need for the project.

II. PROJECT PRIORITY LIST AND PROJECT SELECTION

The loan applicant submits a *Proposed Project for SRF Funding Form* (Form D-1 in Appendix D) for each new project to be considered for funding. The applicant provides a project description and checks off all criteria applicable to the project. Each criterion is assigned a specific number of points. The points for each project are totaled and eligible projects are compiled into an SRF project priority list in the order of a project's ranking, with highest priority going to those projects with the highest number of points.

Generally, proposed projects will be prioritized in the following order:

1. Water quality protection projects that correct surface water quality impairment or eliminate/prevent ground water contamination.
2. Green Infrastructure projects which promote water reuse, energy efficiency, renewable energy, sludge reuse, sustainable infrastructure, and/or other environmentally innovative technologies.
3. Enforcement-related projects which are necessary to achieve compliance with a federal or state compliance issue, consent decree, or court order.
4. The need for a project is also considered. Specific points are awarded for secondary treatment, sewer rehabilitation, non-point source issues, and stormwater management.

Project selection is based on the project's ranking, the project's readiness to proceed to construction, and the amount of funds available for the particular fiscal year. If additional SRF funds are available later in the fiscal year, projects are selected for funding from the current priority list. A project on the priority list may be bypassed if the project is not ready to proceed when funding is available.

III. RANKING PROJECTS WITH AN EQUAL NO. OF POINTS

In the event that two or more projects have the same number of points (often the case with sewer line repair projects) project selection will be based on the following tie-breaking criteria:

1. First criterion: Priority given to the project whose county has not had an SRF project selected for funding. If this applies to more than one county, the second criterion will be used.
2. Second criterion: Project serving the largest population will have priority.

IV. INTENDED USE PLAN

The priority list and selection of projects intended to be funded is included in an annual Intended Use Plan (IUP) which describes the intended use of federal and state funds available to the program for the upcoming fiscal year.

The IUP is subject to a 30-day public comment period during which time the public is encouraged to participate and comment on the IUP. At the conclusion of the comment period, DOH may revise the IUP as necessary, depending on comments received. The final IUP is then provided to all loan applicants and to the EPA.

APPROXIMATE TIMELINE OF CRITICAL DATES

**FOR THE PRIORITY LIST/
INTENDED USE PLAN PROCESS**

October 15:

DOH requests all applicants to submit a list of proposed projects to be included on the Priority List (PL) and the Intended Use Plan (IUP).

November 15:

Applicants submit their list of proposed projects to DOH to be included in the PL and IUP.

December 1:

DOH prepares a draft Priority List and IUP, and publishes a public notice soliciting public comment on the draft IUP.

January 1 - February 1:

Public review and comment period for the PL/IUP.

February 15:

PL and IUP are finalized.

June 30:

Last day for DOH and EPA to negotiate the capitalization grant agreement based in part on the PL/IUP.

July 1 - July 30:

Capitalization grant application is revised if necessary.

August 1:

Deadline for submittal of capitalization grant application to EPA.

October 15:

EPA issues capitalization grant to DOH.

APPENDIX F

PROJECT REPORT CRITERIA

**WASTEWATER BRANCH
HAWAII DEPARTMENT OF HEALTH**

PROJECT REPORT CRITERIA

The Project Report should describe the scope of the project and provide as much information necessary to address the following criteria:

1. A statement of the project needs and benefits, including a discussion of the water quality benefits and/or public health problems to be corrected.
2. A description of the proposed pollution control project and the waste treatment system of which it is a part (if applicable).
3. An evaluation of the alternatives considered to address the project needs.
4. A description of the selected alternative and the relevant design criteria used.
5. Cost information on the estimated total capital costs and annual operation and maintenance costs for the project (if applicable).
6. An evaluation of the impact of the project on the water supply (if applicable).
7. An evaluation of the opportunities to reclaim or reuse treated wastewater, nonpoint source pollution control project waters, or sludge material resulting from the project.

APPENDIX G

ENVIRONMENTAL ASSESSMENT DOCUMENTS CRITERIA

**WASTEWATER BRANCH
HAWAII DEPARTMENT OF HEALTH**

ENVIRONMENTAL ASSESSMENT DOCUMENTS CRITERIA

The Environmental Assessment Documents (EADs) submitted for any SRF project will address the following criteria:

A. OEQC CRITERIA:

A current Environmental Assessment (EA) of the proposed project that meets the requirements of HAR 11-200-10. (For guidance, see OEQC Guidebook, Chapter VI-B, EA Content Requirements, Items (1)-(9).)

B. SERP CRITERIA:

The Environmental Assessment should also address the following areas to meet SERP requirements:

1. Population projections shall conform to or be derived from the latest population projection series developed by the State Department of Business, Economic Development and Tourism (DBEDT).
2. A range of feasible alternatives shall be considered to include the "no action" alternative.
3. The analysis of alternatives and impacts shall include:
 - a. the primary and secondary (direct and indirect) impacts for all feasible alternatives (to include the "no action" alternative);
 - b. the impacts on social parameters such as land use, recreation and open-space opportunities;
 - c. the cumulative impacts such as anticipated community growth (residential, commercial, institutional, and industrial) within the project and study area;
 - d. the impacts on other anticipated public works projects (if any) and the planned coordination with them;

- e. the impacts on any individual sensitive environmental issues that have been identified through the public participation program.

C. FEDERAL CRITERIA:

Federal Funding Notice - for all SRF projects, the Environmental Assessment must include the following statement:

"This project may be funded by Federal Funds through the State of Hawaii's Clean Water State Revolving Fund (SRF) Program, which would constitute a federal action, and will require the project to meet all NEPA and Hawaii SRF program requirements."

This statement must also be included in the notice published in the OEQC newsletter, The Environmental Notice, or in the community newspaper.

Cross-cutting Authorities - for all SRF projects, the Environmental Assessment must also address the impacts of the proposed project on other Federal "cross-cutting" authorities, as applicable, to include the:

1. Archeological and Historic Preservation Act (16 U.S.C. §469a-1)
2. Clean Air Act (42 U.S.C. §7506(c))
3. Coastal Barrier Resources Act (16 U.S.C. §3501)
4. Coastal Zone Management Act (16 U.S.C. §1456(c)(1))
5. Endangered Species Act (16 U.S.C. §1536(a)(2) and (4))
6. Environmental Justice, (Executive Order 12898)
7. Essential Fish Habitat Consultation Process under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. §1801)
8. Farmland Protection Policy Act (7 U.S.C. §4202(B))
9. Fish and Wildlife Coordination Act (16 U.S.C. §662(a))
10. Floodplain Management (42 U.S.C. §4321)
11. National Historic Preservation Act (16 U.S.C. §470(f))
12. Safe Drinking Water Act (42 U.S.C. §300f)
13. Protection of Wetlands (42 U.S.C. §4321)
14. Wild and Scenic Rivers Act (16 U.S.C. §1271)

D. PRIOR-DECISION DOCUMENTS:

Prior-decision documents (EA, EIS, FNSI, Reaffirmations, Negative Declarations) may be submitted. (Documents older than five years must be reaffirmed by the Applicant.) These documents may include the proposed project as part of a larger "parent" project.

Any prior-decision document submitted must contain information applicable and pertinent to the proposed project, and have logical relevancy to and bearing on the action being proposed. In particular, the scope of the proposed project must be substantially similar to the project identified in the prior decision document. All prior-decision documents must be re-evaluated by the County as outlined in Appendix H (SERP).

When prior-decision documents are submitted, an evaluation of the current environmental impacts of the proposed project must be conducted. New impacts not addressed in the prior-decision documents must be addressed in the current EA. If it is determined there are no new impacts, then the current EA need not be an extensive document.

E. EA CHECKLIST AND CERTIFICATION FORM:

The applicant must complete and sign the attached EA Checklist and Certification form for each proposed project.

F. EXEMPT PROJECTS CERTIFICATION FORM:

The applicant must complete and sign the attached Exempt Projects Certification Form.

HAWAII DEPARTMENT OF HEALTH
WASTEWATER BRANCH

ENVIRONMENTAL ASSESSMENT CHECKLIST AND CERTIFICATION

Project: _____

Project no: _____ **Applicant:** _____

Item	Yes	No	N/A
ENVIRONMENTAL ASSESSMENT SUBMITTED			
PRIOR DECISION DOCUMENT SUBMITTED			
A. OEQC CRITERIA ADDRESSED:			
1. Identification of applicant			
2. Identification of approving agency			
3. Agencies consulted			
4. Description of project characteristics			
5. Description of environment			
6. Impacts and alternatives			
7. Mitigation measures			
8. Determination			
9. Findings and reasons			
B. SERP CRITERIA ADDRESSED:			
1. Population projections current			
2. "No-action" alternative			
3. Impact analysis addressed:			
a. primary and secondary impacts			
b. social parameters			
c. cumulative impacts			
d. other projects			
e. sensitive issues			

Project:			
C. CROSS-CUTTERS ADDRESSED:	Yes	No	N/A
1. Archeological and Historic Preservation Act			
2. Clean Air Act			
3. Coastal Barrier Resources Act			
4. Coastal Zone Management Act			
5. Endangered Species Act			
6. Environmental Justice			
7. Essential Fish Habitat			
8. Farmland Protection Policy Act			
9. Fish and Wildlife Act			
10. Floodplain Management, Executive Order			
11. National Historic Preservation Act			
12. Safe Drinking Water Act			
13. Protection of Wetlands, Executive Order			
14. Wild and Scenic Rivers Act			

CERTIFICATION: (County certifies that it has conducted a current assessment of the environmental impacts of the proposed project, and has disclosed, in the Environmental Assessment Documents referred to in this checklist, all known significant environmental impacts of the proposed project.)

Signature

Date

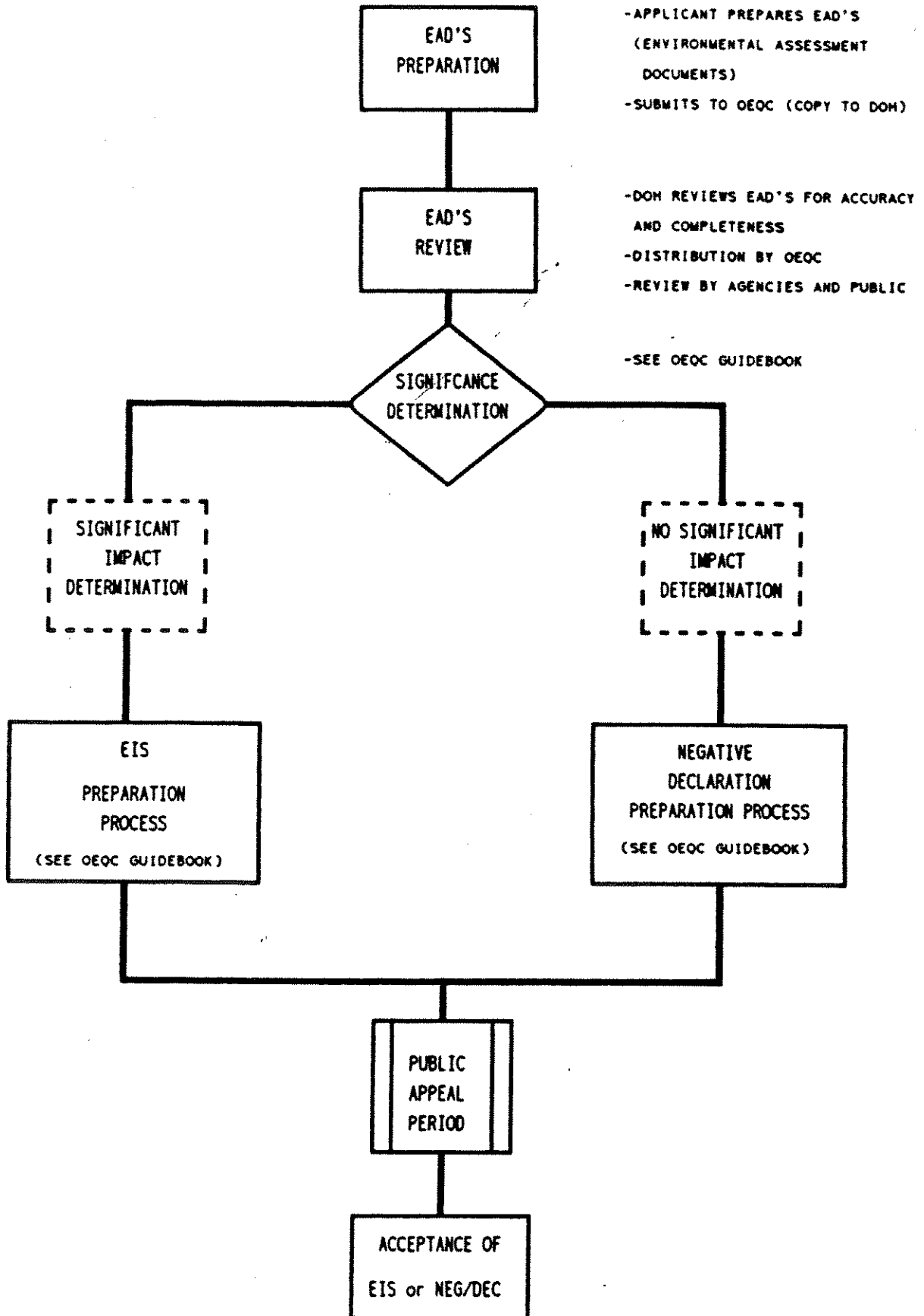
Name: _____

Title: _____

APPENDIX H

STATE ENVIRONMENTAL REVIEW PROCESS (SERP)

SERP GENERAL FLOWCHART



HAWAII DEPARTMENT OF HEALTH

STATE ENVIRONMENTAL REVIEW PROCESS (SERP)
FOR SRF PROJECTS

1. For all projects, the Applicant will comply with the environmental review process as defined by HRS Chapter 343 and HAR Chapter 11-200. For guidance, the Applicant should refer to A Guidebook for the Hawaii State Environmental Review Process, August, 1992, as prepared by the Hawaii Office of Environmental Quality Control (OEQC).
2. The Applicant shall address the SERP Criteria as found in Appendix G (Environmental Assessment Documents Criteria).
3. The Applicant shall address the Federal Criteria as found in Appendix G. The Federal Funding Notice must be included in the Environmental Assessment and must be included in the notice published in the OEQC newsletter (The Environmental Notice), or in the community newspaper.

The Federal Funding Notice is as follows:

"This project may be funded by Federal Funds through the State of Hawaii's Clean Water State Revolving Fund (SRF) Program, which would constitute a federal action, and will require the project to meet all NEPA and Hawaii SRF program requirements."

4. The Applicant will provide a copy of the Environmental Assessment (and any prior-decision documents and reaffirmations) to the Department of Health no later than the day the Applicant provides those documents to the OEQC.
5. The Applicant will provide a copy of the Notice of Determination to the Department of Health no later than the day the Applicant provides that document to the OEQC.
6. The Applicant will provide a copy of the Environmental Impact Statement (EIS) or the Negative Declaration (NEGDEC) to the Department of Health no later than the day the Applicant provides those documents to the OEQC.
7. To encourage public participation in all projects, the Applicant must give public notice of all environmental assessment determinations either in the community newspaper or in the OEQC newsletter. For projects whose environmental

documents were developed within the past five years, the notice within the OEQC newsletter is an acceptable public notice. However, this public notice shall not change any deadline for public comment or lawsuits under the procedures specified in HRS Chapter 343 or HAR Chapter 11-200. For any EIS, the Applicant must hold a public meeting for the project.

8. The SERP will be documented by the use of DOH review forms. At the completion of the review process, the DOH will send the Planning Documents approval letter to the Applicant to delineate any deficiencies, explain any mitigation measures which will be included as special conditions on the loan agreement, and approve all of the project planning documents.
9. The DOH reserves the right to refuse any SRF loan to any Applicant if, for any reason, it feels that the proposed project has the potential to impact on the environment in ways that the Applicant has not considered or has not prepared mitigation measures for.

APPENDIX I

ALLOWABLE COST CRITERIA & DESIGN ALLOWANCE TABLE

**WASTEWATER BRANCH
HAWAII DEPARTMENT OF HEALTH**

ALLOWABLE COST CRITERIA

- A. During the Plans and Specifications review, project cost items will be assessed for allowability. In order to be considered allowable, all costs must meet the criteria listed below.
1. Be necessary and reasonable for the proper and efficient administration of the loan project, be allocable to the project, and not be a general expense required to carry out the overall responsibilities of the applicant.
 2. Be authorized or not prohibited under State or County law, regulations or ordinances.
 3. Be consistent with policies, regulations and procedures that apply to both federal or state activities.
 4. Be accorded consistent treatment through the application of generally accepted accounting principles appropriate to the circumstances.
 5. Not be allocable to, or included as, a cost of any other federal or state financed program.
- B. Unallowable costs are those which do not meet the general criteria listed above. For example:
1. Costs outside the scope of the approved project.
 2. Costs caused by the applicant's mismanagement.
 3. Costs caused by the applicant's vicarious liability for the improper actions of others.
 4. Bonus payments, not legally required, for completion of a project before a contractual completion date.
 5. Additional costs (e.g., building, engineering, legal, or administrative) incurred because of a contractor's lack of timely performance. These costs are assumed to be offset by liquidated damages, even in the event the applicant elects not to exercise its right to recover liquidated damages, or the liquidated damages are insufficient to cover the applicant's additional costs.

6. Costs to provide additional professional liability insurance for a specific project, beyond that which is normally carried by a contractor.
7. Costs of local travel and commuting expenses between living quarters and the construction site for persons employed by either the applicant or the contractor.
8. Costs for small and onsite systems which include:
(a) modification to physical structure of homes or commercial establishments; (b) conveyance pipes from the house to the treatment unit located on a user's property; and, (c) wastewater generating fixtures such as commodes, sinks, tubs, and drains.
9. Costs of land acquisition (including associated legal, administrative and engineering costs) of sewer rights-of-way, waste treatment plant sites (including small system sites), sanitary landfill sites and sludge disposal areas. However, the cost of land that will be an integral part of the treatment process or pollution control project or that will be used for the ultimate disposal of residues resulting from such treatment or pollution control may be allowable. Land acquisition costs necessary to comply with the requirements of the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as implemented by EPA under 40 CFR Part 4, also may be allowable.
10. Ordinary operating expenses of the applicant including salaries and expenses of elected and appointed officials and preparation of routine financial reports and studies.
11. Administrative, engineering and legal activities associated with the establishment of special departments, agencies, commissions, regions, districts or other units of government.
12. Costs of approval, preparation, issuance and sale of bonds or other forms of indebtedness required to finance the project and the interest on them.
13. Costs of replacing, through reconstruction or substitution, a treatment works that was assisted under the Clean Water Act (Pub. L. 92-500), as amended, and that fails to meet its project performance standards. This provision applies to failures that occur either before or after the initiation of operation. This provision does not apply to an innovative and alternative treatment works eligible for funding or a

treatment works that fails before its design life.

14. Personal injury compensation or damages arising out of the project.
15. Fines and penalties due to violations of, or failure to comply with, federal, state or local laws, regulations or procedures.
16. Travel not directly related to a specific project, such as travel to professional meetings, symposia, technology transfer seminars, lectures, etc..
17. Costs of preparing a corrective action report for a project that does not meet the project performance standards.
18. Administrative costs of salaries, benefits, and expendable materials the applicant incurs for the project.
19. Construction costs incurred after the construction cut-off date.

DESIGN ALLOWANCE TABLE

To calculate the design allowance, multiply the estimated eligible construction cost by the design allowance percentage. (Interpolate between design allowance values, based on the specific estimated eligible construction cost.)

<u>Estimated Eligible</u> <u>Construction Cost</u>	<u>Allowance</u> <u>(%)</u>
\$ 100,000 or less	8.5683
120,000	8.3808
150,000	8.1570
175,000	8.0059
200,000	7.8772
250,000	7.6668
300,000	7.4991
350,000	7.3602
400,000	7.2419
500,000	7.0485
600,000	6.8943
700,000	6.7666
800,000	6.6578
900,000	6.5634
1,000,000	6.4300
1,200,000	6.3383
1,500,000	6.1690
1,750,000	6.0547
2,000,000	5.9574
2,500,000	5.7983
3,000,000	5.6714
3,500,000	5.5664
4,000,000	5.4769
5,000,000	5.3306
6,000,000	5.2140
7,000,000	5.1174
8,000,000	5.0352
9,000,000	4.9637
10,000,000	4.9007
12,000,000	4.7935
15,000,000	4.6655
17,500,000	4.5790
20,000,000	4.5054
25,000,000	4.3851
30,000,000	4.2892

APPENDIX J

LOAN APPLICATION (Sample)

**APPLICATION FOR STATE REVOLVING FUND LOAN
for the Construction of Wastewater Treatment Facilities**

A completed application must be submitted for each proposed project. If any information requested in this application was previously submitted for a prior loan or grant project, please indicate the project number in the space provided. Provide supporting documentation or additional pages as appropriate.

I. ORGANIZATIONAL DATA

Applicant Name: _____

Address:

Contact person: _____

Telephone number: _____

II. PROJECT NAME AND DESCRIPTION

Project Name: _____

Description:

Population to be served by project: _____

State Senate District: _____

State House District: _____

III. PROJECT NEED AND ENVIRONMENTAL BENEFITS

A. Need for Project:

B. Project Environmental Benefits:

1. This project will contribute to water quality by:
 Improving it Maintaining it N/A

2. This project will allow the facility/system to:
 Achieve compliance Maintain compliance N/A

3. This project involves a facility/system that discharges to a waterbody that is:
 Meeting standards Impaired Threatened
 Not Assessed N/A

4. This project will allow the facility/system to:
 Protect public health Restore public health
 N/A

5. This project will allow the facility/system to prevent wastewater spills to the:
 Ground Surface Waters N/A

6. This project involves other environmental benefits noted below:

IV. PROJECT COSTS

Attach the engineer's estimate of total project costs, if it differs from the estimate submitted with the planning and design documents.

Estimated Total Project Cost: _____

SRF Loan Requested: _____

Source and Amount of all other revenue:

Source of other Revenue:	Amount:
_____	_____
_____	_____
_____	_____

V. PROJECT SCHEDULE DATES

Date:

Advertise for construction bids	_____
Open construction bids	_____
Negotiate A/E agreement(s)	_____
Award construction and/or A/E contracts	_____
Issue Notice to Proceed	_____
Complete construction	_____

VI. RELATED PROJECTS

List all related sewer projects which must be constructed in order to fully utilize the subject project. Also, list the anticipated dates these projects will be constructed.

Title of Related Project:	Estimated Construction Date:
_____	_____
_____	_____
_____	_____

VII. REQUIRED DOCUMENTS AND FORMS

Note: Documents and forms **MUST** be completed and submitted to DOH before the execution of the final agreement.

1. If completed, attach the documents listed below:
 - a. A resolution or ordinance passed by the County Council which authorizes the SRF loan application and identifies the dedicated source(s) of revenue (e.g., general obligation bonds) which will fund the project and repayment of the loan with interest.
 - b. An opinion signed by a competent title counsel describing the interest the applicant has in the site, including information about any easements and right-of-ways, and certifying that interest is legal and valid. The opinion should also include information as to whether or not:
 - 1) The applicant (or the present owner if fee simple title has not been, or is not to be, acquired) has good and valid title to the entire site (excluding easements and right-of-ways) free and clear of any pre-existing mortgages, deeds of trust, liens, or other encumbrances which would affect the value or site usefulness for the purpose intended;
 - 2) Any deeds or documents required to be recorded have been duly recorded or filed for record, whenever necessary, in order to protect the title of the owner and the interest of the applicant; and,
 - 3) The applicant has complied with the 1971 Uniform Relocation Assistance and Real Property Acquisition Policies Act, if necessary.
 - c. Any inter-governmental or County-private agreements relative to this project.
- *2. For federally-funded projects, complete the attached form:
Pre-award Compliance Report, (EPA form 4700-4)

VIII. ASSURANCES

The applicant certifies that

_____ (name of legal entity)

1. Has the legal, institutional, managerial and financial capability to ensure adequate construction, and operation and maintenance (including replacement) of the wastewater treatment works, and has analyzed the local share of the costs of the proposed wastewater treatment facilities, including the financial impact on each community and the residents of the service areas; and,
2. Will operate and maintain the publicly-owned treatment works in accordance with the minimum standards as required by the cognizant Federal, State and local agencies for the operation and maintenance of such facilities; and/or in accordance with any applicable National Pollutant Discharge Elimination System (NPDES) permit; and,
3. Will initiate procurement action for A/E and/or construction services for building all significant elements of the project in accordance with the project schedule indicated in this application and approved by DOH upon issuance of the loan agreement; and,
4. Will diligently pursue project completion in accordance with the project schedule submitted herewith; and,
5. Will give the State of Hawaii or its assignees, through any authorized representative, access and the right to examine all records, books, papers, or documents related to the loan; and will retain all construction records for three years following the project initiation of operation; and,
6. Will maintain a financial accounting system in accordance with the generally accepted accounting principles set forth by the Governmental Accounting Standards Board; and,
7. Will not dispose of, or modify the use of or change the real property title terms or other interest in the site and facilities without permission and instructions from DOH; and,
8. Will establish safeguards to prohibit employees from using their positions for purposes that constitute or give the appearance of personal or organizational conflict of interest; and,
9. Has not and will not violate any Federal, State, or local law pertaining to fraud, bribery, graft or collusion; and,
10. Will provide and maintain competent and adequate engineering supervision and inspection at the construction sites to ensure that the completed work conforms with the approved

plans and specifications and will furnish progress reports and such other information as DOH may require; and,

11. Will comply with all applicable federal and state requirements, including all other laws, regulations, policies, applicable requirements and conditions relating to assistance for this project.
12. The applicant must certify that it will comply with the following federal "cross-cutting" authorities, as applicable, including the Single Audit of 1984 (PL 98-502).

*a. Environmental Authorities

- *1) Archeological and Historic Preservation Act of 1974, 16 USC 469a-1
- *2) Clean Air Act, 42 USC 7401
- *3) Coastal Barriers Resources Act, 16 USC 3501
- *4) Coastal Zone Management Act, 16 USC 1451
- *5) Endangered Species Act, 16 USC 1531
- *6) Environmental Justice, Executive Order 12898
- *7) Farmland Protection Policy Act, 7 USC 4201
- *8) Fish and Wildlife Coordination Act, 16 USC 661
- *9) Floodplain Management, Executive Order 11988 (1977), as amended by Executive Order 12148 (1979)
- *10) National Historic Preservation Act, 16 USC 470
- *11) Protection of Wetlands, Executive Order 11990 (1977), as amended by Executive Order 12608 (1997)
- *12) Safe Drinking Water Act, 42 USC 300f
- *13) Wild and Scenic Rivers Act, 16 USC 1271
- *14) Essential Fish Habitat Consultation Process under the Magnuson-Stevens Fishery Conservation and Management Act, 16 USC 1801

*b. Economic Policy Authorities

- *1) Administration of the Clean Air Act and the Water Pollution Control Act with Respect to Federal Contracts or Loans, Executive Order 11738

- *2) Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89-754, as amended by 42 USC 3331
- *3) Procurement Prohibitions, Executive Order 11738, Section 306 of the Clean Air Act
- *4) Procurement Prohibitions, Section 508 of the Clean Water Act

*c. Social Policy Authorities

- *1) Age Discrimination Act of 1975, 42 USC 6102
- *2) Civil Rights Act of 1964, Title VI, 42 USC 2000d
- *3) Equal Employment Opportunity, Executive Order 11246, as amended
- *4) Minority Business Enterprise Development, Executive Order 12432
- *5) National Program for Minority Business Enterprise, Executive Order 11625
- *6) National Women's Business Enterprise Policy and National Program for Women's Business Enterprise, Executive Order 12138
- *7) Rehabilitation Act of 1973, 29 USC 794
- *8) Section 13 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1251
- *9) Small Business Administration Reauthorization and Amendment Act of 1988, Pub. L. 100-590, Section 129
- *10) Department of Veterans Affairs and Housing and Urban Development, and Agencies Appropriations Act, 1993, Pub. L. 102-389
- *11) Disadvantaged Business Enterprise Rule, 2008, 40 CFR Part 33

*d. Miscellaneous Authorities

- *1) Debarment and Suspension, Executive Order 12549
- *2) Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646 (1971) as amended by 42 USC 4601-4655

- *3) Preservation of Open Competition and Government Neutrality Towards Contractor's Labor Relations on Federal and Federally Funded Construction Projects, Executive Order 13202 (2001), as amended by Executive Order 13208 (2001)

CERTIFICATION

*NOTE: This certification includes Item 12 and all of its subparts.

To the best of my knowledge, the data in this application is true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the assurances, if the assistance is approved.

Legal Entity:

Name & Title
of Authorized Representative:

Signature of Authorized Representative

Date

United States Environmental Protection Agency
Washington, DC 20460

**Preaward Compliance Review Report for
All Applicants and Recipients Requesting EPA Financial Assistance**

Note: Read instructions on other side before completing form.

I.	Applicant/Recipient (Name, Address, State, Zip Code).	DUNS No.
II.	Is the applicant currently receiving EPA assistance?	
III.	List all civil rights lawsuits and administrative complaints pending against the applicant/recipient that allege discrimination based on race, color, national origin, sex, age, or disability. (Do not include employment complaints not covered by 40 C.F.R. Parts 5 and 7. See instructions on reverse side.)	
IV.	List all civil rights lawsuits and administrative complaints decided against the applicant/recipient within the last year that allege discrimination based on race, color, national origin, sex, age, or disability and enclose a copy of all decisions. Please describe all corrective action taken. (Do not include employment complaints not covered by 40 C.F.R. Parts 5 and 7. See instructions on reverse side.)	
V.	List all civil rights compliance reviews of the applicant/recipient conducted by any agency within the last two years and enclose a copy of the review and any decisions, orders, or agreements based on the review. Please describe any corrective action taken. (40 C.F.R. § 7.80(c)(3))	
VI.	Is the applicant requesting EPA assistance for new construction? If no, proceed to VII; if yes, answer (a) and/or (b) below. a. If the grant is for new construction, will all new facilities or alterations to existing facilities be designed and constructed to be readily accessible to and usable by persons with disabilities? If yes, proceed to VII; if no, proceed to VI(b). b. If the grant is for new construction and the new facilities or alterations to existing facilities will not be readily accessible to and usable by persons with disabilities, explain how a regulatory exception (40 C.F.R. § 7.70) applies.	
VII.*	Does the applicant/recipient provide initial and continuing notice that it does not discriminate on the basis of race, color, national origin, sex, age, or disability in its programs or activities? (40 C.F.R. § 5.140 and § 7.95) a. Do the methods of notice accommodate those with impaired vision or hearing? b. Is the notice posted in a prominent place in the applicant's offices or facilities or, for education programs and activities, in appropriate periodicals and other written communications? c. Does the notice identify a designated civil rights coordinator?	
VIII.*	Does the applicant/recipient maintain demographic data on the race, color, national origin, sex, age, or handicap of the population it serves? (40 C.F.R. § 7.85(a))	
IX.*	Does the applicant/recipient have a policy/procedure for providing access to services for persons with limited English proficiency? (40 C.F.R. Part 7, E.O. 13166)	
X.*	If the applicant/recipient is an education program or activity, or has 15 or more employees, has it designated an employee to coordinate its compliance with 40 C.F.R. Parts 5 and 7? Provide the name, title, position, mailing address, e-mail address, fax number, and telephone number of the designated coordinator.	
XI*	If the applicant/recipient is an education program or activity, or has 15 or more employees, has it adopted grievance procedures that assure the prompt and fair resolution of complaints that allege a violation of 40 C.F.R. Parts 5 and 7? Provide a legal citation or Internet address for, or a copy of, the procedures.	

For the Applicant/Recipient

I certify that the statements I have made on this form and all attachments thereto are true, accurate and complete. I acknowledge that any knowingly false or misleading statement may be punishable by fine or imprisonment or both under applicable law. I assure that I will fully comply with all applicable civil rights statutes and EPA regulations.

A. Signature of Authorized Official

B. Title of Authorized Official

C. Date

For the U.S. Environmental Protection Agency

I have reviewed the information provided by the applicant/recipient and hereby certify that the applicant/recipient has submitted all preaward compliance information required by 40 C.F.R. Parts 5 and 7; that based on the information submitted, this application satisfies the preaward provisions of 40 C.F.R. Parts 5 and 7; and that the applicant has given assurance that it will fully comply with all applicable civil rights statutes and EPA regulations.

A. Signature of Authorized EPA Official

B. Title of Authorized EPA Official

C. Date

See ** note on reverse side.

Instructions for EPA FORM 4700-4 (Rev. 03/2008)

General

Recipients of Federal financial assistance from the U.S. Environmental Protection Agency must comply with the following statutes and regulations.

Title VI of the Civil Rights Acts of 1964 provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. The Act goes on to explain that the statute shall not be construed to authorize action with respect to any employment practice of any employer, employment agency, or labor organization (except where the primary objective of the Federal financial assistance is to provide employment).

Section 13 of the 1972 Amendments to the Federal Water Pollution Control Act provides that no person in the United States shall on the ground of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under the Federal Water Pollution Control Act, as amended. Employment discrimination on the basis of sex is prohibited in all such programs or activities.

Section 504 of the Rehabilitation Act of 1973 provides that no otherwise qualified individual with a disability in the United States shall solely by reason of disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Employment discrimination on the basis of disability is prohibited in all such programs or activities.

The Age Discrimination Act of 1975 provides that no person on the basis of age shall be excluded from participation under any program or activity receiving Federal financial assistance. Employment discrimination is not covered. Age discrimination in employment is prohibited by the Age Discrimination in Employment Act administered by the Equal Employment Opportunity Commission.

Title IX of the Education Amendments of 1972 provides that no person in the United States on the basis of sex shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. Employment discrimination on the basis of sex is prohibited in all such education programs or activities. Note: an education program or activity is not limited to only those conducted by a formal institution.

40 C.F.R. Part 5 implements Title IX of the Education Amendments of 1972.

40 C.F.R. Part 7 implements Title VI of the Civil Rights Act of 1964, Section 13 of the 1972 Amendments to the Federal Water Pollution Control Act, and Section 504 of The Rehabilitation Act of 1973.

The Executive Order 13166 (E.O. 13166) entitled; "Improving Access to Services for Persons with Limited English Proficiency" requires Federal agencies work to ensure that recipients of Federal financial assistance provide meaningful access to their LEP applicants and beneficiaries.

Items

"Applicant" means any entity that files an application or unsolicited proposal or otherwise requests EPA assistance. 40 C.F.R. §§ 5.105, 7.25.

"Recipient" means any entity, other than applicant, which will actually receive EPA assistance. 40 C.F.R. §§ 5.105, 7.25.

"Civil rights lawsuits and administrative complaints" means any lawsuit or administrative complaint alleging discrimination on the basis of race, color, national origin, sex, age, or disability pending or decided against the applicant and/or entity which actually benefits from the grant, but excluding employment complaints not covered by 40 C.F.R. Parts 5 and 7. For example, if a city is the named applicant but the grant will actually benefit the Department of Sewage, civil rights lawsuits involving both the city and the Department of Sewage should be listed.

"Civil rights compliance review" means any review assessing the applicant's and/or recipient's compliance with laws prohibiting discrimination on the basis of race, color, national origin, sex, age, or disability.

Submit this form with the original and required copies of applications, requests for extensions, requests for increase of funds, etc. Updates of information are all that are required after the initial application submission.

If any item is not relevant to the project for which assistance is requested, write "NA" for "Not Applicable."

In the event applicant is uncertain about how to answer any questions, EPA program officials should be contacted for clarification.

* Questions VII – XI are for informational use only and will not affect an applicant's grant status. However, applicants should answer all questions on this form. (40 C.F.R. Parts 5 and 7).

** Note: Signature appears in the Approval Section of the EPA Comprehensive Administrative Review For Grants/Cooperative Agreements & Continuation/Supplemental Awards form.

Approval indicates, in the reviewer's opinion, questions I – VI of Form 4700-4 comply with the preaward administrative requirements for EPA assistance.

"Burden Disclosure Statement"

EPA estimates public reporting burden for the preparation of this form to average 30 minutes per response. This estimate includes the time for reviewing instructions, gathering and maintaining the data needed and completing and reviewing the form. Send comments regarding the burden estimate, including suggestions for reducing this burden, to U.S. EPA, Attn: Collection Strategies Division (MC 2822T), Office of Information Collection, 1200 Pennsylvania Ave., NW, Washington, D.C. 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

The information on this form is required to enable the U.S. Environmental Protection Agency to determine whether applicants and prospective recipients are developing projects, programs and activities on a nondiscriminatory basis as required by the above statutes and regulations.

APPENDIX K

LOAN AGREEMENT (Sample)

TABLE OF CONTENTS

FINAL AGREEMENT FOR STATE REVOLVING FUND LOAN
FOR THE CONSTRUCTION OF WASTEWATER PROJECT
LOAN FROM STATE WATER POLLUTION CONTROL REVOLVING FUNDS

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FINAL

AGREEMENT WITH THE _____ (specify county)

FOR STATE REVOLVING FUND LOAN

FOR THE CONSTRUCTION OF WASTEWATER PROJECT

LOAN FROM STATE WATER POLLUTION CONTROL REVOLVING FUND

Project No. _____

Project Title: _____

THIS FINAL AGREEMENT, made and entered into as of the 15th day of _____, _____, by and between the DIRECTOR OF THE DEPARTMENT OF HEALTH, STATE OF HAWAII (hereinafter the "DIRECTOR"), and the _____ (specify COUNTY) (hereinafter the "COUNTY"), a Hawaii municipality with principal offices at _____, (the DIRECTOR and the COUNTY are collectively the "parties"). The COUNTY has jurisdiction over the (specify county department - for example DEPARTMENT OF ENVIRONMENTAL SERVICES) and the division - for example Wastewater Treatment and Disposal division and/or operational fund - for example Wastewater System Enterprise Revenue) (hereinafter the "COUNTY DEPARTMENT"), which is an agency of the _____ (specify county) _____, WITNESSES THAT:

WHEREAS, under sections 342D-80 through 342D-87, Hawaii Revised Statutes (HRS), the DIRECTOR and his delegates are

authorized to make loans to municipalities for the construction of necessary treatment works and for other projects intended for wastewater reclamation or waste management;

WHEREAS, under sections 342D-80 through 342D-87, HRS, the DIRECTOR and his delegates administer the Water Pollution Control Revolving Fund (WPCRF) (also known as the Revolving Fund under Chapter 342D, HRS; and the Clean Water State Revolving Fund or CWSRF under Chapter 11-65, Hawaii Administrative Rules (HAR));

WHEREAS, the COUNTY has made an application for a loan related to the construction of the Project, hereinafter described, and said Project has been tentatively determined by the DIRECTOR to be eligible for a loan under an Interim Agreement dated _____;

WHEREAS, the COUNTY has met the conditions of the Interim Agreement, particularly Sections 8.f and 12.c, and said project has been determined by the DIRECTOR to be eligible for the loan, pursuant to applicable federal and state laws, rules, regulations, guidance, and the Operating Agreement for Activities and Functions in Managing the State WPCRF Program between the State of Hawaii and the United States Environmental Protection Agency, Region IX; and

WHEREAS, the DIRECTOR has authorized the loan funds for the Project;

NOW, THEREFORE, the parties hereto mutually agree as

follows:

1. DEFINITIONS Unless the context in this Agreement indicates another meaning, the following terms shall have the following meaning:

a. "Clean Water Act" means the Federal Water Pollution Control Act of 1972, PL 92-500, as amended, 33 U.S.C. secs. 1251 - 1387, and rules and regulations promulgated thereunder.

b. "Construction Cut-off Date" means the date the project is capable of initiating operations as determined by the DIRECTOR. The date determined by the DIRECTOR controls in case of conflict.

c. "Debt Service" means the amount of money necessary to pay interest and principal, and loan fees on an outstanding debt in accordance with the required contributions to a amortization schedule loan.

d. "Initiation of Operation" means the date specified by the COUNTY on which use of the project begins for the purpose for which it was planned, designed, and built.

e. "Payment" means the loan funds paid to the COUNTY based on COUNTY's WPCRF payment request.

f. "Project" means the activities or tasks concerning a wastewater facility described in the

application and financed pursuant to this Agreement.

g. "Project Close-out" means the final actions taken by the DIRECTOR and the COUNTY to assure satisfactory completion of project work and to fulfill administrative requirements; including financial settlement, submission of final audit resolution, and resolution of any outstanding issues under this Agreement.

h. "Project Performance Standards" shall have the meaning assigned by 40 CFR sec. 35.2005(33).

i. "Repayment" means the loan funds paid by the COUNTY to the DIRECTOR.

j. "Semiannual" means occurring every six months.

Words defined in this section will, hereinafter, be in bold print.

2. **PROJECT DESCRIPTION** The **Project**, _____, C1500 _____, consists of the construction of facilities to _____ as particularly described in the loan application of the COUNTY and the plans and specifications approved by the DIRECTOR.

3. **ESTIMATED COST OF CONSTRUCTION** The estimated cost of the construction is _____ (\$_____), and the estimated total eligible cost of the construction **project** is _____, (\$_____). Pursuant to Section 203(a) (2) of the

Clean Water Act, 33 U.S.C. sec. 1283(a) (2), the only items eligible for SRF participation are those items specified as "eligible" in the Plans and Specifications Approval Letter dated _____ or those costs allowable under 40 CFR sec. 35.2250 (the DIRECTOR is deemed the "Regional Administrator" for the application here of this federal regulation). The **Project** Budget, which is the breakdown of the total eligible cost, is attached hereto as Exhibit "A" and made apart hereof.

4. LOAN AMOUNT (Subject to the availability of federal funds), (NOTE: delete the "Subject to..." phrase if no Fed Fund involved.) The DIRECTOR shall loan the COUNTY a total amount not to exceed _____ (\$_____), consisting of _____ (\$_____) of federal funds under the Capitalization Grant, which shall be paid from Appropriation Account No. S-____-341-H-00____206-00-398; _____ (\$_____) of state SRF match funds, which shall be paid from Appropriation Account No. S-____-341-H-00____206-00-396; and _____ (\$_____) of state funds, which shall be paid from Appropriation Account No. S-____-341-H-00____206-00-395.

5. COMPLETION OF THE PROJECT The COUNTY shall proceed with and complete construction of the **Project** in accordance with **Project** plans and specifications approved by the DIRECTOR. The COUNTY shall maintain progress of the **Project** as specified on the

Project Schedule. The **Project** Schedule is attached hereto as Exhibit "B" and made a part hereof.

6. NOTIFICATION Whenever, under the terms of this Agreement, a notice, a report, **payment**, **repayment**, or loan fee is required to be given by one party to another, such notice, report, **payment**, **repayment**, or loan fee shall be directed to the individuals specified below, at the addresses given, unless a party gives a notice in writing to the other party that another individual has been designated to receive such communications:

Dennis Tulang
Chief, Wastewater Branch
Hawaii State Department of Health
919 Ala Moana Boulevard #309
Honolulu, Hawaii 96814
Telephone: (808) 586-4294
Telefax: (808) 586-4300

[Insert name, address, telephone, and telefax numbers of Respondent]

7. PROJECT CERTIFICATION The COUNTY shall notify the DIRECTOR in writing of the date of **initiation of operation**. One year after **initiation of operation**, the COUNTY shall submit a **project** performance evaluation report and certify to the DIRECTOR that the **Project**, as of that date, meets the **project performance standards**. If the COUNTY cannot certify that the **Project** meets the **project performance standards** one year after **initiation of operation**, the COUNTY shall at its own expense, take corrective actions to allow affirmative certifications for the **Project**, and

the COUNTY shall also submit to the DIRECTOR for the DIRECTOR's approval the following:

a. A corrective action report which includes an analysis of the cause of the **Project's** failure to meet the performance standards and an estimate of the nature, scope, and cost of the corrective action necessary to bring the **Project** within the **project performance standards;**

b. The schedule for undertaking the corrective action necessary to bring the **Project** within the **project performance standards;** and

c. The scheduled date for certifying to the DIRECTOR that the **Project** is meeting the **project performance standards.**

8. **PAYMENTS** The loan amount shall be paid as follows:

a. Funds from the loan amount shall be paid on a monthly basis to the COUNTY upon receipt of proper and acceptable **payment** requests from the COUNTY.

b. The COUNTY shall not request **payment** for any **Project** cost until such cost has been incurred and is due and payable to **Project** contractors, although it is agreed that actual payment of such cost by the COUNTY

is not required as a condition for submitting the **payment** request.

c. The COUNTY's **payment** request shall be submitted to the DIRECTOR on a monthly basis and include the following:

(1) Copies of the invoices or claims, and costs summary sheet with signatures certifying the invoices from the Construction Management firm and the Contractor as submitted to the COUNTY for **payment**.

(2) The COUNTY's estimate of per cent of completion of the **Project** to justify the progress **payment** requested.

(3) A spreadsheet summarizing contractor's invoices, consultant's invoices, administration costs, total eligible and ineligible costs. The spreadsheet is commonly known as the "Combined Voucher Register and Expenditure Distribution Journal."

d. Payment to the COUNTY's contractor(s) remains the responsibility of the COUNTY.

e. The DIRECTOR's obligation to pay any sum to COUNTY under any provision of this Agreement is

contingent upon the availability of sufficient funds to permit the **payments** provided for herein. In the event that sufficient funds do not become available for reasons beyond the reasonable control of the DIRECTOR, such as failure of the federal or state government to appropriate funds necessary for **payments** of loan amounts, the DIRECTOR shall not be obligated to make any **payments** to the COUNTY under this Agreement. If any **payments** which are otherwise due to the COUNTY under this Agreement are deferred because of unavailability of sufficient funds, such **payments** will promptly be made to the COUNTY when sufficient funds do become available.

9. WITHHOLDING OF LOAN **PAYMENTS** The DIRECTOR may withhold all or any portion of the loan amount provided for by this Agreement in the event that:

a. The COUNTY has violated, or threatens to violate, any term, provision, condition, or commitment of this Agreement; or

b. The COUNTY fails to maintain progress toward completion of the **Project** in accordance with the **Project** Schedule; or

c. Any costs incurred after the **construction**

cut-off date shall be ineligible for WPCRF loan funding;

10. INTEREST The loan interest rate is _____ one hundredth per cent (____%) per annum.

Interest begins to accrue from the date of the State issued warrant or check for each loan amount paid to the COUNTY.

11. REPAYMENT OF LOAN The loan, including interest shall be repaid as follows:

a. The COUNTY shall repay the loan amount, together with all interest accruing thereon, in thirty nine (39) **semiannual** installments, with the first **repayment** due one year after the date of Notice to Proceed or the date of this Agreement, whichever is later, for this construction **project**. The actual **repayments** will be based on **payments** made to the COUNTY. The last **semiannual** installment of principal and interest shall be repaid to the DIRECTOR not later than twenty (20) years after the date of the Notice to Proceed or the date of this Agreement, whichever is later.

b. The **semiannual repayments** shall be based on the following calculations:

(1) Calculate the **repayment** amount using the

formula below for a standard fully amortized loan with equal **semiannual repayments**.

$$R = P \frac{i}{1 - (i+1)^{-n}}$$

i = interest rate
P = Balance of the principal amount paid to the COUNTY
R = **Repayment** amount
n = Term, thirty nine (39) **semiannual** installments less the number of **repayments** made.

(2) The actual interest accrued during the year shall be applied to the **repayment** amount.

The remaining amount of **repayment** shall be applied to the principal.

c. The COUNTY shall repay the principal and interest on or before each **semiannual** due date. A fifteen (15) day grace period shall be allowed.

d. Following the final loan **payment**, a Loan **Repayment** Amortization and Fee Schedule shall be mailed to the COUNTY to accurately reflect the **repayment** of principal, interest, and payment of loan fee amounts due under this Agreement.

e. The COUNTY may, with the DIRECTOR'S prior approval, at any time prepay the loan and such prepayment will be applied to the principal of the

loan. The prepayment amount will not reduce the amount of the **semiannual repayment**. The term of the loan, however, will be reduced and a revised Loan **Repayment** Amortization and Fee Schedule will be sent to the COUNTY.

f. The COUNTY shall repay the principal and interest by check or warrant, made payable to the STATE OF HAWAII, DIRECTOR OF THE DEPARTMENT OF HEALTH, and delivered to the address as specified in section 6.

g. In the event circumstances prevent the COUNTY from complying with this section, the DIRECTOR shall be entitled to collect interest from the COUNTY on the amount of the **semiannual repayment** at the effective rate of twelve per cent (12%) simple interest per year commencing on the first day following the **repayment** due date and ending on the date of the check or warrant issued by the COUNTY.

12. SECURITY AND DEFAULT

a. The DIRECTOR shall not approve new loan applications from the COUNTY if any current loan is in default. A default is deemed to exist if **repayments** or loan fees on current loans are not paid when due, if the COUNTY fails to fulfill its obligations under this

Agreement, or if the COUNTY becomes financially insolvent.

b. In the event the COUNTY fails to remit the **semiannual repayments** or loan fees as established in the Loan **Repayment** Amortization and Fee Schedule, the DIRECTOR shall deliver by certified mail a written notice of such failure to the COUNTY. In the event the COUNTY fails to cure **repayment** or loan fee delinquency within thirty (30) days after the receipt of such notice, the DIRECTOR shall notify the Attorney General of the State of Hawaii of the default of the COUNTY.

c. As security for this **Project** loan, interest, and loan fee the COUNTY pledges its COUNTY DEPARTMENT's revenues and full faith and credit, as shown in the attached Exhibit E, Ordinance/Resolution No. _____
_____. This agreement and the loan **payments** made under it are secured by revenue of the COUNTY DEPARTMENT. This agreement and the loan **payments** made under it constitute a lien and charge upon: (i) the COUNTY DEPARTMENT's gross revenue and (ii) the COUNTY DEPARTMENT's assessments, as authorized in a Resolution or Ordinance No. (Example: 98-197, CD1) passed by the COUNTY council.

The COUNTY covenants that the COUNTY DEPARTMENT shall exercise its revenue bond, revenue, assessment, and other authority as needed, to the extent allowed by law, to pay the **semiannual repayments** and loan fees under this agreement. As needed, the COUNTY DEPARTMENT shall establish, increase and collect such fees, assessments, and taxes and make such adjustments to raise funds sufficient to repay the loan and pay loan fees under this agreement. The COUNTY pledges its COUNTY DEPARTMENT's full faith and credit, and covenants to exercise that authority as needed, to the extent allowed by law.

d. The COUNTY DEPARTMENT shall maintain a dedicated source of revenue in an amount equal to the maximum annual **debt service** (principal **repayment** and interest) and the maximum annual amount of loan fees.

e. The COUNTY represents that it has exercised due regard for operation and maintenance expenses and the debt service requirements of any lien obligations and any other outstanding obligations pledging the gross revenues of the COUNTY DEPARTMENT, and the COUNTY DEPARTMENT has not obligated itself to set aside and pay more for **semiannual repayments** and loan fees under

this agreement than in its judgment will be available over and above its operation and maintenance expenses, other debt service obligations, or other obligations.

f. The foregoing pledges, covenants, and promises in sections 12.c, 12.d, and 12.e are the COUNTY's "dedicated source of revenue" under 33 U.S.C § 1383 (d)(1)(C), 40 C.F.R § 35.3120(a)(1)(iv), and H.R.S. § 342D-87(d).

g. In addition to all rights and remedies provided by the laws of the State of Hawaii, the COUNTY agrees that in the event the COUNTY defaults in **repayments** or loan fees payments to be made to the DEPARTMENT OF HEALTH as required by this Agreement or defaults in the observance or performance of any other provisions of this Agreement, the DIRECTOR shall be entitled to an order or a writ of mandamus issued by a court of proper jurisdiction, compelling and requiring the COUNTY and its officers to observe and perform any covenant, condition or obligation prescribed in this Agreement.

h. No delay or omission to exercise any right or power shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as

often as may be deemed expedient. The specific remedy herein provided shall be cumulative of all other existing remedies and the specification of such remedy shall not be deemed to be exclusive.

13. USER CHARGE SYSTEM The COUNTY shall at all times maintain a User Charge System designed to produce adequate revenue required for operation and maintenance (including replacement) in accordance with 40 CFR sec. 35.2140 (the COUNTY is deemed the "grantee" and the DIRECTOR is deemed the "Regional Administrator" for the application here of this federal regulation).

The User Charge System may include ad valorem taxes, user charges based on actual use, or other sources of income which are consistent with federal requirements.

The COUNTY guarantees that revenues from the User Charge System will be set aside for operation and maintenance (including replacement) and not used for other purposes.

The COUNTY further agrees to annually review and if necessary, modify the User Charge System in accordance with 40 CFR sec. 35.2122. (The COUNTY is deemed the "applicant" and the DIRECTOR is deemed the "regional Administrator" for the application here of this Federal Regulation.) The User Charge System and all modifications thereof shall be consistent with applicable guidelines established by the DIRECTOR.

14. PROJECT PROCUREMENT The COUNTY shall:

a. Procure the architectural/engineering services in accordance with Chapter 103D of the Hawaii Revised Statutes and _____ Consultant Selection Procedures.

b. Procure the construction contractor(s) in accordance with Chapter 103D of the Hawaii Revised Statutes.

c. Not consider contractors debarred, suspended or voluntarily excluded from participating in federally assisted programs.

d. Award the prime construction contract for the **Project** no later than ninety (90) days after the date of this Agreement. The COUNTY shall promptly submit a copy of the Notice to Proceed to the DIRECTOR.

e. Provide the DIRECTOR an executed copy of the contract between the COUNTY and contractor(s).

f. Submit the following documents with the contract:

(1) An affidavit of publication from the newspaper agencies of the bid solicitation as proof of advertising.

(2) Detailed bid tabulation, bid proposals, and the award recommendation, certified by the

engineer responsible for overseeing construction.

(3) Detailed cost breakdown supporting each item of the **project** cost.

g. Submit subagreements for Construction

Management work and services during construction to the DIRECTOR for approval. No **payments** for the affected engineering work shall be made to the COUNTY under this loan until the subagreements have been approved.

h. Provide certification to the DIRECTOR that affirmative steps, in accordance with 40 CFR sec. 35.3145(d), were taken to encourage participation of small, minority, and women's business enterprises in **Project** construction and documentation of the intended use of such enterprises therein. The COUNTY is deemed as "grantee" for the application here of this federal regulation.

15. INSURANCE

a. The COUNTY shall ensure that contractor(s) obtain and keep in force the following until the **construction cut-off date**:

(1) Performance and payment bonds for the full amount of the contracts.

(2) Insurance against customary risks during

the period of construction shall also be provided.

(3) Builder's risk or similar types of insurance in an amount equal to the full replacement cost of the **Project**, to the extent that such insurance is obtainable for the duration of the construction period against any one or more of such risks.

b. The COUNTY shall acquire and maintain, upon the **initiation of operation**, any flood insurance made available to it under the National Flood Insurance Act of 1968, as amended, for the useful life of the **Project**. This condition shall not be applicable if the **Project** location is outside the boundaries of a special flood hazard area delineated on a Flood Hazard Boundary Map of Flood Insurance Rate Map which has been issued by the Federal Emergency Management Agency. This condition shall not be applicable if the total value of improvements insurable under the National Flood Insurance Act is less than \$10,000.

c. As documentation of insurance coverage, the COUNTY shall submit to the DIRECTOR copies of the bonding and insurance certifications or policies.

16. CONSTRUCTION ACTIVITIES The COUNTY shall promptly

notify the DIRECTOR in writing of:

a. Any proposed change in scope of the **Project**.

No change will be undertaken until written notice of the proposed change has been provided to the DIRECTOR and the DIRECTOR has given written approval for such change.

b. Any construction change order when the change will increase construction costs. Change orders shall comply with 40 CFR sec. 35.938-5. The COUNTY is deemed the "grantee" for the application here of this federal regulation. The COUNTY is responsible for additional costs that are ineligible for loan funding or when the loan funds are unavailable.

c. Cessation of all major construction work on the **Project** where such cessation of work is expected or does extend for a period of thirty (30) days or more.

d. Any circumstance, combination of circumstances, or condition which is expected to or does delay completion of construction for a period of ninety (90) days or more beyond the estimated date of completion of construction previously provided to the DIRECTOR.

e. Completion of construction of the **Project**.

17. ARCHEOLOGICAL AND HISTORICAL PRESERVATION Should the discovery of potential archaeological or historical resource occur during construction, all works in the area of the find will stop and the construction consultant shall be called in to evaluate the situation and make recommendations to the State Historic Preservation Officer, Department of Land and Natural Resources, State of Hawaii. Said Historic Preservation Officer shall determine what shall be necessary for construction to proceed.

18. RECORDS MAINTENANCE, RETENTION, AND ACCESS The COUNTY shall maintain, retain, and allow access to the **Project** records in accordance with 40 CFR sec. 31.42 (the COUNTY is deemed the "grantee" for the application here of this federal regulation) and in the following manner:

a. Establish an official file for the construction phase which shall document all significant actions regarding the **Project**.

b. Establish accounts to record all amounts received and expended on the **Project**, including all loan funds received under this Agreement.

c. Establish accounts to record all income received for the **Project**, specifically including any income attributable to loan amounts received under this

Agreement.

d. Establish an accounting system which will depict final total costs of the **Project**, including both direct and indirect costs. The accounting system shall conform to Generally Accepted Accounting Principles (GAAP) as contained in "Codification of Governmental Accounting and Financial Reporting Standards" as published by Governmental Accounting Standards Board.

e. Establish such accounts and maintain such records as may be necessary for the DIRECTOR to fulfill federal reporting requirements, including any and all reporting requirements under federal tax statutes or regulations.

f. Allow the DIRECTOR, the Comptroller of the State of Hawaii, the federal granting agency, the Comptroller General of the United States, and any of their authorized representatives, the committees (and their staffs) of the Congress and Legislature of the State of Hawaii, and the Legislative Auditor of the State of Hawaii to have the right of access to any book, document, paper, file, or other record of the COUNTY (and of any of its subcontractors) that is related to the performance of the provisions under this Agreement in order to conduct an audit or other

examination or to make excerpts and transcripts for the purposes of monitoring and evaluating the COUNTY's performance of the provisions and the COUNTY's program, management, and fiscal practices to assure the proper and effective expenditure of funds under this Agreement. The right of access shall not be limited to the required retention period but shall last as long as the records are retained.

g. The COUNTY shall retain all records related to the COUNTY's performance of the provisions under this Agreement for at least three (3) years after the date of submission of the COUNTY's final expenditure report, except that if any litigation, claim, negotiation, investigation, audit, or other action involving the records has been started before the expiration of the three-year period, the COUNTY shall retain the records until completion of the action and resolution of all issues that arise from it, or until the end of the regular three-year retention period, whichever occurs later.

19. **PROJECT ACCESS** The COUNTY shall ensure that the Environmental Protection Agency and the DIRECTOR, or any authorized representative thereof, will have access to the **Project** site at all reasonable times during **Project** construction

and thereafter for the useful life of the **Project**. Inspections may be unannounced.

20. REPORTS The COUNTY shall submit to the DIRECTOR by September 30th of each year, an Annual Report of the **debt service** and loan fees of the **Project** during the course of the loan **repayment** period. These reports shall summarize all income and expenses (operating and non-operating) of the **Project** for the year and include any revisions to the projected income and expenses for the remainder of the loan **repayment** period. The purpose of the reports is to update the DIRECTOR on the **Project's** financial status and to determine whether the **Project** is able to meet its **repayment** and loan fee obligation.

21. AUDITS The COUNTY shall conduct an annual audit performed by an independent auditor in accordance with OMB Circular No. A-133, "Audits of State, Local Governments, and Non-Profit Organizations" (June 1997), and the Single Audit Act of 1984, Public Law 98-502, as amended (31 U.S.C. secs. 7501-7). Audits may be conducted in conjunction with the COUNTY's annual audit.

The COUNTY shall deliver to the DIRECTOR the audit report annually.

22. INDEPENDENT CONTRACTOR STATUS AND RESPONSIBILITIES
In the performance of the provisions required under this

Agreement, the COUNTY shall be an "independent contractor" with the authority and responsibility to control and direct the performance and details of the work required under this Agreement; however, the DIRECTOR shall have a general right to inspect work in progress to determine whether, in the DIRECTOR's opinion, the provisions are being performed by the COUNTY in accordance with the provisions of this Agreement. All persons hired or used by the COUNTY shall be the COUNTY's employees and agents and the COUNTY shall ensure that such persons are qualified to engage in the activity in which they participate. The COUNTY shall be responsible for the accuracy, completeness, and adequacy of any and all work performed by the COUNTY's employees and agents and shall ensure that all applicable licensing and operating requirements of the state, federal, and county governments and all applicable accreditation and other standards of quality generally accepted in the field of the COUNTY's activities are complied with and satisfactorily met. Furthermore, the COUNTY intentionally, voluntarily, and knowingly assumes the sole and entire liability (if any such liability is determined to exist) for its employees and agents or to other persons for all loss, damage, or injury caused by the COUNTY's employees and agents in the course of their employment. The mere participation in the performance of provisions under this Agreement shall not constitute nor be construed as employment

with the State of Hawaii and shall not entitle the COUNTY or the COUNTY's employees, agents, or subcontractors to vacation, sick leave, retirement, worker's compensation, or other benefits afforded state employees by statute. The COUNTY shall be responsible for payment of applicable income, social security, and any other federal, state, or county taxes and fees.

23. DEFENSE AND INDEMNIFICATION The COUNTY shall defend, indemnify, and save harmless the State of Hawaii, the DIRECTOR, and their officers, employees, and agents from and against any and all actions, claims, suits, damages, and costs arising out of or resulting from the acts or omissions of the COUNTY or the COUNTY's officers, employees, agents, contractors, or subcontractors occurring during or in connection with the performance of the COUNTY's services under this Agreement. The COUNTY shall defend and indemnify the State of Hawaii, the DIRECTOR, and their officers, and agents against any such action or claim unless the action or claim involves an act or omission solely of the State or the DIRECTOR, their officers, employees, or agents.

24. ASSIGNMENTS The COUNTY shall not assign any part or all of the provisions to be performed under this Agreement without the prior written consent and approval of the DIRECTOR. The DIRECTOR may condition any consent and approval upon such terms and provisions that the DIRECTOR may deem necessary.

Furthermore, no assignment of claims for money due or to become due to the COUNTY under this Agreement shall be effective unless the assignment of such claims is first approved by the DIRECTOR and the Comptroller of the State of Hawaii.

25. COMPLIANCE WITH LAWS, REGULATIONS, ETC. The COUNTY shall:

a. Comply with and require its contractors and subcontractors to comply with all applicable federal and state laws, rules, guidelines, regulations, and requirements to include, but not be limited to, the list of federal "cross-cutting" authorities as identified in Exhibit "C" and made a part hereof. In particular, no person performing work under this Agreement, including any subcontractor, employee, or agent of the COUNTY, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.

b. Conduct an environmental review of the **Project** that meets the requirements of the U.S. Environmental Protection Agency's 40 CFR Part 6, Subpart E and 40 CFR sec. 35.3140.

c. Adopt and maintain a user charge system and sewer use ordinance for the useful life of the **Project**.

The user charge system and sewer use ordinance shall

comply with the requirements of 40 CFR sec. 35.2140 and shall be reviewed and approved by the DIRECTOR annually. The COUNTY is deemed the "applicant" and the DIRECTOR is deemed the "Regional Administrator" for the application here of this federal regulation.

26. LOBBYING No portion of this loan shall be used for lobbying or propaganda purposes as prohibited by 18 U.S.C.A. sec. 1913 (West 1984), or section 607(a) of Public Law 96-74, 93 Stat. 575 (Sept 29, 1979).

27. OTHER CONDITIONS The COUNTY shall comply with the Other Conditions listed in Exhibit "D", attached hereto and made a part hereof, to maximize the beneficial use of this loan Agreement.

28. WAIVERS OF VIOLATIONS It is expressly understood and agreed that no waiver granted by the DIRECTOR on account of any violation of any promise, term, or condition of this Agreement shall constitute or be construed in any manner as a waiver of the promise, term, or condition or of the right to enforce the same as to any other or further violation.

It is further expressly understood and agreed that the failure of the DIRECTOR to insist upon the strict compliance with any term, provision, or condition of this Agreement shall not constitute or be deemed to constitute a waiver or relinquishment of the DIRECTOR's right to enforce the same in accordance with

this Agreement.

29. DISPUTES Any dispute arising out of this Agreement, which is not disposed of by mutual agreement within thirty (30) calendar days, shall, unless both the COUNTY and the DIRECTOR mutually agree to an arbitration, be decided by the DIRECTOR or his designated representative, who shall reduce the decision to writing and mail or otherwise furnish a copy of the decision to the COUNTY. The decision of the DIRECTOR, or his designated representative, or the agreed upon arbitrator(s), shall be final and conclusive. Pending final decision of such a dispute, the COUNTY shall proceed diligently with the performance of the provisions under this Agreement in accordance with the DIRECTOR's requests. The COUNTY shall pay for any DIRECTOR's expenses, including legal fees and collection fees, arising from nonpayment or late **repayments** of principal, interest, and loan fees of this Agreement.

30. MODIFICATION OF AGREEMENT Any modification, alteration, or change to this Agreement, including modification of the provisions to be performed, increase (subject to the availability of funds) or decrease in the amount of the loan, shall be made only by written supplemental agreements executed by the parties.

31. TERMINATION OF AGREEMENT

a. This Agreement may be terminated by the

DIRECTOR upon written notice to the COUNTY during construction of the **Project**, or thereafter at any time prior to complete **repayment** of principal, interest, and payment of loan fees by the COUNTY, upon violation by the COUNTY of any material provision of this Loan Agreement after such violation has been called to the attention of the COUNTY and after failure of the COUNTY to bring itself into compliance with the provisions of this Agreement within a reasonable time.

b. In the event of such termination under Section 31.a, above, the COUNTY agrees, upon demand, to immediately repay to the DIRECTOR an amount equal to the current balance due on the loan, including accrued interest and loan fees.

32. SEVERABILITY In the event that any provision of this Agreement is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Agreement.

33. LOAN FEE

a. The COUNTY shall pay the DIRECTOR a **semiannual** loan fee which shall be computed based on the outstanding principal balance, and be payable on, the same dates that corresponding **repayments** of the

principal and interest on the loan are due. The **semiannual** loan fee is calculated by taking one half per cent (0.5%) of the outstanding principal balance at the time the **semiannual repayment** is due.

b. Each loan fee shall be paid when the **semiannual repayment** is due, as specified in subsection 11.a of this Agreement. A fifteen (15) day grace period shall be allowed.

c. Following the final loan **payment**, a Loan **Repayment** Amortization and Fee Schedule shall be mailed to the County to accurately reflect the **repayment** and loan fee amounts due under this Agreement.

d. The COUNTY shall repay the loan fee by check or warrant, made payable to the STATE OF HAWAII, DIRECTOR OF THE DEPARTMENT OF HEALTH, and delivered to the address as specified in section 6.

e. In the event circumstances prevent the COUNTY from complying with this section, the DIRECTOR shall be entitled to collect interest from the COUNTY on the amount of the loan fee at the effective rate of twelve per cent (12%) simple interest per year commencing on the first day following the **repayment** due date and ending on the date of the check or warrant issued by

the COUNTY.

34. EFFECTIVE AND TERMINATION DATES The effective date of this Agreement is the date first above written. This Agreement shall remain in effect for the useful life of the **Project** or until the date of the final loan **repayment** and loan fee payment are received, whichever period is longer, unless this agreement is sooner terminated or extended.

35. AUTHORIZATION The parties certify that their undersigned representatives are fully authorized to enter into this Agreement, to execute it on behalf of the parties, and to legally bind the parties to its terms.

IN VIEW OF THE ABOVE, the parties execute this

Agreement by their signatures, to be effective as of the date above written.

DEPARTMENT OF HEALTH,
STATE OF HAWAII

By _____
Its Director of Health

COUNTY OF (SPECIFY THE COUNTY)

By _____
Its Mayor

By _____
Its Director of Finance

APPROVED AS TO CONTENT:

Director and Chief Engineer
Department of Public Works
(Specify the County)

APPROVED AS TO FORM:

Deputy Attorney General
State of Hawaii

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel
(Specify the County)

PROJECT BUDGET

The COUNTY and the DIRECTOR acknowledge that the actual cost of the **Project** has not been determined as of the effective date of this Agreement. **Project** cost adjustments may be made as a result of construction bidding or mutually agreed upon **Project** changes. The final cost shall be established after all **Project** costs are reviewed subsequent to **Project** performance certification. Changes in **Project** costs may also occur as a result of the COUNTY's **Project** audit or an independent audit under the Single Audit Act. Until this Agreement is amended, the COUNTY agrees to the following estimates for the **Project** cost:

1. Architectural engineering basic fees \$
2. Other architectural engineering fees
3. **Project** inspection fees - CM
4. Construction and **project** improvement
5. Equipment
6. Total (Line 1 through 5)
7. Less: Ineligible Exclusions
8. Add: Contingencies
9. Total Eligible **Project** Amount
10. SRF loan requested of Line 9
11. County share
12. Other shares
13. Total **project** costs (Lines 10,11,&12)

Exhibit "A"

PROJECT SCHEDULE

Est. Date

- A. Notice to Proceed
- B. Completion of Construction
- C. **Project** Duration from start to finish (months)

Exhibit "B"

LIST OF FEDERAL LAWS AND AUTHORITIES
(FEDERAL "CROSS-CUTTING" AUTHORITIES)

Federal Law in effect when the Agreement is signed shall apply. References below from years of publication and page numbers may have been superseded.

ENVIRONMENTAL:

- ARCHEOLOGICAL AND HISTORIC PRESERVATION ACT OF 1974, 16 U.S.C.A. secs. 469-469b (West 1985)
- CLEAN AIR ACT, 42 U.S.C.A. sec. 7506(c) (West 1983 and Supp. 1990)
- COASTAL BARRIER RESOURCES ACT, 16 U.S.C.A. secs. 3501-3510, (West 1985 and Supp. 1990)
- COASTAL ZONE MANAGEMENT ACT OF 1972, 16 U.S.C.A. secs. 1451-1464 (West 1985 and Supp. 1990)
- ENDANGERED SPECIES ACT 16 U.S.C.A. secs. 1531-1543 (West 1985 and Supp. 1990)
- FARMLAND PROTECTION POLICY ACT, 7 U.S.C.A. secs. 4201-4209 (West 1988)
- FISH AND WILDLIFE COORDINATION ACT, 16 U.S.C.A. secs. 661-664 (West 1985 and Supp. 1990)
- FLOODPLAIN MANAGEMENT, EXECUTIVE ORDER 11988, 3 C.F.R. 117 (1978), reprinted in 42 U.S.C.A. sec. 4321, ann. at 286-288 (West Supp. 1993), as amended by FEDERAL EMERGENCY MANAGEMENT, EXECUTIVE ORDER 12148, sec. 5-207, 3 C.F.R. 412 (1980), reprinted in 50 APP. U.S.C.A. sec. 2251, ann. at 169-174 (West 1991)
- NATIONAL HISTORIC PRESERVATION ACT OF 1966, 16 U.S.C.A. secs. 470-470w-6 (West 1985 and Supp. 1990)
- PROTECTION OF WETLANDS, EXECUTIVE ORDER 11990, 3 C.F.R. 121 (1978), reprinted in 42 U.S.C.A. sec. 4321, ann. at 288-289 (West Supp. 1993)
- SAFE DRINKING WATER ACT, 42 U.S.C.A. secs. 300f-300j-9 (West 1982)

Exhibit "C"

-1-

ECONOMIC:

- ADMINISTRATION OF THE CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT WITH RESPECT TO FEDERAL CONTRACTS, GRANTS, OR LOANS, EXECUTIVE ORDER 11738, 3 C.F.R. 799 (1971-1975), reprinted in 42 U.S.C.A. sec. 7606, ann. at 693-694 (West 1983)
- DEMONSTRATION CITIES AND METROPOLITAN DEVELOPMENT ACT OF 1966, 42 U.S.C.A. secs. 3311-3339, 3371, and 3374 (West 1977 and Supp. 1990)
- FEDERAL PROCUREMENT, CLEAN AIR ACT, sec. 306, 42 U.S.C.A. sec. 7606 (West 1983)
- FEDERAL PROCUREMENT, **CLEAN WATER ACT**, sec. 508, 33 U.S.C.A. sec. 1368 (West 1986)

SOCIAL LEGISLATION:

- AGE DISCRIMINATION ACT, 42 U.S.C.A. secs. 6101-6107 (West 1983 and Supp. 1990)
- CIVIL RIGHTS ACT OF 1964, 42 U.S.C.A. secs. 2000a-2000h-6 (West 1981 and Supp. 1990)
- EQUAL EMPLOYMENT OPPORTUNITY, EXECUTIVE ORDER 11246, 3 C.F.R. 339 (1964-1965), reprinted in 42 U.S.C.A. sec. 2000(e), ann. at 19-24 (West 1981)
- MINORITY BUSINESS ENTERPRISE DEVELOPMENT, EXECUTIVE ORDER 12432, 3 C.F.R. 198 (1984), reprinted in 15 U.S.C.A. sec. 637, ann. at 155 (West Supp. 1990)
- NATIONAL PROGRAM FOR MINORITY BUSINESS ENTERPRISE, EXECUTIVE ORDER 11625, 3 C.F.R. 616 (1971-1975), reprinted in 15 U.S.C.A. sec. 631, ann. at 175-177 (West 1976)
- NATIONAL WOMEN'S BUSINESS ENTERPRISE POLICY AND NATIONAL PROGRAM FOR WOMEN'S BUSINESS ENTERPRISE, EXECUTIVE ORDER 12138, 3 C.F.R. 393 (1980), reprinted in 15 U.S.C.A. sec. 631, ann. at 60-62 (West Supp. 1990)

Exhibit "C"

-2-

- PROHIBITION AGAINST SEX DISCRIMINATION UNDER THE FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972, sec. 13, Public Law 92-500, reprinted in 33 U.S.C.A. sec. 1251, ann. at 518 (West 1986)
- REHABILITATION ACT OF 1973, 29 U.S.C.A. sec. 794 (West 1985 and Supp. 1990)

MISCELLANEOUS AUTHORITY:

- DEBARMENT AND SUSPENSION, EXECUTIVE ORDER 12549, 3 C.F.R. 189 (1987), reprinted in 31 U.S.C.A. sec. 6101, ann. at 96 (West Supp. 1990)
- DEBARMENT AND SUSPENSION, EXECUTIVE ORDER 12689, 3 C.F.R. 235 (1990) (54 Federal Register 34131, Aug. 16, 1989), reprinted in 31 U.S.C.A. sec. 6101, ann. at 97 (West Supp. 1990).
- UNIFORM RELOCATION AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970, 42 U.S.C.A. secs. 4601-4655 (West 1983 and Supp. 1990)

Exhibit "C"

-3-

OTHER CONDITIONS

Project No. _____

Project Description: _____

1. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing **projects** or programs funded in whole or in part with State Water Pollution Control Revolving Fund (WPCRF) money, all grantees receiving WPCRF funds including but not limited to State and local governments shall clearly state: 1) the percentage of the total costs of the program or **project** which will be financed with WPCRF money; 2) the dollar amount of WPCRF funds for the **project** or program; and 3) the percentage and dollar amount of the total costs of the **project** or program that will be financed by non-governmental sources.

2. The COUNTY shall take the necessary actions to maximize the benefits of this **Project** such as assuring the timely hookup of existing residences of the community for which this **Project** is serving.

Exhibit "D"

ADM. SERV. OFFICE
LOG NO. 11-27-01

APPENDIX L

PREAWARD FORM

**PRE-AWARD FORM
FOR STATE REVOLVING FUND LOANS
TO CONSTRUCT WASTEWATER TREATMENT FACILITIES**

Submit this form to the State Wastewater Branch after selecting the proposed construction contractor(s) and A/E firm(s).

1. Project _____ C-15-00 _____
2. Applicant _____
3. Date by which contract(s) must be awarded: _____
4. Have there been any significant changes to the final plans and specifications, plan of study, or scope of work, since the date of the State's planning documents approval letter?

_____ yes _____ no

If YES, please submit these changes to DOH for approval prior to completion of this form.

5. Submit one copy of all A/E agreements which the applicant proposes to accept. (* For federally-funded projects, these agreements must include the "boiler plate" requirements.)
6. For the construction portion of the project, submit one copy of the following:
 - a) the contract(s) which the applicant proposes to accept and the bid tabulations. (* For federally-funded projects, these contracts must include the "boiler plate" requirements);
 - b) a summary of all bidders' proposals received, with an identification of the lowest, responsive, responsible bidder;
 - c) evidence of bid advertisement; and,
 - d) the engineer's estimate of project costs.
7. Is the selected construction bid the lowest bid received?

_____ yes _____ no

If NO, submit all bid tabulations received, plus a detailed justification describing why the applicant intends to award to other than the lowest bidder.

8. Complete the Summary of Project Costs. In the "remarks" column, describe any ineligible cost items.

	Total Costs	Eligible Costs	Ineligible Costs	Remarks
Contractor(s):				
1.	\$	\$	\$	
2.	\$	\$	\$	
3.	\$	\$	\$	
Subtotal	\$	\$	\$	
Contingency, 10% of Eligible Construction Costs	\$	\$	\$	
Design Allowance, factor ¹ : _____ times Elig Construction Costs	\$	\$	\$	
Construction Management	\$	\$	\$	
Project Inspection	\$	\$	\$	
O&M Manual Preparation	\$	\$	\$	
Other A/E Services	\$	\$	\$	
Equipment ²	\$	\$	\$	
Other (specify)	\$	\$	\$	
TOTAL	\$	\$	\$	

¹ Allowable factors listed in Appendix I, pages I-1 thru I-4 of the SRF Applicant Manual.

² If equipment or material have been approved for purchase outside the construction contracts, enter the estimated or actual costs.

9. Financing Sources for Total Project Costs

<u>General Obligation Bonds</u>	<u>\$</u>
<u>Revenue Bonds</u>	<u>\$</u>
<u>Appropriations</u>	<u>\$</u>
<u>Other County Funds (specify)</u>	<u>\$</u>
<u>Other State Funds (specify)</u>	<u>\$</u>
<u>Other Federal Funds (specify)</u>	<u>\$</u>
<u>State Revolving Fund Loan</u>	<u>\$</u>
<u>TOTAL</u>	<u>\$</u>

10. Describe the dedicated revenue source(s) and timing of these sources for repayment of the loan. Also, identify any alternative sources of funds, should the dedicated source become insufficient to cover the loan payments.

11. Project Milestones

- _____ Award construction contract(s)
- _____ Award A/E agreement(s)
- _____ Issue Notice to Proceed
- _____ Construction completion date
- _____ Project duration, in months

12. Payment Request Schedule

Indicate the proposed payment request schedule. Payments may be requested only for costs which have been incurred.

	20____	20____	20____
January	_____	_____	_____
February	_____	_____	_____
March	_____	_____	_____
April	_____	_____	_____
May	_____	_____	_____
June	_____	_____	_____
July	_____	_____	_____
August	_____	_____	_____
September	_____	_____	_____
October	_____	_____	_____
November	_____	_____	_____
December	_____	_____	_____

13. Did the Applicant submit all the documents and forms as required in the interim loan agreement? ___ Yes ___ No, if No, please attach documents and forms.

14. Certification

The undersigned representative of the applicant certifies that the information contained above and in any attached statements and materials in support thereof, is true and correct.

Signature of Authorized Representative Date

Name and Title of Authorized Representative

APPENDIX M

FEDERAL REQUIREMENTS FOR SRF LOAN AGREEMENTS

(includes “Boiler Plate”)

FEDERAL REQUIREMENTS
FOR
CWSRF LOAN APPLICANTS



AUGUST 2011

FEDERAL REQUIREMENTS FOR
CWSRF PROJECTS

For any CWSRF loan, the Applicant is required to certify that it has complied, or will comply, with all the federal regulations listed herein as "Cross-cutter" regulations which have been determined as applying to the CWSRF loan program.

The Applicant must insert a copy of the "CWSRF Boilerplate - Federal Requirements for Consultants and Contractors" as provided, into all consultant and construction contracts and subcontracts.

A. CROSS-CUTTER REGULATIONS

1. ENVIRONMENTAL AUTHORITIES:

a. ARCHEOLOGICAL AND HISTORIC PRESERVATION ACT OF 1974,
16 USC 469a-1

Should the discovery of potential archaeological or historical resources occur during construction, all work in the area of the find shall stop and the construction management consultant shall be called in to evaluate the situation and make recommendations to the State Historic Preservation Officer, Department of Land and Natural Resources, State of Hawaii. The Historic Preservation Officer will determine what will be necessary for construction to proceed.

b. CLEAN AIR ACT, 42 USC 7401

The recipient must determine the direct and indirect emissions from the proposed treatment works project and their impact on air quality. This analysis must determine if the project conforms to the State Implementation Plan (SIP).

c. COASTAL BARRIERS RESOURCES ACT, 16 USC 3501

This Act does not apply to the State of Hawaii at this time.

d. COASTAL ZONE MANAGEMENT ACT, 16 USC 1451

CWSRF assistance recipients should consult with the coastal zone management program to ensure that the project will be consistent with the state program. Certification must be approved by the coastal zone agency prior to CWSRF assistance.

e. ENDANGERED SPECIES ACT, 16 USC 1531

CWSRF assistance recipients must determine whether any endangered or threatened species or critical habitat exist within the locale of the proposed project.

f. ENVIRONMENTAL JUSTICE, EXECUTIVE ORDER 12898

CWSRF assistance recipients shall attempt to identify and address disproportionately high and adverse human health or environmental effects of this project on minority populations and low-income populations.

g. FARMLAND PROTECTION POLICY ACT, 7 USC 4201

CWSRF assistance recipients must determine whether the proposed project will have an effect on significant agricultural lands.

h. FISH AND WILDLIFE COORDINATION ACT, 16 USC 661

CWSRF assistance recipients should seek the assistance of wildlife officials to determine the effect the proposed project may have on wildlife and its habitat.

i. FLOODPLAIN MANAGEMENT, EXECUTIVE ORDER 11988 (1977), AS AMENDED BY EXECUTIVE ORDER 12148 (1979)

CWSRF assistance recipients must determine if the proposed project will be located in or affect a floodplain. Projects within floodplains must document flood protection mitigation and design measures.

j. NATIONAL HISTORIC PRESERVATION ACT, 16 USC 470

CWSRF assistance recipients must determine whether historic properties that are included or are eligible for inclusion on the National Register are in the project area.

k. PROTECTION OF WETLANDS, EXECUTIVE ORDER 11990 (1977), AS AMENDED BY EXECUTIVE ORDER 12608 (1997)

CWSRF assistance recipients must determine whether their proposed project will be in or will affect a wetland, and whether an alternative will be necessary.

l. SAFE DRINKING WATER ACT, 42 USC 300f

CWSRF assistance recipients must determine if their proposed project will affect a sole source aquifer, and whether further investigations will be necessary.

- m. WILD AND SCENIC RIVERS ACT, 16 USC 1271

This Act is not applicable to the State of Hawaii at this time.

- n. ESSENTIAL FISH HABITAT CONSULTATION PROCESS UNDER THE MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT, 16 USC 1801

CWSRF assistance recipients must determine whether a proposed project may adversely affect Essential Fish Habitat (EFH). The National Marine Fisheries Service will make maps and/or other information on the locations of EFH available as well as provide information on ways to promote conservation of EFH, in order to facilitate this assessment.

2. ECONOMIC POLICY AUTHORITIES:

- a. ADMINISTRATION OF THE CLEAN AIR ACT AND THE WATER POLLUTION CONTROL ACT WITH RESPECT TO FEDERAL CONTRACTS OR LOANS, EXECUTIVE ORDER 11738

This Executive Order prohibits assistance to facilities that are not in compliance with either the Clean Water Act or the Clean Air Act unless the purpose of the assistance is to remedy the cause of the violation.

- b. DEMONSTRATION CITIES AND METROPOLITAN DEVELOPMENT ACT OF 1966, PUB. L. 89-754, AS AMENDED BY 42 USC 3331

CWSRF assistance recipients should submit information describing a proposed project's effect on local development plans to the CWSRF agency.

- c. PROCUREMENT PROHIBITIONS, EXECUTIVE ORDER 11738, SECTION 306 OF THE CLEAN AIR ACT

The recipient of Federal assistance must certify that it will not procure goods, services or materials from suppliers who are on the EPA's list of Clean Air Act violators.

- d. PROCUREMENT PROHIBITIONS, SECTION 508 OF THE CLEAN WATER ACT

The recipient of Federal assistance must certify that it will not procure goods, services or materials from suppliers who are on the EPA's list of Clean Water Act violators.

3. SOCIAL POLICY AUTHORITIES:

a. AGE DISCRIMINATION ACT OF 1975, 42 USC 6102

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

b. CIVIL RIGHTS ACT OF 1964, TITLE VI, 42 USC 2000d

No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

c. EQUAL EMPLOYMENT OPPORTUNITY, EXECUTIVE ORDER 11246, AS AMENDED

This Executive Order requires all recipients of Federal contracts to include certain non-discrimination and "affirmative action" provisions in all contracts. The provisions commit the contractor or subcontractor to maintain a policy of non-discrimination in the treatment of employees, to make this policy known to employees, and to recruit, hire and train employees without regard to race, color, sex, religion and national origin.

d. MINORITY BUSINESS ENTERPRISE DEVELOPMENT, EXECUTIVE ORDER 12432

This executive order sets forth in more detail the responsibilities of Federal agencies for the monitoring, maintaining of data and reporting on the use of minority enterprises.

e. NATIONAL PROGRAM FOR MINORITY BUSINESS ENTERPRISE, EXECUTIVE ORDER 11625

This Executive Order directs Federal agencies to promote and encourage the use of minority business enterprises in projects utilizing federal funds.

f. NATIONAL WOMEN'S BUSINESS ENTERPRISE POLICY AND NATIONAL PROGRAM FOR WOMEN'S BUSINESS ENTERPRISE, EXECUTIVE ORDER 12138

This Executive Order directs each department or agency empowered to extend Federal financial assistance to any program or activity to issue regulations requiring the recipient of such assistance to take appropriate affirmative action in support of women's business

enterprises and to prohibit actions or policies which discriminate against women's business enterprises on the grounds of sex.

g. REHABILITATION ACT OF 1973, 29 USC 794

No otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

h. SECTION 13 OF THE FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972, 33 USC 1251

No person in the United States shall, on the grounds of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under... the federal Water Pollution Control Act...

i. SMALL BUSINESS ADMINISTRATION REAUTHORIZATION AND AMENDMENT ACT OF 1998, PUB. L. 100-590, SECTION 129

This Amendment directs Federal agencies to promote and encourage the use of small business enterprises in projects utilizing federal funds.

j. DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND AGENCIES APPROPRIATIONS ACT, 1993, PUB. L. 102-389

The Administrator of the Environmental Protection Agency shall, hereafter to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including grants, loans and contracts for wastewater treatment and for leaking underground storage tanks, be made available to businesses or other organizations owned or controlled by socially and economically disadvantaged individuals within the meaning of Section 8(a)(5) and (6) of the Small Business Act (15 U.S.C. 637(a)(5) and (6)), including historically black colleges and universities. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

k. DISADVANTAGED BUSINESS ENTERPRISE RULE, 2008,
40 CFR Part 33

This Rule sets forth in detail the responsibilities of entities receiving an identified loan under a financial assistance agreement capitalizing a revolving loan fund, for the monitoring, maintaining of data and reporting of the use of disadvantaged business enterprises (DBEs). The Applicant shall fully comply with 40 CFR Part 33, entitled "Participation by Disadvantaged Business Enterprises in Procurement Under Environmental Protection Agency (EPA) Financial Assistance Agreements" and ensure that all contracts funded by a CWSRF loan include a term or condition requiring compliance with 40 CFR Part 33.

The Applicant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Applicant shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the Applicant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or other legally available remedies.

1. DAVIS BACON ACT, TITLE 29, PART 5, CODE OF FEDERAL REGULATIONS

The recipient of Federal assistance shall comply with all labor standards covered under this act including but not limited to:

- (1) Inclusion of the applicable Wage Determination General Decision No. and Modification No. in the executed contract;
- (2) Payment of the prevailing wage rate;
- (3) Posting of prevailing wage rates and Davis-Bacon poster at the work site where it can be easily seen by the workers;
- (4) Maintaining weekly certified payroll records for a period of three years; and
- (5) Performing labor standards interviews during the course of construction in accordance with Standard Form 1445.

4. MISCELLANEOUS AUTHORITIES:

a. DEBARMENT AND SUSPENSION, EXECUTIVE ORDER 12549

Prior to the award of a consultant or construction contract, the Applicant (County) shall fully comply with Subpart C of 40 CFR Part 32, entitled "Responsibilities

of Participants Regarding Transactions" and ensure that any lower tier covered transaction and subsequent lower tier transaction, includes a term or condition requiring compliance with Subpart C. The Applicant shall certify that the General Contractor, Consultant, sub-consultants, subcontractors and suppliers are not on the Excluded Parties List. The Applicant acknowledges that failing to disclose the information required under 40 CFR 32.335 may result in the delay or negation of payment, or pursuance of legal remedies, including suspension and debarment. The Applicant may access the Excluded Parties List System at <http://epls.arnet.gov>.

- b. UNIFORM RELOCATION AND REAL PROPERTY ACQUISITION POLICIES ACT, PUB. L. 91-646 (1971), AS AMENDED BY 42 USC 4601-4655

The Act establishes a policy for fair and equitable treatment of persons who are displaced from their homes, farms or businesses to make way for a federally-assisted project.

- c. PRESERVATION OF OPEN COMPETITION AND GOVERNMENT NEUTRALITY TOWARDS CONTRACTOR'S LABOR RELATIONS ON FEDERAL AND FEDERALLY FUNDED CONSTRUCTION PROJECTS, EXECUTIVE ORDER 13202 (2001), AS AMENDED BY EXECUTIVE ORDER 13208 (2001)

CWSRF assistance recipients must ensure that bid specifications, project agreements, and other controlling documents for construction contracts awarded after February 17, 2001 do not require or prohibit agreements with labor organizations. Further, CWSRF assistance recipients and any construction manager acting upon their behalf must not otherwise discriminate against bidders, offerors, contractors, or subcontractors for entering into, or refusing to enter into, agreements with labor organizations.

B. REQUIRED FEDERAL FORMS AND INFORMATION:

1. The following EPA forms with original pen and ink signature are required to be submitted by the loan recipient to the Department of Health Wastewater Branch for each CWSRF project:
 - a. EPA Form 5700-52A (MBE/WBE Utilization Under Federal Grants, Cooperative Agreements, and Other Federal Financial Assistance)
 - b. EPA Form 6100-4 (Disadvantaged Business Enterprise Program - DBE Subcontractor Utilization Form) to be completed by the Consultant or Contractor and submitted with bid or proposal package.
 - c. EPA Form 6100-3 (Disadvantaged Business Enterprise Program - DBE Subcontractor Performance Form) to be completed by all DBE subconsultants or subcontractors and submitted with bid or proposal package.
2. The following information must be included in the loan recipient's contract specifications:

The current and appropriate Wage Decision and Modification number must be obtained from the United States Department of Labor (DOL), and included in the contract specifications. The Wage Decision and Modification Number must be that which was in effect on the date up to 10 days before bid opening and no later than 90 days after bid opening. The appropriate Wage Decision may be obtained at: <http://www.access.gpo.gov/davisbacon/index.html>

**U.S. ENVIRONMENTAL PROTECTION AGENCY
 MBE/WBE UTILIZATION UNDER FEDERAL GRANTS
 AND COOPERATIVE AGREEMENTS**

PART I. (Reports are required even if no procurements are made during the reporting period.)

1A. FEDERAL FISCAL YEAR (Oct. 1-Sep 30) 20_____	1B. REPORTING PERIOD (Check ALL appropriate boxes) <input type="checkbox"/> 1 st (Oct-Dec) <input type="checkbox"/> 2 nd (Jan-Mar) <input type="checkbox"/> 3 rd (Apr-Jun) <input type="checkbox"/> 4 th (Jul-Sep) <input type="checkbox"/> Semi-Annual (Oct-Mar) <input type="checkbox"/> Semi-Annual (Apr-Sep) <input type="checkbox"/> Annual <input type="checkbox"/> Check if this is the last report for the project (Project completed).																				
1C. REVISION OF A PRIOR REPORT? Y or N Year: _____ Quarter: _____	BRIEFLY DESCRIBE THE REVISIONS YOU ARE MAKING:																				
2A. EPA FINANCIAL ASSISTANCE OFFICE ADDRESS (ATTN: DBE Coordinator)	3A. RECIPIENT NAME AND ADDRESS																				
2B. EPA DBE COORDINATOR Name: _____ E-mail: _____	2C. PHONE: Fax: _____	3B. RECIPIENT REPORTING CONTACT: Name: _____ E-mail: _____	3C. PHONE: Fax: _____																		
4A. FINANCIAL ASSISTANCE AGREEMENT ID NUMBER (SRF State Recipients, refer to Instructions for Completion of blocks 4A, 5A and 5C.)		4B. FEDERAL FINANCIAL ASSISTANCE PROGRAM TITLE or CFDA NUMBER:																			
5A. TOTAL ASSISTANCE AGREEMENT AMOUNT (SRF State Recipients, refer to Instructions for Completion of blocks 4A, 5A and 5C.) EPA Share: \$ _____ Recipient Share: \$ _____		5B. If NO procurement and NO accomplishments were made this reporting period (by the recipients, sub-recipients, loan recipients, and prime contractors), CHECK and SKIP to Block No. 7. (Procurements are all expenditures through contract, order, purchase, lease or barter of supplies, equipment, construction, or services needed to complete Federal assistance programs. <u>Accomplishments</u>, in this context, are procurements made with MBEs and/or WBEs. <input type="checkbox"/>																			
5C. Total Procurements This Reporting Period (Only include amount not reported in any prior reporting period) Total Procurement Amount \$ _____ (Include total dollar values awarded by recipient, sub-recipients and SRF loan recipients, including MBE/WBE expenditures.)																					
5D. Were sub-awards issued under this assistance agreement? Yes <input type="checkbox"/> No <input type="checkbox"/> Were contracts issued under this assistance agreement? Yes <input type="checkbox"/> No <input type="checkbox"/>																					
5E. MBE/WBE Accomplishments This Reporting Period Actual MBE/WBE Procurement Accomplished: (Include total dollar values awarded by recipient, sub-recipients, SRF loan recipients and Prime Contractors.)																					
<table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:15%;"></th> <th style="width:20%; text-align: center;"><u>Construction</u></th> <th style="width:20%; text-align: center;"><u>Equipment</u></th> <th style="width:20%; text-align: center;"><u>Services</u></th> <th style="width:20%; text-align: center;"><u>Supplies</u></th> <th style="width:15%; text-align: center;"><u>Total</u></th> </tr> </thead> <tbody> <tr> <td>\$MBE:</td> <td>_____</td> <td>_____</td> <td>_____</td> <td>_____</td> <td align="right">0.00</td> </tr> <tr> <td>\$WBE:</td> <td>_____</td> <td>_____</td> <td>_____</td> <td>_____</td> <td align="right">0.00</td> </tr> </tbody> </table>					<u>Construction</u>	<u>Equipment</u>	<u>Services</u>	<u>Supplies</u>	<u>Total</u>	\$MBE:	_____	_____	_____	_____	0.00	\$WBE:	_____	_____	_____	_____	0.00
	<u>Construction</u>	<u>Equipment</u>	<u>Services</u>	<u>Supplies</u>	<u>Total</u>																
\$MBE:	_____	_____	_____	_____	0.00																
\$WBE:	_____	_____	_____	_____	0.00																
6. COMMENTS: (If no MBE/WBE procurements were accomplished during the reporting period, please explain what steps you are taking to achieve the MBE/WBE Program requirements specified in the terms and conditions of the Assistance Agreement.)																					
7. NAME OF RECIPIENT'S AUTHORIZED REPRESENTATIVE		TITLE																			
8. SIGNATURE OF RECIPIENT'S AUTHORIZED REPRESENTATIVE		DATE																			

Instructions:

A. General Instructions:

MBE/WBE utilization is based on 40 CFR Part 33. EPA Form 5700-52A must be completed by recipients of Federal grants, cooperative agreements, or other Federal financial assistance which involve procurement of supplies, equipment, construction or services to accomplish Federal assistance programs.

Recipients are required to report 30 days after the end of each federal fiscal quarter, semiannually, or annually, per the terms and conditions of the financial assistance agreement.

	Quarterly Reporting Due Date	Semiannual Reporting Due Date	Annual Reporting Due Date
Agreements awarded prior to May 27, 2008	January 30, April 30, July 30, October 30	N/A	October 30
Agreements awarded on or after May 27, 2008	N/A	April 30, October 30	October 30

MBE/WBE program requirements, including reporting, are material terms and conditions of the financial assistance agreement.

B. Definitions:

Procurement is the acquisition through contract, order, purchase, lease or barter of supplies, equipment, construction or services needed to accomplish Federal assistance programs.

A **contract** is a written agreement between an EPA recipient and another party (also considered "prime contracts") and any lower tier agreement (also considered "subcontracts") for equipment, services, supplies, or construction necessary to complete the project. This definition excludes written agreements with another public agency. This definition includes personal and professional services, agreements with consultants, and purchase orders.

A **minority business enterprise (MBE)** is a business concern that is (1) at least 51 percent owned by one or more minority individuals, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more minority individuals; and (2) whose daily business operations are managed and directed by one or more of the minority owners. In order to qualify and participate as an MBE prime or subcontractor for EPA

recipients under EPA's DBE Program, an entity must be properly certified as required by 40 CFR Part 33, Subpart B.

U.S. citizenship is required. Recipients shall presume that minority individuals include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, or other groups whose members are found to be disadvantaged by the Small Business Act or by the Secretary of Commerce under section 5 of Executive order 11625. The reporting contact at EPA can provide additional information.

A **woman business enterprise (WBE)** is a business concern that is, (1) at least 51 percent owned by one or more women, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more women and (2) whose daily business operations are managed and directed by one or more of the women owners. In order to qualify and participate as a WBE prime or subcontractor for EPA recipients under EPA's DBE Program, an entity must be properly certified as required by 40 CFR Part 33, Subpart B.

Business firms which are 51 percent owned by minorities or women, but are in fact managed and operated by non-minority individuals do not qualify for meeting MBE/WBE procurement goals. U.S. Citizenship is required.

Good Faith Efforts

A recipient is required to make the following good faith efforts whenever procuring construction, equipment, services, and supplies under an EPA financial assistance agreement. These good faith efforts for utilizing MBEs and WBEs must be documented. Such documentation is subject to EPA review upon request:

1. Include of MBEs/WBEs on solicitation lists.
2. Assure that MBEs/WBEs are solicited once they are identified.
3. Divide total requirements into smaller tasks to permit maximum MBE/WBE participation, where feasible.
4. Establish delivery schedules which will encourage MBE/WBE participation, where feasible.
5. Encourage use of the services of the U.S. Department of Commerce's Minority Business Development Agency (MBDA) and the U.S. Small Business Administration to identify MBEs/WBEs.

6. Require that each party to a subgrant, subagreement, or contract award take the good faith efforts outlined here.

C. Instructions for Part I:

1a. Specify Federal fiscal year this report covers. The Federal fiscal year runs from October 1st through September 30th (e.g. **November 29, 2010 falls within Federal fiscal year 2011**)

1b. Check applicable reporting box, quarterly, semiannually, or annually. Also indicate if this is the last report for the project.

1c. Indicate if this is a revision to a previous year, half-year, or quarter, and provide a brief description of the revision you are making.

2a-c. Please refer to your financial assistance agreement for the mailing address of the EPA financial assistance office for your agreement.

The "EPA DBE Reporting Contact" is the DBE Coordinator for the EPA Region from which your financial assistance agreement was originated. For a list of DBE Coordinators please refer to the EPA OSBP website at www.epa.gov/osbp. Click on "Regional Contacts" for the name of your coordinator.

3a-c. Identify the agency, state authority, university or other organization which is the recipient of the Federal financial assistance and the person to contact concerning this report.

4a. Provide the Assistance Agreement number assigned by EPA. A separate report must be submitted for each Assistance Agreement.

***For SRF recipients:** In box 4a list numbers for ALL OPEN Assistance Agreements being reported on this form. Please note that although the New DBE Rule (which took effect May 27, 2008) revised the reporting frequency requirements from quarterly to semiannually, that change only applies to agreements awarded AFTER the New DBE Rule took effect. Therefore, SRF recipients may either continue to report activity for all Agreements on one form on a quarterly basis until the last award that was made prior to the New DBE Rule has been closed out; OR, the recipient may split the submission of SRF reports into quarterly reports for Agreements awarded prior the New DBE Rule, and semiannually for the awards made after the New DBE Rule.

4b. Refer back to Assistance Agreement document for this information.

5a. Provide the total amount of the Assistance Agreement which includes Federal funds plus recipient matching funds and funds from other sources.

***For SRF recipients only:** SRF recipients will not enter an amount in 5a. Please leave 5a blank.

5b. Self-explanatory.

5c. Provide the total dollar amount of ALL procurements awarded this reporting period by the recipient, sub-recipients, and SRF loan recipients, including MBE/WBE expenditures. For example: Actual dollars for procurement from the procuring office; actual contracts let from the contracts office; actual goods, services, supplies, etc., from other sources including the central purchasing/ procurement centers).

***NOTE:** To prevent double counting on line 5C, if any amount on 5E is for a subcontract and the prime contract has already been included on Line 5C in a prior reporting period, then report the amount going to MBE or WBE subcontractor on line 5E, but exclude the amount from Line 5C. To include the amount on 5C again would result in double counting because the prime contract, which includes the subcontract, would have already been reported.

5d. State whether or not sub-awards and/or subcontracts have been issued under the assistance agreement by indicating "yes" or "no".

5e. Where requested, also provide the total dollar amount of all MBE/WBE procurement awarded during this reporting period by the recipient, sub-recipients, SRF loan recipients, and prime contractors in the categories of construction, equipment, services and supplies. These amounts include Federal funds plus recipient matching funds and funds from other sources.

***For SRF recipients only:** In 5c please enter the total procurement amount for the quarter, or semiannual period, under all of your SRF Assistance Agreements. The figure reported in this section is **not** directly tied to an individual Assistance Agreement identification number. **(SRF state recipients report state procurements in this section)**

6. If there were no MBE/WBE accomplishments this reporting period, please briefly explain what

specific steps you are taking to achieve the MBE/WBE requirements specified in the terms and conditions of the Assistance Agreement.

7. Name and title of official administrator or designated reporting official.
8. Signature, month, day, and year report submitted.

D. Instructions for Part II:

For each MBE/WBE procurement made under this assistance agreement during the reporting period, provide the following information:

1. Check whether this procurement was made by the recipient, sub-recipient/SRF loan recipient, or the prime contractor.
2. Check either the MBE or WBE column. If a firm is both an MBE and WBE, the recipient may choose to count the entire procurement towards EITHER its MBE or WBE accomplishments. The recipient may also divide the total amount of the procurement (using any ratio it so chooses) and count those divided amounts toward its MBE and WBE accomplishments. If the recipient chooses to divide the procurement amount and count portions toward its MBE and WBE accomplishments, please state the appropriate amounts under the MBE and WBE columns on the form. **The combined MBE and WBE amounts for that MBE/WBE contractor must not exceed the "Value of the Procurement" reported in column #3**
3. Dollar value of procurement.
4. Date of procurement, shown as month, day, year. Date of procurement is defined as the date the contract or procurement was awarded, **not** the date the contractor received payment under the awarded contract or procurement, unless payment occurred on the date of award. **(Where direct purchasing is the procurement method, the date of procurement is the date the purchase was made)**
5. Using codes at the bottom of the form, identify type of product or service acquired through this procurement (e.g., enter 1 if construction, 2 if supplies, etc).
6. Name, address, and telephone number of MBE/WBE firm.

**This data is requested to comply with provisions mandated by: statute or regulations (40 CFR Part 30, 31,

and 33); OMB Circulars; or added by EPA to ensure sound and effective assistance management. Accurate, complete data are required to obtain funding, while no pledge of confidentiality is provided.

The public reporting and recording burden for this collection of information is estimated to average 1 hour per response annually. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclosure or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2136), 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460. Include the OMB Control number in any correspondence. Do not send the completed form to this address.



Environmental
Protection Agency

OMB Control No: 2090-0030
Approved: 05/01/2008
Approval Expires: 01/31/2011

Note: EPA in process of revising form.
Use this form until further notice.

**Disadvantaged Business Enterprise Program
DBE Subcontractor Utilization Form**

BID/PROPOSAL NO.	PROJECT NAME
NAME OF PRIME BIDDER/PROPOSER	E-MAIL ADDRESS
ADDRESS	
TELEPHONE NO.	FAX NO.

The following subcontractors¹ will be used on this project:

COMPANY NAME, ADDRESS, PHONE NUMBER, AND E-MAIL ADDRESS	TYPE OF WORK TO BE PERFORMED	ESTIMATE D DOLLAR AMOUNT	CURRENTLY CERTIFIED AS AN MBE OR WBE?

I certify under penalty of perjury that the forgoing statements are true and correct. In the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302(c).

Signature of Prime Contractor

Date

Print Name

Title

¹Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



Environmental
Protection Agency

OMB Control No: 2090-0030
Approved: 05/01/2008
Approval Expires: 01/31/2011

Disadvantaged Business Enterprise Program DBE Subcontractor Utilization Form

The public reporting and recordkeeping burden for this collection of information is estimated to average fifteen (15) minutes. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed EPA DBE Subcontractor Utilization Form to this address.



Environmental
Protection Agency

OMB Control No: 2090-0030
Approved: 05/01/2008
Approval Expires: 01/31/2011

Note: EPA in process of revising form.
Use this form until further notice.

**Disadvantaged Business Enterprise Program
DBE Subcontractor Performance Form**

NAME OF SUBCONTRACTOR ¹		PROJECT NAME
ADDRESS		BID/PROPOSAL NO.
TELEPHONE NO.		E-MAIL ADDRESS
PRIME CONTRACTOR NAME		
CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES BID TO PRIME	PRICE OF WORK SUBMITTED TO PRIME CONTRACTOR
Currently certified as an MBE or WBE under EPA's DBE Program? _____ Yes _____ No		
_____ Signature of Prime Contractor		_____ Date
_____ Print Name		_____ Title
_____ Signature of Subcontractor		_____ Date
_____ Print Name		_____ Title

¹Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



Environmental
Protection Agency

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Disadvantaged Business Enterprise Program DBE Subcontractor Performance Form

The public reporting and recordkeeping burden for this collection of information is estimated to average fifteen (15) minutes. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed EPA DBE Subcontractor Performance Form to this address.

LABOR STANDARDS INTERVIEW

CONTRACT NUMBER			EMPLOYEE INFORMATION		
NAME OF PRIME CONTRACTOR			LAST NAME		MI
			FIRST NAME		
NAME OF EMPLOYER			STREET ADDRESS		
			CITY		STATE
SUPERVISOR'S NAME			WORK CLASSIFICATION		
LAST NAME		FIRST NAME	MI	WAGE RATE	

ACTION	CHECK BELOW	
	YES	NO
Do you work over 8 hours per day?		
Do you work over 40 hours per week?		
Are you paid at least time and a half for overtime hours?		
Are you receiving any cash payments for fringe benefits required by the posted wage determination decision?		
WHAT DEDUCTIONS OTHER THAN TAXES AND SOCIAL SECURITY ARE MADE FROM YOUR PAY?		

HOW MANY HOURS DID YOU WORK ON YOUR LAST WORK DAY BEFORE THIS INTERVIEW?	TOOLS YOU USE	
DATE OF LAST WORK DAY BEFORE INTERVIEW (YYMMDD)		
DATE YOU BEGAN WORK ON THIS PROJECT (YYMMDD)		

THE ABOVE IS CORRECT TO THE BEST OF MY KNOWLEDGE

EMPLOYEE'S SIGNATURE			DATE (YYMMDD)
INTERVIEWER	SIGNATURE	TYPED OR PRINTED NAME	DATE (YYMMDD)

INTERVIEWER'S COMMENTS

WORK EMPLOYEE WAS DOING WHEN INTERVIEWED	ACTION <i>(If explanation is needed, use comments section)</i>	YES	NO
	IS EMPLOYEE PROPERLY CLASSIFIED AND PAID?		
	ARE WAGE RATES AND POSTERS DISPLAYED?		

FOR USE BY PAYROLL CHECKER

IS ABOVE INFORMATION IN AGREEMENT WITH PAYROLL DATA?

YES
 NO

COMMENTS

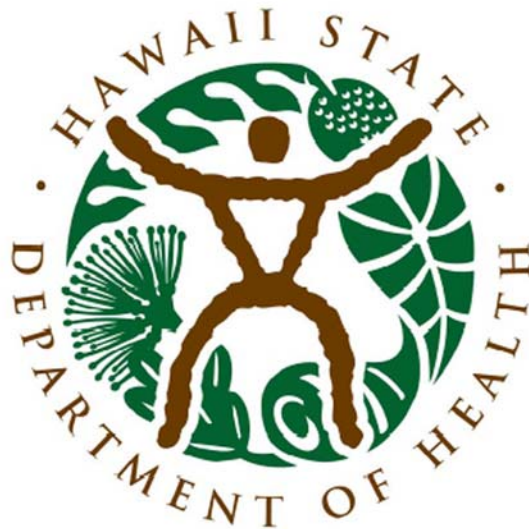
CHECKER			
LAST NAME	FIRST NAME	MI	JOB TITLE
SIGNATURE			DATE (YYMMDD)

"CWSRF BOILERPLATE"

FEDERAL REQUIREMENTS

FOR

CONSULTANTS AND CONTRACTORS



AUGUST 2011

"CWSRF BOILERPLATE"

FEDERAL REQUIREMENTS

FOR

CONSULTANTS AND CONTRACTORS

To the Consultant, Contractor or Sub-contractor of a CWSRF loan funded project:

All CWSRF projects must comply with all the federal regulations listed herein which have been determined as applying to the SRF loan program.

A. CROSS-CUTTER REGULATIONS

1. ENVIRONMENTAL AUTHORITIES:

a. ARCHEOLOGICAL AND HISTORIC PRESERVATION ACT OF 1974,
16 USC 469a-1

Should the contractor discover potential archaeological or historical resources during construction, all work in the area of the find shall stop and the construction management consultant shall be called in to evaluate the situation and make recommendations to the State Historic Preservation Officer, Department of Land and Natural Resources, State of Hawaii. The Historic Preservation Officer will determine what will be necessary for construction to proceed.

2. SOCIAL POLICY AUTHORITIES:

a. AGE DISCRIMINATION ACT OF 1975, 42 USC 6102

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

b. CIVIL RIGHTS ACT OF 1964, TITLE VI, 42 USC 2000d

No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

- c. EQUAL EMPLOYMENT OPPORTUNITY, EXECUTIVE ORDER 11246, AS AMENDED

The contractor, subcontractor, or consultant for any SRF project shall maintain a policy of non-discrimination in the treatment of employees, shall make this policy known to employees, and shall recruit, hire and train employees without regard to race, color, sex, religion and national origin.

- d. SECTION 13 OF THE FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972, 33 USC 1251

No person in the United States shall, on the grounds of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under... the federal Water Pollution Control Act...

- e. REHABILITATION ACT OF 1973, 29 USC 794

No otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

- f. MINORITY BUSINESS ENTERPRISE DEVELOPMENT, EXECUTIVE ORDER 12432

This executive order sets forth in more detail the responsibilities of Federal agencies for the monitoring, maintaining of data and reporting on the use of minority enterprises.

- g. NATIONAL PROGRAM FOR MINORITY BUSINESS ENTERPRISE, EXECUTIVE ORDER 11625

This Executive Order directs Federal agencies to promote and encourage the use of minority business enterprises in projects utilizing federal funds.

- h. NATIONAL WOMEN'S BUSINESS ENTERPRISE POLICY AND NATIONAL PROGRAM FOR WOMEN'S BUSINESS ENTERPRISE, EXECUTIVE ORDER 12138

This Executive Order directs each department or agency empowered to extend Federal financial assistance to any program or activity to issue regulations requiring the recipient of such assistance to take appropriate affirmative action in support of women's business enterprises and to prohibit actions or policies which

discriminate against women's business enterprises on the grounds of sex.

- i. SMALL BUSINESS ADMINISTRATION REAUTHORIZATION AND AMENDMENT ACT OF 1998, PUB. L. 100-590, SECTION 129

This Amendment directs Federal agencies to promote and encourage the use of small business enterprises in projects utilizing federal funds.

- j. DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND AGENCIES APPROPRIATIONS ACT, 1993, PUB. L. 102-389

The Administrator of the Environmental Protection Agency shall, hereafter to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including grants, loans and contracts for wastewater treatment and for leaking underground storage tanks, be made available to businesses or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of Section 8(a)(5) and (6) of the Small Business Act (15 U.S.C. 637(a)(5) and (6)), including historically black colleges and universities. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

- k. DISADVANTAGED BUSINESS ENTERPRISE RULE, 2008, 40 CFR Part 33

Prior to the award of a consultant or construction contract, the Contractor or Consultant shall fully comply with 40 CFR Part 33, entitled "Participation by Disadvantaged Business Enterprises in Procurement Under Environmental Protection Agency (EPA Financial Assistance Agreements)". The Consultant or Contractor shall notify the County prior to termination of a Disadvantaged Business Enterprise (DBE) subconsultant or subcontractor for convenience by the Contractor. In addition, the Consultant or Contractor shall employ the six good faith efforts listed in 40 CFR 33.301 when soliciting a replacement subconsultant or subcontractor.

The Consultant or Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant or Contractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the Consultant or Contractor to

carry out these requirements is a material breach of this contract, which may result in the termination of this contract or other legally available remedies.

1. DAVIS BACON ACT, TITLE 29, PART 5, CODE OF FEDERAL REGULATIONS

The consultant or construction contractor shall comply with the labor standards provided under this act, including but not limited to:

- (1) Payment of the prevailing wage rate;
- (2) Posting of prevailing wage rates and Davis-Bacon poster at the work site where it can be easily seen by the workers;
- (3) The following Wage Determination General Decision and Modification numbers apply to this contract:

Wage Determination General Decision No.: (loan recipient to fill in)

Modification No.: (loan recipient to fill in)

3. MISCELLANEOUS AUTHORITIES:

a. DEBARMENT AND SUSPENSION, EXECUTIVE ORDER 12549

Prior to the award of a construction or consultant contract, the Contractor or Consultant shall fully comply with Subpart C of 40 CFR Part 32, entitled "Responsibilities of Participants Regarding Transactions" and ensure that any lower tier covered transaction and subsequent lower tier transaction, includes a term or condition requiring compliance with Subpart C. The Contractor shall certify that his subcontractors and suppliers are not on the Excluded Parties List when the bid proposals are submitted. The Consultant shall certify that his sub-consultants are not on the Excluded Parties List. The Contractor or Consultant acknowledges that failing to disclose the information required under 40 CFR 32.335 may result in the delay or negation of payment, or pursuance of legal remedies, including suspension and debarment. The Contractor or Consultant may access the Excluded Parties List System at <http://epls.arnet.gov>.

B. REQUIRED FEDERAL FORMS:

1. The following EPA forms with original pen and ink signature are required to be submitted by the Consultant or Contractor to the recipient (County) for each CWSRF project:
 - a. EPA Form 5700-52A (MBE/WBE Utilization Under Federal Grants, Cooperative Agreements, and Other Federal Financial Assistance)
 - b. EPA Form 6100-4 (Disadvantaged Business Enterprise Program - DBE Subcontractor Utilization Form) to be completed by the Consultant or Contractor and submitted with bid or proposal package.
 - c. EPA Form 6100-3 (Disadvantaged Business Enterprise Program - DBE Subcontractor Performance Form) to be completed by all DBE subconsultants or subcontractors and submitted with bid or proposal package.

In addition, the following EPA form shall be provided by the Consultant or Contractor to each Disadvantaged Business Enterprise subcontractor for each CWSRF project:

- a. EPA Form 6100-2 (Disadvantaged Business Enterprise Program - DBE Subcontractor Participation Form), which may be completed by each DBE subconsultant or subcontractor and submitted to:

Mr. Joe Ochab, Region IX MBE/WBE Coordinator
U.S. Environmental Protection Agency
Region IX (WTR-6)
75 Hawthorne Street
San Francisco, CA 94105

**U.S. ENVIRONMENTAL PROTECTION AGENCY
 MBE/WBE UTILIZATION UNDER FEDERAL GRANTS
 AND COOPERATIVE AGREEMENTS**

PART I. (Reports are required even if no procurements are made during the reporting period.)

1A. FEDERAL FISCAL YEAR (Oct. 1-Sep 30) 20_____	1B. REPORTING PERIOD (Check ALL appropriate boxes) <input type="checkbox"/> 1 st (Oct-Dec) <input type="checkbox"/> 2 nd (Jan-Mar) <input type="checkbox"/> 3 rd (Apr-Jun) <input type="checkbox"/> 4 th (Jul-Sep) <input type="checkbox"/> Semi-Annual (Oct-Mar) <input type="checkbox"/> Semi-Annual (Apr-Sep) <input type="checkbox"/> Annual <input type="checkbox"/> Check if this is the last report for the project (Project completed).																				
1C. REVISION OF A PRIOR REPORT? Y or N Year: _____ Quarter: _____	BRIEFLY DESCRIBE THE REVISIONS YOU ARE MAKING:																				
2A. EPA FINANCIAL ASSISTANCE OFFICE ADDRESS (ATTN: DBE Coordinator)	3A. RECIPIENT NAME AND ADDRESS																				
2B. EPA DBE COORDINATOR Name: _____ E-mail: _____	2C. PHONE: Fax: _____	3B. RECIPIENT REPORTING CONTACT: Name: _____ E-mail: _____	3C. PHONE: Fax: _____																		
4A. FINANCIAL ASSISTANCE AGREEMENT ID NUMBER (SRF State Recipients, refer to Instructions for Completion of blocks 4A, 5A and 5C.)		4B. FEDERAL FINANCIAL ASSISTANCE PROGRAM TITLE or CFDA NUMBER:																			
5A. TOTAL ASSISTANCE AGREEMENT AMOUNT (SRF State Recipients, refer to Instructions for Completion of blocks 4A, 5A and 5C.) EPA Share: \$ _____ Recipient Share: \$ _____		5B. If NO procurement and NO accomplishments were made this reporting period (by the recipients, sub-recipients, loan recipients, and prime contractors), CHECK and SKIP to Block No. 7. (Procurements are all expenditures through contract, order, purchase, lease or barter of supplies, equipment, construction, or services needed to complete Federal assistance programs. <u>Accomplishments</u>, in this context, are procurements made with MBEs and/or WBEs. <input type="checkbox"/>																			
5C. Total Procurements This Reporting Period (Only include amount not reported in any prior reporting period) Total Procurement Amount \$ _____ (Include total dollar values awarded by recipient, sub-recipients and SRF loan recipients, including MBE/WBE expenditures.)																					
5D. Were sub-awards issued under this assistance agreement? Yes <input type="checkbox"/> No <input type="checkbox"/> Were contracts issued under this assistance agreement? Yes <input type="checkbox"/> No <input type="checkbox"/>																					
5E. MBE/WBE Accomplishments This Reporting Period Actual MBE/WBE Procurement Accomplished: (Include total dollar values awarded by recipient, sub-recipients, SRF loan recipients and Prime Contractors.)																					
<table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:15%;"></th> <th style="width:20%; text-align: center;"><u>Construction</u></th> <th style="width:20%; text-align: center;"><u>Equipment</u></th> <th style="width:20%; text-align: center;"><u>Services</u></th> <th style="width:20%; text-align: center;"><u>Supplies</u></th> <th style="width:15%; text-align: center;"><u>Total</u></th> </tr> </thead> <tbody> <tr> <td>\$MBE:</td> <td>_____</td> <td>_____</td> <td>_____</td> <td>_____</td> <td align="right">0.00</td> </tr> <tr> <td>\$WBE:</td> <td>_____</td> <td>_____</td> <td>_____</td> <td>_____</td> <td align="right">0.00</td> </tr> </tbody> </table>					<u>Construction</u>	<u>Equipment</u>	<u>Services</u>	<u>Supplies</u>	<u>Total</u>	\$MBE:	_____	_____	_____	_____	0.00	\$WBE:	_____	_____	_____	_____	0.00
	<u>Construction</u>	<u>Equipment</u>	<u>Services</u>	<u>Supplies</u>	<u>Total</u>																
\$MBE:	_____	_____	_____	_____	0.00																
\$WBE:	_____	_____	_____	_____	0.00																
6. COMMENTS: (If no MBE/WBE procurements were accomplished during the reporting period, please explain what steps you are taking to achieve the MBE/WBE Program requirements specified in the terms and conditions of the Assistance Agreement.)																					
7. NAME OF RECIPIENT'S AUTHORIZED REPRESENTATIVE		TITLE																			
8. SIGNATURE OF RECIPIENT'S AUTHORIZED REPRESENTATIVE		DATE																			

Instructions:

A. General Instructions:

MBE/WBE utilization is based on 40 CFR Part 33. EPA Form 5700-52A must be completed by recipients of Federal grants, cooperative agreements, or other Federal financial assistance which involve procurement of supplies, equipment, construction or services to accomplish Federal assistance programs.

Recipients are required to report 30 days after the end of each federal fiscal quarter, semiannually, or annually, per the terms and conditions of the financial assistance agreement.

	Quarterly Reporting Due Date	Semiannual Reporting Due Date	Annual Reporting Due Date
Agreements awarded prior to May 27, 2008	January 30, April 30, July 30, October 30	N/A	October 30
Agreements awarded on or after May 27, 2008	N/A	April 30, October 30	October 30

MBE/WBE program requirements, including reporting, are material terms and conditions of the financial assistance agreement.

B. Definitions:

Procurement is the acquisition through contract, order, purchase, lease or barter of supplies, equipment, construction or services needed to accomplish Federal assistance programs.

A **contract** is a written agreement between an EPA recipient and another party (also considered "prime contracts") and any lower tier agreement (also considered "subcontracts") for equipment, services, supplies, or construction necessary to complete the project. This definition excludes written agreements with another public agency. This definition includes personal and professional services, agreements with consultants, and purchase orders.

A **minority business enterprise (MBE)** is a business concern that is (1) at least 51 percent owned by one or more minority individuals, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more minority individuals; and (2) whose daily business operations are managed and directed by one or more of the minority owners. In order to qualify and participate as an MBE prime or subcontractor for EPA

recipients under EPA's DBE Program, an entity must be properly certified as required by 40 CFR Part 33, Subpart B.

U.S. citizenship is required. Recipients shall presume that minority individuals include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, or other groups whose members are found to be disadvantaged by the Small Business Act or by the Secretary of Commerce under section 5 of Executive order 11625. The reporting contact at EPA can provide additional information.

A **woman business enterprise (WBE)** is a business concern that is, (1) at least 51 percent owned by one or more women, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more women and (2) whose daily business operations are managed and directed by one or more of the women owners. In order to qualify and participate as a WBE prime or subcontractor for EPA recipients under EPA's DBE Program, an entity must be properly certified as required by 40 CFR Part 33, Subpart B.

Business firms which are 51 percent owned by minorities or women, but are in fact managed and operated by non-minority individuals do not qualify for meeting MBE/WBE procurement goals. U.S. Citizenship is required.

Good Faith Efforts

A recipient is required to make the following good faith efforts whenever procuring construction, equipment, services, and supplies under an EPA financial assistance agreement. These good faith efforts for utilizing MBEs and WBEs must be documented. Such documentation is subject to EPA review upon request:

1. Include of MBEs/WBEs on solicitation lists.
2. Assure that MBEs/WBEs are solicited once they are identified.
3. Divide total requirements into smaller tasks to permit maximum MBE/WBE participation, where feasible.
4. Establish delivery schedules which will encourage MBE/WBE participation, where feasible.
5. Encourage use of the services of the U.S. Department of Commerce's Minority Business Development Agency (MBDA) and the U.S. Small Business Administration to identify MBEs/WBEs.

6. Require that each party to a subgrant, subagreement, or contract award take the good faith efforts outlined here.

C. Instructions for Part I:

1a. Specify Federal fiscal year this report covers. The Federal fiscal year runs from October 1st through September 30th (e.g. **November 29, 2010 falls within Federal fiscal year 2011**)

1b. Check applicable reporting box, quarterly, semiannually, or annually. Also indicate if this is the last report for the project.

1c. Indicate if this is a revision to a previous year, half-year, or quarter, and provide a brief description of the revision you are making.

2a-c. Please refer to your financial assistance agreement for the mailing address of the EPA financial assistance office for your agreement.

The "EPA DBE Reporting Contact" is the DBE Coordinator for the EPA Region from which your financial assistance agreement was originated. For a list of DBE Coordinators please refer to the EPA OSBP website at www.epa.gov/osbp. Click on "Regional Contacts" for the name of your coordinator.

3a-c. Identify the agency, state authority, university or other organization which is the recipient of the Federal financial assistance and the person to contact concerning this report.

4a. Provide the Assistance Agreement number assigned by EPA. A separate report must be submitted for each Assistance Agreement.

***For SRF recipients:** In box 4a list numbers for ALL OPEN Assistance Agreements being reported on this form. Please note that although the New DBE Rule (which took effect May 27, 2008) revised the reporting frequency requirements from quarterly to semiannually, that change only applies to agreements awarded AFTER the New DBE Rule took effect. Therefore, SRF recipients may either continue to report activity for all Agreements on one form on a quarterly basis until the last award that was made prior to the New DBE Rule has been closed out; OR, the recipient may split the submission of SRF reports into quarterly reports for Agreements awarded prior the New DBE Rule, and semiannually for the awards made after the New DBE Rule.

4b. Refer back to Assistance Agreement document for this information.

5a. Provide the total amount of the Assistance Agreement which includes Federal funds plus recipient matching funds and funds from other sources.

***For SRF recipients only:** SRF recipients will not enter an amount in 5a. Please leave 5a blank.

5b. Self-explanatory.

5c. Provide the total dollar amount of ALL procurements awarded this reporting period by the recipient, sub-recipients, and SRF loan recipients, including MBE/WBE expenditures. For example: Actual dollars for procurement from the procuring office; actual contracts let from the contracts office; actual goods, services, supplies, etc., from other sources including the central purchasing/ procurement centers).

***NOTE:** To prevent double counting on line 5C, if any amount on 5E is for a subcontract and the prime contract has already been included on Line 5C in a prior reporting period, then report the amount going to MBE or WBE subcontractor on line 5E, but exclude the amount from Line 5C. To include the amount on 5C again would result in double counting because the prime contract, which includes the subcontract, would have already been reported.

5d. State whether or not sub-awards and/or subcontracts have been issued under the assistance agreement by indicating "yes" or "no".

5e. Where requested, also provide the total dollar amount of all MBE/WBE procurement awarded during this reporting period by the recipient, sub-recipients, SRF loan recipients, and prime contractors in the categories of construction, equipment, services and supplies. These amounts include Federal funds plus recipient matching funds and funds from other sources.

***For SRF recipients only:** In 5c please enter the total procurement amount for the quarter, or semiannual period, under all of your SRF Assistance Agreements. The figure reported in this section is **not** directly tied to an individual Assistance Agreement identification number. **(SRF state recipients report state procurements in this section)**

6. If there were no MBE/WBE accomplishments this reporting period, please briefly explain what

specific steps you are taking to achieve the MBE/WBE requirements specified in the terms and conditions of the Assistance Agreement.

7. Name and title of official administrator or designated reporting official.
8. Signature, month, day, and year report submitted.

D. Instructions for Part II:

For each MBE/WBE procurement made under this assistance agreement during the reporting period, provide the following information:

1. Check whether this procurement was made by the recipient, sub-recipient/SRF loan recipient, or the prime contractor.
2. Check either the MBE or WBE column. If a firm is both an MBE and WBE, the recipient may choose to count the entire procurement towards EITHER its MBE or WBE accomplishments. The recipient may also divide the total amount of the procurement (using any ratio it so chooses) and count those divided amounts toward its MBE and WBE accomplishments. If the recipient chooses to divide the procurement amount and count portions toward its MBE and WBE accomplishments, please state the appropriate amounts under the MBE and WBE columns on the form. **The combined MBE and WBE amounts for that MBE/WBE contractor must not exceed the "Value of the Procurement" reported in column #3**
3. Dollar value of procurement.
4. Date of procurement, shown as month, day, year. Date of procurement is defined as the date the contract or procurement was awarded, **not** the date the contractor received payment under the awarded contract or procurement, unless payment occurred on the date of award. **(Where direct purchasing is the procurement method, the date of procurement is the date the purchase was made)**
5. Using codes at the bottom of the form, identify type of product or service acquired through this procurement (e.g., enter 1 if construction, 2 if supplies, etc).
6. Name, address, and telephone number of MBE/WBE firm.

**This data is requested to comply with provisions mandated by: statute or regulations (40 CFR Part 30, 31,

and 33); OMB Circulars; or added by EPA to ensure sound and effective assistance management. Accurate, complete data are required to obtain funding, while no pledge of confidentiality is provided.

The public reporting and recording burden for this collection of information is estimated to average 1 hour per response annually. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclosure or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2136), 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460. Include the OMB Control number in any correspondence. Do not send the completed form to this address.



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**Disadvantaged Business Enterprise Program
DBE Subcontractor Utilization Form**

BID/PROPOSAL NO.	PROJECT NAME
NAME OF PRIME BIDDER/PROPOSER	E-MAIL ADDRESS
ADDRESS	
TELEPHONE NO.	FAX NO.

The following subcontractors¹ will be used on this project:

COMPANY NAME, ADDRESS, PHONE NUMBER, AND E-MAIL ADDRESS	TYPE OF WORK TO BE PERFORMED	ESTIMATE D DOLLAR AMOUNT	CURRENTLY CERTIFIED AS AN MBE OR WBE?

I certify under penalty of perjury that the forgoing statements are true and correct. In the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302(c).

Signature of Prime Contractor

Date

Print Name

Title

¹Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



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NAME OF SUBCONTRACTOR ¹		PROJECT NAME
ADDRESS		BID/PROPOSAL NO.
TELEPHONE NO.		E-MAIL ADDRESS
PRIME CONTRACTOR NAME		
CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES BID TO PRIME	PRICE OF WORK SUBMITTED TO PRIME CONTRACTOR
Currently certified as an MBE or WBE under EPA's DBE Program? _____ Yes _____ No		
_____ Signature of Prime Contractor		_____ Date
_____ Print Name		_____ Title
_____ Signature of Subcontractor		_____ Date
_____ Print Name		_____ Title

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Approval Expires: 01/31/2011

Disadvantaged Business Enterprise Program DBE Subcontractor Performance Form

The public reporting and recordkeeping burden for this collection of information is estimated to average fifteen (15) minutes. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed EPA DBE Subcontractor Performance Form to this address.



Environmental
Protection Agency

OMB Control No: 2090-0030
Approved: 05/01/2008
Approval Expires: 01/31/2011

Note: EPA in process of revising form.
Use this form until further notice.

**Disadvantaged Business Enterprise Program
DBE Subcontractor Participation Form**

NAME OF SUBCONTRACTOR¹	PROJECT NAME
ADDRESS	CONTRACT NO.
TELEPHONE NO.	EMAIL ADDRESS
PRIME CONTRACTOR NAME	

Please use the space below to report any concerns regarding the above EPA-funded project (e.g., reason for termination by prime contractor, late payment, etc.).

CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES RECEIVED FROM THE PRIME CONTRACTOR	AMOUNT SUBCONTRACTOR WAS PAID BY PRIME CONTRACTOR

_____	_____
Subcontractor Signature	Title/Date

¹Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



Environmental
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February 26, 2002

Mr. Timothy Steinberger, Director
Department of Environmental Services
City and County of Honolulu
630 South King Street
Honolulu, Hawaii 96813

Dear Mr. Steinberger:

Subject: SF-334, Minority Business Enterprises and Women's
Business Enterprises Utilization Report for
Federal Assistance Program

The recipients of Federal funds are required to make positive efforts to procure Minority Business Enterprises (MBE) and Women's Business Enterprises (WBE) for the State Revolving Fund (SRF) projects.

Attached is a copy of 40 CFR, Section 31.36(e) and Section 35.3145(d) for your reference. As one of the Environmental Protection Agency (EPA) SRF program requirements, the Department of Health is required to report the MBE/WBE utilization to EPA quarterly.

Please follow the six (6) affirmative steps as stated in 40 CFR, Section 31.36, involving procurement for any projects which will be funded under the SRF programs. Also, please include the applicable "fair share" objectives of the SRF programs in the bid documents and require the prime contractors to include in their bid documents for subcontracts the negotiated fair share percentages.

The State's "fair share" participation goals for MBEs and WBEs for FY 2002 are as follows:

<u>Procurement Category</u>	<u>MBE Goal</u>	<u>WBE Goal</u>
Supplies	21%	2%
Equipment	27%	2%
Services	29%	7%
Construction	50%	4%

Mr. Timothy Steinberger
February 26, 2002
Page 2

To help us monitor and ensure that counties and contractors are meeting these goals, an SF Form 334 must be completed by recipients for each federally funded project if an award of a contract for services, construction, or procurement of equipment or supplies are made.

Counties are required to report to the State of Hawaii, Department of Health, Wastewater Branch upon the time the contract is executed or procurement incurred. This will ensure that we meet the reporting deadline (within 30 days after the end of the reporting quarters) to EPA.

Your prompt submission of the report is appreciated. Questions may be directed to George Woolworth of our Wastewater Branch at 586-4294.

Sincerely,

THOMAS E. ARIZUMI, P.E., CHIEF
Environmental Management Division

GW:jc

Attachment

c: Safe Drinking Water

APPENDIX P

SRF PAYMENT REQUEST FORM

STATE REVOLVING FUND PROGRESS PAYMENT REQUEST

Payment No. _____ Final _____ Interim _____
 ASO Log No. _____
 Project No. C1500 _____ Project Name _____

Payment Covered by This Report: From: _____ To: _____
 MO DA YR MO DA YR

County Name: _____
 No. and Street: _____
 City, State and Zip Code: _____

STATUS OF FUNDS			
CLASSIFICATION	REIMBURSEMENT COMPUTATION		
	TOTAL REQUEST	INELIGIBLE/ ADJUSTMENTS	NET PAYMENT
1. Architectural Engineer Basic Fees (Design Allowance)			
2. Other Architectural Engineering Fees			
3. Project Inspection Fees			
4. Relocation Expenses			
5. Construction and Project Improvement			
6. Equipment			
7. Miscellaneous			
8. Total Cumulative to Date (sum of lines 1 thru 7)			
9. Payment Previously Requested			
10. Current Payment Requested			
11. Percent of Physical Completion of Project			

I certify that based on actual project inspection, percentage on line 11 is correct and payment on this request is justified.
 Additionally, for the period covered by this report, all contractor and subcontractor employees were paid at the prevailing wage rate as determined by the U.S. Department of Labor.

 Signature of County Construction Inspector

 Typed or Printed Name and Title

 Date of Signature

 Telephone No. (Area Code, No. & Extension)

I certify that to the best of my knowledge and belief, the billed costs are correct, in accordance with the loan/grant agreement and have not been previously presented for payment.

 Signature of County Certifying Official

 Typed or Printed Name and Title

 Date Signed

 Telephone No. (Area Code, No. & Extension)

APPENDIX Q

CHANGE ORDER GUIDELINES

CHANGE ORDER GUIDELINES

A. Purpose

This document provides guidelines on the eligibility and approval of construction change orders. It is emphasized that this document only provides guidelines. It is the responsibility of the loan recipient to conduct a critical screening and thorough review of any proposed change order (costs, justification, etc.) before the change order is executed and submitted to DOH for an eligibility determination. Determination of eligibility by DOH may require additional engineering or other information not specified in these guidelines.

B. Procedural Requirements

1. Permissible Use of Change Orders

The use of change orders is limited to work within the scope of the original construction contract. Change orders which propose a substantial increase in project capacity or a change in project scope will not be approved unless the Director executes a new loan agreement or amends the scope of the existing loan.

2. Time for Submission

All change orders must be submitted to DOH in a timely manner for review of loan eligibility. Any change order work performed after the date of the final inspection is ineligible for funding. Only fully signed change orders will be reviewed for eligibility.

3. Negotiation

Each loan recipient is responsible for the negotiation of change orders with the contractor. Negotiations are not required where bid unit prices are used. The negotiations must include a critical screening and review by the loan recipient or his engineer of all elements of the change order to ensure a fair and reasonable price for the required work.

4. Submission Requirements

Each change order submitted to DOH for review must include the following items:

- a. Project name and number.
- b. Names and telephone numbers of project engineer, contractor and owner.
- c. Contract change order number.
- d. Change order date of execution.
- e. Description or information identifying the change and its location on the drawings.
- f. Appropriate drawings, sketches, and specifications.
- g. Design calculations, where appropriate.
- h. Justification. Questions that should be addressed are: 1) Why is this change necessary for completion of the work originally set forth by the contract? 2) Why was the change order work not foreseen during the preparation of the original plans and specifications? 3) What alternatives were considered for accomplishing the desired result? 4) Is this the most cost-effective alternative? 5) What effect will this change have on the operation and maintenance of the project? Other relevant questions should be addressed, if they are evident.
- i. Name and title of originator of change order request.
- j. Signatures of the applicant's authorized representative or designee, construction manager or engineer, and contractor.
- k. Time extension. All change orders must specify the time extension associated with the change order work, including no time extension when applicable.
- l. Cost and Pricing Data. A price breakdown in sufficient detail for DOH to review the necessity and reasonableness of the cost.

C. Eligibility

The review of the contract change orders by DOH will determine loan funding eligibility. Eligible change orders must involve construction work within the scope of the project. Change orders outside the scope of work will not be eligible, unless a supplemental loan agreement is processed to increase the scope of work.

Change order costs which exceed 5% of the original eligible construction contract will not be eligible for SRF funding, unless the Director approves a loan amendment to increase the loan amount.

In order for a change order to be eligible, it must meet the Allowable Cost Criteria attached to Appendix I. Other change order issues include:

1. Time Extension

A change order to extend the time the contractor has to finish the project shall be approved if the loan recipient is legally obligated to grant the contractor extra time under the conditions of the contract. However, a time extension for delays attributable to the loan recipient or his agent, which extends the contract schedule, will not be approved. Approval by DOH of a change order for time extension means approval to fund reasonable extended engineering and inspection costs. The loan recipient may have a legal obligation to grant a time extension if the contractor is delayed because of some situation outside of his control, such as: strikes, floods, or delays of subcontractors or suppliers arising from causes beyond their control and without the fault or negligence of both the contractor and such subcontractors or suppliers.

A change order for the extended engineering and inspection costs must meet the eligibility tests; that is, they must be within the scope of work, and the costs must be within the funding cap.

2. Operation, Maintenance, and Repairs

Generally, the operation, maintenance and routine repairs or renovation of any existing wastewater treatment facilities during construction is the responsibility of the loan recipient and is not fundable as a change order unless it is part of the approved project and has been identified as part of the scope of work in the facility plans, concept approval or original construction contract.

3. Damage to Equipment or Completed Work; Personal Injuries

The costs of damage to equipment or completed work or the cost of personal injuries shall be handled in accordance with the original contract and general legal principles. Such costs are not fundable by change order.

4. Acceleration Costs

Acceleration costs are not loan fundable unless there is a compelling reason to have the treatment facilities operational by a certain date such as to avoid a dangerous health or public safety problem. This presupposes that neither the loan recipient nor his agent has delayed the completion date through negligence or mismanagement of the project.

5. Restrictive specifications

Specifications for equipment or material procured by change order must not contain any restrictive specifications. The entire cost of purchasing and installing any item obtained in violation of the specification requirements is not fundable.

6. Overhead and Profit

The loan recipient shall assure a fair and reasonable price for the required work.

7. Conditioned Acceptance

The loan recipient should attempt to settle all elements of a given change order on a one time basis. In the event that a contractor conditions his acceptance of a change order on the inclusion of costs for impact and delay to be determined in the future, DOH shall include the following disclaimer on the change order approval form:

"Any payment made on this conditional change order is in no way a commitment to fund additional amounts claimed by the contractor arising from this change order; requests for further funding, after payment specified here is made, will prompt the reevaluation of eligibility for the entire change order including the impact delay costs."

APPENDIX R

REVENUE PROGRAM GUIDELINES

REVENUE PROGRAM GUIDELINES

I. INTRODUCTION

These Guidelines are intended to assist counties in developing, implementing and maintaining revenue programs and implementing ordinances to comply with Section 204(b)(1) of the Clean Water Act and other federal and State guidance and policies.

If any conflicts exist between these Guidelines and federal or State loan regulations or policy, the regulations or policy shall take precedence over these Guidelines.

II. GENERAL

- A. The Revenue Program is a formally documented determination of a system of service charges developed by the loan recipient. It is also intended to assure that the loan recipient develop a system for the economical and effective operation and maintenance (including replacement) of the treatment works [see 40 CFR 35.2206(e)]. It is designed to provide a source of revenue for operation and maintenance (including replacement) that satisfies the federal regulations (see 40 CFR 35.2140). In addition, debt service and revenue to establish a capital reserve fund and an operating reserve fund may be collected by the system of charges based on actual use, or by ad valorem taxes (see section 602(b) (6) of the Clean Water Act).

A system of service charges is developed first by estimating the recipient's annual revenue requirements for the entire system. Rates are then set based on the identification of the users of the treatment works.

- B. The loan recipient must submit revenue program to DOH every year (see 40 CFR 35.2122).
- C. The loan recipient must send a final Revenue Program and proposed (or existing) Sewer Use Ordinance (see VII) to the DOR Wastewater Branch, for annual review.
- D. The User Charge System shall take precedence over any terms or conditions of agreements or contracts that are inconsistent with the requirements of Section 204(b)(1)(A) of the Clean Water Act and these Guidelines [see 40 CFR 35.2140(h)].

III. ANNUAL REVENUE REQUIREMENTS

- A. The loan recipient must pay the annual costs of operating and maintaining their treatment works (see 40 CFR 35.2214). This includes the costs of labor, power, chemicals, supplies, laboratory control and monitoring, general administration, billing, and incidental items incurred during normal operation. Also included are those expenditures termed ordinary repairs necessary to keep the facilities in proper operating condition, replacements as defined below and administrative costs such as overhead and administration which are directly related to the operation and maintenance of the treatment works.

The loan recipient should estimate operation, maintenance and replacement (OM&R) costs by adjusting its latest operating cost data to reflect operational changes, wage escalation and staffing changes.

A separate line item for replacement of non-capital items must be shown in calculating annual revenue requirements. Replacement costs include expenditures necessary to keep the treatment works operating for its useful life, such as: pumps, motors, telemetry and electric controls, air scrubbing equipment, chlorination and dechlorination equipment, vehicles, radios, etc. Exceptions include:

1. Major rehabilitation needed as individual unit processes near the end of their useful lives;
2. Structural rehabilitation; and,
3. Facility expansions or upgrades to meet future use demands.

B. Debt Service

Debt service is the annual sum of the principal and interest payments on proposed or outstanding obligation secured by bonds or loan contracts. The loan receive from DOH must be repaid by a dedicated source of revenue (see VIII, Dedicated Sources of Revenue). A separate account must be maintained for repayment of the state revolving fund loan if the loan recipient collects the dedicated revenue by the current existing user charge system.

- C. The loan recipient is encouraged to establish a capital reserve fund to pay for future expansion, improvement and rehabilitation. These capital reserves usual appear as a separate line item within the annual budget. Each loan recipient must be

be prepared to submit upon request a plan showing the estimated cost of future expansions/replacement [see 40 CFR 35.2030(b)(8) (iii)] and how these costs will be financed.

IV. IDENTIFICATION OF USERS

After determining the annual revenue requirements, the recipient must identify the users of the treatment works and the characteristics of their wastewater. Flows and loadings (BODS, SS or other appropriate constituents) must be documented for each user group so that proportional costs can be calculated.

V. ALLOCATION OF ANNUAL REVENUE REQUIREMENTS AND RATE DETERMINATION

Allocation of annual costs shall be calculated in accordance with the EPA publication, "User Charge Guidance Manual for Publicly Owned Treatment Works," dated June 1984. To minimize disagreement over cost allocation methods, the recipient should consult the Wastewater Branch on any allocation method not described in these Guidelines.

A. Specific Circumstances

The user charge system shall provide that the costs of operation and maintenance for all flows not directly attributable to users (i.e., infiltration/ inflow) be distributed among all users based on either of the following [see 40 CFR 35.2140(e)]:

1. In the same manner that it distributes costs for their actual use or
2. Under a system reasonably using one or any combination of the following factors:
 - a. Flow volume of the users;
 - b. Land area of the user;
 - c. Number of hookups or discharges of the users.

B. Regulations Affecting Rate Determination

1. The portion of the annual revenue requirements which constitutes the cost of OM&R of the treatment works must be recovered from users of the system by means of a user charge system based on actual use (see 40 CFR 35.2140). The total OM&R budget may, however, be offset by income derived from the operation of the wastewater facilities such as sale of used equipment, sludge, sludge gas, power created by the effluent or from residues, renovated wastewater, farm crops or other wastewater treatment-related

assets [see 40 CFR 35.2140(f)]. The user charge system must result in the distribution of the OM&R costs among all users in proportion to the demands they place on the treatment works (Section 204(b) (1)(A) of the Clean Water Act). A user charge system based on actual use may take the form of a flat rate, unit rate on water consumption, fixture units, equivalent dwelling unit, or other type of charge which recovers the cost equitably.

2. Section 204 (b) (1) of the Clean Water Act allows agencies at their option to adopt reduced (less than proportionate share) rates for low-income residential users. Low-income users are defined as any user whose income is below the poverty rate established within the sewerage agency's County. These reduced service charges, if used, must be based on an economic consideration only. The discount may not be applied only to a subgroup under the poverty level (i.e., only to senior citizens).
3. Any pre-existing agreements which levy charges for more or less than what would be collected on actual use will not be allowed to continue, and the charges must be revised to reflect actual use [see 40 CFR 15.240(h)]. Industries which reserve additional capacity must pay the additional cost and the fixed OM&R costs associated with that reserve capacity.
4. User charges must recover the cost of operation and maintenance (including replacement) from users based on their proportionate contribution to the total wastewater loadings from all users (see 40 CFR 35.2140). The State recommends that user rates designed to recover all other costs be proportional to the cost of the service rendered. Charges for these other costs may be collected through service charges, ad valorem taxes or assessments. If they are collected through service charges and the agency does not wish to recover the other costs in proportion to system use, public notice is required describing the impacts of the proposed rate structure. The public must have an opportunity to comment within a reasonable period of time before final adoption of the rate ordinance. All organizations and individuals who have previously requested such notice shall be given notice by direct mailing. The Notice shall be published in a newspaper of general circulation within the agency's service area.

VI. IMPLEMENTATION AND MAINTENANCE

A. Implementing Ordinances

The user charge system must remain in effect for the useful life of the facility (CFR 35.2208). DOH must approve any changes in the rate or methodology of assessing charges before they can take effect.

B. Accounting Systems

Loan recipients are encouraged to adopt an Enterprise Fund to account for operations, where user charges finance or recover costs (expenses, including depreciation) of providing goods or services to the general public on a continuing basis. Another parallel situation is where the governing body uses revenues earned, expenses incurred, and net income to make decisions on capital maintenance, public policy, management control, accountability or other purposes.

APPENDIX S

UCS REVIEW FINANCIAL REPORT

USER CHARGE SYSTEM FINANCIAL REPORT

COUNTY OF _____

FISCAL YEAR _____

1. REVENUE/INCOME:

	BUDGETED	ACTUAL
USER CHARGES (Charges for wastewater treatment services, by class)		
INCOME (Sales of Treatment products, i.e. sludge, electricity)		
AD VALOREM TAXES (Dedicated for treatment services)		
TOTAL REVENUE/INCOME		

2. EXPENDITURES:

LABOR EXPENSES:		
-DIRECT COSTS (salaries/wages)		
-INDIRECT COSTS		
CONTRACTURAL SERVICES:		
-ADMINISTRATIVE		

-PROFESSIONAL		
MATERIALS & SUPPLIES:		
-OPERATIONS		
-REPAIR & MAINTENANCE		
-LABORATORY		
-ADMINISTRATIVE		
UTILITIES:		
-POWER (T'ment plants)		
-POWER (Admin. buildings)		
-WATER		
-GAS		
-TELEPHONE		
EQUIPMENT REPLACEMENT:		
TOTAL EXPENDITURES		

3. SUMMARY:

TOTAL REVENUE/INCOME		
TOTAL EXPENDITURES		
<u>PROFIT/(LOSS)</u>		

APPENDIX T

INFORMATION CONTACTS

INFORMATION CONTACTS

Issue	Contact	Phone No.
Priority List, Project Report Environmental Review Plans, Specifications Construction Change Orders General Program Information	April Matsumura Environmental Engineer	586-4294
Fiscal Matters, Loan Application, Loan Payments, or Repayments	Adrian Lau Business Loan Officer Susan Yuen Business Loan Officer	586-4294 586-4294
Loan Agreements for: County of Maui County of Hawaii	Adrian Lau Business Loan Officer	586-4294
Loan Agreements for: City and County of Honolulu County of Kauai	Susan Yuen Business Loan Officer	586-4294
Single Audit User Charge System User Charge System Financial Capability Record Keeping	Kevin Yoshioka Grants Management Supervisor	586-4294
Disputes	Sina Pruder, P.E. or Marshall Lum, P.E. Acting Wastewater Branch Chiefs and CWSRF Program Administrator	586-4294 586-4294