

## CHAPTER 50. FINANCIAL ASSISTANCE

### SUBCHAPTER 6. WATER AND SEWER PROGRAM EMERGENCY GRANTS REQUIREMENTS AND PROCEDURES

#### 785:50-6-1. Approval criteria

(a) **General approval standards and criteria.** In the review and consideration of applications for financial assistance under the emergency grant program, the Board shall give consideration to the following general and non-exclusive criteria for application approval:

- (1) **Compliance with laws.** The application and proposed project must be found to be in compliance with all applicable and relevant federal, state and local laws and regulations, and applicant must possess all necessary and incidental legal rights and privileges necessary to project commencement and operation.
- (2) **Eligibility.** The applicant and proposed project must be determined to be eligible for the assistance sought.
- (3) **Local need, support and priority.** The project must be found to be needed in the area to be served and must be found to be sufficient, as proposed, to serve such needs. The Board shall additionally consider the project's relative benefit and priority in relation to the needs of other proposed projects and applicants.
- (4) **Availability of other assistance.** The Board shall consider the feasibility and availability of alternative sources of revenue which could be obtained and utilized by applicant for project financing.
- (5) **Economic feasibility.** The Board shall consider the overall apparent economic viability and feasibility of the project as a whole including proposed revenues from the project and the adequacy and reliability of estimated revenues necessary for loan repayment when indicated.
- (6) **Project feasibility.** The Board shall consider from the engineering data submitted and otherwise available documentation whether the proposed project appears to be feasible, and must determine as a prerequisite for approval and funding that it is cost effective.
- (7) **Statewide needs and public interest.** The Board shall give consideration to the relationship between the proposed project and the overall water resource development needs within the State of Oklahoma as well as to whether the proposed project, if constructed, will serve the public interest and welfare.
- (8) **Availability of funds.** The Board shall take into consideration the current and anticipated availability of ~~assistance~~ funds needed to provide the financial assistance requested.

(b) **Criteria applicability.**

- (1) The general criteria set forth in (a) and (c) of this Section are intended to constitute and shall constitute general guidelines and standards for application review and consideration by the Board.
- (2) Such criteria shall not be deemed appropriate for strict application and interpretation nor shall such criteria be deemed exclusive.
- (3) In all instances, each individual application and project must be reviewed and considered on its own individual merits.
- (4) The criteria and standards set forth in (a) and (c) of this Section shall accordingly be interpreted and applied so as to allow sufficient flexibility in the ultimate exercise of Board's judgment and discretion.

(c) **Criteria for denying an application.** The Board may deny an application for an emergency grant for any of the following reasons:

- (1) The applicant or the entity which stands to receive the benefit of the financial assistance is not an eligible entity.
- (2) The applicant has had improper or unsound management in the past.
- (3) The project is not cost effective.
- (4) Any other reason based upon applicable law, applicable requirements of the pertinent bond resolution governing use of the bond proceeds, or the Board's judgment and discretion.

#### 785:50-6-3. Emergency grant priority point system

(a) **Basis of priority system and formula.**

- (1) **General description.** The priority system consists of a mathematical equation rating the applicants and the proposed project in accordance with the requirements of the statutes by means of a formula awarding points for each criteria used in the evaluation. The maximum point total under the system is one hundred twenty (120). The Board may consider each month, and in order from the highest rating, those applications awarded point ratings of 60 or more priority points. If the Board determines that the applicant with the highest point rating cannot promptly proceed with the project due to delays, including but not limited to those caused by legal problems, engineering problems, feasibility problems or availability of other funding sources, the Board may pass over consideration of such application then proceed to consider in order the next highest rated application. Applications which are bypassed shall retain their ratings and thus remain eligible for further consideration. Applications preliminarily determined by Board staff to have point ratings of 59 or fewer shall be deemed denied; provided, such applications may be reevaluated if the applicant submits additional information showing changed circumstances within 120 days after the date of staff's determination, and such information improves the applicant's preliminary point rating.

(2) **Statutory criteria.** The basis of the priority formula has been developed from the enacting legislation. The two primary statutory criteria are:

(A) The emergency situation of the applicant.

(B) Whether or not the applicant can reasonably finance the project without assistance from the state.

(3) **Total priority points.** Total priority points will be calculated and awarded for individual projects; therefore, eligible entities will be required to complete separate applications for each project for which grant funds are requested. Priority lists compiled and published by other Oklahoma State agencies and/or seniority dates of applications submitted shall be utilized to decide ties in point totals among applicants.

(b) **Priority formula for eligible entities other than school districts.**

(1) **Formula.** The following formula has been devised to rank grant applications:  $P E + W R + I + L + M H I + F P + A R + B P - A N$ , where:

(A) P = Priority ranking

(B) E = Emergency ranking

(C) W R = Water and sewer rate

(D) I = Indebtedness per customer

(E) L = Amount of local contribution toward project

(F) MHI = Median Household Income

(G) FP = Applicant's ability to finance project

(H) AR = Amount of grant requested

(I) BP = Benefit of project to other systems

(J) AN = Application number

(2) **Explanation.** Each of these criteria are explained below:

(A) **Emergency rankings (E).** Emergencies are ranked by severity with Category 1 being the most severe and Category 2 being the least severe. Points awarded range from a maximum of 50 points for Category 1 and a minimum of 40 points for Category 2. If an applicant requests funds to correct more than one emergency category need, only the amount of assistance needed to correct the most severe need will be considered in the calculation for the application ranking. The applicant will be informed that separate and additional applications must be filed for other needs and projects. An applicant who receives funding for a project under any of the listed emergencies may not reapply under the same emergency. The two (2) emergency ranking categories are as follows:

(i) **Category 1.** Total loss of a water supply or sewage system or loss of a major component of a system due to a natural or unforeseen disaster which could not have been prevented by the exercise of reasonable care by the applicant. Examples of such disasters may include but are not necessarily limited to: tornado; flood; fire; severe weather; landslide; sudden loss of a water supply system; sudden collapse of a major structural portion of a system; signs of imminent failure of a public water supply lake dam, spillway or outlet structure such as settlement or slumping of the crest, excessive seepage, slides, cracks or sloughs along the upstream and downstream slopes of the dam. Also included under this category is the construction of a new water system to serve areas where residents are supplied by domestic sources or domestic systems whose quantity does not supply the basic needs of the residents. In such cases where new or extended systems are proposed, the Board shall consider and determine whether an adequate population density is available to utilize the proposed system. Notwithstanding any other provisions of this Chapter, if the density is preliminarily determined by Board staff to be inadequate for the applicant to feasibly provide operation and maintenance of the new or extended system, then the application will not be recommended for approval until the proper density, which will make the extension feasible, is achieved. Category 1 emergencies receive 50 points.

(ii) **Category 2.** Water or sewer emergencies which could not have been prevented by the exercise of reasonable care by the applicant and which cause immediate danger or an imminent health hazard to the community or other nearby citizens. Such emergencies may include but are not necessarily limited to: users or systems whose water supply is deemed to be dangerous or unhealthy; systems whose supply source becomes contaminated by man-made pollution caused by a person other than the applicant; overflow of raw sewage into homes or streets due to structural failure in the collection mains and/or structural, mechanical, or electrical failure at a lift station due to disasters which could not have been prevented by the exercise of reasonable care by the applicant, including but not limited to tornado, flooding, fire, or landslides; sewage treatment systems which discharge raw or inadequately treated sewage effluent whose quality and/or quantity causes an immediate and imminent health or safety danger to a public water supply due to a structural, mechanical or electrical failure of a process unit(s) caused by disasters which could not have been prevented by the exercise of reasonable care by the applicant, including but not limited to tornado, flooding, fire, or landslides. Also included under this category is the construction of a new water system to serve areas where residents are supplied by domestic sources or domestic systems whose quality is dangerous or unhealthy as a consequence of circumstances that could not have been prevented by the exercise of reasonable care by the applicant. In such cases where new or extended systems are proposed, the Board shall consider and determine

whether an adequate population density is available to utilize the proposed system. Notwithstanding any other provision of this Chapter, if the density is preliminarily determined by Board staff to be inadequate for the applicant to feasibly provide operation and maintenance of the new or extended system, then the application will not be recommended for approval until the proper density, which will make the extension feasible, is achieved. Category 2 emergencies receive 40 points.

**(B) Water and sewer rate structure (WR).**

(i) For systems providing water service only:

- (I) If the cost per 5000 gallons is \$50.00 or greater, the applicant ~~shall be given~~receives 10 points.
- (II) If the cost per 5000 gallons is \$45.00 to \$49.99, the applicant ~~shall be given~~receives 9 points.
- (III) If the cost per 5000 gallons is \$40.00 to \$44.99, the applicant ~~shall be given~~receives 8 points.
- (IV) If the cost per 5000 gallons is \$35.00 to \$39.99, the applicant ~~shall be given~~receives 7 points.
- (V) If the cost per 5000 gallons is \$30.00 to \$34.99, the applicant ~~shall be given~~receives 6 points.
- (VI) If the cost per 5000 gallons is \$25.00 to \$29.99, the applicant ~~shall be given~~receives 5 points.
- (VII) If the cost per 5000 gallons is \$23.00 to \$24.99, the applicant ~~shall be given~~receives 4 points.
- (VIII) If the cost per 5000 gallons is \$21.00 to \$22.99, the applicant ~~shall be given~~receives 3 points.
- (IX) If the cost per 5000 gallons is \$19.00 to \$20.99, the applicant ~~shall be given~~receives 2 points.
- (X) If the cost per 5000 gallons is \$18.00 to \$18.99, the applicant ~~shall be given~~receives 1 point.
- (XI) If the cost per 5000 gallons is less than \$18.00, the applicant ~~shall be given~~receives 0 points.

(ii) For systems providing water and sewer services:

- (I) If the cost per 5000 gallons is \$56.00 or greater, the applicant ~~shall be given~~receives 10 points.
- (II) If the cost per 5000 gallons is \$53.00 to \$55.99, the applicant ~~shall be given~~receives 9 points.
- (III) If the cost per 5000 gallons is \$49.00 to \$52.99, the applicant ~~shall be given~~receives 8 points.
- (IV) If the cost per 5000 gallons is \$45.00 to \$48.99, the applicant ~~shall be given~~receives 7 points.
- (V) If the cost per 5000 gallons is \$41.00 to \$44.99, the applicant ~~shall be given~~receives 6 points.
- (VI) If the cost per 5000 is \$37.00 to \$40.99, the applicant ~~shall be given~~receives 5 points.
- (VII) If the cost per 5000 gallons is \$34.00 to \$36.99, the applicant ~~shall be given~~receives 4 points.
- (VIII) If the cost per 5000 gallons is \$32.00 to \$33.99, the applicant ~~shall be given~~receives 3 points.
- (IX) If the cost per 5000 gallons is \$31.00 to \$31.99, the applicant ~~shall be given~~receives 2 points.
- (X) If the cost per 5000 gallons is \$30.00 to \$30.99, the applicant ~~shall be given~~receives 1 point.
- (XI) If the cost per 5000 gallons is less than \$30.00, the applicant ~~shall be given~~receives 0 points.

(iii) For systems providing sewer service only:

- (I) If the cost per connection per month is \$34.00 or greater, the applicant ~~shall be given~~receives 10 points.
- (II) If the cost of connection per month is \$32.00 to \$33.99, the applicant ~~shall be given~~receives 9 points.
- (III) If the cost of connection per month is \$30.00 to \$31.99, the applicant ~~shall be given~~receives 8 points.
- (IV) If the cost of connection per month is \$28.00 to \$29.99, the applicant ~~shall be given~~receives 7 points.

- (V) If the cost of connection per month is \$26.00 to \$27.99, the applicant ~~shall be given~~receives 6 points.
- (VI) If the cost of connection per month is \$24.00 to \$25.99, the applicant ~~shall be given~~receives 5 points.
- (VII) If the cost of connection per month is \$22.00 to \$23.99, the applicant ~~shall be given~~receives 4 points.
- (VIII) If the cost of connection per month is \$20.00 to \$21.99, the applicant ~~shall be given~~receives 3 points.
- (IX) If the cost of connection per month is \$18.00 to \$19.99, the applicant ~~shall be given~~receives 2 points.
- (X) If the cost of connection per month is \$16.00 to \$17.99, the applicant ~~shall be given~~receives 1 point.
- (XI) If the cost of connection per month is less than \$16.00, the applicant ~~shall be given~~receives 0 points.

(iv) The Board will deduct 3 points from the total of the Water and Sewer Rate Structure ranking for any system which charges a flat water or sewer rate (unmetered) without regard to the amount of water or sewer used, and 2 points for a decreasing block rate which lowers the cost per 1000 gallons for customers using larger amounts of water. No points will be added or subtracted for systems using a fixed rate per 1,000 gallons above the minimum. Two points will be added for systems using an increasing block rate. Entities who dedicate sales tax for water and/or sewer improvements will be awarded 1 additional point. Under the category the maximum number of points is 13 and the minimum is -3 points.

**(C) Indebtedness per customer (I).**

(i) The indebtedness per customer ranking is calculated by taking the applicant's monthly requirements for debt service on debt incurred for water and/or sewer system purposes and dividing it by the number of customers served.

- (I) If the indebtedness per customer is \$20.00 or greater, the applicant ~~shall be given~~receives 10 points.
- (II) If the indebtedness per customer is \$17.50 to \$19.99, the applicant ~~shall be given~~receives 9 points.
- (III) If the indebtedness per customer is \$16.00 to \$17.49, the applicant ~~shall be given~~receives 8 points.
- (IV) If the indebtedness per customer is \$14.50 to \$15.99, the applicant ~~shall be given~~receives 7 points.
- (V) If the indebtedness per customer is \$13.00 to \$14.49, the applicant ~~shall be given~~receives 6 points.
- (VI) If the indebtedness per customer is \$11.50 to \$12.99, the applicant ~~shall be given~~receives 5 points.
- (VII) If the indebtedness per customer is \$10.00 to \$11.49, the applicant ~~shall be given~~receives 4 points.
- (VIII) If the indebtedness per customer is \$8.50 to \$9.99, the applicant ~~shall be given~~receives 3 points.
- (IX) If the indebtedness per customer is \$7.00 to \$8.49, the applicant ~~shall be given~~receives 2 points.
- (X) If the indebtedness per customer is \$5.50 to \$6.99, the applicant ~~shall be given~~receives 1 point.
- (XI) If the indebtedness per customer is less than \$5.50, the applicant ~~shall be given~~receives 0 points.

**(D) Local participation (L).**

(i) The Board will not approve nor fund any grant application unless the applicant contributes at least fifteen percent (15%) of the total cost of the proposed project.

(ii) The local participation ranking is based on the percent of the total project cost which is locally funded through cash contributions, or incurrence of additional debt through a loan. Grant funds received through other agencies will not be counted as local funding. Points awarded for participation are as follows:

- (I) If the percentage of the project cost locally funded is 90% or greater, the applicant shall be given 10 points.
- (II) If the percentage of the project cost locally funded is at least 80% but less than 90%, the applicant ~~shall be given~~receives 9 points.
- (III) If the percentage of the project cost locally funded is at least 70% but less than 80%, the applicant ~~shall be given~~receives 8 points.

- (IV) If the percentage of the project cost locally funded is at least 60% but less than 70%, the applicant ~~shall be given~~receives 7 points.
- (V) If the percentage of the project cost locally funded is at least 50% but less than 60%, the applicant ~~shall be given~~receives 6 points.
- (VI) If the percentage of the project cost locally funded is at least 40% but less than 50%, the applicant ~~shall be given~~receives 5 points.
- (VII) If the percentage of the project cost locally funded is at least 30% but less than 40%, the applicant ~~shall be given~~receives 4 points.
- (VIII) If the percentage of the project cost locally funded is at least 25% but less than 30%, the applicant ~~shall be given~~receives 3 points.
- (IX) If the percentage of the project cost locally funded is at least 20% but less than 25%, the applicant ~~shall be given~~receives 2 points.
- (X) If the percentage of the project cost locally funded is at least 15% but less than 20%, the applicant ~~shall be given~~receives 1 point.
- (XI) If the percentage of the project cost locally funded is less than 15%, the application shall not be approved nor funded.

(E) **Median Household Income (MHI).** The median household income is calculated according to the most current federal decennial census or American Community Survey data available.

- (i) The county median figure for median household income will be used in cases where data for the applicant's service area is not available.
- (ii) Points are awarded as follows:
  - (I) If the median household income is less than \$17,000, the applicant ~~shall be given~~receives 10 points.
  - (II) If the median household income is \$17,000 to \$20,999, the applicant ~~shall be given~~receives 9 points.
  - (III) If the median household income is \$21,000 to \$23,999, the applicant ~~shall be given~~receives 8 points.
  - (IV) If the median household income is \$24,000 to \$28,999, the applicant ~~shall be given~~receives 7 points.
  - (V) If the median household income is \$29,000 to \$31,999, the applicant ~~shall be given~~receives 6 points.
  - (VI) If the median household income is \$32,000 to \$36,999, the applicant ~~shall be given~~receives 5 points.
  - (VII) If the median household income is \$37,000 to \$39,999, the applicant ~~shall be given~~receives 4 points.
  - (VIII) If the median household income is \$40,000 to \$44,999, the applicant ~~shall be given~~receives 3 points.
  - (IX) If the median household income is \$45,000 to \$47,999, the applicant ~~shall be given~~receives 2 points.
  - (X) If the median household income is \$48,000 to \$51,999, the applicant ~~shall be given~~receives 1 point.
  - (XI) If the median household income is \$52,000 or greater, the applicant ~~shall be given~~receives 0 points.

(F) **Ability to finance project (FP).**

- (i) The maximum points possible under this criterion for the ability of the applicant to finance the project without assistance from the state is 12.
- (ii) The FP ranking gives a standardized account of the amount the existing water/sewer rates would have to be raised in order for the applicant to finance the project through a loan. A standard interest rate and term of 5% for 25 years is assumed. The cost per customer per month is calculated using the following formula: FP equals the product of AR multiplied by (0.0710), divided by the product of (12) multiplied by (C), where:
  - (I) FP = Estimate of the amount monthly water/sewer rates would have to be raised to finance the amount of grant request for the project.
  - (II) AR = Amount of grant request. For this calculation, the amount of available reserve not dedicated to the project will be deducted from the amount requested.
  - (III) (0.0710) = Annual rate factor for a 25 year loan at 5%
  - (IV) (12) = Number of months per year.
  - (V) (C) = Number of customers
- (iii) In cases where the applicant's current revenues exceed expenses by a large margin, the Board will appropriately adjust the (AR) figure to accurately represent the applicant's ability to finance the project.
- (iv) Points in the FP ranking are awarded as follows:

- (I) If the ability to finance the project is \$10.00 or greater, the applicant ~~shall be given~~receives 12 points.
- (II) If the ability to finance the project is \$8.00 to \$9.99, the applicant ~~shall be given~~receives 11 points.
- (III) If the ability to finance the project is \$6.00 to \$7.99, the applicant ~~shall be given~~receives 10 points.
- (IV) If the ability to finance the project is \$5.00 to \$5.99, the applicant ~~shall be given~~receives 9 points.
- (V) If the ability to finance the project is \$4.00 to \$4.99, the applicant ~~shall be given~~receives 8 points.
- (VI) If the ability to finance the project is \$3.00 to \$3.99, the applicant ~~shall be given~~receives 7 points.
- (VII) If the ability to finance the project is \$2.00 to \$2.99, the applicant ~~shall be given~~receives 6 points.
- (VIII) If the ability to finance the project is \$1.75 to \$1.99, the applicant ~~shall be given~~receives 5 points.
- (IX) If the ability to finance the project is \$1.50 to \$1.74, the applicant ~~shall be given~~receives 4 points.
- (X) If the ability to finance the project is \$1.25 to \$1.49, the applicant ~~shall be given~~receives 3 points.
- (XI) If the ability to finance the project is \$1.00 to \$1.24, the applicant ~~shall be given~~receives 2 points.
- (XII) If the ability to finance the project is \$0.75 to \$0.99, the applicant ~~shall be given~~receives 1 point.
- (XIII) If the ability to finance the project is less than \$0.75, the applicant ~~shall be given~~receives 0 points.

**(G) Amount of grant requested (AR).**

(i) Points under this category for amount of grant requested are distributed as follows:

- (I) ~~If the grant amount requested is \$95,001 to \$100,000: -5, the applicant receives -5 points.~~
- (II) ~~If the grant amount requested is \$90,001 to \$95,000: -4, the applicant receives -4 points.~~
- (III) ~~If the grant amount request is \$85,001 to \$90,000: -3, the applicant receives -3 points.~~
- (IV) ~~If the grant smount requested is \$80,001 to \$85,000: -2, the applicant receives -2 points.~~
- (V) ~~If the grant amount requested is \$75,001 to \$80,000: -1, the applicant receives -1 point.~~
- (VI) ~~If the grant amount requested is \$70,001 to \$75,000: 0, the applicant receives 0 points.~~
- (VII) ~~If the grant amount requested is \$65,001 to \$70,000: +1, the applicant receives 1 point.~~
- (VIII) ~~If the grant amount requested is \$60,001 to \$65,000: +2, the applicant receives 2 points.~~
- (IX) ~~If the grant amount requested is \$55,001 to \$60,000: +3, the applicant receives 3 points.~~
- (X) ~~If the grant amount requested is \$50,000 to \$55,000: +4, the applicant receives 4 points.~~
- (XI) ~~If the grant amount requested is \$45,001 to \$50,000: +5, the applicant receives 5 points.~~
- (XII) ~~If the grant amount requested is \$40,001 to \$45,000: +6, the applicant receives 6 points.~~
- (XIII) ~~If the grant amount requested is \$35,001 to \$40,000: +7, the applicant receives 7 points.~~
- (XIV) ~~If the grant amount requested is \$30,001 to \$35,000: +8, the applicant received 8 points.~~
- (XV) ~~If the grant amount requested is \$25,001 to \$30,000: +9, the applicant receives 9 points.~~
- (XVI) ~~If the grant amount requested is \$25,000 or less: +10, the applicant receives 10 points.~~

(ii) If a project exceeds \$75,000 and the amount of funds needed over and above the OW RB grant request are being secured through a loan from OWRB, then there will be no deduction of points under this category.

**(H) Project benefit to other systems (BP).** If the applicant's project will benefit other adjacent systems as well as applicant's, or result in or lead to consolidation of systems, an additional five (5) priority points will be included in the total of priority points assigned to the application.

**(I) Number of grants.** Since it is anticipated that entities who have received emergency grants might submit additional grant applications for approval, points will be deducted from such applications according to the following schedule; provided, points shall not be deducted from such any emergency grant which was funded 10 or more years prior to the date of Board action on the pending application and which has been subjected to a Board audit:

- (i) ~~If the qualified entity has received one (1) prior grant -5 reduction points, the application receives -5 points.~~
- (ii) ~~If the qualified entity has received two (2) prior grants -8 reduction points, the application receives -8 points.~~
- (iii) ~~If the qualified entity has received three (3) prior grants -10 reduction points, the application receives -10 points.~~

- (iv) If the qualified entity has received four (4) prior grants — 12 reduction points, the application receives -12 points.
- (v) If the qualified entity has received five (5) or more prior grants — 14 reduction points, the application receives -14 points.

**(c) Priority formula for school districts.**

- (1) School districts, created under Article V of the 1971 School Code, 70 O.S. 1981, §5-101 et seq., are political subdivisions of the State, and therefore are eligible for financial assistance under the Board's program.
- (2) In evaluating and prioritizing grant applications from school districts similar criteria to those applied to municipalities, towns and rural water districts will be utilized.
- (3) In developing a priority formula for school district applicants, again, the two primary statutory criteria are:
  - (A) The emergency situation of the school district.
  - (B) Whether the school district can reasonably finance the emergency project without the Board's assistance.
- (4) The emergency aspect of each project is ranked with a maximum of 50 points being given to the most serious situations and a minimum of 30 points to the least serious. The emergency categories and points given for each are the same as those listed in (b)(2) of this Section.
- (5) The school district's financial situation is given a maximum of 66 points and is derived by analyzing the following:
  - (A) Local tax levies
  - (B) Bonded indebtedness
  - (C) Local contribution
  - (D) Median household income within the school district's geographical area
  - (E) Applicant's ability to finance project
  - (F) Amount of grant requested
  - (G) Application number
- (6) Priority lists compiled and published by other Oklahoma state agencies shall be utilized to assess the seriousness of the emergency.
- (7) Using the previously mentioned analysis, the following formula has been devised to rank school districts' grant applications:  $P = E + LT + BI + L + MHI + FP + AR - AN$ , where:
  - (A) P = Priority ranking total points
  - (B) E = Emergency ranking
  - (C) LT = Local tax levies
  - (D) BI = Bonded indebtedness
  - (E) L = School's contribution toward the project
  - (F) MHI = Median household income of population within a school district
  - (G) FP = Applicant's ability to finance project
  - (H) AR = Amount of grant requested
  - (I) AN = Application number
- (8) The criteria E, MHI, FP, AR and AN are the same as that set forth in (b) of this section. LT, BI and L are explained as follows:

(A) **Local tax levies (LT).** Points awarded under this category for local tax levies are based on the total amount of mills levied, as follows:

- (i) ~~95 to 100.00 mills — 13 points~~ If the mills are 95 to 100, the applicant receives 13 points.
- (ii) ~~90 to 94.99 mills — 11 points~~ If the mills are 90 to 94.99 the applicant receives 11 points.
- (iii) ~~85 to 89.99 mills — 10 points~~ If the mills are 85 to 89.99, the applicant receives 10 points.
- (iv) ~~80 to 84.99 mills — 8 points~~ If the mills are 80 to 84.99, the applicant receives 8 points.
- (v) ~~70 to 79.99 mills — 6 points~~ If the mills are 70 to 79.99, the applicant receives 6 points.
- (vi) ~~60 to 69.99 mills — 4 points~~ If the mills are 60 to 69.99, the applicant receives 4 points.
- (vii) ~~55 to 59.99 mills — 2 points~~ If the mills are 55 to 59.99, the applicant receives 2 points.
- (viii) ~~50 to 54.99 mills — 1 point~~ If the mills are 50 to 54.99, the applicant receives 1 point.
- (ix) ~~45 to 49.99 mills — 0 points~~ If the mills are 45 to 59.99, the applicant receives 0 points.
- (x) ~~40 to 44.99 mills — -1 points~~ If the mills are 40 to 44.99, the applicant receives -1 point.
- (xi) ~~Less than 40 mills — -2 points~~ If the mills are less than 40, the applicant receives -2 points.

(B) **Bonded indebtedness (BI).**

- (i) Priority points for Bonded Indebtedness are as follows: ~~Percentage of Indebtedness Points~~
  - (I) ~~95% to 100% of debt limitation — 10 points~~ If the percentage is 95% to 100%, the applicant receives 10 points
  - (II) ~~90% to 94.99% of debt limitation — 8 points~~ If the percentage is 90% to 94.99%, the applicant receives 8 points.
  - (III) ~~80% to 89.99% of debt limitation — 7 points~~ If the percentage is 80% to 89.99%, the applicant receives 7 points.
  - (IV) ~~75% to 79.99% of debt limitation — 6 points~~ If the percentage is 75% to 79.99%, the applicant receives 6 points.

- (V) 70% to 74.99% of debt limitation = 5 points If the percentage is 70% to 74.99%, the applicant receives 5 points.
- (VI) 65% to 69.99% of debt limitation = 4 points If the percentage is 65% to 69.99%, the applicant receives 4 points.
- (VII) 60% to 64.99% of debt limitation = 3 points If the percentage is 60% to 64.99%, the applicant receives 3 points.
- (VIII) 55% to 59.99% of debt limitation = 2 points If the percentage is 55% to 59.99%, the applicant receives 2 points.
- (IX) 50% to 54.99% of debt limitation = 1 point If the percentage is 50% to 54.99%, the applicant receives 1 point.
- (X) 45% to 49.99% of debt limitation = 0 points If the percentage is 45% to 44.99%, the applicant receives 0 points.
- (XI) 40% to 44.99% of debt limitation = -1 point If the percentage is 40% to 44.99%, the applicant receives -1 point.
- (XII) 30% to 39.99% of debt limitation = -2 points If the percentage is 30% to 39.99%, the applicant receives -2 points.
- (XIII) Less than 30% of debt limitation = -3 points If the percentage is less than 30%, the applicant receives -3 points.

(ii) A deduction of one (1) point from the indebtedness ranking total will be made for applicants with 75% of existing debts financed at rates of 5% or less, and one (1) point will be added if 75% of existing debts are financed at rates greater than 10%.

**(C) Local participation (L).**

- (i) In order to achieve the maximum benefit from available grant funds, the Board will not approve nor fund any grant application unless the applicant contributes at least fifteen percent (15%) of the total cost of the proposed project.
- (ii) The local participation ranking is based on the percent of the total project cost which is locally funded through cash contributions or incurrence of additional debt through a loan. Points awarded are as follows:

- (I) If the percentage of the project cost locally funded is 90% or greater, the applicant ~~shall be given~~ receives 10 points.
- (II) If the percentage of the project cost locally funded is at least 80% but less than 90%, the applicant ~~shall be given~~ receives 9 points.
- (III) If the percentage of the project cost locally funded at least 70% but less than 80%, the applicant ~~shall be given~~ receives 8 points.
- (IV) If the percentage of the project cost locally funded at least 60% but less than 70%, the applicant ~~shall be given~~ receives 7 points.
- (V) If the percentage of the project cost locally funded at least 50% but less than 60%, the applicant ~~shall be given~~ receives 6 points.
- (VI) If the percentage of the project cost locally funded is at least 50% but less than 60%, the applicant ~~shall be given~~ receives 5 points.
- (VII) If the percentage of the project cost locally funded is at least 40% but less than 50%, the applicant ~~shall be given~~ receives 4 points.
- (VIII) If the percentage of the project cost locally funded is at least 25% but less than 30%, the applicant ~~shall be given~~ receives 3 points.
- (IX) If the percentage of the project cost locally funded is at least 20% but less than 25%, the applicant ~~shall be given~~ receives 2 points.
- (X) If the percentage of the project cost locally funded is at least 15% but less than 20%, the applicant ~~shall be given~~ receives 1 point.
- (XI) If the percentage of the project cost locally funded is less than 15%, the application shall not be approved nor funded.

(iii) Under the Ability to Finance Project (FP) category the Number of Customers (C) as previously discussed will be replaced by the Number of Families within a school district. Points awarded under the FP category are the same as discussed and shown in (b) of this Section.

**785:50-6-4. Disbursement of grant funds**

- (a) Notwithstanding and in addition to the provisions set out in (a) of this Section, the following specific provisions shall apply in all instances of the disbursement of grant (financial assistance) funds under the Water and Sewer Financial Assistance Program.
- (b) Upon approval of a grant application, the Board shall furnish to the applicant a letter notice ~~letter~~ of grant approval and Board commitment. The notice and commitment shall advise the applicant that the grant application has been formally and officially approved by the Board and that the grant funds approved shall be made available to the applicant by the Board for such purposes and upon such other terms and conditions as the Board may require.



(c) Within ninety (90) days following the date of the letter notice of approval, the applicant shall file with the Board an acceptable bid, as required by the competitive bidding process, for completion of the proposed project. Where determined necessary and appropriate, the Board or its staff may permit additional time to file such a bid; provided, notwithstanding any approval of additional time, if such a bid is not filed within one (1) year following the date of Board approval of the application, then the Board's approval shall expire and no funds shall be released; provided, however, if an acceptable bid for completion has not been filed due to circumstances that lay outside the applicant's control, the applicant may request, and the Board may approve or deny, a one-time extension of time not to exceed six months to file an acceptable bid. Provided further, in the event of such expiration the applicant may file a new application which shall be subject to due consideration on its own merit.

(d) For purposes of final disbursement of funds to the applicant, the grant amount initially approved may be lowered by the Board based on actual project costs.

(e) As the Board may determine and direct, grant funds may be disbursed to the applicant in installments or in lump sum, and may be disbursed prior to, during or upon completion of the project, all as deemed appropriate under the project circumstances presented. However, prior to the disbursement of any grant funds to the applicant, the applicant must:

- (1) Submit to the Board such evidence as the Board may require to establish that the emergency continues to exist; and
- (2) Establish, in such manner as is acceptable to the Board or its staff, a special and separate federally insured ~~fund or~~ account ~~(within applicant's accounting system)~~ in and through which the grant proceeds shall be administered and accounted for by the applicant.

(f) In all instances, the Board reserves the right to impose additional reasonable and necessary conditions or requirements for the disbursement of grant funds, all as may be deemed appropriate by the Board under the circumstances of the project for which grant assistance is made available.

## **SUBCHAPTER 8. RURAL ECONOMIC ACTION PLAN (REAP) GRANT PROGRAM REQUIREMENTS AND PROCEDURES**

### **785:50-8-2. Definitions**

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Applicant"** means a qualified entity which submits an application for a REAP grant on its own behalf, or for whom an application is submitted by a COG; a COG shall be deemed not to be an applicant.

**"COG"** means one of the following organizations:

- (A) Association of Central Oklahoma Governments (ACOG);
- (B) Association of South Central Oklahoma Governments (ASCOG);
- (C) Central Oklahoma Economic Development District (COEDD);
- (D) Eastern Oklahoma Economic Development District (EOEDD);
- (E) Grand Gateway Economic Development Association (GGEDA);
- (F) Indian Nations Council of Governments (INCOG);
- (G) Kiamichi Economic Development District (KEDD);
- (H) Northern Oklahoma Development Association (NODA);
- (I) Oklahoma Economic Development Association (OEDA);
- (J) Southern Oklahoma Development Association (SODA); and
- (K) South Western Oklahoma Development Authority (SWODA).

**"Customer"** means a single household or commercial unit, and does not mean any service unit which provides or enables utility service for more than one household, residence, or industry.

**"Project"** means, in addition to those purposes and works described in 785:50-3-1, *sewer line construction or repair and related storm or sanitary sewer [62:2003] works, water line construction or repair, water treatment, water acquisition, distribution or recovery and related [62:2003] works.*

**"Qualified entity"** means any eligible entity as defined in 785:50-3-2; provided, any city or town with a population of 7001 or more according to the Census Population shall not be a qualified entity.

### **785:50-8-3. Application review and disposition**

(a) **General procedures.** The general procedure to be followed in the financial assistance application, review and consideration process for financial assistance under the REAP grant program shall be as follows:

(1) **~~Pre-application conference~~workshop.**

- (A) While not specifically required, all potential applicants are encouraged to ~~initially contact the Board for purposes of making arrangements for participating~~ participate in the pre-application conference ~~workshop~~ between Board staff, potential applicants (or representative), applicant's legal, financial and engineering advisors and such other persons whose attendance and participation may be deemed appropriate and beneficial. Applicants who attend the workshop shall receive additional points.
- (B) At the pre-application ~~conference~~ workshop, preliminary matters respecting the applicant, the proposed project and the application for assistance may be generally discussed in an effort to familiarize all concerned parties with

the financial assistance program and applicable application requirements and procedures.

**(2) Application.**

(A) Applicant shall initiate application review and consideration by submission to the Board of applicant's application for financial assistance. An application may be submitted directly by the qualified entity or, at the qualified entity's discretion, may be submitted by a COG for the benefit or on behalf of a qualified entity. A COG may assist a qualified entity in filling out or filing an application, but a COG may not exercise any power of review, approval or disapproval over an application. All applications filed with any COG shall be submitted by the COG to the Board. If an application submitted by a COG is approved, the money shall be disbursed directly to the qualified entity.

(B) In all instances, applications must be ~~written and submitted~~ in a form which meets the requirements of Subchapter 5.

(C) All applicants must have the verification form signed and notarized by the applicant representative, and must have a signature of an attorney representing applicant.

**(3) Submittal to Board.** Upon completion of staff review, the submitted application (with staff recommendations, if any) shall be placed upon the Board's agenda for the next regular (or special) Board meeting and shall be thereby submitted to the Board for action as described in (e) below.

**(b) General approval standards and criteria.** In the review and consideration of applications for financial assistance under the REAP grant program, the Board shall follow the priority point system set forth in 785:50-8-5. The Board shall also give consideration to the following general and non-exclusive criteria for application approval:

(1) **Compliance with laws.** The application and proposed project must be found to be in compliance with all applicable and relevant federal, state and local laws and regulations, and applicant must possess all necessary and incidental legal rights and privileges necessary to project commencement and operation.

(2) **Eligibility.** The applicant must be a qualified entity (or a COG applying on behalf of a qualified entity) and the proposed project must be for a qualified purpose as defined in 785:50-3-1 or 785:50-8-2.

(3) **Local need, support and priority.** The project must be found to be needed in the area to be served and must be found to be sufficient, as proposed, to serve such needs. The Board shall additionally consider the project's relative benefit and priority in relation to the needs of other proposed projects and applicants.

(4) **Availability of other assistance.** The Board shall consider the feasibility and availability of alternative sources of revenue which could be obtained and utilized by applicant for project financing.

(5) **Economic feasibility.** The Board shall consider the overall apparent economic viability and feasibility of the project as a whole.

(6) **Project feasibility.** The Board shall consider from the engineering data submitted and otherwise available whether the proposed project appears to be feasible, and must determine as a prerequisite to application approval and funding that the project is cost effective.

(7) **Statewide needs and public interest.** The Board shall give consideration to the relationship between the proposed project and the overall water resource development needs within the State of Oklahoma as well as to whether the proposed project, if constructed, will serve the public interest and welfare.

(8) **REAP grant amount; availability of funds.** In sizing a REAP grant, the Board shall take into consideration the current and anticipated availability of REAP program funds.

(9) **Conservation Measures.** The Board shall consider whether or not the applicant has taken all reasonable measures to limit waste and conserve water.

**(c) Criteria applicability.**

(1) The general criteria set forth in (b) and (d) of this Section are intended to constitute and shall constitute general guidelines and standards for application review and consideration by the Board.

(2) Such criteria shall not be deemed exclusive.

(3) In all instances, each individual application and project must be reviewed and considered on its own individual merits.

(4) The criteria and standards set forth in (b) and (d) of this Section shall accordingly be interpreted and applied so as to allow sufficient flexibility in the ultimate exercise of Board's judgment and discretion.

**(d) Criteria for denying an application.** The Board may deny an application for a REAP grant for any of the following reasons:

(1) The applicant or the entity which stands to receive the benefit of the grant assistance is not an eligible entity.

(2) Any other reason based upon applicable law or the Board's judgment and discretion.

**(e) Board action.**

(1) After reviewing and considering the submitted application, the Board may proceed to take one of the following alternative forms of Board action on the application:

(A) The Board may approve and grant the application as submitted, in whole or in part, and thereby authorize such further action as may be necessary to effectuate the disbursement of funds.

(B) The Board may retain the application under advisement for further consideration or continue hearing on same for later ruling and disposition, and, the Board may withhold ruling on the application pending further hearing and/or submission to the Board of such further or additional information as the Board may require for application consideration purposes.

(C) The Board may reject and deny the application, in whole or in part, based upon any criteria described in (d) of this Section which may be applicable.

(D) The Board may approve and grant the application, in whole or in part, such approval being conditioned and contingent upon the existence of adequate and available grant funds or conditioned and contingent upon receipt and approval by Board staff of any outstanding and necessary material, information, documents, verifications or other authorization.

(2) Upon approval of an application, the Board may authorize the execution of all necessary grant documents and instruments by the Chairman of the Board, or other designated Board member, and may accordingly authorize and provide for disbursements and may authorize such further or additional action as may be necessary to complete and implement the approved transaction.

#### **785:50-8-4. Applicable law; deadline for applications; eligible project costs**

(a) The Board shall administer applications for REAP funds in accordance with any provisions of law applicable to such applications and REAP funds.

(b) To be considered for and receive funding from funds available for REAP in any given fiscal year, an application must be completed in accordance with the Board's rules and prescribed application form in all material respects with all attachments, and filed by the applicant and received by the Board on or before 5 p.m. the first business day of September of that fiscal year. However, if the deadline cannot be met due to circumstances beyond the applicant's control, the application may be accepted by the Board through the last business day of September with written proof of said circumstances. Any application not properly completed and filed shall not be considered for or funded from funds that may become available during that fiscal year. Furthermore, if no applications are received before the deadline from the area of a given COG, then the Board staff may extend the deadline for that COG through the first business day of November and contact an appropriate official for the COG and notify him or her of the available funds.

(c) A REAP grant application submitted for consideration in a prior fiscal year that was not approved for funding out of funds made available in that prior fiscal year shall expire and ~~be deemed denied unless the applicant files and the Board receives a timely written request to consider said application during the current fiscal year, together with updated application materials as may be reasonably required by the Board. To be timely, such request and updated application materials must be received by the board on or before the first business day of September, of the current fiscal year and cycled out.~~

(d) For purposes of evaluating, approving and funding an application for a REAP grant, categories of project costs which are eligible for assistance ~~shall including, in addition to those project costs described in 785:50-3-1~~ include engineering undertaking or work to conserve and develop surface or subsurface water resources or to control or develop sewage treatment facilities of the State for all useful and lawful purposes by the acquisition, improvement, extension or construction of dams, reservoirs, and other water storage projects, including, but not limited to underground storage projects, filtration and water treatment plants, including any system necessary to distribute water from storage or filtration plants to points of distribution, or from storage to filtration and treatment plants, facilities for distributing water therefrom to wholesale or retail purchasers, floodplain restoration, including but not limited to home relocations, bank stabilization, storm sewer and drainage improvements and any system necessary to improve or develop sewage treatment, collection or distribution capabilities of any area of the State. Such qualified projects are additionally understood to include financial assistance to acquire and own the lands required for the project, and to obtain the water supply and to construct appropriate treatment facilities as described in 785:50-3-1. Additionally, eligible expenses include:

(1) Architecture and/or engineer fees related to the project. Provided, however, that in order for these costs to be eligible for award, applicants shall provide documentation that all construction funding is available. If construction funding is not available the request for these costs will be placed in a "pending" status until such time as the construction funding is available. If, however, an Engineering Report is a requirement of a Consent Order, an applicant under Consent Order may be awarded a grant to cover the engineering costs without construction funding being available.

(2) Fees for soil testing.

(3) Fees for surveying.

(4) Payments to contractor(s) for construction of the improvements.

(5) Legal fees and expenses of counsel for the applicant which are related to the project.

(6) Services of full-time or part-time inspector.

(7) Administrative expenses shall not be eligible project costs.

#### **785:50-8-5. REAP grant priority point system**

(a) **Basis of priority system and formula.**

(1) **General description.** The priority system consists of a mathematical equation rating the qualified entities and the proposed project in accordance with the requirements of state law by means of a formula awarding points for each criterion used in the evaluation. The maximum point total under the system is one hundred ~~twenty-five (125)~~ thirty (130). The Board may consider each month, and in order from the highest rating, those applications awarded point ratings of 40 or more priority points. If the Board determines that the qualified entity with the highest point rating cannot promptly proceed with the project due to delays, including but not limited to those caused by legal problems, engineering problems, feasibility problems or availability of other funding sources, the Board may pass over consideration of such application then proceed

to consider in order the next highest rated application. Applications which are bypassed shall retain their ratings and thus remain eligible for further consideration. Applications preliminarily determined by Board staff to have point ratings of applicant submits additional information showing changed circumstances within 120 days after the date of staff's determination, and such information improves the applicant's preliminary point rating.

(2) **Statutory criteria.** The basis of the priority formula has been developed from the enacting legislation. The primary statutory criteria are:

- (A) There shall be a higher priority for any city or town with a population less than one thousand seven hundred fifty (1,750) according to the Census Population than for any jurisdiction with a greater population; and rural water or sewer districts which have less than 525 non-pasature customers; and
- (B) *Among other cities or towns, those municipalities having relatively weaker fiscal capacity shall have a priority for project funding in preference to other municipalities* [62:2003]. In order to give a priority evaluation to each applicant, the Board shall evaluate all applications according to the fiscal capacity criteria set forth in this Section.

(3) **Total priority points.** Total priority points will be calculated and awarded for individual projects. Therefore, qualified entities will be required to complete separate applications for each project for which grant funds are requested. Priority lists compiled and published by other Oklahoma State agencies and/or seniority dates of applications submitted shall be utilized to decide ties in point totals among qualified entities.

(b) **Priority formula for eligible entities other than school districts and counties.**

(1) **Formula.** The following formula has been devised to rank grant applications:  $T = P + WR + I + MHI + FP + N + AR + BP + PG + S + WA$ , Where:

- (A) T = Total of priority points
- (B) P = Population
- (C) WR = Water and sewer rate structure
- (D) I = Indebtedness per customer
- (E) MHI = Median household income
- (F) FP = Applicant's ability to finance project
- (G) N = Need
- (H) AR = Amount of grant requested
- (I) BP = Project benefit to other systems
- (J) PG = Previous grant assistance
- (K) S = Sustainability
- (L) WA = Workshop attended

(2) **Explanation.** Each of these criteria are explained below:

(A) **Population (P).** Municipalities which have a population of less than 1,750 according to the latest Census Population ~~shall be given~~ will receive 55 priority points. Rural water or sewer districts which have less than 525 non-pasture customers ~~shall be given~~ will receive 55 points.

(B) **Water and Sewer rate structure (WR).**

(i) ~~For systems providing water service only, points are figured according to the same scale set forth in Section 50-7-5(b)(2)(B)(i)~~ For systems providing water service only.

- (I) If the cost per 5000 gallons is \$50.00 or greater, the applicant receives 10 points.
- (II) If the cost per 5000 gallons is \$45.00 to \$49.99, the applicant receives 9 points.
- (III) If the cost per 5000 gallons is \$40.00 to \$44.99, the applicant receives 8 points.
- (IV) If the cost per 5000 gallons is \$35.00 to \$39.99, the applicant receives 7 points.
- (V) If the cost per 5000 gallons is \$30.00 to \$34.99, the applicant receives 6 points.
- (VI) If the cost per 5000 gallons is \$25.00 to \$29.99, the applicant receives 5 points.
- (VII) If the cost per 5000 gallons is \$23.00 to \$24.99, the applicant receives 4 points.
- (VIII) If the cost per 5000 gallons is \$21.00 to \$22.99, the applicant receives 3 points.
- (IX) If the cost per 5000 gallons is \$19.00 to \$20.99, the applicant receives 2 points.
- (X) If the cost per 5000 gallons is \$18.00 to \$18.99, the applicant receives 1 point.
- (XI) If the cost per 5000 gallons is less than \$18.00, the applicant receives 0 points.

(ii) ~~For systems providing both water and sewer services, points are figured according to the same scale set forth in Section 50-7-5(b)(2)(B)(ii)~~ For systems providing water and sewer services;

- (I) If the cost per 5000 gallons is \$56.00 or greater, the applicant receives 10 points.
- (II) If the cost per 5000 gallons is \$53.00 to \$55.99, the applicant receives 9 points.
- (III) If the cost per 5000 gallons is \$49.00 to \$52.99, the applicant receives 8 points.
- (IV) If the cost per 5000 gallons is \$45.00 to \$48.99, the applicant receives 7 points.
- (V) If the cost per 5000 gallons is \$41.00 o \$44.99, the applicant receives 6 points.
- (VI) If the cost per 5000 gallons is \$37.00 to \$40.99, the applicant receives 5 points.
- (VII) If the cost per 5000 gallons is \$34.00 to \$36.99, the applicant receives 4 points.
- (VIII) If the cost per 5000 gallos is \$32.00 to \$33.99, the applicant receives 3 points.
- (IX) If the cost per 5000 gallons is \$31.00 to \$31.99, the applicant receives 2 points.

(X) If the cost per 5000 gallons is \$30.00 to \$30.99, the applicant receives 1 point.  
(XI) If the cost per 5000 gallons is less than \$30.00, the applicant receives 0 points.  
(iii) For systems providing sewer service only; ~~points are figured according to the same scale set forth in Section 50-7-5(b)(2)(B)(iii).~~

(I) If the cost per connection per month is \$34.00 or greater, the applicant receives 10 points.  
(II) If the cost of connection per month is \$32.00 to \$33.99, the applicant receives 9 points.  
(III) If the cost of the connection per month is \$30.00 to \$31.99, the applicant receives 8 points.  
(IV) If the cost of connection per month is \$28.00 to \$29.99, the applicant receives 7 points.  
(V) If the cost of connection per month is \$26.00 to \$27.99, the applicant receives 6 points.  
(VI) If the cost of connection per month is \$24.00 to \$25.99, the applicant receives 5 points.  
(VII) If the cost per connection per month is \$22.00 to \$23.99, the applicant receives 4 points.  
(VIII) If the cost per connection per month is \$20.00 to \$21.99, the applicant receives 3 points.  
(IX) If the cost per connection per month is \$18.00 to \$19.99, the applicant receives 2 points.  
(X) If the cost per connection per month is \$16.00 to \$17.99, the applicant receives 1 point.  
(XI) If the cost per connection per month is less than \$16.00, the applicant receives 0 points.  
(iv) The Board will deduct 3 points from the total of the Water and Sewer Rate Structure ranking for any system which charges a flat water rate or sewer rate (unmetered) without regard to the amount of water or sewer used, and 2 points for a decreasing block rate which lowers the cost per 1000 gallons for customers using larger amounts of water. No points will be added or subtracted for systems using a fixed rate per 1,000 gallons ~~rate above the minimum.~~ Two points will be added for systems using an increasing block rate. Entities who dedicate sales tax for water and/or sewer improvements will be awarded 1 additional point. Under this category the maximum number of points is 13 and the minimum is -3 points.

**(C) Indebtedness per customer (I).**

(i) The indebtedness per customer ranking is calculated by taking the applicant's monthly requirements for debt service on debt incurred for water and/or sewer system purposes and dividing it by the number of customers served. When the applicant is a provider of wholesale water to other systems, the number of customers served is the sum total of the customers served by the systems to whom they sell water.

(I) If the indebtedness per customer is \$20.00 or greater, the applicant ~~shall be given~~ receives 10 points.  
(II) If the indebtedness per customer is \$17.50 to \$19.99, the applicant ~~shall be given~~ receives 9 points  
(III) If the indebtedness per customer is \$16.00 to \$17.49, the applicant ~~shall be given~~ receives 8 points.  
(IV) If the indebtedness per customer is \$14.50 to \$15.99, the applicant ~~shall be given~~ receives 7 points.  
(V) If the indebtedness per customer is \$13.00 to \$14.49, the applicant ~~shall be given~~ receives 6 points.  
(VI) If the indebtedness per customer is \$11.50 to \$12.99, the applicant ~~shall be given~~ receives 5 points.  
(VII) If the indebtedness per customer is \$10.00 to \$11.49, the applicant ~~shall be given~~ receives 4 points.  
(VII) If the indebtedness per customer is \$8.50 to \$9.99, the applicant ~~shall be given~~ receives 3 points.  
(IX) If the indebtedness per customer is \$7.00 to \$8.49, the applicant ~~shall be given~~ receives 2 points.  
(X) If the indebtedness per customer is \$5.50 to \$6.99, the applicant ~~shall be given~~ receives 1 point.  
(XI) If the indebtedness per customer is less than \$5.50, the applicant ~~shall be given~~ receives 0 points.

**(D) Median household income (MHI).** The median household income is calculated according to the most current United States Decennial Census or American Community Survey data available.

(i) The county median figure for median household income will be used in cases where data for the applicant's service area is not available.

(ii) Points for this MHI criterion are awarded according to the ~~scale set forth in Section 50-7-5(b)(2)(E)~~ decennial census or American Community Survey data available. Points are awarded as follows:

(I) If the median household income is less than \$17,000, the applicant receives 10 points.  
(II) If the median household income is \$17,000 to \$20,999, the applicant receives 9 points.  
(III) If the median household income is \$21,000 to \$23,999, the applicant receives 8 points.  
(IV) If the median household income is \$24,000 to \$28,999, the applicant receives 7 points.

- (V) If the median household income is \$29,000 to \$31,999, the applicant receives 6 points.
- (VI) If the median household income is \$32,000 to \$36,999, the applicant receives 5 points.
- (VII) If the median household income is \$37,000 to \$39,999, the applicant receives 4 points.
- (VIII) If the median household income is \$40,000 to \$44,999, the applicant receives 3 points.
- (IX) If the median household income is \$45,000 to \$47,999, the applicant receives 2 points.
- (X) If the median household income is \$48,000 to \$51,999, the applicant receives 1 point.
- (XI) If the median household income is \$52,000 or greater, the applicant receives 0 points.

**(E) Ability to finance project (FP).**

- (i) The maximum points possible under this criterion for the ability of the applicant to finance the project without assistance from the state is 12.
- (ii) The FP ranking gives a standardized account of the amount the existing water/sewer rates would have to be raised in order for the applicant to finance the project through a loan. A standard interest rate and term of 5% for 25 years is assumed. The cost per customer per month is calculated using the following formula:  $FP = AR (0.0710)/(12)(C)$ , Where:
  - (I) FP = Estimate of the amount monthly water/sewer rates would have to be raised to finance the amount of grant requested for the project.
  - (II) AR = Amount of grant requested.
  - (III) 0.0710 = Annual rate factor for a 25 year loan at 5%.
  - (IV) 12 = Number of months per year.
  - (V) C = Number of customers.

- (iii) In cases where the applicant's current revenues exceed expenses by a large margin, the Board will appropriately adjust the (AR) figure to accurately represent the applicant's ability to finance the project.
- (iv) Points in the FP ranking, based upon the cost per customer per month calculated as set forth in (ii) of this subparagraph, are awarded as follows:

- (I) If the ~~FP~~ability to finance the project is \$10.00 or greater, the applicant ~~shall be given~~receives 12 points.
- (II) If the ~~FP~~ability to finance the project is \$8.00 to \$9.99, the applicant ~~shall be given~~receives 11 points.
- (III) If the ~~FP~~ability to finance the project is \$6.00 to \$7.99, the applicant ~~shall be given~~receives 10 points.
- (IV) If the ~~FP~~ability to finance the project is \$5.00 to \$5.99, the applicant ~~shall be given~~receives 9 points.
- (V) If the ~~FP~~ability to finance the project is \$4.00 to \$4.99, the applicant ~~shall be given~~receives 8 points.
- (VI) If the ~~FP~~ability to finance the project is \$3.00 to \$3.99, the applicant ~~shall be given~~receives 7 points.
- (VII) If the ~~FP~~ability to finance the project is \$2.00 to \$2.99, the applicant ~~shall be given~~receives 6 points.
- (VIII) If the ~~FP~~ability to finance the project is \$1.75 to \$1.99, the applicant ~~shall be given~~receives 5 points.
- (IX) If the ~~FP~~ability to finance the project is \$1.50 to \$1.74, the applicant ~~shall be given~~receives 4 points.
- (X) If the ~~FP~~ability to finance the project is \$1.25 to \$1.49, the applicant ~~shall be given~~receives 3 points.
- (XI) If the ~~FP~~ability to finance the project is \$1.00 to \$1.24, the applicant ~~shall be given~~receives 2 points.
- (XII) If the ~~FP~~ability to finance the project is \$0.75 to \$0.99, the applicant ~~shall be given~~receives 1 point.
- (XIII) If the ~~FP~~ability to finance the project is less than \$0.75, the applicant ~~shall be given~~receives 0 points.

- (F) **Need (N).** An applicant who is subject to an enforcement order issued by a governmental agency with environmental jurisdiction ~~shall be given~~receives 5 priority points for a proposed project which will remedy the violation out of which the order arose if the order specifies a project construction start date which is on or before June 30 of the Board's current fiscal year for funding REAP grants.

- (G) **Amount of grant requested (AR).** Points under this category for amount of grant requested are determined as follows:

- (i) If the ~~AR~~grant amount requested is \$140,001 to \$150,000, the applicant ~~shall be given~~receives -5 points.
- (ii) If the ~~AR~~grant amount requested is \$130,001 to \$140,000, the applicant ~~shall be given~~receives -4 points.

- (iii) If the ~~AR~~grant amount requested is \$120,001 to \$130,000, the applicant ~~shall be given~~receives -3 points.
- (iv) If the ~~AR~~grant amount requested is \$110,001 to \$120,000, the applicant ~~shall be given~~receives -2 points.
- (v) If the ~~AR~~grant amount requested is \$100,001 to \$110,000, the applicant ~~shall be given~~receives -1 point.
- (vi) If the ~~AR~~grant amount requested is \$100,000, the applicant ~~shall be given~~receives 0 points.
- (vii) If the ~~AR~~grant amount requested is \$80,000 to \$99,999, the applicant ~~shall be given~~receives 1 point.
- (viii) If the ~~AR~~grant amount requested is \$60,000 to \$79,999, the applicant ~~shall be given~~receives 2 points.
- (ix) If the ~~AR~~grant amount requested is \$40,000 to \$59,999, the applicant ~~shall be given~~receives 3 points.
- (x) If the ~~AR~~grant amount requested is \$20,000 to \$39,999, the applicant ~~shall be given~~receives 5 points.
- (xi) Any portion of ~~an~~ ~~AR~~grant amount requested that is more than \$150,000 shall be denied.

(H) **Project benefit to other systems (BP).** If the applicant's project will benefit other adjacent systems as well as applicant's or result in or lead to consolidation of systems, an additional five (5) priority points will be included in the total of priority points assigned to the application.

(I) **Previous grant assistance (PG).** No qualified entity shall receive more than \$150,000 in REAP grant assistance in any twelve (12) month period. For purposes of this subparagraph a political subdivision and all its public trusts and similar subordinate entities together shall be treated as one and the same qualified entity; provided, rural water or sewer districts shall not be construed to be subordinate entities of counties unless the effect would be to make multiple grants to substantially the same entity and/or service area. If a qualified entity has received one (1) or more REAP grants from the Board in the past, points shall be deducted from the application according to all of the following provisions that apply, provided points shall not be deducted from any such REAP grant which was funded 10 or more years prior to the date of Board action on the pending application, and has been subject to Board audit:

- (i) If the qualified entity has received one (1) REAP grant in the preceding twelve (12) month period, the application ~~will be given~~receives -8 points.
- (ii) If the qualified entity has received more than one (1) REAP grant in the preceding twelve (12) month period, the application receives -10 points for each REAP grant received.
- (iii) If the qualified entity has received one (1) REAP grant more than twelve (12) months in the past, the application ~~will be given~~receives -5 points.
- (iv) If the qualified entity has received two (2) REAP grants more than twelve (12) months in the past, the application receives -8 points.
- (v) If the qualified entity has received three (3) REAP grants more than twelve (12) months in the past, the application ~~will be given~~receives -10 points.
- (vi) If the qualified entity has received four (4) REAP grants more than twelve (12) months in the past, application ~~will be given~~receives -12 points.
- (vii) If the qualified entity has received five (5) or more REAP grants more than twelve (12) months in the past, the application ~~will be given~~receives -14 points.

(J) **Sustainability (S).** Points will be awarded for an applicant's sustainability and long range planning as follows:

- (i) Have and have implemented a Fiscal Sustainability Plan that meets the requirements of the Board Staff ~~shall be awarded~~the applicant receives 10 points
- (ii) Have but have not implemented a Fiscal Sustainability Plan that meets the requirements of the Board Staff ~~shall be awarded~~the applicant receives 6 points
- (iii) Applicant is willing to develop and implement a Fiscal Sustainability Plan prior to funding that meets the requirements of the Board Staff ~~shall be awarded~~receives 3 points.

**(K) Workshop attended (WA).** 5 points will be awarded to any applicant who attends, or has a representative attend the pre-application workshop presented by Board staff. Attendance will be verified during the course of the training.

**(c) Priority formula for school districts and counties.**

- (1) School districts created under Article V of the School Code, 70 O.S. 1991, §5-101 et seq., and counties are political subdivisions of the State, and therefore are eligible for financial assistance under the Board's REAP grant program.
- (2) In evaluating and prioritizing grant applications from school districts and counties, similar criteria to those applied to municipalities and rural water districts will be utilized.
- (3) In developing a priority formula for school district and county applicants, the primary criteria are average daily membership (for schools only), fiscal capacity, need, amount requested, and previous grant assistance.
- (4) The following formula has been devised to rank REAP grant applications by counties and school districts:  $T = ADM + LT + BI + MHI + FP + N + AR + PG + WA$ , Where:

- (A) T = Total of priority points
- (B) ADM = Average daily membership
- (C) Lt = Local tax levies
- (D) BI = Bonded indebtedness
- (E) MHI = Median household income of population within the school district or area of county to be served
- (F) FP = Applicant's ability to finance project
- (G) N = Need
- (H) AR = Amount of grant requested
- (I) PG = Previous grant assistance
- (J) WA = Workshop attended

(5) The criteria MHI, FP, N, AR and PG are the same as that set forth in (b) of this Section. The criteria ADM, LT and BI are explained as follows:

(A) **Average daily membership (ADM).** School districts with an average daily membership of less than 525 students ~~shall be given~~ will receive 55 priority points.

(B) **Local tax levies (LT).** Points awarded under this category for local tax levies are based on the total amount of mills levied, as follows:

- (i) If the mills are 95 to 100, the applicant ~~shall be given~~ receives 13 points.
- (ii) If the mills are 90 to 94.99, the applicant ~~shall be given~~ receives 11 points.
- (iii) If the mills are 85 to 89.99, the applicant ~~shall be given~~ receives 10 points.
- (iv) If the mills are 80 to 84.99, the applicant ~~shall be given~~ receives 8 points.
- (v) If the mills are 70 to 79.99, the applicant ~~shall be given~~ receives 6 points.
- (vi) If the mills are 60 to 69.99, the applicant ~~shall be given~~ receives 4 points.
- (vii) If the mills are 55 to 59.99, the applicant ~~shall be given~~ receives 2 points.
- (viii) If the mills are 50 to 54.99, the applicant ~~shall be given~~ receives 1 point.
- (ix) If the mills are 45 to 49.99, the applicant ~~shall be given~~ receives 0 points.
- (x) If the mills are 40 to 44.99, the applicant ~~shall be given~~ receives -1 point.
- (xi) If the mills are less than 40, the applicant ~~shall be given~~ receives -2 points.

(C) **Bonded indebtedness (BI).**

(i) Priority points for Bonded Indebtedness are as follows:

- (I) If the percentage is 95% to 100%, the applicant ~~shall be given~~ receives 10 points.
  - (II) If the percentage is 90% to 94.99%, the applicant ~~shall be given~~ receives 8 points.
  - (III) If the percentage is 80% to 89.99%, the applicant ~~shall be given~~ receives 7 points.
  - (IV) If the percentage is 75% to 79.99%, the applicant ~~shall be given~~ receives 6 points.
  - (V) If the percentage is 70% to 74.99%, the applicant ~~shall be given~~ receives 5 points.
  - (VI) If the percentage is 65% to 69.99%, the applicant ~~shall be given~~ receives 4 points.
  - (VII) If the percentage is 60% to 64.99%, the applicant ~~shall be given~~ receives 3 points.
  - (VIII) If the percentage is 55% to 59.99%, the applicant ~~shall be given~~ receives 2 points.
  - (IX) If the percentage is 50% to 54.99%, the applicant ~~shall be given~~ receives 1 point.
  - (X) If the percentage is 45% to 49.99%, the applicant ~~shall be given~~ receives 0 points.
  - (XI) If the percentage is 40% to 44.99%, the application ~~shall be given~~ receives -1 point.
  - (XII) If the percentage is 30% to 39.99%, the applicant ~~shall be given~~ receives -2 points.
  - (XIII) If the percentage is less than 30%, the applicant ~~shall be given~~ receives -3 points.
- (ii) A deduction of one (1) point from the indebtedness ranking total will be made for applicants with 75% of existing debts financed at rates of 5% or less, and one (1) point will be added if 75% of existing debts are financed at rates greater than 10%.

## SUBCHAPTER 9. CLEAN WATER STATE REVOLVING FUND REGULATIONS

### PART 3. GENERAL PROGRAM REQUIREMENTS

#### 785:50-9-23. Clean Water SRF Project Priority System

(a) **Preparation.** The Board shall prepare and maintain a current Clean Water SRF Project Priority Listing of potential eligible projects in the order of priority.

(b) **Projects included.**

(1) **Fundable portion.** The fundable portion includes projects scheduled for financial assistance during the current fiscal year, and which are within the limits of currently available funds.

(2) **Planning portion.** The planning portion includes that portion of the priority list containing all of those projects outside the fundable portion of the list, and which are anticipated to receive financial assistance in future fiscal years. The planning portion may also include contingency projects which are scheduled for assistance during the current fiscal year, but for



which adequate funds are not available to provide financial assistance. Contingency projects may receive assistance due to bypass provisions or due to additional funds becoming available.

(c) **Public participation.** Before the beginning of each fiscal year, the Board shall ensure that adequate public participation has taken place. A public meeting will be held to discuss the Clean Water SRF Project Priority List and any revisions that were made to the Clean Water SRF Project Priority System. The notice of public meeting shall precede the public meeting by 30 days and shall be published in a statewide publication. At this time, the Board shall circulate information about the Project Priority List including a description of each proposed project. Attendees of the public meeting will be allowed to express their views concerning the list and system.

(d) **Clean Water SRF Project Priority List.** A Clean Water SRF Project Priority List shall become effective and supersede all previous lists upon the beginning of the fiscal year for which it is designated. A Clean Water SRF Project Priority List, as updated during the funding year, shall remain effective until such time as it is superseded by a new list.

(e) **CWSRF Integrated Priority Rating System.** The Board will utilize an integrated priority ranking system to evaluate and rank proposed treatment works projects, ~~including treatment works, Brownfield activities, and stormwater activities;~~ based on the relative impact of the project in achieving the water quality objectives of the Clean Water Act. ~~This system consists of criteria integrating public health protection and Oklahoma's Water Quality Standards beneficial use maintenance and protection goals and Anti-degradation policy, including project type, water quality restoration, water quality protection, programmatic priorities, and readiness to proceed.~~

(1) **Project Type Factor.** The Project Type Factor provides a maximum of seventy (70) points for proposed water quality projects based on the following:

(A) ~~Treatment works or water quality projects designed to effectively eliminate or reduce a documented source of human health threat and/or discharge permit limit violation within a watershed of a waterbody being utilized as a public water supply shall receive seventy (70) points.~~

(B) ~~Treatment works or water quality projects designed to effectively eliminate or reduce a documented source of human health threat and/or discharge permit limit violation shall receive sixty (60) points.~~

(C) ~~Treatment works or water quality projects designed to sustain compliance with or provide a degree of treatment beyond permit limits; increase capacity, reliability, or efficiency; reclaim/reuse wastewater; reduce a documented water quality threat, or otherwise maintain beneficial uses shall receive thirty (30) points.~~

(D) ~~All other eligible treatment works or pollution control projects shall receive twenty (20) points.~~

(2)(1) **Water Quality Restoration Factor**Impacts. The Water Quality Restoration Factor provides a maximum of twenty (20) points for proposed projects located on waterbodies which are not meeting the beneficial uses assigned to them in Oklahoma's Water Quality Standards and which are listed on Oklahoma's 303(d) list as threatened or impaired. The water quality restoration factor will be subject to change whenever the 303(d) List is revised. Water quality projects meeting the following criteria shall receive additional priority points:awarded if the project is protecting or improving a waterbody.

(A) A project located in a watershed listed as a "NPS Priority Watershed" in Oklahoma's Nonpoint Source Management Program shall receive an additional ten (10) points.

(B) A project listed on Oklahoma's 303(d) list of threatened or impaired stream segments shall receive an additional five (5) points.

(C) A project that implements the recommendations of a conservation plan, site-specific water quality remediation plan, TMDL, storm water management program, water audit or modified 208 water quality management plan, which has been approved by an agency of competent jurisdiction, in a sub-watershed where discharge or runoff from nonpoint sources are identified as causing, or significantly contributing to water quality degradation shall receive an additional five (5) points.

(3) **Water Quality Protection Factor.** The Water Quality Protection Factor provides a maximum of ten (10) priority points to proposed water quality projects that provide maintenance of beneficial uses and protection for water bodies afforded special protection under OWQS. Projects shall receive ten (10) points for satisfying the following criteria:

(A) A water quality project located within the watershed of a stream segment or in a groundwater basin underlying a watershed of a stream segment (known as "Special Source" groundwater):

(i) listed in OWQS Appendix A. as an Outstanding Resources Water, High Quality Water, Sensitive Water Supply, Scenic River, Culturally Significant Water or Nutrient Limited Watershed;

(ii) listed in OWQS Appendix B. as "Areas with Waters of Recreational and/or Ecological Significance"; or

(iii) located in a delineated "source water protection area"; or

(B) A water quality project located in an area overlying a groundwater classified in OWQS with a vulnerability level of Very High, High, Moderate, or Nutrient Vulnerable.

(4)(2) **Programmatic Priority Factor.** The Programmatic Priority Factor provides a maximum of one hundred (100) priority bonus points to projects that address specific programmatic priorities set forth by the Environmental Protection Agency or Board and detailed in the Annual Intended Use Plan. points awarded for affordability criteria, conservation and enforcement/compliance as defined in the states current IUP.

(5)(3) **Readiness to Proceed Factor.** The Readiness to Proceed Factor provides a maximum of four hundred (400) points awarded depending on the documents submitted showing the relative "readiness to proceed" with a loan commitment among proposed projects.

~~(A) A project requesting to be considered for funding within the five-year planning period shall receive one hundred (100) points.~~

~~(B) In addition to a request for funding, a project for which preliminary planning documents have been submitted shall receive two hundred (200) points. Preliminary planning documents include a preliminary engineering report and a preliminary environmental information document, and must be submitted to the Board and to the Department or the Conservation Commission as appropriate.~~

~~(C) In addition to a request for funding and preliminary planning documents, a project for which a completed loan application has been submitted shall receive three hundred (300) points.~~

~~(D) In addition to a request for funding, preliminary planning documents, and a completed loan application, a project for which the appropriate technical plans and specifications necessary to implement the project have been approved by the Department or the Conservation Commission, as appropriate, shall receive four hundred (400) points.~~

**(f) Management of the Project Priority List.**

(1) **Tie breaking procedure.** A tie breaking procedure shall be utilized when two or more projects have equal points under the Project Priority System and are in competition for funds. Projects will be ranked according to existing population. According to the most recent federal decennial census or American Community Survey data available, the project with the greatest existing population will receive the higher ranking.

(2) **Project bypass.** A project on the fundable portion of the list may be bypassed if it is determined that the project will not be ready to proceed during the funding year. This determination will be made on projects that are unable to meet the schedule established on the priority list. The applicant whose project is affected shall be given written notices that the project is to be bypassed. Projects that have been bypassed may be reinstated on the funded portion of the list if sufficient funds are available, and the project completes the necessary tasks to proceed. Funds which become available due to the utilization of these bypass procedures will be treated in the same manner as additional allotments.

(3) **Project Priority List update.** The priority list is continually reviewed and changes (i.e., loan award dates, estimated construction assistance amounts, project bypass, addition of new projects, etc.) may occur as necessary.

(4) **Additional allotments.** After defining the fundable portion of the Clean Water SRF Project Priority List, the Board may determine that it is necessary or desirable to obligate additional funds that are available and the list may be extended to include the next highest ranked project or projects on the planning portion of the list. Any sum made available to a state by reallocation or deobligation shall be treated in the same manner as the most recent allotment.

(5) **Project removal.** The Board may remove a project from the Clean Water SRF Project Priority List when the project has been funded, the project is found to be ineligible, it is indicated that the applicant does not intend to continue in the Clean Water State Revolving Loan Program, or the Board has determined that the applicant does not have financial, legal, or managerial capability to construct the project.

(6) **Amount of financial assistance.** The amount of financial assistance shall be the sum of the total eligible costs related to construction. The amount is contingent upon the availability of funds for this purpose. During each funding year, loans totaling twenty-five (25) percent of the funds available from the capitalization grant and state match for that year shall be provided to those eligible small municipalities with a population of 10,000 or less. However, if the state has not met the federal requirement of making binding commitments in an amount equal to one hundred and twenty (120) percent of each quarterly grant payment within one year of receipt of each quarterly payment, other eligible applicants may apply for a loan or an increase to an existing loan to utilize the small community set aside, if such actions will permit the state to comply with the federal binding commitment requirement.

**(7) Addition of new projects to the Clean Water SRF Project Priority List.**

(A) **General.** Prior to the placement of any new projects on the Clean Water SRF Project Priority List, the applicant must submit a request for such placement to the Board. The Programmatic Application must specify that the applicant intends to apply for financial assistance from the Clean Water SRF. The Board will evaluate the Programmatic Application. If it is indicated that a viable project could result which would be in conformance with Clean Water SRF requirements, the potential project will be added to the Clean Water SRF Priority List.

(B) **Brownfield Activities.** Requests received for Brownfield activity projects must satisfy the following requirements before they will be placed on the Clean Water SRF fundable portion of the project priority list:

- (i) Submit a certification from the Department that the project is a Brownfield project;
- (ii) Submit a certification from the Department that urban runoff from the project site potentially impacts water quality; and
- (iii) Submit project documents which determine the water quality benefits of the proposed project.

(C) **Nonpoint source and Watershed Management activities.** Requests received for nonpoint source and watershed management projects must satisfy the requirements of 82 O.S. §1085.58(G), as amended, before they will be placed on the Clean Water SRF fundable portion of the project priority list.

(8) **Categories of need.** All projects receiving financial assistance must fit into at least one of the categories of need listed in 785:50-9-21(a).

(A) A project may include all eligible categories of need.

(B) If a point source project consists of more than one category including a nonpoint source project, its project ranking calculation will be based on that category which will result in the greatest priority points.

(9) **Change of scope.** A change of scope, such as the addition of new construction items, will not be eligible after loan closing unless:

- (A) The change of scope is necessary to result in an operable treatment works due to an oversight and not to replace faulty construction or equipment already funded, or
- (B) The change of scope is necessary due to changes in Federal or State requirements.

## **SUBCHAPTER 20. SAFEGUARDING TOMORROW REVOLVING LOAN PROGRAM REGULATIONS**

### **785:50-20-1. General program description and procedures**

#### **(a) Safeguarding Tomorrow Revolving Loan Program Description.**

(1) Pursuant to 82 O.S., §§1085.91 through 1085.96, an additional financial assistance program was created to be administered by the Board and Oklahoma Department of Emergency Management (Department) to implement provisions of the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(2) Under Oklahoma's program, the Department is to generally carry out the role of prioritizing hazard mitigation projects and conducting technical analysis and review of eligible entities and hazard mitigation projects. The Board is to generally carry out the role of conducting financial evaluations and analyses of eligible entities, reviewing documents for loan closings, and managing and administering monies in the Hazard Mitigation Financial Assistance Program Fund to make monies available for financial assistance.

(3) The Safeguarding Tomorrow Revolving Loan Program shall be administered as a separate program from the Board's previously existing Financial Assistance Programs. The rules in this Subchapter are intended to recognize the distinction between the programs where necessary.

(b) **General procedures.** The general procedures to be followed in the hazard mitigation project review and financial assistance application process for financial review under the program authorized in 82 O.S., §§1085.91 through 1085.96 shall be as follows:

(1) The applicant shall follow the procedures, rules and regulations administered by the Oklahoma Department of Emergency Management, which shall include placement on the priority list of a eligible entities projects established by the Department and the filing of an application with the Board for hazard mitigation project review and financial assistance.

(2) The Board shall make an initial determination of whether an entity meets the legal and managerial criteria to receive funding.

(3) The Board shall prepare an initial financial review of the entity based on documents provided to the Board and proposed loan amount and interest rate for which the entity qualifies. Consultations among Board staff, the Department, and the applicant's representatives may be held where deemed appropriate and beneficial.

(4) The Board staff shall consider the initial financial review and application. It shall then forward its preliminary recommendation for approval or rejection of the loan application to the applicant, based on applicable criteria set forth in 785:50-20-2.

(A) If the recommendation is for rejection, the Board shall provide a written recommendation including the reasons for rejection. The entity may then be allowed to modify or supplement any documents in order to comply with the Board requirements and resubmit the same to the Board.

(B) If the Board recommends approval, it shall notify the applicant and the Department.

(5) After initial financial review approval by the Board, the Board shall follow its established procedures and rules to conduct an in-depth financial review and evaluation of the hazard mitigation project to determine whether it complies with applicable state and federal laws.

(6) After a secondary application and necessary documents are submitted to the Board, the matter will be reviewed by staff who may request additional information from the applicant or the Department and have further conferences as deemed necessary and beneficial to complete the financial review. The matter will then be placed on the Board's agenda for consideration. The Board may approve the application, reject the application, or request additional information.

(7) If the application and loan receives final approval, the Board, Department and applicant will coordinate the setting of the date, time and place for the closing of the loan.

(8) At the loan closing, the Department shall have authority to grant approval for disbursement of loan proceeds and to present the same.

(9) The Board shall administer the loans until paid by the recipient and a final accounting is completed.

### **785:50-20-2. General approval standards and criteria**

(a) In the review and consideration for financial assistance under the Safeguarding Tomorrow Revolving Loan Program, the Board shall give consideration to the following general and non-exclusive criteria for application approval:

(1) **Compliance with laws.** The application and proposed hazard mitigation project must be found to be in compliance with all applicable and relevant federal, state and local laws and regulations, and applicant must possess all necessary and incidental legal rights and privileges necessary for project commencement and operation.

(2) **Eligibility.** The applicant and proposed hazard mitigation project must be determined to be eligible for the assistance sought.

(3) **Economic feasibility.** The Board shall consider the overall apparent economic viability and feasibility of the hazard mitigation project as a whole including all revenues from the applicant and the adequacy and reliability of estimated revenues and other repayment sources necessary for loan repayment when indicated.

(4) **Availability of funds.** The Board shall take into consideration the current and anticipated availability of assistance funds needed to provide the financial assistance requested.

(b) The Board may deny an application for a loan from the Safeguarding Tomorrow Revolving Loan Program for any of the following reasons:

(1) The applicant or the entity which stands to receive the benefit of the financial assistance is not an eligible entity.

(2) The applicant does not have a demonstrated history of sound management.

(3) The applicant's financial condition is not sound enough to assure the Board that the loan would be satisfactorily repaid (including but not limited to circumstances such as inability to meet debt service, inability to meet any applicable rate covenant or additional indebtedness requirements, a substantial increase in operation and maintenance costs due to the proposed project, substantial revenue collection problems, substantial negative financial trends, a default or record of late payment(s) on previous indebtedness, etc.).

(4) The economic conditions pertinent for the applicant show negative trends (including but not limited to conditions such as substantial declines in sales tax revenues, population, per capita income, building permits, or water and/or sewer connections; a substantial increase in unemployment; or detrimental changes in the bases of ten largest customers or ten largest taxpayers).

(5) Any other reason based upon applicable law or the Board's judgment and discretion.

### **785:50-20-3. Terms and conditions**

#### **(a) General limitations and conditions.**

(1) Under the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act and 82 O.S. Section 1085.93, the Board is authorized to use the Safeguarding Tomorrow Revolving Loan Account for the following purposes:

(A) To make a loan to an eligible entity if:

(i) The hazard mitigation project and planning documents have been approved by the Department,

(ii) The loan is made at or below market interest rates, including interest-free loans, at terms consistent with the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act,

(iii) Principal and interest payments will begin not later than one year after completion of any hazard mitigation project, which completion date shall be determined by the Department, and all loans will be fully amortized consistent with the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act,

(iv) The Safeguarding Tomorrow Revolving Loan Fund will be credited with all payments of principal and interest on all loans,

(v) The applicant demonstrates to the satisfaction of the Board the financial, legal and managerial capability to assure sufficient revenues to pay debt service,

(vi) The recipient of the loan establishes a dedicated source of revenue or other repayment source for payment of debt service for the loan,

(vii) The recipient agrees to maintain financial records in accordance with governmental accounting standards, to conduct an annual audit of the financial records relating to the hazard mitigation project and to submit the audit report to the Board on a scheduled annual basis, and

(viii) The project is identified in the Department's current Intended Use Plan.

(B) As a source of revenue or security for the payment of principal of and interest on any investment certificate issued by the Board. The proceeds of the sale of such investment certificates shall be deposited in the Safeguarding Tomorrow Revolving Loan Fund in compliance with applicable bond resolutions or indentures authorizing the sale;

(C) To earn interest on accounts established under the Safeguarding Tomorrow Revolving Loan Fund;

(D) To administer the Safeguarding Tomorrow Revolving Loan Fund pursuant to the provisions of 82 O.S. §§1085.91 et seq.; and

(E) For such other purposes or in such other manner, as is determined by the Board to be an appropriate use of the Safeguarding Tomorrow Revolving Loan Fund and which has been specifically approved by the Federal Emergency Management Agency pursuant to the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(2) Financial assistance shall not be made from the Safeguarding Tomorrow Revolving Loan Fund until the conditions in (1) of this subsection are met.

(b) **Evidence of indebtedness.** The financial assistance loans contemplated within this subchapter shall be provided by the Board for approved hazard mitigation projects pursuant to such notes, bonds, revenue bonds or other appropriate form of evidence of indebtedness from the applicant as the Board may require.

#### **(c) Criteria for determining interest rates.**

(1) The interest rates on loans to be made from the Safeguarding Tomorrow Revolving Loan Fund shall be in accordance with federal requirements or at or below market rates for similar indebtedness by eligible entities and may vary among

classes or categories of eligible entities based on a joint agreement entered into by and between the Board and Department.

(2) Such criteria of the joint agreement may incorporate applicable United States Federal Emergency Management Agency or successor agency guidelines for financial assistance.

(d) **Loan repayments.** Payment on loans shall be made to the Board as provided in the loan documents.

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**785:50-20-4. Disbursement of funds and conditions for disbursement**

**Disbursement of funds and conditions for disbursement** After an application for financial assistance under the program authorized by Sections 1085.91 through 96 of Title 82 of the Oklahoma Statutes has been approved by the Board, the following conditions and requirements shall be met prior to the releases and disbursement of any financial assistance funds:

\_\_\_\_\_ (1) Final approval of disbursement of financial assistance proceeds is granted or waived by the Department.

\_\_\_\_\_ (2) Applicant and Board, and all other necessary parties, shall have executed all necessary and incidental instruments and documents for loan closing, including but not limited to all \_\_\_\_\_ mortgages, notes, financing statements and pledges of project security and revenues where appropriate.

\_\_\_\_\_ (3) Recipient sends disbursement requests to Department, Department approves disbursement requests and forwards same to Board.