

**TITLE 785. OKLAHOMA WATER RESOURCES BOARD
CHAPTER 50. FINANCIAL ASSISTANCE**

SUBCHAPTER 1. GENERAL PROVISIONS

785:50-1-4. Application of rules [AMENDED]

Due to the very specialized nature of the financial assistance program the rules provided in this Chapter shall in all instances be subject to and given a liberal, reasonable, fair and impartial construction, interpretation and application to the end that the intent and purposes hereof may be obtained in compliance with the laws of the State of Oklahoma and the public purposes sought to be served thereby. If an emergency is declared by the federal or state government, Board Staff may waive some requirements as allowed under federal law, state law, and/or EPA regulations for applicants affected by the declared emergency.

SUBCHAPTER 5. APPLICATIONS FOR FINANCIAL ASSISTANCE

785:50-5-1. Application form and required information [AMENDED]

(a) **Application form.**

(1) Printed financial assistance application forms for the Water and Sewer program shall be, to the extent deemed appropriate, furnished by the Board.

(2) Printed financial assistance application forms for the CWSRF program authorized in 82 O.S., §§1085.51 through 1085.65 shall be developed by the Board and furnished to applicants to be completed by the applicants and submitted to the Board.

(3) Printed financial assistance application forms for the DW SRF program authorized in 82 O.S. §§1085.71 through 1085.84 shall be developed by the Board and furnished to Department and applicants to be completed by the applicants and submitted to the Board.

(4) Printed financial assistance application forms for the Rural Economic Action Plan grant program shall be developed by the Board and furnished to qualified entities and COGs to be completed by the qualified entities or COGs and submitted to the Board.

(5) All applications for financial assistance must be completed by the applicant either on written forms as may be provided by the Board or in such other written form as the Board may require.

(b) **Required general information.** The following general information must be submitted by applicant within each application for financial assistance unless deemed inapplicable and waived by the Board Staff:

(1) Applicant's full, true and correct legal name, official residence and mailing address if different from official residence.

(2) Authority of law under which applicant was created and established and applicant's independent legal authority under which application is made. Applicant must identify and describe the nature of its legal identification as a political subdivision, special purpose district or public trust.

(3) Applicant must provide certified copy of the resolution or other specific authorizing instrument reflecting applicant's authorization for making the subject application to the Board.

(4) Name and address of applicant's project engineer.

- (5) Total amount of funds requested by applicant for project assistance from the Board including a statement of the specific uses and purposes for which such funds are intended to be applied.
- (6) Applicant's anticipated project commencement and completion date.
- (7) Applicant's firm estimate of annual (or other interval) revenues to be derived from the project or other available sources or revenue to be pledged by applicant to the Board for loan repayment and such additional project revenue information as may be necessary to evaluate general economic feasibility of the project.
- (8) Information regarding the ability of the applicant to finance project development for which assistance is sought without Board participation.
- (9) A statement of the manner and means by which applicant intends to finance the entire project including a statement when appropriate of the specific manner and means by which applicant proposes to make repayment to the Board from project revenues.
- (10) Information reflecting whether applicant has any type of reserve or contingency funds available which could and would be used to meet actual project costs which may exceed applicant's original total estimated costs of the project (reserve or contingency fund for cost overrun). Such information should include the nature, source, amount and liquidity of such reserve or contingency funds and applicant's commitment and ability to utilize such funds when and if necessary for such purposes.
- (11) A certified copy of applicant's previous four (4) years' annual audits, if available, and a statement of applicant's financial condition including a current statement of all outstanding indebtedness of applicant or related entities, including but not limited to all outstanding general obligation or revenue debt which such indebtedness might affect applicant's overall financial condition. In this connection, applicant must list the security given for all such indebtedness.
- (12) A brief but adequate description of the proposed project for which application is made, including but not limited to the following:
 - (A) Project location.
 - (B) Nature of project, including a detailed project description with such tentative project plans and specifications as may be necessary to reflect general engineering feasibility of the project.
 - (C) Comprehensive statement clearly demonstrating project need ~~and the degree and extent of local support for the project.~~
 - (i) Such statement must be in sufficient detail to support and justify the project and should describe ~~all aspects of present local support and approval for the project.~~
 - (ii) Applicant may include letters or statement of support from any interested persons or agencies.
 - (D) Anticipated total project cost.
 - (E) Listing of all financing institutions, lender, or other funding sources participating in financing the project, with, where applicable, the following related information:
 - (i) Statement by each participating entity reflecting the relative interest, support and commitment of the participating lender or other funding source in and to the project.
 - (ii) Statement reflecting total project cost allocation between lenders or

other funding sources, and,

(iii) A statement and description of all project security or project revenues already pledged or to be pledged to other participating lenders or fund sources.

(13) Nature and amount of security to be pledged to the Board for the financial assistance requested.

(14) If real or personal property, or any interest therein, is to be pledged by applicant to the Board for security, applicant must submit a current statement of the nature and extent of all outstanding liabilities or indebtedness against such property. If applicant is not the owner of such real or personal property to be pledged, applicant must state and describe the nature and extent of applicant's legal or equitable interest in such property, and, provide a statement setting forth who or what entity owns such property with a statement of all outstanding liabilities or indebtedness against such property.

(15) Description of nature and division of contemplated project ownership or other legal or equitable interest in the project if other than complete ownership by applicant.

(16) A statement reflecting the relevant history or current status of applicant's efforts toward obtaining all necessary and incidental rights and privileges needed for project commencement, completion and cooperation. This requirement includes but ~~is~~ is not limited to all necessary legal rights including water rights, licenses or permits, whether existing under federal, state or local law or regulation, the relative status of secured or outstanding contracting arrangements, and the status of any incidental legal proceedings including, but not limited to any authorizations required by residents of the applicant.

(17) All applicants should submit, if not otherwise submitted, a comprehensive statement of project overview setting forth group effort in the project, debt, revenue and commitments the project and applicant's future capital improvement plans as may relate to the applicant's proposed project or the applicant generally.

(18) Where applicable to the particular project for which financial assistance is sought, the following additional information must be submitted with the application:

(A) All estimated firm annual yields and proposed reservoir capacities for storage if assistance is sought for reservoir or storage facilities construction or if assistance is sought for a project incidental to an existing storage facility or reservoir.

(B) A statement containing the proposed purposes for which water will be stored or used and places of use or potential use for such water.

(C) A statement of relative allocation of project costs to each project purpose if for more than one purpose.

(D) A brief description of existing or proposed improvements in the project area and a description of all such improvements which may require relocation.

(19) The Board may require applicant to submit such further or additional project information as may be deemed necessary for proper project review under the particular facts and circumstances of any specific project financial assistance proposal.

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

785:50-6-1. Approval criteria [AMENDED]

- (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. ~~The Board shall also consider the extent and degree of local support, interest and commitment in and to the proposed project.~~
 - (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 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 [AMENDED]

(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: $P = E + WR + I + L + MHI + FP + AR + BP - AN$, where:

- (A) P = Priority ranking
- (B) E = Emergency ranking
- (C) WR = Water and sewer rate ~~structure~~
- (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 3~~ Category 2 being the least severe. Points awarded range from a maximum of 50 points for Category 1 and a minimum of ~~30~~ 40 points for ~~Category 3~~ 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 ~~three (3)~~ 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.

~~(iii) — **Category 3.** Water system improvements needed to meet the average and/or maximum daily demands of a system's customers caused by a large increase in the number of customers. The increase could result from annexation or the sale of treated water to another entity(ies) based on an engineering study that indicates purchasing to be the most cost effective alternative. Also included under this category is the construction of a new or extended water or sewer system to serve areas where residents are without sewer system service or without water. 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 3 emergencies receive 30 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 10 points.
- (II) If the cost per 5000 gallons is \$45.00 to \$49.99, the applicant shall be given 9 points.
- (III) If the cost per 5000 gallons is \$40.00 to \$44.99, the applicant shall be given 8 points.
- (IV) If the cost per 5000 gallons is \$35.00 to \$39.99, the applicant shall be given 7 points.

(V) If the cost per 5000 gallons is \$30.00 to \$34.99, the applicant shall be given 6 points.

(VI) If the cost per 5000 gallons is \$25.00 to \$29.99, the applicant shall be given 5 points.

(VII) If the cost per 5000 gallons is \$23.00 to \$24.99, the applicant shall be given 4 points.

(VIII) If the cost per 5000 gallons is \$21.00 to \$22.99, the applicant shall be given 3 points.

(IX) If the cost per 5000 gallons is \$19.00 to \$20.99, the applicant shall be given 2 points.

(X) If the cost per 5000 gallons is \$18.00 to \$18.99, the applicant shall be given 1 point.

(xi) If the cost per 5000 gallons is less than \$18.00, the applicant shall be given 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 10 points.

(II) If the cost per 5000 gallons is \$53.00 to \$55.99, the applicant shall be given 9 points.

(III) If the cost per 5000 gallons is \$49.00 to \$52.99, the applicant shall be given 8 points.

(IV) If the cost per 5000 gallons \$45.00 to \$48.99, the applicant shall be given 7 points.

(V) If the cost per 5000 gallons is \$41.00 to \$44.99, the applicant shall be given 6 points.

(VI) If the cost per 5000 is \$37.00 to \$40.99, the applicant shall be given 5 points.

(VII) If the cost per 5000 gallons is \$34.00 to \$36.99, the applicant shall be given 4 points.

(VIII) If the cost per 5000 gallons is \$32.00 to \$33.99, the applicant shall be given 3 points.

(IX) If the cost per 5000 gallons is \$31.00 to \$31.99, the applicant shall be given 2 points.

(X) If the cost per 5000 gallons is \$30.00 to \$30.99, the applicant shall be given 1 point.

(XI) If the cost per 5000 gallons is less than \$30.00, the applicant shall be given 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 10 points.

(II) If the cost of connection per month is \$32.00 to \$33.99, the applicant shall be given 9 points.

(III) If the cost of connection per month is \$30.00 to \$31.99, the applicant shall be given 8 points.

(IV) If the cost of connection per month is \$28.00 to \$29.99, the applicant shall be given 7 points.

(V) If the cost of connection per month is \$26.00 to \$27.99, the applicant shall be given 6 points.

(VI) If the cost of connection per month is \$24.00 to \$25.99, the applicant shall be given 5 points.

(VII) If the cost of connection per month is \$22.00 to \$23.99, the applicant shall be given 4 points.

(VIII) If the cost of connection per month is \$20.00 to \$21.99, the applicant shall be given 3 points.

(IX) If the cost of connection per month is \$18.00 to \$19.99, the applicant shall be given 2 points.

(X) If the cost of connection per month is \$16.00 to \$17.99, the applicant shall be given 1 point.

(XI) If the cost of connection per month is less than \$16.00, the applicant shall be given 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).** 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 10 points.

(ii) If the indebtedness per customer is \$17.50 to \$19.99, the applicant shall be given 9 points

(iii) If the indebtedness per customer is \$16.00 to \$17.49, the applicant shall be given 8 points.

(iv) If the indebtedness per customer is \$14.50 to \$15.99, the applicant shall be given 7 points.

(v) If the indebtedness per customer is \$13.00 to \$14.49, the applicant shall be given 6 points.

(vi) If the indebtedness per customer is \$11.50 to \$12.99, the applicant shall be given 5 points.

(vii) If the indebtedness per customer is \$10.00 to \$11.49, the applicant shall be given 4 points.

(viii) If the indebtedness per customer is \$8.50 to \$9.99, the applicant shall be given 3 points.

(ix) If the indebtedness per customer is \$7.00 to \$8.49, the applicant

shall be given 2 points.

(x) If the indebtedness per customer is \$5.50 to \$6.99, the applicant shall be given 1 point.

(xi) If the indebtedness per customer is less than \$5.50, the applicant shall be given 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 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 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 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 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 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 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 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 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 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 10 points.

(II) If the median household income is \$17,000 to \$20,999, the applicant shall be given 9 points.

- (III) If the median household income is \$21,000 to \$23,999, the applicant shall be given 8 points.
- (IV) If the median household income is \$24,000 to \$28,999, the applicant shall be given 7 points.
- (V) If the median household income is \$29,000 to \$31,999, the applicant shall be given 6 points.
- (VI) If the median household income is \$32,000 to \$36,999, the applicant shall be given 5 points.
- (VII) If the median household income is \$37,000 to \$39,999, the applicant shall be given 4 points.
- (VIII) If the median household income is \$40,000 to \$44,999, the applicant shall be given 3 points.
- (IX) If the median household income is \$45,000 to \$47,999, the applicant shall be given 2 points.
- (X) If the median household income is \$48,000 to \$51,999, the applicant shall be given 1 point.
- (XI) If the median household income is \$52,000 or greater, the applicant shall be given 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 12 points.

(II) If the ability to finance the project is \$8.00 to \$9.99, the applicant shall be given 11 points.

(III) If the ability to finance the project is \$6.00 to \$7.99, the

applicant shall be given 10 points.

(IV) If the ability to finance the project is \$5.00 to \$5.99, the applicant shall be given 9 points.

(V) If the ability to finance the project is \$4.00 to \$4.99, the applicant shall be given 8 points.

(VI) If the ability to finance the project is \$3.00 to \$3.99, the applicant shall be given 7 points.

(VII) If the ability to finance the project is \$2.00 to \$2.99, the applicant shall be given 6 points.

(VIII) If the ability to finance the project is \$1.75 to \$1.99, the applicant shall be given 5 points.

(IX) If the ability to finance the project is \$1.50 to \$1.74, the applicant shall be given 4 points.

(X) If the ability to finance the project is \$1.25 to \$1.49, the applicant shall be given 3 points.

(XI) If the ability to finance the project is \$1.00 to \$1.24, the applicant shall be given 2 points.

(XII) If the ability to finance the project is \$0.75 to \$0.99, the applicant shall be given 1 point.

(XIII) If the ability to finance the project is less than \$0.75, the applicant shall be given 0 points.

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

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

(I) \$95,001 to \$100,000: -5

(II) \$90,001 to \$95,000: -4

(III) \$85,001 to \$90,000: -3

(IV) \$80,001 to \$85,000: -2

(V) \$75,001 to \$80,000: -1

(VI) \$70,001 to \$75,000: 0

(VII) \$65,001 to \$70,000: +1

(VIII) \$60,001 to \$65,000: +2

(IX) \$55,001 to \$60,000: +3

(X) \$50,000 to \$55,000: +4

(XI) \$45,001 to \$50,000: +5

(XII) \$40,001 to \$45,000: +6

(XIII) \$35,001 to \$40,000: +7

(XIV) \$30,001 to \$35,000: +8

(XV) \$25,001 to \$30,000: +9

(XVI) \$25,000 or less: +10

(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) 1 prior grant = 5 reduction points
- (ii) 2 prior grants = 8 reduction points
- (iii) 3 prior grants = 10 reduction points
- (iv) 4 prior grants = 12 reduction points
- (v) 5 or more prior grants = 14 reduction 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
 - (ii) 90 to 94.99 mills = 11 points
 - (iii) 85 to 89.99 mills = 10 points
 - (iv) 80 to 84.99 mills = 8 points
 - (v) 70 to 79.99 mills = 6 points
 - (vi) 60 to 69.99 mills = 4 points
 - (vii) 55 to 59.99 mills = 2 points
 - (viii) 50 to 54.99 mills = 1 point
 - (ix) 45 to 49.99 mills = 0 points
 - (x) 40 to 44.99 mills = -1 points
 - (xi) Less than 40 mills = -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
 - (II) 90% to 94.99% of debt limitation = 8 points
 - (III) 80% to 89.99% of debt limitation = 7 points
 - (IV) 75% to 79.99% of debt limitation = 6 points
 - (V) 70% to 74.99% of debt limitation = 5 points
 - (VI) 65% to 69.99 of debt limitation = 4 points
 - (VII) 60% to 64.99% of debt limitation = 3 points
 - (VIII) 55% to 59.99% of debt limitation = 2 points
 - (IX) 50% to 54.99% of debt limitation = 1 point
 - (X) 45% to 49.99% of debt limitation = 0 points
 - (XI) 40% to 44.99% of debt limitation = -1 point
 - (XII) 30% to 39.99% of debt limitation = -2 points
 - (XIII) Less than 30% of debt limitation = -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 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 9 points.
 - (III) If the percentage of the project cost locally funded at least 70% but less than 80%, the applicant shall be given 8 points.
 - (IV) If the percentage of the project cost locally funded at least 60% but less than 70%, the applicant shall be given 7 points.
 - (V) If the percentage of the project cost locally funded at least 50% but less than 60%, the applicant shall be given 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 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 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 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 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 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.

SUBCHAPTER 7. WATER AND SEWER PROGRAM (STATE LOAN PROGRAM REVENUE BOND) REQUIREMENTS AND PROCEDURES

785:50-7-2. Approval criteria [AMENDED]

- (a) **General approval standards and criteria.** In the review and consideration of applications for financial assistance under the water and sewer 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. ~~The Board shall also consider the~~

~~extent and degree of local support, interest and commitment in and to the proposed project.~~

(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 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 a State Loan Program Revenue Bond Loan 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 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 operator 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) The project is not cost effective.

(6) 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.

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

785:50-8-3. Application review and disposition [AMENDED]

(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.**

(A) While not specifically required, all potential applicants are encouraged to initially contact the Board for purposes of making arrangements for participating in a pre- application conference between Board staff, applicant (or representative), applicant's legal, financial and engineering advisors and such other persons whose attendance and participation may be deemed appropriate and beneficial.

(B) At the pre-application conference, 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 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. ~~The Board shall also consider the extent and degree of local support, interest and commitment in and to the proposed project.~~
 - (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.

785:50-8-5. REAP grant priority point system [AMENDED]

(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 fifteen (115)~~ one hundred twenty-five (125). 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

(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: $T = P + WR + I + MHI + FP + N + AR + BP + PG + S$, 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

(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 55 priority points. Rural water or sewer districts which have less than 525 non-pasture customers shall be given 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).

(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).

(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).

(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 (unmetered) without regard to the amount of water 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. 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).** 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 10 points.

(ii) If the indebtedness per customer is \$17.50 to \$19.99, the applicant shall be given 9 points

(iii) If the indebtedness per customer is \$16.00 to \$17.49, the applicant shall be given 8 points.

(iv) If the indebtedness per customer is \$14.50 to \$15.99, the applicant shall be given 7 points.

(v) If the indebtedness per customer is \$13.00 to \$14.49, the applicant shall be given 6 points.

(vi) If the indebtedness per customer is \$11.50 to \$12.99, the applicant shall be given 5 points.

(vii) If the indebtedness per customer is \$10.00 to \$11.49, the applicant shall be given 4 points.

(viii) If the indebtedness per customer is \$8.50 to \$9.99, the applicant shall be given 3 points.

(ix) If the indebtedness per customer is \$7.00 to \$8.49, the applicant shall be given 2 points.

(x) If the indebtedness per customer is \$5.50 to \$6.99, the applicant shall be given 1 point.

(xi) If the indebtedness per customer is less than \$5.50, the applicant shall be given 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)(ii).

(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 is \$10.00 or greater, the applicant shall be given 12 points.
- (II) If the FP is \$8.00 to \$9.99, the applicant shall be given 11 points.
- (III) If the FP is \$6.00 to \$7.99, the applicant shall be given 10 points.
- (IV) If the FP is \$5.00 to \$5.99, the applicant shall be given 9 points.
- (V) If the FP is \$4.00 to \$4.99, the applicant shall be given 8 points.
- (VI) If the FP is \$3.00 to \$3.99, the applicant shall be given 7 points.
- (VII) If the FP is \$2.00 to \$2.99, the applicant shall be given 6 points.
- (VIII) If the FP is \$1.75 to \$1.99, the applicant shall be given 5 points.
- (IX) If the FP is \$1.50 to \$1.74, the applicant shall be given 4 points.
- (X) If the FP is \$1.25 to \$1.49, the applicant shall be given 3 points.
- (XI) If the FP is \$1.00 to \$1.24, the applicant shall be given 2 points.
- (XII) If the FP is \$0.75 to \$0.99, the applicant shall be given 1 point.
- (XIII) If the FP is less than \$0.75, the applicant shall be given 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 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 is \$140,001 to \$150,000, the applicant shall be given -5 points.
- (ii) If the AR is \$130,001 to \$140,000, the applicant shall be given -4

points.

(iii) If the AR is \$120,001 to \$130,000, the applicant shall be given -3 points.

(iv) If the AR is \$110,001 to \$120,000, the applicant shall be given -2 points.

(v) If the AR is \$100,001 to \$110,000, the applicant shall be given -1 point.

(vi) If the AR is \$100,000, the applicant shall be given 0 points.

(vii) If the AR is \$80,000 to \$99,999, the applicant shall be given 1 point.

(viii) If the AR is \$60,000 to \$79,999, the applicant shall be given 2 points.

(ix) If the AR is \$40,000 to \$59,999, the applicant shall be given 3 points.

(x) If the AR is \$20,000 to \$39,999, the applicant shall be given 5 points.

(xi) Any portion of an AR 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 -8 points.

(ii) If the qualified entity has received more than one (1) REAP grant in the preceding twelve (12) month period, the application will be given -10 points for each REAP grant so 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 -5 points.

(iv) If the qualified entity has received two (2) REAP grants more than twelve (12) months in the past, the application will be given -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 -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 -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 -14 points.

(J) **Sustainability.** 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 10 points

(ii) Have but have not implemented a Fiscal Sustainability Plan that meets the requirements of the Board Staff shall be awarded 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 3 points

(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: $T = ADM + LT + BI + MHI + FP + N + AR + PG$, 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

(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 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 13 points.

(ii) If the mills are 90 to 94.99, the applicant shall be given 11 points.

(iii) If the mills are 85 to 89.99, the applicant shall be given 10 points.

- (iv) If the mills are 80 to 84.99, the applicant shall be given 8 points.
 - (v) If the mills are 70 to 79.99, the applicant shall be given 6 points.
 - (vi) If the mills are 60 to \$69.99, the applicant shall be given 4 points.
 - (vii) If the mills are 55 to 59.99, the applicant shall be given 2 points.
 - (viii) If the mills are 50 to 54.99, the applicant shall be given 1 point.
 - (ix) If the mills are 45 to 49.99, the applicant shall be given 0 points.
 - (x) If the mills are 40 to 44.99, the applicant shall be given -1 point.
 - (xi) If the mills are less than 40, the applicant shall be given -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 10 points.
 - (II) If the percentage is 90% to 94.99%, the applicant shall be given 8 points.
 - (III) If the percentage is 80% to 89.99%, the applicant shall be given 7 points.
 - (IV) If the percentage is 75% to 79.99%, the applicant shall be given 6 points.
 - (V) If the percentage is 70% to 74.99%, the applicant shall be given 5 points.
 - (VI) If the percentage is 65% to 69.99%, the applicant shall be given 4 points.
 - (VII) If the percentage is 60% to 64.99%, the applicant shall be given 3 points.
 - (VIII) If the percentage is 55% to 59.99%, the applicant shall be given 2 points.
 - (IX) If the percentage is 50% to 54.99%, the applicant shall be given 1 point.
 - (X) If the percentage is 45% to 49.99%, the applicant shall be given 0 points.
 - (XI) If the percentage is 40% to 44.99%, the application shall be given -1 point.
 - (XII) If the percentage is 30% to 39.99%, the applicant shall be given -2 points.
 - (XIII) If the percentage is less than 30%, the applicant shall be given -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 [AMENDED]

- (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 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) **Water Quality Restoration Factor.** 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:
- (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.--"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) **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.
- (5) **Readiness to Proceed Factor.** The Readiness to Proceed Factor provides a maximum of four hundred (400) points depending on 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 ~~208 Water Quality Management Plan, i.e. 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

PART 7. SRF ENVIRONMENTAL REVIEW PROCESS

785:50-9-60. Requirement of environmental review [AMENDED]

As required by the provisions of Section 602(b) (6) of the Clean Water Act, the Board shall conduct an interdisciplinary environmental review consistent with the National Environmental Policy Act of the project proposed for funding through the Clean Water State Revolving Fund Loan Account. This review will insure that the project will comply with the applicable local, state and federal laws and Board regulations relating to the protection and enhancement of the environment. Based upon the staff's review, the Board will make formal determinations regarding the potential social and environmental impacts of the proposed project. As necessary, the determination will include mitigative provisions as a condition of financial assistance for building and no financial assistance will be provided until a final environmental determination has been made. Nothing in this Part shall prohibit any public, private or governmental party from seeking administrative or legal relief from the determinations of the Board. Potential applicants to the Clean Water State Revolving Fund Loan Account should obtain guidance from the staff regarding the scope of the environmental review to be conducted by the Board and the environmental information which the applicant will be required to submit in support of the proposed project.

(1) **Basic environmental determination.** There are three (3) basic environmental determinations that will apply to projects proposed to be implemented with assistance from the Clean Water State Revolving Fund Loan Account. These are: a determination to categorically exclude a project from a formal environmental review; a finding of no significant impact (FONSI) based upon a formal environmental review supported by an environmental information assessment (EA); and a determination to provide or not to provide financial assistance based upon a Record of Decision (ROD) following the preparation of an environmental impact statement (EIS). The appropriate determination will be based on the following criteria.

(A) The categorical exclusion determination applies to categories of projects that have shown over time not to entail significant impacts on the quality of the human environment. Documentation required in this subsection will be submitted to the Board.

(i) Applicants seeking a categorical exclusion will provide the Board with sufficient documentation to demonstrate compliance with the criteria of this Chapter and shall satisfy the provisions of 40 C.F.R. Section 6.204. At a minimum, this will consist of:

(I) a brief, complete description of the proposed project and its costs;

(II) statement identifying the categorical exclusion that applies to the action;

(III) a statement explaining why no extraordinary circumstances apply to the proposed action; and

(IV) a plan map or maps of the proposed project showing the location of all construction areas, the planning area boundaries, and any known environmentally sensitive areas.

(ii) A proposed project can be categorically excluded from a full environmental review if the proposed project:

(I) fits within the category of action that is eligible for exclusion,

(II) will not result in significant impacts on the quality of the human environment; and

(III) does not involve extraordinary circumstances, as listed in 40 CRF Section 6.204.

(iii) The project is in a community of less than 10,000 population and is for minor expansions or upgrading of existing treatment works or on-site disposal systems are proposed.

(iv) The Board may exclude, by amendment to these regulations, other categories of projects for which there is sufficient documentation demonstrating that they are not likely to have significant effects on the quality of the human environment.

(B) The FONSI will be based upon an environmental review by the staff supported by an Environmental Information Document (EID) ~~prepared by the applicant~~ in conformance with 785:50-9-61 and 40 CFR 6.206. Upon review of the EID the staff will issue either a FONSI or a public notice that the preparation of an EIS will be required. All applicants whose projects do not meet the criteria for a categorical exclusion will be required to prepare an EID. The Board's issuance of a FONSI will be based upon an EA documenting that the potential environmental impacts will not be significant or that they may be mitigated without extraordinary measures.

(C) The ROD may only be based upon an EIS in conformance with the format and guidelines described in 785:50-9-61 and 40 CFR 6.208. A ROD results from an extensive environmental review of a proposed project's potential environmental impacts as detailed in an EIS.

(2) **Other determinations of the Board.**

(A) Recognizing that a project may be altered at some time after an environmental determination on the project has been issued prior to approval, the plans and specifications, assistance application, and related documents will be examined for consistency with the environmental determination. If inconsistencies are found, the Board may revoke a categorical exclusion and require the preparation of an EID or an EIS, consistent with the criteria of this subsection, or require the preparation of amendments to an EID or supplements to an EIS, as appropriate. Based upon the staff's review of the amended project, the Board will:

(i) reaffirm the original determination through the issuance of a public notice or statement of finding;

(ii) issue a FONSI for a project for which a categorical exclusion has been revoked, or issue a public notice that the preparation of an EIS will be required;

(iii) issue an amendment to a FONSI, or revoke a FONSI and issue a public notice that the preparation of an EIS will be required, or

(iv) issue a supplement to a record of decision, or revoke a record of decision and issue a public notice that financial assistance will not be provided.

(B) When the environmental determination is five years old or older, and for which the subject action has not yet been implemented, the Board staff must re-

evaluate the proposed action, environmental conditions, and public views to determine whether to conduct a supplemental environmental review of the action and complete an appropriate decision document in accordance with 785:50-9-60 or reaffirm original determination.

(C) An applicant may request advance authority to construct part of the proposed wastewater treatment project prior to completion of the necessary environmental review when the part of the project will:

- (i) immediately remedy a severe public health, water quality or environmental problem;
- (ii) not preclude any reasonable alternatives identified for the complete system;
- (iii) not cause significant or indirect environmental impacts including those which cannot be acceptably mitigated without completing the entire project; and
- (iv) not be highly controversial.

(D) Based upon the review of the information required by Section 785:50-9-61, the Board will issue a FONSI so conditioned as to prohibit construction of the remainder of the project until a complete environmental review has been performed and a subsequent environmental determination has been issued.

(E) The Board may choose to accept determinations made by a federal agency in a previously issued environmental decision in lieu of conducting a formal environmental review when the proposed project will not cause adverse impacts to the environment and is not highly controversial.

(3) **Projects exempt from environmental review.** The Board is not required to perform an environmental review of the following projects:

(A) Non-treatment works projects that are not defined in the Clean Water Act Section 212; and projects that are not defined as Section 212 projects.

(B) Projects that consist of design and planning fees only.