

18 AAC 76.010(d)(11) is amended to read:

(11) reasonable landscaping costs; [AND]

18 AAC 76.010(d)(12) is amended to read:

(12) **leasing or purchase of land or surface and subsurface easements for project-related purposes, including for** [LAND ACQUISITION FOR THAT PORTION OF THE FACILITY USED]

(A) **storing equipment and materials during construction** [TO DISPOSE OF TREATED SEWAGE OF SOLID WASTE; OR]

(B) **locating eligible treatment, distribution, or collection projects;**
and [AS AN INTEGRAL PART OF THE TREATMENT PROCESS]

(C) **effluent application or recharge basins; and**

18 AAC 76.010(d) is amended by adding a new paragraph to read:

(13) other eligible projects or components of a project as provided under 33 U.S.C. 603(c)(1-11) if the project applicant is determined by the department to be eligible for funding under 33 U.S.C. 603(c)(1)-(11). (Eff. 11/19/88, Register 108; am 8/2/97, Register 143; am __/__/__, Register __)

Authority: AS 46.03.020 AS 46.03.032

18 AAC 76.030(a) is amended to read:

(a) The department will review and approve an application for financial assistance from the Alaska clean water fund according to criteria set out in 18 AAC 76.005 - 18 AAC 76.100. To apply for financial assistance, an applicant shall submit

(1) a completed application on forms provided by the department;

(2) a resolution adopted by the applicant's governing body that authorizes the application and acceptance of the assistance;

(3) certification from the applicant's attorney that the applicant has the legal authority to incur the debt that will be created by the financial assistance sought;

(4) unless the department does not consider a project facility plan necessary in order to evaluate the project adequately, a project facility plan for a wastewater treatment facility, prepared and signed by a registered engineer that demonstrates that

(A) for a project subject to 33 U.S.C. 1383(c)(1),

(i) the project will apply best practicable waste treatment technology as defined at 40 C.F.R. 35.2005(b)(7), as amended through June 25, 1997;

(ii) more than one technology was considered in selecting the project design concept;

(iii) opportunities to construct revenue-producing facilities and to make more efficient uses of energy and resources were considered;

(iv) any related wastewater collection system is not subject to excessive infiltration or inflow;

(v) innovative and alternative treatment technologies were evaluated;

(vi) potential recreational and open space opportunities were analyzed;

(vii) the selected treatment **option** [PROJECT] is the most cost-effective, feasible alternative studied; and

(viii) the proposed project will not have a significant negative environmental impact, as determined by the department, using criteria and standards set out in 18 AAC 76.040; or

(B) for a project that is not subject to 33 U.S.C. 1383(c)(1),

(i) the selected treatment **option** [PROJECT] is the most cost-effective, feasible alternative studied; and

(ii) the proposed project will not have a significant negative environmental impact, using criteria and standards set out in 18 AAC 76.040;

(5) before proceeding with final design or construction, certification in a form provided by the department that the applicant

(A) has studied and evaluated the cost and effectiveness of the processes, materials, techniques, and technologies for carrying out the proposed project or activity for which assistance is sought under this title; and

(B) has selected, to the maximum extent practicable, a project or activity that maximizes the potential for efficient water use, reuse, recapture, and conservation, and energy conservation, taking into account;

(i) the cost of constructing the project or activity;

(ii) the cost of operating and maintaining the project or activity over the life of the project or activity; and

(iii) the cost of replacing the project or activity; or

(C) may alternatively seek to satisfy the information required by the department in accordance with the provisions under (a)(4) of this section, if the department determines it is appropriate;

(6) [5] documentation of the availability of, and the commitment to use, one or more dedicated sources of revenue for repayment of the financial assistance;

(7) [6] certification that a separate account within the applicant's accounting system has been established through which financial assistance received from the Alaska clean water fund will be administered;

(8) [7] a value-engineering study if total building costs will exceed \$10 million, unless the department waives this requirement;

(9) [8] a financial capability assessment for the proposed project, on a form provided by the department, that demonstrates the applicant's ability to repay the financial assistance as required in 18 AAC 76.050 and to operate and maintain the facility;

(10) [9] plans and specifications for the project, prepared and signed by a registered engineer, with a summary of design criteria;

(11) for a publicly owned treatment works proposed for repair, replacement, or expansion and that is eligible for assistance under 33 U.S.C. 1383(c)(1), a fiscal sustainability plan by no later than the time of submission of the final disbursement request, which plan :

(A) must include

(i) an inventory of critical assets that are a part of the treatment works;

(ii) an evaluation of the condition and performance of inventoried assets or asset groupings;

(iii) a certification that the recipient has evaluated and will be implementing water and energy conservation efforts as part of the plan; and

(iv) a plan for maintaining, repairing, and, as necessary, replacing the treatment works, including how such activities will be funded; and

(B) shall be subject to the department's certification that the plan meets the requirements of sub-paragraph (A) of this paragraph;

(12) [10] any other information that the applicant believes will help demonstrate eligibility for financial assistance; and

(13) any other information requested by the department. (Eff. 11/19/88, Register 108; am 8/2/97, Register 143; am 12/29/2000, Register 156; am __/__/__, Register __)

Authority: AS 46.03.020 AS 46.03.090 AS 46.03.720
AS 46.03.032

18 AAC 76.060(a)(7) is amended to read:

(7) use accounting, audit, and fiscal procedures that conform to generally accepted accounting principles, **including standards relating to the reporting of infrastructure assets;** (Eff. 11/19/88, Register 108; am 8/2/97, Register 143; am 12/29/2000, Register 156; am 9/27/2009, Register 191; am __/__/__, Register __)

Authority: AS 46.03.020 AS 46.03.090 AS 46.03.720
AS 46.03.032

18 AAC 76.080(a) is amended to read:

(a) Except as provided in 18 AAC 76.035 for a loan subsidy, the amortization schedule for financial assistance from the Alaska clean water fund will be negotiated between the borrower and the department. The department will not negotiate an amortization schedule that either exceeds **30** [20] years **or the projected useful life of the project, as determined by the department.** The department will apply amortization repayments first toward any penalties owed, second toward the fees owed, third toward the interest, and fourth toward the principal.

18 AAC 76.080(b) is amended to read:

(b) When the department makes an offer of financial assistance, the department will establish a fixed finance charge that includes both the fee specified in 18 AAC 76.085(a) and interest. The finance charge will be assessed on financial assistance as follows:

(1) for a contract term over 20 years and up to 30 years, accrual of finance charges begins one year after the date of the first payment to the borrower; the department will assess a finance charge at a rate of two percent and any added additional percentage rate that is 75 percent of The Bond Buyer's Municipal Bond Index's Current Day – Yield to Maturity that is greater than four percent as published on the date of the department signature on the financial assistance agreement;

(2) [1] for a contract term of five to 20 years, accrual of finance charges begins one year after the date of the first payment to the borrower; the department will assess a finance

charge at a rate of one and one-half percent and any added additional percentage rate that is 62.5 percent of The Bond Buyer's Municipal Bond Index's Current Day – Yield to Maturity that is greater than four percent as published on the date of the department signature on the financial assistance agreement;

(3) [2] for a contract term of less than five years, accrual of finance charges begins one year after the date of the first payment to the borrower; the department will assess a finance charge of one percent and any added additional percentage rate that is 50 percent of The Bond Buyer's Municipal Bond Index's Current Day – Yield to Maturity that is greater than four percent as published on the date of the department signature on the financial assistance agreement;

(4) [3] for financial assistance that is repaid within one year after the first payment to the borrower, the department will assess a finance charge equal to one-half of the one percent of the total amount of financial assistance disbursed.

(5) under (1), (2) and (3) of this section, calculation of the finance rate can be determined using the formulas set out in Table A.

TABLE A
FINANCE RATES
(in percent)

<u>Loan Term</u>	<u>Finance Rate for any Bond Rate Less than 4</u>	<u>Finance Rate for Bond Rate Greater than 4</u>
<u>20 – 30 Years</u>	<u>2</u>	<u>$2 + (0.75 \times (\text{Bond Rate} - 4))$</u>
<u>5 – 20 Years</u>	<u>1.5</u>	<u>$1.5 + (0.625 \times (\text{Bond Rate} - 4))$</u>
<u>0 – 5 Years</u>	<u>1</u>	<u>$1 + (0.5 \times (\text{Bond Rate} - 4))$</u>

(Eff. 11/19/88, Register 108; am 8/2/97, Register 143; am 12/29/2000, Register 156; am 3/14/2002, Register 161; am 4/28/2005, 5/28/2008, Register 186 Register 174; am 9/27/09, Register 191; am __/__/__, Register __)

Authority: AS 46.03.020 AS 46.03.032 AS 46.03.035

18 AAC 76.255(a) is amended to read:

(a) Except as provided in 18 AAC 76.230 for a disadvantaged system, the amortization schedule for financial assistance from the Alaska drinking water fund will be negotiated between the borrower and the department. The department will not negotiate an amortization schedule that exceeds 30[20] years. Repayment of financial assistance must begin within one year after the date of initiation of operation of the facility, or within one year after the date of a refinancing under 18 AAC 76.205(a)(2). The department will apply amortization repayments first toward any penalties owed, second toward any fees owed, third toward the interest, and fourth toward the principal.

18 AAC 76.255(b) is amended to read:

(b) When the department makes an offer of financial assistance, the department will establish a fixed finance charge that includes the fee specified in 18 AAC 76.257(a), interest, and any adjustment described in 18 AAC 76.252(a) or (c)₂[.] as appropriate, the finance charge to be assessed as follows:

(1) for a contract term over 20 years and up to 30 years, accrual of finance charges begins one year after the date of the first payment to the borrower; the department will assess a finance charge at a rate of two percent and any added additional percentage rate that is 75 percent of The Bond Buyer's Municipal Bond Index's Current Day – Yield

to Maturity that is greater than four percent as published on the date of the department signature on the financial assistance agreement;

(2) [1] for a contract term of five to 20 years, accrual of finance charges begins one year after the date of the first payment to the borrower; the department will assess a finance charge at a rate of one and one-half percent **and any added additional percentage rate that is 62.5 percent of The Bond Buyer's Municipal Bond Index's Current Day – Yield to Maturity that is greater than four percent as published on the date of the department signature on the financial assistance agreement** [, OR 18.75 PERCENT OF THE CURRENT BOND RATE AS DEFINED BY THE MUNICIPAL BOND INDEX, WHICHEVER IS HIGHER];

(3) [2] for a contract term of less than five years, accrual of finance charges begins one year after the date of the first payment to the borrower; the department will assess a finance charge of one percent **and any added additional percentage rate that is 50 percent of The Bond Buyer's Municipal Bond Index's Current Day – Yield to Maturity that is greater than four percent as published on the date of the department signature on the financial assistance agreement** [, OR 12 1/2 PERCENT OF THE CURRENT BOND RATE AS DEFINED BY THE MUNICIPAL BOND INDEX, WHICHEVER IS HIGHER];

(4) [3] for financial assistance that is repaid within one years after the first payment to the borrower, the department will assess a finance charge equal to one-half of one percent of the total amount of financial assistance disbursed.

(Eff. 8/2/97, Register 143; am 12/29/2000, Register 156; am 3/14/2002, Register 161; am __/__/__, Register __)

(5) under (1), (2) and (3) of this section, calculation of the finance rate can be determined using the formulas set out in Table B.

TABLE B
FINANCE RATES
(in percent)

<u>Loan Term</u>	<u>Finance Rate for any Bond Rate Less than 4</u>	<u>Finance Rate for Bond Rate Greater than 4</u>
<u>20 – 30 Years</u>	<u>2</u>	<u>2 + (0.75 x (Bond Rate – 4))</u>
<u>5 – 20 Years</u>	<u>1.5</u>	<u>1.5 + (0.625 x (Bond Rate - 4))</u>
<u>0 – 5 Years</u>	<u>1</u>	<u>1 + (0.5 x (Bond Rate – 4))</u>

Authority: AS 46.03.020

AS 46.03.036

AS 46.03.720

18 AAC 76.990(7) is amended to read:

(8) “director” means the director of the department’s division **in which the Alaska Clean Water Fund and the Alaska Drinking Water Fund Programs reside** [OF FACILITY CONSTRUCTION AND OPERATION];

18 AAC 76.990(20) is amended to read:

(20) repealed __/__/__ ["MUNICIPAL BOND INDEX" MEANS THE MERRILL LYNCH 500 MUNICIPAL BOND INDEX, GENERAL OBLIGATIONS, SUB-INDEX, STATES, AS PUBLISHED WEEKLY IN THE *WALL STREET JOURNAL*;]

18 AAC 76.990 is amended by adding a new definition to read:

(45) “The Bond Buyer’s Municipal Bond Index’s Current Day – Yield to Maturity”

means the daily price for 40 long-term municipal bonds as published in the Bond Buyer

Municipal Bond Index, or a similar index of tax exempt municipal securities if no longer

available. (Eff. 8/2/97, Register 143; am 12/29/2000, Register 156; am 3/14/2002, Register 161;

am __/__/__, Register __)

Authority: AS 46.03.020 AS 46.03.036 AS 46.03.720

AS 46.03.032 AS 46.03.090