

Massachusetts Clean Water Trust

Office of the Treasurer and Receiver-General
Executive Office for Administration and Finance
Department of Environmental Protection



Application for Financial Assistance State Revolving Fund

THE COMMUNITY SEPTIC MANAGEMENT PROGRAM

October 2021

**Department of Environmental Protection
Bureau of Water Resources
One Winter Street
Boston, Massachusetts 02108-4747**

I. INTRODUCTION

The Community Septic Management Program (CSMP) was created by the Legislature in 1995, to assist homeowners to defray the cost of a septic system repair or replacement. Across Massachusetts, *failing septic systems* are a leading source of groundwater pollution causing contaminated drinking water, tainted shellfish beds, weed-choked lakes and ponds, and polluted beaches. The Massachusetts Department of Environmental Protection (MassDEP) administers regulations under 310 CMR 15.00, Title 5 of the State Environmental Code, which regulates the design, installation and management of onsite wastewater disposal systems to protect the health of Massachusetts citizens and the state's natural resources. Title 5 (<https://www.mass.gov/septic-systems-title-5>) requires inspection of private onsite wastewater disposal systems before properties are sold, expanded, or undergo a change in use. For purposes of this application, all onsite wastewater disposal systems, including septic systems and cesspools, are referred to as septic systems or systems. Systems deemed to be "failed" under Title 5 are required to be repaired, replaced, or upgraded to protect public health and the environment.

The replacement of a failed septic system is an expensive undertaking. Using State Revolving Fund (SRF) loans from the Massachusetts Clean Water Trust (the Trust), communities can provide betterment loans to assist homeowners who must address septic system failures. Since 1996, the CSMP has provided low-interest loans (currently 2%) to communities resulting in improvements to more than 5,000 septic systems. The CSMP is implemented at the local level, for additional information visit MassDEP's website:

<http://www.mass.gov/eea/agencies/massdep/water/wastewater/the-community-septic-management-program.html>

II. ELIGIBLE PROJECTS

Any homeowner in a participating municipality is eligible to participate. It is entirely the decision of individual Local Government Units (LGUs) whether to participate in the CSMP program. The CSMP is intended to support residential and not commercial properties. *A CSMP loan is predicated upon a determination by the local Board of Health that the on-site system is in failure.* That failed system may be replaced or repaired with proceeds from a CSMP loan. Alternatively, if there is a nearby sewer line with capacity to accept the septage from that property, a loan may be taken to finance the connection of the property to the sewer line. To receive a CSMP loan, a property owner must be willing to accept a betterment lien from the municipality, to guarantee repayment of the loan. Additional discussion of eligibility is found in Section 5 of this guidance.

III. OBTAINING A CSMP LOAN

The Trust treats loans to LGUs as a general obligation of a municipality. Loans may amortize over 5, 10, 15 or 20 years, with 20 years being typical. The first payment on the loan starts no later than the second year of the closing. During the period that the LGU is drawing down the loan proceeds, the Trust will extend interest-free interim financing, under an interim loan agreement. The interim loan allows the Trust to immediately lend funds to the LGU.

Municipalities wishing to participate may submit a PDF file of the loan application via email or ftp site access to:

Maria.Pinaud@mass.gov

cc

Gregory.D.Devine@mass.gov

Ashraf.Gabour@mass.gov

Robin.McNamara@mass.gov

Steps to obtain local funds

Town Meeting Vote

As CSMP financing is provided through a loan, MGL c.44 requires the LGU to obtain debt authorization through LGU meeting vote. Approval typically requires a 2/3 vote of LGU meeting, city council, LGU council or board of aldermen. As described in Section 2 above, one or two articles pursuant to MGL c. 111 s.127B1/2 must be passed to authorize the CSMP.

Bond Counsel Approval

The LGU's bond counsel reviews the LGU meeting article(s) vote and Trust financial documents and issues an approval opinion, known as the *green light letter*. This letter must be provided to the Trust before a loan can be put in place. The green light letter certifies to the Trust that the debt authorization vote was legal.

Treasurer Processes the Loan Forms

The LGU treasurer is the responsible municipal official who interacts directly with the Trust. The LGU treasurer has the responsibility to review, prepare, and approve financial commitment documents prior to the BOH receiving funds to utilize for the CSMP.

Once debt authorization is obtained, the LGU submits application documents to MassDEP's Division of Municipal Services (DMS), signed and/or prepared by the LGU treasurer, along with a LGU or city clerk-certified copy of the debt authorization vote, and the green light letter from bond counsel. Authority to file and certifying authority to file forms are also submitted with the application. The LGU treasurer is typically the local official authorized to sign financial forms on the LGU's behalf.

A loan origination fee of \$500 is required to be paid to the Trust by the LGU. The LGU treasurer may decide that this fee be paid from the proceeds of the loan, subject to other conditions. An LGU can elect to pay it and be repaid when homeowner application fees or property tax

payments are received and placed into the CSMP accounts that have been established by the LGU accountant.

Regulatory and Financial Agreements

Once the various loan application forms are received by DMS, two agreements are prepared by DMS for forwarding to the Trust: the Project Approval Certificate (PAC) and the Project Regulatory Agreement (PRA). The Trust must then vote to authorize the execution of a State Revolving Fund Loan Agreement.

Execution of the Project Approval Certificate (PAC)

The PAC is an agreement between MassDEP and the Trust that establishes the eligibility of the loan.

Execution of the Project Regulatory Agreement (PRA)

The PRA is an agreement between MassDEP and the LGU, signed by the MassDEP Director of Municipal Services and the authorized representative of the LGU. The PRA incorporates MassDEP's program requirements for implementing the CSMP program within the LGU.

Once PACs and PRAs are approved, the Trust forwards a copy of the PRA to the LGU treasurer for signature along with a loan agreement package. The loan agreement package includes a questionnaire and financing agreement documents. The LGU treasurer is required to return signed copies of the questionnaire, PRA, and financing agreement.

Interim Loan Agreement

While bond counsel is preparing the green light letter, a local bond and interim loan agreement (ILA) note is prepared by the Trust. The ILA provides the authority for the Trust to advance funds to the LGU for homeowner loans, prior to the permanent financing of a long-term bond.

When all financial documents have been received by the Trust, an ILA loan is put in place. The ILA is a temporary loan agreement that is typically utilized for up to two years to draw down funds for the homeowner loans. The Trust notifies the LGU of the ILA completion, and the process for the BOH to draw funds for homeowner loans can commence.

Permanent Financing

After the approved loan proceeds are completely expended, or after two years from the approval of the PRA, the loan will be permanently financed by the Trust through the issuance of a bond. The LGU will be responsible for regular payments of this bond from loan receipts paid by the CSMP homeowners via their property tax payments.

Loan Debt Schedule C

At the time of permanent financing, a debt service schedule that outlines the payments for the 20-year term of the loan will be provided to the LGU. These loan payments are made to the Trust twice a year on the 15th of January and the 15th of July. Loans may be financed for a term

less than 20 years at the request of the LGU treasurer.

Payment of Funds to Town

Once interim financing is in place, the LGU may request SRF loan funds by submitting a payment requisition form (DMS–T5-1000) to DMS via email at DMSDEP.General@mass.gov, as an advance draw for homeowner loans that are being voted upon or approved by the BOH.

- Payment requisitions are made on a DMS T5-1000 form. This form (T5) contains the name and address of homeowners receiving funds, or the dollar amount being requested as a 'draw'. The T5 is signed by the treasurer and the BOH authorized representative.
- The T5 Form may be scanned and emailed to the DMS coordinator, who forwards the requisition request to Trust. The original must be maintained in the LGU's records. Payment requisitions may be made in amounts sufficient to cover anticipated funding needs for up to three months. Disbursements are made by wire transfer only. The payment request identifies the address of each septic system repair and the amount of financing being requested for that address.

The BOH completes a quarterly report that indicates the number of loans for that period. The report may be submitted by email, and the original report kept in the LGU records.

IV. [Click here for CSMP Program Contact](#)

Appendix A

LGU Loan Application & Forms

Community Septic Management Program Loan Application

1. LOCAL GOVERNMENTAL UNIT (LGU)		
LGU Name:	Dept. of Revenue ID No.:	FEIN
Authorized Representative:		Title:
Street/P.O. Box:		
City/Town:	State:	Zip:
Telephone: ()	Fax: ()	E-Mail:

A certifying Authority to File document must be submitted with the loan application.

2. LGU CONTACT PERSON (if different from item 1)		
Name:	Title:	
Mailing Address (if different from item 1)		
Street/P.O. Box:		
City/Town:	State:	Zip:
Telephone: ()	Fax: ()	E-Mail:

3. AMOUNT OF ASSISTANCE REQUESTED	
\$	

4. LOCAL APPROPRIATION	Amount	Available Balance
	\$	\$
	\$	\$

A certified copy of the local appropriation for the project must be submitted with the loan application.

5. CERTIFICATION	
<p>To the best of my knowledge and belief, data provided in this application is true and correct; the documentation has been duly authorized by the governing body of the applicant. Furthermore, the applicant certifies that it possesses the legal authority to apply for the loan, and to finance and implement the proposed project. A resolution, motion, or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application. The same resolution, motion, or similar action is directing and authorizing the person identified below as the authorized representative of the applicant to act in connection with the application and to provide such additional information as may be required.</p>	
Name of Representative (Type)	Title
Signature of Representative	(Date)

AUTHORITY TO FILE

Whereas, _____, after thorough investigation,
(Applicant)
has determined that the work activity consisting of: _____

_____ (describe project)
is both in the public interest and necessary to protect the public health, and that to undertake this activity, it is necessary to apply for assistance; and

Whereas, the Massachusetts Department of Environmental Protection (MassDEP) and the Massachusetts Clean Water Trust (the Trust) of the Commonwealth of Massachusetts, pursuant to Chapter 21 and Chapter 29C of the General Laws of the Commonwealth (Chapter 21 and Chapter 29C) are authorized to make loans to municipalities for the purpose of funding planning and construction activities relative to Water Pollution Abatement Projects; and

Whereas, the Applicant has examined the provisions of the Act, Chapter 21 and Chapter 29C, and believes it to be in the public interest to file a loan application.

NOW, THEREFORE, BE IT RESOLVED by _____
(Governing Body)

as follows:

1. That _____ is hereby authorized on behalf
(Title of Official)
of the Applicant to file applications and execute agreements for grant and/or loan assistance as well as furnishing such information, data and documents pertaining to the applicant for a grant(s) and/or loan(s) as may be required; and otherwise to act as the authorized representative of the Applicant in connection with this application;
2. That the purpose of said loan(s), if awarded, shall be to fund construction activities.
3. That if said award is made the Applicant agrees to pay those costs which constitute the required Applicant's share of the project cost.

Sample: Certification to the Massachusetts Department of Environmental Protection, as to Authority to File Applications for State Financial Assistance for Water Pollution Abatement Projects.

CERTIFYING AUTHORITY TO FILE

I hereby certify that the _____ of
(Name of Governing Body)

the _____
(Corporate Name of Local Government Unit)

(hereinafter referred to as the "Applicant"), at a meeting noticed and conducted in accordance with all applicable legal requirements, duly voted to authorize

(Title of Local Government Unit Official)

to act on behalf of the Applicant, as its agent, in filing applications for, executing agreements regarding, and performing any and all other actions necessary to secure for the Applicant such loan(s) for construction or planning of Water Pollution Abatement Projects as may be made available to the Applicant pursuant to the provisions of the Massachusetts Clean Waters Act (M.G.L. c.21, section 27-33E, inclusive, as amended) and the Water Pollution Abatement Revolving Loan Program (M.G.L. c.29C) for the following project:

(describe project)

I hereby certify that _____ is the present incumbent
(Name of Person)

of the position referenced above, and do hereby certify:

1. That the attached resolution is a true and correct copy of the resolution as finally adopted at a meeting of the governing body held on the ____ day of _____, 20 , and duly recorded in my office:
2. That said meeting was duly convened and held in all respects in accordance with law and to the extent required by law, due and proper notice of such meeting was given; and a legal quorum was present throughout the meeting, and a legally sufficient number of members of the governing body voted in the proper manner and for the adoption of said resolution; that all other requirements and proceedings under the law incident to the proper adoption or passage of said resolution, including publication, if required, have been duly fulfilled, carried out, and otherwise observed; and that I am authorized to execute this certificate:
3. That if an impression of a seal has been affixed below, it constitutes the official seal of the Applicant and this certificate is hereby executed under such official seal; but if no seal has been affixed, the Applicant does not have an official seal:

IN WITNESS WHEREOF, I have hereunto set my hand this

_____ day of _____, _____

Appendix B

Payment Requisition Form

DEPARTMENT OF ENVIRONMENTAL PROTECTION
 DIVISION OF MUNICIPAL SERVICES
 COMMUNITY SEPTIC MANAGEMENT PROGRAM
PAYMENT REQUISITION

SECTION I: LOAN INFORMATION		REQUEST NO. _____	
LOAN No. _____		PAYABLE TO: _____	
LEGAL NAME AND ADDRESS OF BORROWER:		PAYMENT METHOD: Wire Transfer	
		Acct. #:	
SECTION II: ADVANCE REQUEST			
We request an advance of \$_____ to be used to finance the upgrade of _____ number of failed septic systems, through betterments, in accordance with the Program. This advance is requested in anticipation of the financial requirements of projects under this program for the next three months. We understand that we must make monthly accounting reports of these advance funds using Section III below.			
SECTION III: ADVANCE ACCOUNTING	APPROVED PROJECT COSTS	PREVIOUS REQUEST \$	THIS REQUEST \$
PROJECT NUMBER			
<i>Advance</i>			
<i>Totals</i>			
ADVANCE RECONCILIATION			
Amount Advanced: \$ _____			
Advance Expended: \$ _____			
Advance Balance: \$ _____			
SECTION IV: CERTIFICATION OF THE BORROWER:			
(i) Such payment is for Project Costs and the obligations specified herein have not been the basis for a prior requisition that has been paid.			
(ii) No Default as defined in the Regulatory Agreement, and No Event of Default as defined in the Loan Agreement, has occurred and is continuing and no event or condition exists which, after notice or lapse of time or both, would become a Default hereunder or Event of Default under the Loan Agreement.			
(iii) The payment requested by this requisition will be for Project Costs to be or already authorized under a betterment agreement between the Borrower and a system owner, and that no advance funds shall be disbursed to the system owner until such betterment agreement has been executed between the Borrower and the system owner.			
Treasurer: _____		Date: _____	
Authorized Health Official		DMS Director Signature	
Date: _____		Date	

DMS FORM T5-1000