

MASSACHUSETTS WATER RESOURCES AUTHORITY



LOCAL WATER SYSTEM ASSISTANCE PROGRAM

PROGRAM GUIDELINES FOR LEAD SERVICE LINE REPLACEMENT LOAN PROGRAM PROJECTS

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MASSACHUSETTS WATER RESOURCES AUTHORITY
CHARLESTOWN NAVY YARD
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SECTION 1 - INTRODUCTION

1.1 Establishment of Massachusetts Water Resources Authority's Lead Service Line Replacement Loan Program

The Massachusetts Water Resources Authority (MWRA) Board of Directors, by their vote on March 16, 2016, authorized the enhancement of the Local Water System Assistance Program to provide up to \$100 million in 10-year zero-interest loans to communities under the MWRA Lead Service Line Replacement Loan Program. The program will also be referenced as the “Lead Loan Program” or “LLP” for short. This interest-free loan program is designed to assist member water communities to rehabilitate or replace water service lines so that all lead pipe is fully removed. The program will help upgrade local water systems to reduce the potential for elevated lead levels at customer taps and maintain high water quality conditions throughout the system. The review of applications for financial assistance, the determination of eligible projects, and the distribution and repayment of funds will be performed in accordance with the provisions of the Lead Loan Program, as presented in this "Program Guidelines for Lead Service Line Replacement Loan Program Projects" document. These Guidelines were approved by the Board of Directors on May 11, 2016.

1.2 Purpose

The purpose of the MWRA Lead Loan Program is to provide incentives in the form of interest-free loans to MWRA's water service area communities in order to upgrade both community-owned and privately-owned portions of local water systems to reduce the potential for elevated lead levels at customer taps and maintain high water quality conditions throughout the system. The presence of lead service lines connecting homes and businesses to local water mains can lead to elevated lead levels in tap water, especially if water sits stagnant in a lead service for an extended period. MWRA's stable water quality and effective corrosion control treatment reduce the risk that lead service lines will cause elevated lead levels. However, the risk of elevated levels remains as long as lead service lines are in use. While the Program's major objective is funding construction projects that will replace the public and private portions of lead service lines, related records research, identification, planning, design, and construction inspection costs required to implement appropriate lead service line replacement projects are also eligible for loan assistance. Eligible and ineligible project costs are listed in Sections 2.7 and 2.8, respectively.

1.3 Term of the Program and Annual Review

The MWRA Lead Loan Program provides up to \$100,000,000 in interest-free loans to communities beginning in FY17 (July 1, 2016). The end date for the program has not been established. MWRA staff will provide the Board of Directors annual updates on progress of lead service line replacements and loan distributions. In the future, the MWRA Board of Directors will establish an end date to conclude the Lead Loan Program. All loan assistance commitments made prior to the conclusion of new loan distributions under the Program shall be fulfilled under the conditions established in each Financial Assistance and Loan Agreement.

1.4 Definitions and Abbreviations

Definitions and abbreviations are listed in APPENDIX A and APPENDIX B, respectively.

SECTION 2 - FINANCIAL ASSISTANCE APPLICATION AND DISTRIBUTION OF FUNDS

2.1 Overview

Binding commitments to provide financial assistance for local lead service line replacement projects will be issued by MWRA's Executive Director, Director of Finance, or Treasurer in the form of a "Financial Assistance Agreement." An offer for financial assistance will be made by MWRA following the review of a "Financial Assistance Application" and the determination by MWRA that the project is eligible for financial assistance. The filing of a Financial Assistance Application by a community will not constitute a binding commitment by MWRA to provide financial assistance. A Financial Assistance Agreement may be executed at the discretion of MWRA subject to the availability of Program funds. Financial Assistance Agreements will be executed with communities and project funds will be distributed on quarterly funding distribution dates. **The target distribution dates will be on or about February 15, May 15, August 15, and November 15 of each year.** The actual distribution dates will vary and will be determined by MWRA when the Financial Assistance Application is finalized. To be eligible to execute a Financial Assistance Agreement on a particular funding distribution date, the community must have submitted a complete Financial Assistance Application in sufficient time to be reviewed and approved by MWRA staff at least thirty (30) calendar days prior to the proposed funding distribution date. It must also be the community's intent to begin the project within ninety (90) calendar days of execution of the agreement. A Financial Assistance Application may be approved by MWRA if the proposed project meets the eligibility criteria in Section 2.7 and 2.8.

2.2 Pool of Funds for Lead Loan Program

The approved \$100 million in loan funds will be provided as a pool of funds available to all eligible communities (see Section 2.3 below) to draw from beginning in FY17 via the financial assistance application process for local lead service line identification/removal projects. The funds will be available for community loans until the MWRA Board of Directors establishes an end date to conclude the Lead Loan Program.

2.3 MWRA Water Communities Eligible for the Lead Loan Program

The 47 full and partial MWRA water communities that are currently eligible for water loans under MWRA's Local Water System Assistance Program are also eligible under the Lead Loan Program. These include 32 fully-supplied communities: Arlington, Belmont, Boston, Brookline, Chelsea, Chicopee, Everett, Framingham, Lexington, Lynnfield Water District, Malden, Marblehead, Medford, Melrose, Milton, Nahant, Newton, Norwood, Quincy, Reading, Revere, Saugus, Somerville, South Hadley Fire District #1, Southborough, Stoneham, Swampscott, Waltham, Watertown, Weston, Wilbraham, and Winthrop; and 15 partially-supplied communities: Ashland, Bedford, Burlington, Canton, Dedham/Westwood Water District, Marlborough, Needham, Northborough, Peabody, Stoughton, Wakefield, Wellesley, Wilmington, Winchester, and Woburn. Five special case water communities are not eligible for Lead Loan Program funds: Cambridge, which receives MWRA water on an emergency-only basis; Lynn, which receives MWRA water only for the GE plant; as well as Clinton, Leominster (emergency only), and Worcester (emergency only) that draw untreated (raw) water from the Wachusett Reservoir.

2.4 Application for Financial Assistance

Each eligible (see Section 2.3) MWRA water service area community may apply for financial assistance funding under the Lead Loan Program. Based on the type of community project and application submitted to MWRA, Lead Loan Program funds will be distributed in either of two ways:

1. Under a Local Water System Assistance Program joint application for a *Water Project* and *Lead Loan Program Project*, MWRA Lead Loan Program funds will be distributed together with Local Water System Assistance Program Water Project funds to finance local projects that combine lead service line identifications/replacements with a water pipeline rehabilitation/replacement project; or,
2. Under a Local Water System Assistance Program application for a *Lead Loan Program Project* only, MWRA Lead Loan Program funds will be distributed (separate from any *Water Project* funds) for local projects that specifically target lead service line identification and/or replacements.

Financial Assistance Applications should be submitted to:

Massachusetts Water Resources Authority
Charlestown Navy Yard
100 First Avenue
Boston, MA 02129
Attn: Planning - Community Support Program

The Lead Loan Program Financial Assistance Application is provided as Attachment 1. An electronic copy (MS Word) of the application is available at:

<http://www.mwra.com/comsupport/communitysupportmain.html>, or from:

- David Granados, Project Manager, david.granados@mwra.com , or
- Claudia Baptista, Project Engineer, claudia.baptista@mwra.com .

The Lead Loan Program web page is at: <http://www.mwra.com/comsupport/llp/llpprogram.html>.

The applicant should provide as complete information as possible on the proposed project. The information provided will be reviewed by MWRA staff to determine if the project is a viable Lead Service Line Replacement Loan Program project and assess eligible project costs. Once a proposed project has been approved and an award amount designated, MWRA and the community will cooperatively schedule execution of the Financial Assistance and Loan Agreements and distribution of loan funds on or about one of the quarterly funding distribution dates.

2.5 Initiation Date for Eligible Project Costs

The initial date for determining community project costs that are eligible to receive funding under the MWRA Lead Loan Program is July 1, 2016. All costs incurred for eligible lead service line replacement work performed within eligible MWRA service area communities on or after July 1, 2016, regardless of the beginning date of the project, will be considered for eligibility during review of a Financial Assistance Application. If projects were substantially completed before July 1, 2016 they will not be eligible. Eligible and ineligible project costs are outlined in Sections 2.7 and 2.8, respectively.

2.6 Financial Assistance Agreement, Loan Agreement, and Distribution/Repayment of Funds

All project information submitted as part of the Financial Assistance Application will be used by MWRA to determine the portion of the total project cost eligible under the Lead Loan Program. Based on the determined eligible project cost, an appropriate "Award Amount" will be established for each project. For MWRA Lead Loan Program funding, one hundred percent (100%) of the total Award Amount will be provided as an interest-free loan.

Financial Assistance and Loan Agreements will be executed by MWRA's Executive Director, Director of Finance, or Treasurer on behalf of MWRA and an appropriate representative of the community who has been authorized to act as the municipality's agent. **Throughout the term of the Program, Financial Assistance and Loan Agreements will be executed on (or about) the following quarterly funding distribution dates: February 15, May 15, August 15, and November 15.**

The Loan Agreement will incorporate an opinion from the community's Bond Counsel stating that the loan portion of the financial assistance is a valid general obligation of the municipality. The community must also certify that all actions required by the municipality to expend the financial assistance funds have been obtained; that all permits, easements, and all other project requirements and approvals have been obtained; and that implementation of the project is intended to begin within ninety (90) calendar days of execution of the agreement. The Financial Assistance Agreement will contain the project scope of work, project schedule, and additional project specific terms and conditions. Following execution of the Financial Assistance and Loan Agreements, MWRA will have the entire financial assistance award amount electronically transferred into a Massachusetts Municipal Depository Trust (MMDT) account (or similar account approved by MWRA) designated and arranged by the community. If the community has an existing MMDT account used for previous Local Water System Assistance Program loans, that account can also be used for the Lead Loan Program. **All financial assistance funds distributed by MWRA for lead service line replacement projects, shall be applied to the cost of approved community lead service line replacement projects. All earnings (interest) from the MMDT account shall be applied either to an approved lead service line replacement project or other approved community water system rehabilitation project. If all lead service line replacement projects are completed and loan funds and/or interest remain in the MMDT account, those funds must be utilized on MWRA approved community water system rehabilitation projects.**

The interest-free loan will be repaid to MWRA in ten equal payments, over a ten-year period, beginning one year from the original quarterly funding distribution date. For example, if a community receives \$1,000,000 from the MWRA Lead Loan Program during the November 2016 funding quarter, then the community would repay to MWRA a total of \$1,000,000 in ten equal payments of \$100,000 each. The ten repayments would be made on November 15 in the years 2017 through 2026. The loan can be repaid over a shorter period, if the community so desires. Loan repayment requirements are presented in Section 4.

2.7 Eligible Project Costs

Financial assistance awarded by MWRA under this program shall be solely for the purpose of rehabilitating or replacing water service lines so that all lead pipe is fully removed. MWRA's Lead Loan Program will help upgrade local water systems to reduce the potential for elevated lead levels at customer taps and maintain high water quality conditions throughout the system. While the Program's major objective is funding construction projects that will replace the public and private portions of lead service lines, related records research, identification, planning, design, and construction inspection costs required to implement appropriate lead service line replacement projects are also eligible for loan assistance. Costs that are eligible under MWRA's Lead Loan Program include, but are not limited to:

- (a) Identification of water service connections (or portions of service connections) constructed of lead including related records research, inventory/database development, house to house inspection, development of outreach/education materials, mapping of lead service lines, and other planning activities incidental thereto.
- (b) Construction, reconstruction, rehabilitation, alteration, remodeling or other improvements to replace lead water service lines to fully remove all lead pipe. Costs for water pipeline rehabilitation incidental to the replacement of lead service lines are eligible. The replacement of lead gooseneck connections is eligible, either when encountered during water system rehabilitation/construction or if targeted through a specific rehabilitation project. Slip lining of lead water services will not be eligible. For each local water service line, all lead service pipe (both public and private) must be fully removed to be eligible.
- (c) Community projects that provide a homeowner incentive for lead service line replacement through rebates for privately funded lead service line replacements or other similar incentive program will be eligible.
- (d) Costs that are reasonable and necessary to repair private property areas directly impacted by eligible construction work so that the private property is as near as practical to existing conditions. Eligibility of work on private property may need to be reviewed on a project by project basis. Work to improve private property will not be eligible.
- (e) Paving costs that are reasonable and necessary to repair the roadway and/or sidewalk and driveway areas directly impacted by eligible construction work will also be eligible and be reviewed on a project by project basis. Eligibility of trench width pavement versus full width overlay pavement will be reviewed on a project by project basis. Cost for full depth roadway reconstruction will not be eligible.
- (f) Police details associated with eligible project work.
- (g) Engineering services, in connection with project design including surveying, subsurface exploration, test pits, preparation of plans, specifications, and public bidding documents, for eligible lead service line replacement projects and activities incidental thereto.

- (h) Resident engineer inspection and construction administration services in connection with eligible lead service line replacement projects required to ensure that the work is accomplished in accordance with the design drawings and specifications and applicable State laws and activities incidental thereto.
- (i) Direct labor only (not including overhead or overtime costs) for force account work associated with planning, design, construction, or construction inspection of eligible lead service line replacement projects.
- (j) Establishment of a Massachusetts Municipal Depository Trust (MMDT) or similar account used solely for the deposit, withdrawal, and tracking of financial assistance funds.
- (k) Bond counsel services, or other legal services, in connection with review of the Loan Agreement, Water Bond, and opinion of Bond Counsel.

Please See Section 2.8 (f) and 2.8 (g), below: Any and all costs associated with the testing, handling, management, and disposal of hazardous waste, as defined under 310 CMR 30.000 are ineligible costs. Any and all costs associated with the testing, handling, management, and disposal of other contaminated or hazardous material (not meeting the definition of hazardous waste, as defined under 310 CMR 30.000) and determined to not be suitable for trench refill shall be limited to ten percent (10%) of the total eligible project cost.

2.8 Ineligible Project Costs

Costs which are ineligible under the Lead Loan Program shall include, but are not limited to:

- (a) Costs in excess of the approved financial assistance Award Amount.
- (b) Costs for services outside the scope of the approved project, except as modified by an MWRA approved revised project scope of services.
- (c) Ordinary operating expenses of public works departments, water departments, water commissions, water districts, or local government, and overtime and overhead costs associated with eligible force account work.
- (d) Excessive paving costs that are not reasonable and necessary to repair the roadway and/or sidewalk areas directly impacted by eligible construction work.
- (e) Excessive costs to repair private property or costs to improve private property that are not reasonable and necessary as directly impacted by eligible construction work.
- (f) Any and all costs associated with the testing, handling, management, and disposal of hazardous waste, as defined under 310 CMR 30.000.

- (g) Any and all costs associated with the testing, handling, management, and disposal of other contaminated or hazardous material (not meeting the definition of hazardous waste, as defined under 310 CMR 30.000) and determined to not be suitable for trench refill that exceeds ten percent (10%) of the total eligible project cost.
- (h) Costs incurred under third party agreements, absent specific contract language which conveys the applicable terms and conditions of the Financial Assistance Agreement to the third party.
- (i) Costs for which payment has been or will be received under any other MWRA, state, or federal grant or loan funding assistance program.
- (j) Costs for the preparation of an MWRA Financial Assistance Application or preparation of funding applications for any other agency.
- (l) Costs for sewer system maintenance or rehabilitation, except sewer repair work required due to construction conflicts with work directly related to eligible lead service line replacement work.
- (m) Charges for the use of vehicles or equipment owned by the applicant.
- (n) Costs for obtaining permits or licenses by the applicant.
- (n) Bonus payments to contractors for completion of construction earlier than contracted completion date.
- (o) Personal injury compensation, claims related to wrongful deaths, or property damages arising out of the project, however determined.
- (p) Costs of equipment or material procured in violation of state or federal law.
- (q) Fines and penalties.
- (r) Costs of the purchase of real property.

2.9 MWRA Recommended Community Lead Service Line Replacement Program

Under the Local Water System Assistance Program application process for both Lead Loan Program Projects and Water Projects, communities will need to acknowledge the MWRA recommended components for a “**Community Lead Service Line Replacement Program.**” The MWRA recommended program incorporates at least the following:

1. Communities should clearly establish that it is their goal to fully remove all lead pipe from both publicly-owned and privately-owned water service line connections;

2. Communities should commit to a comprehensive lead service line inventory program to compile a listing of properties with full or partial lead service lines that will be made available to the public via web page or other similar public access vehicle (subject to disclaimer for accuracy based on best available information);
3. Communities should target proactive outreach to customers with lead service lines to provide educational information regarding the risks of lead exposure and information encouraging the customer to participate in the community lead service line replacement program so that the privately-owned portion is replaced concurrent with the publicly-owned portion;
4. Communities should maintain ongoing proactive outreach to customers with known privately-owned lead service lines;
5. Communities should include a unit cost bid item for public and private portion service line replacement in all water pipeline projects so that a mechanism exists for full removal of lead service lines; and,
6. As a secondary measure, communities' lead service line replacement programs should include replacement of lead gooseneck connections when encountered during infrastructure rehabilitation or construction.

Applicant communities must acknowledge these six recommended components for a **Community Lead Service Line Replacement Program**. This acknowledgement is intended to make sure communities understand that implementing a lead service line replacement program, combined with other water system rehabilitation projects, will help maintain high water quality in the distribution systems and at the customer's tap.

2.10 Multiple Financial Assistance Distributions

If a community seeks additional MWRA funding for additional eligible project costs on a previously funded project, a separate Financial Assistance Application may be submitted to MWRA. Financial assistance for additional community project costs or additional projects will be provided through execution of a separate Financial Assistance Agreement. Communities may receive financial assistance through the execution of multiple Financial Assistance Agreements. The repayment amount and schedule established in each Loan Agreement shall not be modified due to the execution of a second (or multiple) Loan Agreements. The repayment amount and schedule for each Financial Assistance Agreement shall be established independently.

2.11 Limitation on Financial Assistance Award

The award of financial assistance by MWRA shall not constitute a commitment for approval of financial assistance for a subsequent project or additional work under the initial project. If a subsequent project or additional work under the initial project is initiated prior to execution of a Financial Assistance Agreement, the applicant proceeds at its own risk. However, all costs incurred for community lead service line replacement projects on or after July 1, 2016 will be considered for eligibility under the Lead Loan Program, even if the project is underway prior to submittal of the Financial Assistance Application.

2.12 Interaction With Other MWRA Funding Programs, the State Revolving Fund, and Other Programs of Assistance

All costs for which payment has been or will be received under MWRA's Local Water System Assistance Program, MWRA's CSO Program, MWRA's I/I Local Financial Assistance Program, the State Clean Water or Drinking Water Revolving Fund, or any other state, federal, or other program of assistance shall not be considered an "eligible" cost under the MWRA Lead Loan Program. However, a community's acquisition of other grant or loan funds which are not requested for eligibility under the MWRA Lead Loan Program, shall not adversely influence the award of MWRA financial assistance.

2.13 Massachusetts Municipal Depository Trust (MMDT) Account and Use of Earned Interest

The applicant is required to establish a Massachusetts Municipal Depository Trust (MMDT) account (or similar account approved by MWRA) for the program. If the community has an existing MMDT account used for previous Local Water System Assistance Program loans, that account can also be used for the Lead Loan Program. MWRA will deposit the financial assistance funds into the MMDT account. The financial assistance funds must remain separated from other community funds and accounts. No other community funds may be deposited to this account. **Funds must be drawn from the MMDT account to pay project expenses, or to reimburse other municipal accounts that have been used to pay project expenses. The MMDT account must be drawn down in parallel with project expenses throughout the life of the project. Investment reports or monthly statements from the account shall be furnished to MWRA on a regular basis. All interest earned on the financial assistance funds shall be used by the community to cover eligible project costs, additional phases of the community's lead service line replacement program, or other community water system rehabilitation projects as approved by MWRA. If all lead service line replacement projects are completed and loan funds and/or interest remain in the MMDT account, those funds must be utilized on MWRA approved community water system rehabilitation projects.**

SECTION 3 - FINANCIAL ASSISTANCE AGREEMENT

3.1 Overview

Following review of a community's Financial Assistance Application, MWRA will determine the eligible project cost and establish the project Award Amount. Once the Award Amount is determined, MWRA will draft a Financial Assistance Agreement. Prior to the distribution of funds to any community under the Lead Loan Program, both MWRA and the community will be required to execute a Financial Assistance Agreement. The Financial Assistance Agreement will stipulate all applicable terms and conditions of the loan funding provided by MWRA for the community's lead service line replacement project, including, but not limited to: project scope of work (Attachment A); project schedule (Attachment B); project inspection, reporting, audit, and closeout provisions; and project specific special conditions. The applicant shall signify its acceptance of the terms and conditions through execution of the Financial Assistance Agreement.

Appended to the Financial Assistance Agreement will be a separate Loan Agreement (Attachment C). The Loan Agreement process includes: (1) an Opinion of the Community's Bond Counsel stating that the loan is a valid general obligation of the municipality; and (2) a Water Bond prepared by the Community's Bond Counsel and executed by authorized community representatives. The loan repayment amount and schedule will be stipulated in the Water Bond.

The Financial Assistance and Loan Agreements will not be executed by the Authority until such time as a draft Water Bond and Opinion of the Community's Bond Counsel have been received by the Authority. Financial assistance funds will not be distributed by the Authority until such time as the original Water Bond and Opinion of the Community's Bond Counsel have been received by the Authority.

3.2 Projects With Retroactive Funding

For projects where a community seeks to apply for MWRA loan funds to retroactively reimburse project costs previously advanced via community funds, the community is advised that local authorization (via Town Meeting approval, City Council vote, etc.) approving repayment to MWRA is generally required to have occurred **prior** to the expenditure of project costs. With appropriate approvals, community funds may provide bridge financing for some portion of the project, while awaiting permanent MWRA loan funding. As with all community financing options, the community's financial advisor and Bond Counsel representative should be consulted for advice on proper authorization language and appropriate timing of authorization/borrowings to ensure each community's unique legal requirements are met.

3.3 Assignment of Agreement Requirements to a Third Party

For cost efficiencies, some portion of local projects may be performed under an agreement with a separate agency (third party). Examples of this type of arrangement include water pipeline rehabilitation work contained in contracts performed by Massachusetts DPW, DCR, MBTA, BRA, Boston Public Works, etc. Absent specific contract language, the third party would not generally be subject to the terms and conditions of the Financial Assistance Agreement. If the applicant demonstrates to MWRA that an agreement exists between the local community and the third party which conveys the applicable terms and conditions of the Financial Assistance Agreement to the third party, then the costs for the lead service line replacement work will be considered for eligibility. If no such agreement exists, then project costs incurred under third party agreements will be considered ineligible.

SECTION 4 - LOAN REPAYMENT REQUIREMENTS

4.1 Repayment of Interest-Free Loan

For each funding award under the MWRA Lead Loan Program, one hundred percent (100%) of the total Award Amount will be provided as an interest-free loan. The interest-free loan will be repaid to MWRA, in ten equal payments, over a ten-year period, beginning one year after the original quarterly funding distribution date (as established in Section 2.6). Each loan repayment will be due to MWRA annually on the quarterly distribution date.

Forty-five (45) days prior to each annual loan repayment date, MWRA will send the community an invoice that will include the following:

- (1) the terms that will be 45 days from the invoice date;
- (2) the loan repayment due date;
- (3) the annual loan repayment amount;
- (4) a description of the charge;
- (5) the remit address for checks and wires; and,
- (6) the phone number of the MWRA Treasury Office and contact person to call with questions on repayment procedures.

The loan may be repaid early, in less than ten years, if the community so desires. Payments should continue to be made on the anniversary date of the loan, but the amount can be increased if the community wishes to pay off the loan early. If a community wishes to pay an amount in advance of the anniversary date and prior to receiving an invoice, identifying correspondence should accompany the payment in order for MWRA's Treasury Department to properly credit the remaining balance due the proper account. All payments should be clearly identified on the remittance copy of the invoice, especially if the amount paid differs from the amount of the invoice.

SECTION 5 - EXPENDITURE VERIFICATION REQUIREMENTS, PROJECT INSPECTION, PROJECT CLOSEOUT, AND AUDIT PROVISIONS

5.1 Expenditure Verification Requirements

The community shall submit progress reports to MWRA that outline the overall progress of the project, the progress of key project tasks, and the financial status of the project relative to the initial project budget. MWRA will provide standardized forms for progress reporting. Progress reports will be submitted to a designated MWRA Project Manager who will be the key MWRA contact person for all community inquiries regarding the MWRA Lead Loan Program. To enable MWRA to track project expenditures, the community shall append to each progress report appropriate backup information that will document the costs specific to the funded project. Appropriate cost backup information shall include, but not be limited to, consultant and/or contractor invoices and/or pay applications, purchase orders, force account time sheets, etc. The frequency of progress reporting will depend on the project cost, duration, and schedule. Most progress reports are expected to be semi-annual.

5.2 Project Inspection

A community receiving funding under MWRA's Lead Loan Program shall make the project site and all project records available to MWRA staff for review during the course of the project. MWRA staff will periodically monitor the progress of work for which MWRA financial assistance has been provided. The intent of these periodic inspections will be to insure that the project is: (1) proceeding substantially as defined in the Scope of Work (Attachment A) and Project Schedule (Attachment B) of the executed Financial Assistance Agreement; and (2) proceeding in a manner which will produce a successful project as proposed in the Financial Assistance Application. Appropriate wording which will allow MWRA staff access to the project site and project records shall be included in the Financial Assistance Agreement and project contracts related to performance of work for which the community is receiving financial assistance funding.

5.3 Project Closeout Provisions

Upon completion of the project, the community shall notify MWRA that the project is complete and shall certify that all work included in the Scope of Work section of the executed Financial Assistance Agreement has been completed and performed in accordance with said Agreement. MWRA will provide the community with a project closeout package that includes a summary of all project expenditures and identifies the final project cost. The community shall review, execute, and return the project closeout package to MWRA. Prior to project closeout, MWRA will work cooperatively with the community to make every effort to expend the total project financial assistance Award Amount on project related expenditures (or other approved lead service line replacement eligible costs). To ensure that the total project financial assistance Award Amount is expended, MWRA will consider allowing: (1) an increase in the quantity of existing eligible items in the project Scope of Work, (2) additions to the project Scope of Work, or (3) the transfer of unused funding to a second (or future) funded project which has additional eligible project costs which were not already funded under a separate Financial Assistance Agreement.

5.4 Project Audit Provisions

The community, the community's engineer(s), and the community's contractor(s) shall maintain books, records, documents, and other evidence directly related to the performance of all work receiving funding under the Financial Assistance Agreement in accordance with generally accepted professional practice and appropriate accounting procedures and practices. The community, the community's engineer(s), and the community's contractor(s) shall also maintain the financial information and data used by the engineer(s) and contractor(s) in the preparation or support of the cost submission and a copy of the cost summary submitted to the community. MWRA shall have access to such books, records, documents, and other evidence for inspection, audit, and copying during normal business hours, upon ten (10) days of notice and at MWRA's expense. The community, the community's engineers, and the community's contractors shall provide proper facilities for such access and inspection. All of the documents shall be kept for at least seven (7) years after the final payment to the engineer or contractor, or at least seven (7) years after closeout of the project, whichever is later.

The community shall agree to include the wording of the above paragraph in all contracts and subcontracts related to performance of work for which the community is receiving MWRA financial assistance funding.

Audits conducted by MWRA, or its duly authorized representatives, shall be in accordance with generally accepted auditing standards and established procedures and guidelines of MWRA. Such audits shall be conducted at the expense of MWRA upon ten (10) days of notice to the community.

The community agrees to provide MWRA with a copy of the community's annual audited financial statements within a reasonable time after the issuance thereof, together with a certificate of the community stating that the community is in compliance with its obligations under this agreement.

SECTION 6 - EQUAL EMPLOYMENT OPPORTUNITY, ANTIDISCRIMINATION, AND AFFIRMATIVE ACTION

6.1 Overview

The community shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, handicap status or national origin. The community, the community's engineer(s), and the community's contractor(s) shall comply with all applicable laws and regulations pertaining to nondiscrimination, equal opportunity and affirmative action, including without limitation, executive orders and rules and regulations of federal and state agencies of competent jurisdiction. As detailed below, the community shall make positive efforts to use minority-owned business enterprises (MBE) and woman-owned business enterprises (WBE) for professional services, non-professional services and construction related work that has received funding under the MWRA Lead Loan Program. The community shall also require all construction contractors and subcontractors to make positive efforts to meet the percentage goal for minority employee work force hours and woman employee work force hours, as detailed below. Minority and women-owned businesses (MBEs and WBEs) who participate as part of this Program should be certified as such by the Supplier Diversity Office (SDO).

For the purpose of establishing MBE/WBE participation goals and minority/woman employee work force hour goals for projects receiving funding under the MWRA Lead Loan Program, all eligible project costs should be designated to one of the following four categories of work:

- (a) Professional Services (see Section 6.2);
- (b) Non-professional Services (see Section 6.3);
- (c) Construction (see Section 6.4); and,
- (d) Force Account Work (see Section 6.5).

The goals for MBE/WBE participation and minority/woman employee work force hour percentages are specific to the category of work being performed. The goals for each category of work are detailed below.

6.2 Goals for Professional Services

A community that receives MWRA Lead Loan Program funds for a project under the Professional Services category of work should make positive efforts to achieve a goal of 7.18 percent participation of Minority-owned Business Enterprise(s) and 5.77 percent participation of Woman-owned Business Enterprise(s) within the project contracts. At a minimum, the community should allow MBEs and WBEs the maximum feasible opportunity to compete for sub-agreements to be performed under the project. The community will not be required to include MWRA's MBE/WBE Compliance Forms or MWRA's Requirements for Minority and Woman Business Enterprise and Equal Employment Opportunity Consultant Services Forms within its professional services contracts.

6.3 Goals for Non-Professional Services

A community that receives MWRA Lead Loan Program funds for a project under the Non-Professional Services category of work should make positive efforts to achieve a goal of 5.61 percent participation of Minority-owned Business Enterprise(s) and a goal of 4.88 percent participation of Woman-owned Business Enterprise(s) within project contracts. At a minimum, the community should allow MBEs and WBEs the maximum feasible opportunity to compete for sub-agreements to be performed under the project. The community will not be required to include MWRA's Supplemental Provisions for Equal Employment Opportunity, Antidiscrimination and Affirmative Action Forms within its construction contracts/specifications or non-professional services contracts.

The community shall agree to include the wording of the above paragraph in all contracts and subcontracts related to performance of work for which the community is receiving MWRA financial assistance funding.

6.4 Goals for Construction

A community which receives MWRA Lead Loan Program funds for a project under the Construction category of work should make positive efforts to achieve: (1) a minority employee work force goal of 15.3 percent, (2) a woman employee work force goal of 6.90 percent, (3) a goal of 7.24 percent participation of Minority-owned Business Enterprise(s), and (4) a goal of 3.60 percent participation of Woman-owned Business Enterprise(s) within project contracts. At a minimum, the community should allow MBEs and WBEs the maximum feasible opportunity to compete for sub-agreements to be performed under the project. The community will not be required to include MWRA's Supplemental Provisions for Equal Employment Opportunity, Antidiscrimination and Affirmative Action Forms within its construction contracts/specifications or non-professional services contracts.

The community shall agree to include the wording of the above paragraph in all contracts and subcontracts related to performance of work for which the community is receiving MWRA financial assistance funding.

6.5 Force Account Work

The Community shall strive to achieve on the MWRA's Lead Loan Program the labor participation goals contained herein. Said participation goals shall apply in each job category on this program including but not limited to bricklayers, carpenters, cement masons, electricians, ironworkers, operating engineers and those classes of work enumerated in Section 44F of Chapter 149 of the Massachusetts General Laws. The participation goals for this project shall be **15.3%** for minorities and **6.9%** for women. The participation goals, as set forth herein, shall not be construed as quotas or set-asides; rather, such participation goals will be used to measure the progress of the Commonwealth's equal opportunity, non-discrimination and affirmative action program.

SECTION 7 - INSTRUCTIONS FOR COMPLETING FINANCIAL ASSISTANCE APPLICATION

7.1 Application Instructions

Each eligible MWRA water community, as set forth in Section 2.3, may apply to MWRA for funding under MWRA's Lead Loan Program by completing and filing a Financial Assistance Application. MWRA will review each submitted application to determine the adequacy, accuracy and completeness of the information contained therein. MWRA may request the applicant provide additional project information and/or request the applicant attend a meeting to review details of the proposed project.

Based on the type of community project, one of the two MWRA Local Water System Assistance Program applications should be submitted to MWRA, as explained below:

1. Under a Local Water System Assistance Program joint application for a *Water Project* and *Lead Loan Program Project*, MWRA Lead Loan Program funds will be distributed together with Local Water System Assistance Program Water Project funds to finance local projects that combine lead service line identifications/replacements with a water pipeline rehabilitation/replacement project. To apply for MWRA financial assistance for a joint *Water Project* and *Lead Loan Program Project*, use the Financial Assistance Application for Water Projects (Note that Water Projects may include a Lead Service Line Replacement Component). The Financial Assistance Application for Water Projects is presented as Attachment 1 to the Program Guidelines for Water Projects.
2. Under a Local Water System Assistance Program application for a *Lead Loan Program Project* only, MWRA Lead Loan Program funds will be distributed (separate from any *Water Project* funds) for local projects that specifically target lead service line identification and/or replacements. To apply for MWRA financial assistance for a *Lead Loan Program Project* only, use the Financial Assistance Application for Lead Service Line Replacement Loan Program Projects that is presented as Attachment 1 to this document.

All questions within the application must be answered completely and accurately. The application and all supporting documentation should be submitted to:

Massachusetts Water Resources Authority
Charlestown Navy Yard
100 First Avenue
Boston, MA 02129
Attn: Planning - Community Support Program

An electronic copy (MS Word) of the application is available at:
<http://www.mwra.com/comsupport/communitysupportmain.html>, or from:

- David Granados, Project Manager, david.granados@mwra.com , or
- Claudia Baptista, Project Engineer, claudia.baptista@mwra.com .

The Lead Loan Program web page is at: <http://www.mwra.com/comsupport/llp/llpprogram.html>. The applicant should provide as complete information as possible on the proposed project. The information provided will be reviewed by MWRA staff to determine if the project is a viable Lead Service Line Replacement Loan Program project and assess eligible project costs.

A discussion of each section of the Financial Assistance Application is presented below.

Section 1 - Financial Assistance Requested

This section is self-explanatory.

Section 2 – Acknowledge MWRA Recommended Community Water System Maintenance and Improvement Programs

Each community participating in the Lead Loan Program must acknowledge the MWRA recommended components for a **Community Lead Service Line Replacement Program** as part of the Financial Assistance Application Process.

Section 3 - Project Description

The applicant should provide as complete and detailed information as possible on the proposed project. The information provided will be reviewed by MWRA staff to determine if the project is a viable lead service line replacement project and assess the eligible project costs. It is important that the project proponent state the estimated number of lead service connections anticipated to be removed from completion of the project construction phase.

Section 4 - Documentation of Project Need

Identify records that document the project's need, including, but not limited to: existing community lead service line inventories, water system records, physical surveys and internal inspections; housing stock age, and other pertinent DPW/Water Department maintenance records.

Section 5 - Project Schedule

The application must contain a realistic schedule outlining important milestones in the planning, design, or construction phases of the project. If final paving and/or project closeout are anticipated to be delayed due to winter season, please note this in the project schedule. The estimated project start date must be included and must be within ninety days of the distribution of funds.

Section 6 - Map of Project

As appropriate, the application should be accompanied by a project map denoting the general area of work. If no map or plan is submitted with the application, please explain why a map is not appropriate.

Section 7 - Project Funding

The applicant must identify if 100 percent of the proposed project funding will come from MWRA's Lead Loan Program or if a portion of the project funds will come from other funding sources. If additional funds are required to perform the project, the applicant must identify them in this section of the application. Documentation of the availability of the additional funds should be included with the application or, if the additional funding is anticipated through a future action, the anticipated availability date of the additional funds should be provided.

Section 8 - Summary of Costs

In the space provided (or as an attachment) list each project phase (i.e. Inventory/Planning, Design, Construction, Construction Services, etc.). Under each phase list the major tasks of work required to complete the project. **Note that if construction paving costs represent more than ten percent (10%) of the project cost, they should be identified as a separate project phase or subtask in Section 8 - Summary of Costs.**

At the bottom of the Summary of Costs section, provide the date of the cost estimate, the appropriate Engineering News Record (ENR) Construction Cost Index, and the name of the person or firm who developed the cost estimate. Engineering costs should be broken down into the major engineering tasks as outlined in a standard engineering agreement. The following information should be provided for each engineering task: staff labor category, staff hours, hourly rates, direct labor costs, indirect labor costs, other direct costs and/or expenses, etc. For ease of preparation, a cost spreadsheet form may be submitted. Construction costs should be documented through an engineering cost estimate or bid tabulation, if available.

Section 9 - Interdependent Projects

The application must note whether financing has been received or is being requested for this project, or a separate phase of the project, from a non-MWRA grant, the Drinking Water State Revolving Fund (DWSRF) program, or any other federal, state or other funding program. The applicant must specify interdependent projects or portions of projects. For example, if the applicant is performing the design phase of a project under State grant or DWSRF funding, and MWRA financial assistance is being requested for the construction phase, then the construction phase is dependent on completion of the design.

Section 10 - Intermunicipal Projects

If the project will serve two or more municipalities, or one community's project extends into another community, the applicant must explain the circumstances. State whether the municipalities have, or propose to have, an intermunicipal agreement or another legally binding document covering financing, construction, and/or operation of the proposed improvements. If not, detail historic cooperative service relationships between the parties.

Section 11 - Project Permits and Certificates

The applicant should specify permits and/or certificates that have been obtained or may be required prior to initiation of the proposed project. A list of permits and certificates, which may be applicable, is provided in the application. Additional permits and/or certificates may be required which are not shown on the list provided.

Section 12 - Construction Plans, Specifications, and Bidding Documents

For proposed construction projects and equipment/material purchases, the applicant should outline the status of the plan, specification, and bidding document preparation, and the time schedule for completion. If these documents are not required for the project, an explanation should be included in this section.

Section 13 - Engineering Agreement

For proposed planning and design projects, the applicant should outline the status of an engineering agreement and time schedule for its completion. If no engineering agreement is required for the project, an explanation should be included in this section.

Section 14 - Force Account Work

If the applicant proposes to perform any funding eligible portion of the project (inventory/planning, design, construction services, construction activities, etc.) using its own staff (City, Town, District, or Commission employees), interns, or temporary employees (force account work), a description of the proposed activities must be provided. The use of the applicant's own employees is defined as "force account work".

Only direct labor costs associated with force account work may be approved as eligible costs if documentation of the direct labor hours and cost per hour are provided to MWRA. Charges for overhead, overtime, and/or the use of vehicles or equipment owned by the applicant and staff time to obtaining permits or licenses are ineligible.

To document Force Account Work, MWRA requires detailed records of staff hours worked on the project. As part of its regular project progress reports to MWRA, the community must provide a breakdown of staff names, titles, job duties, hours worked on the project, and hourly pay rates. Detailed records such as weekly time sheets should be submitted as backup to summary spreadsheet information. If weekly time sheet information is not available for submittal, an appropriate community representative with direct knowledge of the project activities will be required to certify via signed statement that the force account hours being submitted to MWRA as eligible work are authentic.

Section 15 - Other Project Information

The applicant is encouraged to provide any other additional information that may enable MWRA to determine that the project is a viable lead service line replacement project and assess the eligible project costs.

APPENDIX A - DEFINITION OF TERMS

Authority - Massachusetts Water Resources Authority

Board of Directors - Board of Directors of the Massachusetts Water Resources Authority

Director of Finance – Director of Finance of the Massachusetts Water Resources Authority

Executive Director - Executive Director of the Massachusetts Water Resources Authority

Financial Assistance - Monies provided to public entities

Grant - Monies provided to public entities that do not require repayment

Loan - Monies provided to public entities that are required to be repaid over a specified time period

Service Area Communities - All municipalities, water districts and commissions served by the MWRA's Waterworks System

Treasurer - Treasurer of the Massachusetts Water Resources Authority

APPENDIX B - ABBREVIATIONS

BRA:	Boston Redevelopment Authority
CMR:	Commonwealth of Massachusetts Regulation
CSO:	Combined Sewer Overflow
CVA:	Chicopee Valley Aqueduct
DCR:	Department of Conservation and Recreation
DPW:	Department of Public Works
DOT:	Massachusetts Department of Transportation
DWSRF:	Drinking Water State Revolving Fund
EIR:	Environmental Impact Report
ENF:	Environmental Notification Form
ENR:	Engineering News Record
EPA:	United States Environmental Protection Agency
FY:	Fiscal Year
GIS:	Geographic Information System
LLP:	Lead Loan Program
LWSAP:	Local Water System Assistance Program
MassDEP:	Massachusetts Department of Environmental Protection
MBE:	Minority-owned Business Enterprise
MBTA:	Massachusetts Bay Transit Authority
MMDT:	Massachusetts Municipal Depository Trust
MWRA:	Massachusetts Water Resources Authority
O&M:	Operation and Maintenance
SOMWBA:	State Office of Minority and Women Business Assistance
WBE:	Woman-owned Business Enterprise