

Compendium of Debt-Financing Options for Scaled Investments in Distributed Green Stormwater Infrastructure

A Quick Reference Guide for Green Bay, Sheboygan & Mid-Sized Wisconsin Cities

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INTRODUCTION

PURPOSE OF THE COMPENDIUM

WaterNow Alliance, in partnership with the City of Sheboygan, the City of Green Bay, American Rivers, and Corona Environmental Consulting, has prepared this compendium of debt-financing and other alternative financing options as a quick reference guide to the options available to mid-sized Wisconsin cities to debt finance capital investments in distributed green stormwater infrastructure (GSI) on both public and private property. Distributed GSI includes [stormwater management strategies](#) such as bioswales, rain gardens, permeable pavement, cisterns, green roofs, green streets, and urban tree canopy. The compendium was developed as a companion resource to the *Green Infrastructure Incentives: Funding Resilience in Mid-Sized Cities in Wisconsin* memo developed by American Rivers and Corona Environmental Consulting (American Rivers report).

WHY CONSIDER DEBT-FINANCING GSI?

Municipal bonds and other forms of debt have long been the financing vehicle of choice for cities and public water agencies to pay for big capital projects such as pipes, tunnels, and treatment plants. To invest in GSI at a scale necessary to maximize the stormwater management and co-benefits of GSI, cities and utilities will also need to access capital budgets and finance these projects as long-term capital projects. Debt-financing GSI investments is also appropriate from a policy perspective. It matches the benefits with costs of GSI. Because GSI projects have long-term benefits the costs of those projects are appropriately paid for over the long-term. And it provides intergenerational equity ensuring that both current and future ratepayers bear the burden of the cost because current and future ratepayers both enjoy the benefits.²

Financing Options

1. Municipal bonds
 - ✓ Revenue bonds, including green and climate bonds
 - ✓ General obligation bonds
 - ✓ Pooled bonds
 - ✓ Environmental Impact Bonds
2. Loans
 - ✓ Wisconsin Clean Water State Revolving Fund Loans
 - ✓ Wisconsin Dept of Natural Resources Small Loans Program
 - ✓ Board of Land Commissioners Public Purpose Projects Loans
 - ✓ HUD Section 108 Loan Guarantee Program

² For more information about how debt-financing can bring GSI, and other sustainable water solution, investments to scale see, *Debt: What Is It Good for and Can It Be Good for You?* <https://youtu.be/lhh1KZYFFIQ>.

WHAT DOES THE COMPENDIUM INCLUDE?

The compendium includes summaries of available financing options and high level legal and accounting analysis of Wisconsin state public finance laws governing capital investments to provide a basis for debt-financing investments in distributed GSI.³ The financing options detailed in the compendium are listed in the right. It also includes preliminary assessments of how Green Bay and Sheboygan (the Cities) could leverage these financing options scaling their distributed GSI programs.

WHO SHOULD USE THE COMPENDIUM?

The compendium is tailored to the City of Sheboygan, City of Green Bay, and other similar Wisconsin cities' local stormwater managers and decision makers exploring new or expanded distributed GSI programs and are interested in an introduction to potential financing options.

HOW TO USE THE COMPENDIUM?

Local stormwater managers and decision makers will find this compendium useful to issue spot legal and accounting questions related to potential financing mechanisms, to inform conversations with finance teams, and access additional resources with more details and information. The compendium also cross references potential distributed GSI incentive programs detailed in the accompanying American Rivers report and matches them to potential financing options.

³ There may also be tax implications of using municipal bond proceeds to pay for distributed GSI investments. Those tax questions are beyond the scope of the compendium. However, an overview of how to navigate tax issues when using municipal bond proceeds to pay for distributed GSI can be found [here](#).

MUNICIPAL REVENUE BONDS

OVERVIEW

Municipal revenue bonds are bonds issued by local governments, utilities, and special districts to raise funds for capital projects.⁴ These types of bonds provide up-front capital that is paid back over the life of the bond out of expected dedicated revenue streams, e.g., a stormwater fee or charge or a wastewater rate. **Green bonds** are municipal bonds where the proceeds are used exclusively for projects and activities that serve environmental sustainability purposes. Similarly, **climate bonds** are municipal bonds where the proceeds are used for projects and activities that help mitigate or adapt to impacts of climate change. Green bonds and climate bonds can be certified by third parties to establish that the funded projects meet the stated objectives. Certification processes also include follow up reporting once the bonds have been issued and the projects are underway as an additional layer of verification to investors to show that the funds were used to as promised.

Financing Green Bay GSI Incentive Programs

Green Bay may be able to finance the below incentive programs with municipal revenue bonds:

- ✓ Rebates
- ✓ Grants

For a full description of these incentive programs see American River's report.

WHAT CAN MUNICIPAL REVENUE BONDS PAY FOR?

Municipalities and public utilities can use revenue bonds to finance a wide variety of capital projects including on:

- public property that the utility owns;
- public property that the utility does not own; and
- private property.

As detailed below, specific legal and accounting requirements govern the extent to which bond proceeds can finance distributed GSI on public and private property. However, generally, proceeds from revenue bonds can be used to pay for construction of capital projects that provide a long-term benefit to the water system. Revenue bonds cannot be used to pay for annual operation and maintenance costs of distributed GSI.

⁴ WaterNow Alliance, Tap into Resilience Toolkit, *What are My Financing Options, Types of Bonds, Municipal/Revenue Bonds*, available at: <https://bit.ly/2ZPMDqK>; see also WaterNow Alliance, *Innovation in Action: 21st Century Water Infrastructure Solutions*, available at: <https://tapin.waternow.org/resources/innovation-in-action-21st-century-water-infrastructure-solutions>.

AUTHORITY TO ISSUE REVENUE BONDS

Wisconsin counties, cities, villages, and towns (herein “municipalities”), among other entities, are authorized to issue revenue bonds to purchase, acquire, lease, construct, extend, add to, improve, conduct, control, operate or manage a **public utility**.⁵ “Public utility” means any revenue producing facility or enterprise owned and operated by a municipality to fulfill the municipalities’ powers and duties, including **sewerage systems** and any other necessary public works projects undertaken by a municipality.⁶

“**Sewerage**” is a comprehensive term, including all construction for collection, transportation, pumping, treatment and final disposition of sewage or **storm water** and surface water.⁷ Wisconsin municipalities may **construct, acquire or lease, extend or improve** any plant and equipment within or without its corporate limits **for the collection, transportation, storage, treatment and disposal of sewage or storm water and surface water**, including necessary lateral, main and interceptor sewers. Such costs may be funded from the municipality’s general fund, by taxation, special assessment or sewerage service charges, by municipal obligations or **revenue bonds** or from any combination of these sources.⁸ And sewerage service charges may be set at an amount to meet all or part of the requirements for the construction, reconstruction, **improvement, extension**, operation, maintenance, repair, and depreciation of the sewerage system, and for the payment of all or part of the principal and interest of any indebtedness incurred for those purposes.⁹ Sewerage service charges may be pledged to secure the payment of the costs of purchasing, constructing or

Financing Sheboygan GSI Incentive Programs

Sheboygan may be able to finance the below incentive programs with municipal revenue bonds:

- ✓ GSI grant program

For a full description of these incentive programs see American River’s report.

⁵ Wis. Stat. Ann. § 66.0621(1)(a). In addition to the authority to issue revenue bonds, counties, sanitary districts, public inland lake protection and rehabilitation districts, towns, cities, or villages are authorized to issue “public improvement bonds” to “finance the cost of construction or acquisition, including site acquisition, of any revenue-producing public improvement of the municipality.” Wis. Stat. Ann. § 66.0619(1). “Public improvement” for the purposes of “public improvement bonds” means, “any public improvement which a municipality may lawfully own and operate from which the municipality expects to derive revenues.” Wis. Stat. Ann. § 66.0619(1)(d).

⁶ Wis. Stat. Ann. § 66.0621(1)(b).

⁷ Wis. Stat. Ann. § 66.0821.

⁸ Wis. Stat. Ann. § 66.0821; see also Wis. Stat. Ann. § 66.0621(4)(b).

⁹ Id.

otherwise acquiring a sewerage system or any part of a sewerage system, or for **extending or improving** the sewerage system.¹⁰

Wisconsin cities, towns, and villages' authority to issue revenue bonds to pay for improvements to a storm sewer system may include investments in distributed GSI, including investments in distributed GSI programs that are implemented via consumer incentive programs. (See the box above for examples of incentive programs that could be financed with revenue bonds.) To the extent the municipality has an ownership or control interest, e.g., an easement or contractual right to enter the property where the GSI is located, using revenue bond proceeds to pay for the distributed GSI project would potentially fall within the municipalities bonding authority. If the municipality can demonstrate that the distributed GSI project(s) benefit, extend, and improve the overall sewerage system, municipal ownership or control of the distributed GSI may not be needed.

In this context, the first question Wisconsin municipalities will need to ask—and answer—is: **“What is the public purpose served by the proposed distributed GSI project?”** Because using the proceeds of revenue bonds to pay for distributed GSI can involve the use of public funds for improvements on private property, municipalities interested in this option are well-advised to first develop a clearly defined program or description of what the distributed GSI to be financed includes and how it meets the municipalities' overall stormwater management goals. This can be accomplished in a number of ways:

- ✓ Establishing, and adopting, a distributed GSI strategic or master plan, or similarly detailed programmatic outline of the types of distributed GSI that will be implemented and the benefits those strategies will provide the stormwater system;
- ✓ Citing National Pollutant Discharge Elimination Permit requirements for implementing green stormwater infrastructure and/or requirements to manage stormwater onsite;
- ✓ Citing state and local laws that authorize, or require, municipalities to manage stormwater and describe how distributed GSI projects meet these legal authorities or requirements;
- ✓ Outlining the quantitative benefits of distributed GSI to make the technical case for how such projects manage stormwater and improve water quality;
- ✓ Adopting a city resolution outlining the public purposes of distributed GSI and the ways those projects benefit the storm water system and approving a distributed GSI strategic or master plan.

With a combination, as applicable, of these supporting documents, municipalities can build a case for using revenue bond proceeds to pay for distributed GSI projects on

¹⁰ Wis. Stat. Ann. § 66.0821(3)(c).

private property. As shown in the table below, Sheboygan and Green Bay have many of these supporting materials in place.¹¹

Green Bay GSI Polices, Plans & Drivers	Sheboygan GSI Polices, Plans & Drivers
Stormwater Utility Fee	Stormwater Utility Fee
Stormwater Management Plan	Stormwater Management Plan
Smart Growth 2022 Comprehensive Plan	Sustainability Guidebook
Budget 2021	Green Tier Legacy Community Sustainability Plan
Green Bay District & Corridor Planning	Capital Improvements Program 2021-2025
Resolution to Value and Protect Local Waters (2021)	Tax Increment Financing Policy
Water Strategic Plan 2019-2021	WPDES Municipal Stormwater Permit
WPDES Municipal Stormwater Permit	

PROCEDURAL REQUIREMENTS

To issue a revenue bond for sale, Wisconsin municipalities will first need to consider whether they have existing revenue bonds outstanding and, if so, determine whether the new issuance would meet the “additional bonds” test¹² established in the prior bond ordinance or resolution.¹³ Municipalities must also satisfy the procedural and administrative requirements set out in Wisconsin Statutes section 66.0621(4). These procedural and administrative steps include:

- Adopt an ordinance or resolution ordering the issuance and sale of the bonds and stating that the bonds are payable no more than 40 years of the date of issuance and do not constitute an indebtedness of the municipality;¹⁴
- Establish, via the bond ordinance or resolution, a system of funds and accounts and provide for sufficient revenues to operate and maintain the public utility and cover the annual debt service;
- Establish a special redemption fund to repay the bond and any interest incurred, and cite the special redemption fund in the bond ordinance/resolution;

¹¹ Descriptions of these materials is provided in the American Rivers report.

¹² For background information on additional bonds tests see:

<https://tapin.waternow.org/toolkit/?item=debt-constraints>.

¹³ Municipalities will also need to consider whether the prior ordinance or resolution relates to a Clean Water SRF loan, as it may include certain other restrictions on the municipality’s ability to issue additional bonds.

¹⁴ This, in turn, means that the revenue bond amount is not included in calculating a municipality’s constitutional debt limitation. Wis. Stat. Ann. § 66.0621.

- Covenant to maintain rates and charges to generate net revenues at a minimum percentage of the annual debt service, with the percentage either defined by a prior bond ordinance or resolution or, if no prior percentage was established, by the ordinance or resolution ordering the issuance;
- Create a Reserve Account with a Special Redemption Fund;
- Make monthly deposits into a principal and interest account of the Special Redemption Fund equal to 1/6 of interest and 1/12 of interest; and
- Any interest incurred must be paid annually, at a minimum, and payment of principal on the bonds must begin no later than 3 years after the issuance or 2 years after the estimated date construction of the funded projects will be completed—whichever is later.

The above list is not exhaustive, but provided as summary outline for initial reference.

AS APPLIED TO GREEN BAY & SHEBOYGAN

As Wisconsin municipalities Green Bay and Sheboygan are authorized to issue municipal revenue bonds to finance capital improvements to a public utility.¹⁵ Both Green Bay and Sheboygan have stormwater utilities.¹⁶ Green Bay could use its current stormwater fee revenues to secure a revenue bond. Sheboygan, however, would need to reinstate the stormwater fee it is authorized to collect, but does not currently collect, to use those revenues as security for a revenue bond.

Further, the Cities may be able to access wastewater rates to co-fund distributed GSI investments, which have multiple co-benefits for wastewater management, including, reducing inflow and infiltration and reducing sewer overflows and basement backups.¹⁷ Green Bay's wastewater rate expressly includes the cost of managing inflow and infiltration into the wastewater system, which may support the city's ability to use wastewater rate revenues to secure a revenue bond to finance distributed GSI.¹⁸ It appears that Green Bay may have used this approach in a recent bond issued in March 2021.¹⁹ Sheboygan similarly recognizes the interplay between its sanitary sewer system and stormwater runoff, as the city defines its sanitary sewer as the sewer system that carries "liquid and water-carried wastes ... together with minor quantities of ...

¹⁵ Wis. Stat. Ann. § 66.0621(1)(a).

¹⁶ Green Bay's Storm Sewer Utility is established and operated pursuant to Section 42-202 et seq. of the municipal code. Sheboygan's stormwater management system and stormwater user fee is established and operated pursuant to Section 122-631 et seq. of the municipal code.

¹⁷ Green Bay's Common Council has recognized the intersection between stormwater and wastewater management: "Failure to effectively manage this increased stormwater runoff affects the sanitary sewer utility operations of the Green Bay Sanitary District by, among other things, increasing the likelihood of infiltration and inflow in the sanitary sewer." Green Bay Municipal Code, Sec. 42-203(a)(1).

¹⁸ Green Bay Municipal Code, Sec. 42-42-30(b).

¹⁹ Green Bay, Wisconsin, Water System Revenue Bonds, Series 2021, <https://emma.msrb.org/P21440867-P21118646-P21529883.pdf>.

stormwaters ... that are not admitted intentionally,”²⁰ and is authorized to use wastewater rate revenues to operate, maintain, and improve the sanitary sewer system.²¹ This authority for the use of wastewater rate revenues may support Sheboygan’s ability to use wastewater rate revenues to secure a revenue bond to finance distributed GSI.

To the extent Green Bay and Sheboygan can use stormwater fees, other enterprise revenues, to secure a revenue bond, the Cities are arguably authorized to use the proceeds of those bonds to finance investments in distributed GSI programs that are implemented via consumer incentive programs—so long as the Cities demonstrate the distributed GSI projects serve a public purpose and extend or improve the Cities’ stormwater systems. As to Green Bay, to use stormwater fees to secure debt to finance distributed GSI investments via a revenue bond, Green Bay would likely need to show that the distributed GSI “extends,” “expands” and “supports” the city’s stormwater system.²² For Sheboygan, there would likely need to be a showing that the distributed GSI investments are “proper and reasonably necessary” to extending or expanding²³ the stormwater management system and are “equipment,” or “facilities and appurtenances” that will support the city’s stormwater system.²⁴

Given these authorities to finance “expansion” or “extension” of the stormwater systems, Green Bay and Sheboygan may potentially be able to use proceeds from a municipal revenue bond to pay for distributed GSI on property the Cities do not own, e.g., private property or public property owned by another public entity, without obtaining an ownership interest in the distributed GSI. There may be a stronger case to be made that Green Bay and Sheboygan can use revenue bonds to finance distributed GSI investments if the Cities were to obtain an ownership or control interest, e.g., an easement or contractual right to enter the property where the GSI is located, in the GSI

²⁰ Sheboygan Municipal Code, Sec. 122-226.

²¹ See Sheboygan Municipal Code, Sec. 122-402.

²² Green Bay Municipal Code, Sec. 42-203(c).

²³ Sheboygan defines “extension and replacement” as, “costs of extensions, additions and capital improvements to, or the renewal and replacement of capital assets of, or purchasing and installing new equipment for, the system, or land acquisition for the system and any related costs thereto, or paying extraordinary maintenance and repair, including the costs of construction, or any other expenses which are not costs of operation and maintenance or debt service.” Sheboygan Municipal Code, Sec. 122-632.

²⁴ Sheboygan Municipal Code, Sec. 122-631(b).

facilities to further demonstrate that these installations are part of the stormwater system.

Resources

- [Tap into Resilience Toolkit](#)
- [Climate Bonds Initiative: Explaining Green Bonds](#)
- [Climate Bonds Initiative: Understanding Climate Bonds](#)
- [Case Study: DC Water Green Bond](#)
- [Case Study: Milwaukee Metropolitan Sewerage District Climate Bond](#)
- [Presentation: Very brief history of water infrastructure finance](#)

GENERAL OBLIGATION BONDS

OVERVIEW

General obligation (GO) bonds are bonds issued by local governments to raise funds for capital projects. As with revenue bonds, GO bonds provide up-front capital that is paid back over the life of the bond and can be issued as green or climate bonds. Unlike [revenue bonds](#), however, GO bonds are municipal bonds secured by the full faith and credit, and taxing power, of the municipality rather than by revenue from a given project or enterprise.

WHAT CAN GO BONDS PAY FOR?

The proceeds of GO bonds can be used to pay for a wide variety of capital projects with a useful life of one year or more including on:

- public property that the municipality owns;
- public property that the municipality does not own; and
- private property.

As detailed below, specific legal and accounting requirements govern the extent to which GO bond proceeds can finance distributed GSI on public and private property. However, generally, proceeds from GO bonds can be used to pay for construction of capital projects that serve a public purpose.²⁵ GO bonds cannot be used to pay for annual operation and maintenance costs, e.g., wages, salaries, fringe benefits, materials, supplies, contractual services, equipment with a useful life of less than one year.²⁶

Financing Sheboygan GSI Incentive Programs

Sheboygan may be able to finance the below incentive programs with general obligation bonds:

- ✓ GSI grant program
- ✓ GSI design grants

For a full description of these incentive programs see American River's report.

²⁵ Municipalities are restricted in the amount of GO bond debt than can incur. Specifically, the aggregate amount of indebtedness, including existing indebtedness, of any municipality shall not exceed 5 percent of the value of the taxable property located in the municipality as equalized for state purposes. Wis. Stat. Ann. § 67.03(1)(a)

²⁶ Wis. Stat. Ann. § 67.04(1)(ag).

AUTHORITY TO ISSUE GO BONDS

Wisconsin municipalities—counties, cities, villages, and towns—are authorized to issue GO bonds to finance any **project** undertaken for a **“public purpose,”** i.e., performance of any power or duty of the issuing municipality.²⁷ **“Project”** means the acquisition, leasing, planning, design, construction, development, **extension, enlargement,**

Financing Green Bay GSI Incentive Programs

Green Bay may be able to finance the below incentive programs with general obligation bonds:

- ✓ Rebates
- ✓ Grants
- ✓ Revolving loan fund (w/initial capitalization as a grant to the fund)

For a full description of these incentive programs see American River’s report.

renovation, rebuilding, repair or **improvement** of land, waters, property, highways, buildings, equipment or facilities.²⁸

Wisconsin cities, towns, and villages’ authority to issue GO bonds to pay for projects that serve a public purpose is broad. If the municipality can demonstrate that the distributed GSI project(s) extend, enlarge, or improve the sewerage/stormwater system, distributed GSI—including investments in distributed GSI programs that are implemented via consumer incentive programs—may qualify as “projects.” (See the box above for examples of incentive programs that could be financed with revenue bonds.) To demonstrate that the distributed GSI programs serve a public purpose, the municipalities can cite a defined program or description of what the distributed GSI to be financed includes and how it meets the municipalities’ overall stormwater management goals. The ways a municipality can show that distributed GSI projects serve public purposes are list [above](#).

PROCEDURAL REQUIREMENTS

Prior to issuing GO bonds, Wisconsin cities and villages are required to adopt a resolution that states the purpose for and maximum amount of the borrowing, i.e., the “initial resolution,” and must publish a notice in the official newspaper.²⁹ For cities, voters have a 30-day

petition period for referendum; villages do not have a referendum period. And towns are subject to mandatory referendum.

At the time of or after the adoption of an initial resolution and before issuing the contemplated GO bond, a municipality’s governing body, e.g., city council, must levy a direct, annual tax sufficient to repay the bond principal and interest.³⁰ Additional

²⁷ Wis. Stat. Ann. § 67.04(ar).

²⁸ Wis. Stat. Ann. § 67.04(ar).

²⁹ Wis. Stat. Ann. § 67.05(1).

³⁰ Wis. Stat. Ann. § 67.05(10).

procedural requirements for issuing GO bonds are set out in Wisconsin Statutes section 67.05.

If a GO bond will finance investments in water systems, street improvements, river improvements, sewerage, any combination of sewage, garbage or refuse or rubbish disposal, parks and public grounds, for parking lots or other parking facilities, or for school purposes (among other purposes), cities and villages are not required to obtain voter approval before issuing the bond.³¹

AS APPLIED TO GREEN BAY & SHEBOYGAN

As Wisconsin municipalities, Green Bay and Sheboygan are authorized to issue general obligation bonds. In the context of issuing GO bonds, “public purpose” has traditionally been viewed as somewhat restrictive, but it is possible that the types of activities that qualify as a “project” that can be financed with GO bond proceeds are broad enough to include most if not all distributed GSI. Likewise, given that sewerage and water systems are expressly included as purposes for which GO bonds may be issued without an election, general obligation bonds could be an option for financing distributed GSI.

Resources

- [Tap into Resilience Toolkit](#)

³¹ Wis. Stat. Ann. § 67.05(5)(b).

POOLED BONDS

OVERVIEW

Pooled bonds are [revenue bonds](#) issued by a group of cities, towns, and/or special districts. One option for issuing pooled bonds is through the Public Finance Authority

Financing Green Bay GSI Incentive Programs

Green Bay may be able to finance the below incentive programs with pooled bonds:

- ✓ Rebates
- ✓ Grants

For a full description of these incentive programs see American River's report.

("PFA")—a governmental entity established under section 66.0304 of the Wisconsin State Statutes, authorized to issue tax-exempt, taxable, and tax credit conduit revenue bonds. PFA was established to provide a means to efficiently and reliably finance projects on behalf of local governments in Wisconsin and throughout the country. Some advantages of pooled bonds include lower interest rates, higher credit ratings, and shared transaction costs spread across the pool. Pooled bonds could also be issued as green or climate bonds to increase marketability to Environmental, Social and Governance (ESG) investors.

WHAT CAN POOLED BONDS PAY FOR?

Cities, counties, towns, and districts can finance or refinance water and wastewater, including stormwater, projects through PFA at AA rates. PFA will bundle eligible borrower obligations and issue bonds with additional security provided by a bond insurer. As with revenue and GO bonds, revenues from pooled bonds can be used to pay for a wide variety of capital projects including on:

- public property that the municipality owns;
- public property that the municipality does not own; and
- private property.

As detailed below, specific legal and accounting requirements govern the extent to which pooled bond proceeds can finance distributed GSI on public and private property. However, generally, proceeds from pooled bonds can be used to pay for capital improvements.³² Pooled bonds cannot be used to pay for annual operation and maintenance costs.

³² Wis. Stat. Ann. § 66.0304(1)(g).

AUTHORITY TO ISSUE POOLED BONDS

Pooled bonds issued through PFA are a complete alternative to other legal authorities Wisconsin municipalities have to issue revenue or GO bonds.³³ To participate in a pooled bond, cities, towns, and villages apply through PFA's process to then form and execute an agreement governing the bond issuance. As part of the pooled bond agreement, the participating municipality must agree to:

- ✓ Maintain rates and charges to generate net revenues at least 120% of the annual debt service;
- ✓ Pay 1/10 of annual debt service as monthly deposits to PFA's trustee;
- ✓ Provide ongoing disclosure of financial status and material events to PFA;
- ✓ Provide additional security through an insurance provider, i.e., Assured Guaranty Mutual (AGM), and/or a cash fund reserve; and
- ✓ Be approved by AGM prior to issuance of the bond.

To be eligible, potential pool participants should be the **sole service provider** in the area, e.g., the only water, wastewater, or stormwater system, the potential participants' facilities **serve more than 1,000 connections or more than 5,000 in total population**, they have **independent rate setting authority**, and the desired **bond amount ranges from \$1,000,000 to \$30,000,000**.

In addition, cities, towns, and villages' authority to participate in a pooled bond is the same as their authority to issue [revenue bonds](#). As detailed above, the authority to issue revenue bonds to pay for improvements to a storm sewer system may include investments in distributed GSI, including investments in distributed GSI programs that are implemented via consumer incentive programs. Accordingly, it may be possible to issue pooled bonds to finance investments in distributed GSI projects and programs so long as the projects [serve a public purpose](#) and benefit the system. (See the box above for examples of incentive programs that could be financed with pooled bonds.)

Financing Sheboygan GSI Incentive Programs

Sheboygan may be able to finance the below incentive programs with pooled bonds:

- ✓ GSI grant program

For a full description of these incentive programs see American River's report.

³³ Wis. Stat. Ann. § 66.0304(11)(b).

PROCEDURAL REQUIREMENTS

To participate in a pooled bond issued by PFA, Wisconsin municipalities would follow the application process defined by PFA and demonstrate they meet the eligibility requirements. And prior to issuing the bond, PFA is required to adopt a bond resolution that includes the information required by Wisconsin State Statutes section 66.0304(5), including, but not limited to:

- Date of maturity that does not exceed 50 years from the date of issuance;
- A statement establishing that the debt is not an obligation of PFA, does not obligate the pool participants to levy any tax or make any appropriation for payment of the bonds, and the bonds are payable solely from the funds pledged for their payment in accordance with the bond resolution or trust agreement or indenture providing for their issuance; and
- A statement that the bonds have been authorized and issued pursuant to the laws of Wisconsin.

The above list is not exhaustive, but provided as summary outline for initial reference.

AS APPLIED TO GREEN BAY & SHEBOYGAN

Green Bay and Sheboygan's authority to issue pooled bonds is the same as the Cities' authority to issue [revenue bonds](#). Similarly, the purposes for which the Cities can issue pooled bonds mirror the authorized uses of revenue bond proceeds.

Resources

- [Public Finance Authority Water & Wastewater Pooled Bonds Program](#)
- [Sustainable Development Goals](#)
- [Presentation: Role of Underwriter and Financing Options for Localized Infrastructure](#)

ENVIRONMENTAL IMPACT BONDS

OVERVIEW

Environmental impact bonds (EIB) are an innovative financing tool that leverages private investment to support high-impact environmental programs. EIBs use an outcomes-based approach where ESG investors provide upfront capital for environmental projects and the beneficiary—e.g., a public entity—repays the investors based on the achievement of the agreed-upon project outcomes. A special kind of municipal bond, an EIB focuses on the delivery of successful environmental outcomes and can include investor payments and penalties attached to the achievement, or non-achievement, of those outcomes.

WHAT CAN EIBs PAY FOR?

EIBs are a type of municipal bond, and, thus, can be used to pay for a wide variety of capital projects including on:

Financing Sheboygan GSI Incentive Programs

Sheboygan may be able to finance the below incentive programs with EIBs:

- ✓ GSI grant program

For a full description of these incentive programs see American River's report.

- public property that the municipality owns;
- public property that the municipality does not own; and
- private property.

As detailed below, specific legal and accounting requirements govern the extent to which EIBs can finance distributed GSI on public and private property. As with traditional municipal bonds, proceeds from EIBs can be used to pay for construction of capital projects that serve a public purpose, and EIBs cannot be used to pay for annual operation and maintenance costs. Uniquely, however, because repayment of an EIB is benchmarked against specific performance outcomes EIBs create incentives to deploy innovative solutions.

AUTHORITY TO ISSUE EIBs

A municipality or special district's authority to issue an EIB is defined by the same statutory authorities that govern the ability to issue [revenue bonds](#). As detailed above, the authority to issue revenue bonds to pay for improvements to a storm sewer system may include investments in distributed GSI, including investments in

distributed GSI programs that are implemented via consumer incentive programs. Accordingly, it may be possible to issue an EIB to finance investments in distributed GSI projects and programs so long as the projects [serve a public purpose](#) and benefit the

system. (See the box above for examples of incentive programs that could be financed with pooled bonds.)

As special kind of municipal revenue bond, to issue an EIB, three key players are needed. First is a government agency or municipality that has a project with specific outcomes, e.g., improved stormwater quality or reduced localized flooding, in mind that needs funding, but may be higher risk because they are innovative strategies making traditional financing approaches out of reach. Second are service providers who can meet the project needs, i.e., contractors to build the intended projects, as well as other stakeholders and beneficiaries of the proposed projects. Third are impact investors who are willing to take on the risk of the particular project not performing as expected and bring down the risks on the public agency. An underwriter then brings these participants together the outcomes-based financing structure, which includes:

- ✓ Establishing performance metrics,
- ✓ Developing the outcomes-based payment structure,
- ✓ Aligning and coordinating partners, and
- ✓ Finding and delivering new sources of capital.

With this model, a municipality's repayment of the bond depends on the project outcomes. Performance is determined by verified third-party evaluations on whether key stated environmental goals are achieved by bond-financed projects. If the projects perform as expected, the bond would be paid back as planned or as traditional bonds are repaid. If the projects underperform as benchmarked against the established performance metrics, investors may be obligated to repay the bond amount—known as “clawback”—allowing the municipality to assess whether to continue the projects. If the projects overperform, the municipality may agree to pay investors an additional amount over the bond interest and principal payments to incentivize the investors to take on the risk of the innovative projects. This payment structure differentiates EIBs from green and climate bonds. EIBs can qualify as green or climate bonds, however.

Financing Green Bay GSI Incentive Programs

Green Bay may be able to finance the below incentive programs with EIBs:

- ✓ Rebates
- ✓ Grants

For a full description of these incentive programs see American River's report.

PROCEDURAL REQUIREMENTS

When issuing an EIB a municipality will take the same procedural steps that are required to issue a revenue bond.

In addition, the municipality will also work with its underwriter, service providers, stakeholders, and investors to develop the metrics against which performance of the financed projects will be measured, as well as the financing and repayment structure pegged off of those performance metrics, which are detailed above.

Performance metrics used in EIBs issued in D.C., Atlanta, and Buffalo to finance investments in green infrastructure—including consumer incentives to encourage distributed GSI on private property in Buffalo—were:

- Volume of stormwater flow reduced,
- Volume of stormwater stored, and
- Impervious area managed.

EIBs also require post-issuance reporting and disclosure of the project outcomes to investors. These disclosures and reporting are more rigorous as compared to green or climate bonds, as they provide the basis for determining whether the finance projects are performing as expected, underperforming, or overperforming and whether the agreed upon payment structures are triggered.

AS APPLIED TO GREEN BAY & SHEBOYGAN

Green Bay and Sheboygan's authority to issue EIBs is the same as the Cities' authority to issue [revenue bonds](#). Similarly, the purposes for which the Cities can issue EIBs mirror the authorized uses of revenue bond proceeds.

Resources

- [Environmental Impact Bonds: How do they work?](#)
- [Environmental Impact Bonds: The Very Welcome New Kid on the Municipal Finance Block](#)
- [Case Study: DC Water EIB](#)
- [Case Study: Atlanta Green Infrastructure Investments](#)
- [Buffalo Sewer Authority closes on largest U.S. environmental impact bond](#)
- [Buffalo Sewer Authority: Sewer System Environmental Impact Bond Official Statement](#)
- [Quantified Ventures](#)

WISCONSIN CLEAN WATER STATE REVOLVING FUND LOANS

OVERVIEW

The Clean Water Act established state revolving loan funds (SRFs) to assist communities with upfront cash to build water infrastructure.³⁴ EPA allocates SRF funding to each state that administers the CWA. The states then contribute an additional 20% to match federal SRF capitalization grants, and also administer the program according to state-specific eligibility criteria. While states establish their own eligibility criteria, the American Recovery Act of 2009, and subsequent appropriations bills, require all Clean Water SRF programs to use at least 10% of their federal capitalization grant for green infrastructure, water and energy efficiency projects, or other environmentally innovative activities. This requirement is commonly referred to as the **Green Project Reserve**.

In Wisconsin, the SRF is administered by the Department of Natural Resources (DNR) and Department of Administration (DOA) under the Environmental Improvement Fund. As part of the fund, the **Clean Water Fund Program (CWFP)** provides financial assistance to municipalities for wastewater and storm water infrastructure projects, e.g. projects for compliance with a municipality's Wisconsin Pollutant Discharge Elimination System (WPDES) permit. According to Wisconsin DNR, since the beginning of the CWFP, no application has been, or is expected to be, denied due to a lack of available funds. As of 2021, the CWFP had an annual capacity to issue approximately \$360 million in subsidized loans.

WHAT CAN CWFP LOANS PAY FOR?

CWFP loans can be used to pay for “reasonable and necessary costs” directly related to the **planning, design, and construction** of eligible projects. CWFP loans cannot be used to pay for ongoing project operation and maintenance.

Financing Green Bay GSI Incentive Programs

Green Bay may be able to finance the below incentive programs with CWFP loans so long as Green Bay obtained an ownership interest in the GSI:

- ✓ Rebates
- ✓ Grants

For a full description of these incentive programs see American River's report.

³⁴ Because this compendium is focused on options for financing distributed GSI discussion of the SRF established under the Safe Drinking Water Act is outside the scope of the compendium. Information about Wisconsin's Safe Drinking Water Loan Program can be found [here](#).

Eligible projects include, but are not limited to **area-wide stormwater projects** that are required by a WPDES storm water permit, performance standard, or storm water management plan or other applicable plan approved by the department for purposes of managing runoff and are necessary to control storm water runoff rates, volumes, and discharge quality, e.g., projects to install:

Financing Sheboygan GSI Incentive Programs

Sheboygan may be able to finance the below incentive programs with CFWP loans so long as Sheboygan obtained an ownership interest in the GSI:

- ✓ GSI grant program
- ✓ GSI design grant

For a full description of these incentive programs see American River’s report.

- ✓ New infiltration practices,
- ✓ Meet permit performance standards, or
- ✓ Prevent or treat nonpoint source pollution or urban storm water runoff.³⁵

Given that GSI can provide infiltration, meet permit standards, and prevent nonpoint source pollution or urban stormwater runoff, these strategies are likely eligible for CFWP loans.

Individual systems that treat runoff and serve one or more properties are also eligible projects so long as the municipality:

- ✓ Owns each individual BMP,
- ✓ Is responsible for the proper installation, operation and maintenance of each BMP,
- ✓ Has unlimited access to each BMP at all reasonable times to inspect, monitor, construct, maintain, operate, rehabilitate, and replace each BMP, and
- ✓ Establishes a comprehensive program to regulate, inspect, operate, and maintain each BMP, and monitors groundwater impacts.³⁶

Distributed GSI solutions are likely eligible project types that fall within the scope of “individual systems that treat runoff and serve one or more properties.” Given the requirements of the Wisconsin Administrative Code, to be eligible for CFWP loans the distributed GSI installations

must, however, be owned and operated by the municipality. This ownership and maintenance requirement may make CFWP loans an unattractive option for financing distributed GSI investments.

A minimum of nearly **\$4.3 million** of the 2021 federal capitalization grant to fund the CFWP must be used for projects or portions of projects qualifying under the **Green Project Reserve**.

³⁵ Wis. Adm. Code NR 162.03(4)

³⁶ Wis. Adm. Code NR 162.03(5)

WHO'S ELIGIBLE FOR CWFPS LOANS?

Eligible applicants include Wisconsin cities, towns, villages, counties, sanitary districts and other qualifying municipalities.

APPLICATION PROCESS

There are several steps to applying for and securing a CWFPS loan. The below is provided as a summary outline; see the Resources box for additional information and links to CWFPS materials.

- The first step in the application process for obtaining CWFPS financial assistance is to submit a notice of Intent to Apply (ITA-PERF), due October 31st in the year prior to the State Fiscal Year (SFY), which runs July 1 to June 30, e.g., SFY 2023 is July 1, 2022 – June 30, 2023.
- After an ITA is submitted and the proposed project appears on the CWFPS Project Priority List, applicants are required to submit a CWFPS Financial Assistance Application via DNR's online system; if an applicant is seeking principal forgiveness applications are due by September 30, otherwise applications can be submitted anytime during the SFY.

Applications must include, as applicable: a facility plan approval letter, biddable, approval plans and specifications, financial information for a credit review, design life calculation, authorized representative resolution, reimbursement resolution, user charge system and sewer use ordinance, contract with system users, intermunicipal agreement, cost and effectiveness certification, green project reserve form, and engineering contracts.³⁷

Projects that have complete applications and pass a preliminary credit review, as determined by DNR and DOA, are added to the CWFPS Funding List, usually posted by DNR at the end of November each SFY. Projects on the Funding List will proceed to loan closing together with an assigned DNR project manager.

CWFPS Pilot Program

The Pilot Program, a subprogram of the CWFPS, provides reduced interest rate loans to Wisconsin municipalities for water quality trading and other non-traditional projects implemented for compliance with a municipality's Wisconsin Pollutant Discharge Elimination System permit. To date, pilot projects have been designed to reduce discharges of phosphorous or other nutrients into the watershed.

DNR may be considering other non-traditional projects, e.g., distributed GSI, as eligible for the Pilot Program in the future.

More information on the Pilot Program is available on DNR's website [here](#).

³⁷ For example, design life calculations are required if the applicant is requesting a loan term longer than 20 years, contracts with users are only required if those system users exist, and intermunicipal agreements are only required if the project involves more than one municipality.

AS APPLIED TO GREEN BAY & SHEBOYGAN

As Wisconsin municipalities, Sheboygan and Green Bay are eligible to apply for CWFP loans. To use CWFP loans to pay for distributed GSI, which are likely eligible project types, the Cities would likely need to own and operate each BMP.

Resources

- [Department of Natural Resource's SRF Reference Guide](#)
- [CWFP Application Process & Contents](#)
- [SFY 2022 Deadlines CWFP](#)
- [Forms and Publications](#)
- [Definition of "Storm Water Projects"](#)

WISCONSIN DEPARTMENT OF NATURAL RESOURCES SMALL LOAN PROGRAM

OVERVIEW

The Small Loans Program (SLP), a subprogram within the CWFP, provides interest rate subsidies to eligible applicants for State Trust Fund loans used to fund DNR-approved wastewater and storm water infrastructure projects. In other words, these subsidies pay part of the interest cost for State Trust Fund loans.

As with the CWFP, Wisconsin DNR and Department of Administration administer the SLP.

WHAT CAN SLP SUBSIDIES PAY FOR?

SLP subsidies can be used to finance reasonable and necessary costs directly related to the **planning, design, and construction** of eligible projects that are needed to achieve or maintain compliance with federal and state regulations and WPDES permits. Funds may be used to **construct, improve, modify, purchase, replace, restore and upgrade systems and infrastructure** that are used for collection, transmission, storage, treatment and disposal of wastewater, or **for collection and treatment of storm water**. SLP subsidies cannot be used to pay for ongoing project operation and maintenance.

To be eligible, projects must be **publicly owned** and have a **total cost of \$2 million or less**, and include but are not limited to [area-wide stormwater projects](#) and [individual stormwater projects](#).³⁸

As with the [requirements for the CWFP generally](#), to be eligible for CWFP loans distributed GSI installations are eligible for SLP subsidies, but must be owned and operated by the municipality. This ownership and maintenance requirement may make SLP subsidies a more complex option for financing distributed GSI investments.

WHO'S ELIGIBLE FOR SLP SUBSIDIES?

Eligible applicants include Wisconsin cities, towns, villages, counties, sanitary districts and other qualifying municipalities.

Financing Sheboygan GSI Incentive Programs

Sheboygan may be able to finance the below incentive programs with SLP subsidies so long as Sheboygan obtained an ownership interest in the GSI:

- ✓ GSI grant program
- ✓ GSI design grant

For a full description of these incentive programs see American River's report.

³⁸ Wis. Adm. Code NR 162.39(4)-(5)

APPLICATION PROCESS

There are several steps to applying for and securing a SLP subsidy. The below is provided as a summary outline; see the Resources box for additional information and links to SLP materials.

Financing Green Bay GSI Incentive Programs

Green Bay may be able to finance the below incentive programs with SLP subsidies so long as Green Bay obtained an ownership interest in the GSI:

- ✓ Rebates
- ✓ Grants

For a full description of these incentive programs see American River's report.

- DNR encourages municipalities seeking an SLP loan to first apply for a State Trust Fund loan.
- In addition, to receive an SLP subsidy, applicants must submit a notice of Intent to Apply (ITA) and an Interest Rate Subsidy Application. ITAs for the SLP are due by October 31 of the year prior to the intended application date.
- Once an application is accepted by DNR, the applicant has eight months to sign an Interest Rate Subsidy Agreement, which then triggers the disbursement of the subsidy payments.

Applications must include: an approved facility plan, biddable and approval plans and specifications submitted to DNR Bureau of Water Quality, interest rate subsidy application, proposed or executed inter-municipal agreement if two or more municipalities discharge to or through the same treatment works or BMP, signed Board of Commissioners of Public Lands loan documents, and a parallel costs estimate.

AS APPLIED TO GREEN BAY & SHEBOYGAN

As Wisconsin municipalities, Sheboygan and Green Bay are eligible to apply for SLP subsidies. As with the requirements for the CWFP generally, to be eligible for SLP subsidy, distributed GSI installations must be owned

and operated by the municipality.

Resources

- [Small Loans Program](#)
- [SLP Summary & Interest Rates Overview](#)
- [Definition of "Storm Water Projects"](#)

BOARD OF COMMISSIONERS OF PUBLIC LANDS PUBLIC PURPOSE PROJECTS LOANS

OVERVIEW

The Board of Commissioners of Public Lands Public Purpose Project Loan program (BCPL) provides loans for municipal investments in public purpose projects including, but not limited to, economic development and local infrastructure. First established in 1871, BCPL has come to represent **over \$1 billion** in economic development and local infrastructure financing in communities throughout Wisconsin.

The BCPL is administered by the Board of Commissioners of Public Lands, a Wisconsin state agency responsible for managing trust funds for the benefit of the people of Wisconsin. As of 2021, the Board is comprised of the Secretary of State, State Treasurer, and Attorney General.

WHAT CAN BCPL LOANS PAY FOR?

There are two types of BCPL loans: (1) Revenue Obligation Loans, and (2) General Obligation Loans.

Revenue Obligation Loans can be issued to pay for “projects” for which municipalities are authorized to issue bonds to finance by Wisconsin Statute.³⁹ As detailed [above](#), “**project**” means the acquisition, leasing, planning, design, construction, development, **extension, enlargement**, renovation, rebuilding, repair or **improvement** of land, waters, property, highways, buildings, equipment or facilities.⁴⁰ Given this broad authorization, BCPL Revenue Obligation Loans can likely be used to pay for a wide variety of capital projects including on:

- public property that the municipality owns;
- public property that the municipality does not own; and
- private property.

Financing Green Bay GSI Incentive Programs

Green Bay may be able to finance the below incentive programs with BCPL general obligation loans of 10 years or less:

- ✓ Rebates
- ✓ Grants
- ✓ Revolving loan fund (w/initial capitalization as a grant to the fund)

Green Bay may also be able to use BCPL revenue obligation loans to finance these incentive programs so long as Green Bay obtained an ownership interest in the GSI.

For a full description of these incentive programs see American River’s report.

³⁹ BCPL, Fact Sheet Revenue Obligation Loans

⁴⁰ Wis. Stat. Ann. § 67.04(ar).

Revenue obligation loans cannot be used to pay for ongoing project operation and maintenance.

Financing Sheboygan GSI Incentive Programs

Sheboygan may be able to finance the below incentive programs with BCPL general obligation loans of 10 years or less:

- ✓ GSI grant program
- ✓ GSI design grant

Sheboygan may also be able to use BCPL revenue obligation loans to finance a GSI grant program or residential GSI retrofit rebates so long as Sheboygan obtained an ownership interest in the GSI.

For a full description of these incentive programs see American River's report.

General Obligation Loans of 10 years or less can be issued to pay for the performance of any power or duty of the borrowing municipality—including **ongoing operations and maintenance**. General Obligation Loans of more than 10 years are limited to financing **projects** eligible for Revenue Obligation Loans, which are detailed above, including capital projects on public and private property.

WHO'S ELIGIBLE FOR BCPL LOANS?

Eligible applicants include Wisconsin towns, villages, cities, counties, school districts, technical college districts, public inland lake protection and rehabilitation districts, town sanitary districts, metropolitan sewerage districts, metropolitan sewerage systems, joint sewerage systems, consortiums, cooperative educational service agencies, federated public library systems, and drainage districts.

APPLICATION PROCESS

There are several steps to applying for and securing a BCPL loan. The below is provided as a summary outline; see the Resources box for additional information and links to CWFP materials.

To apply for a Revenue Obligation Loan or General Obligation Loans, municipalities are first required to complete the applicable online loan application request form. According to BCPL, the application process for Revenue Obligation Loans is more complex and requires additional documentation as compared with the process for General Obligation Loans. In addition to general background information about the municipality and the

amount of loan requested and for what purposes, the application form for Revenue Obligation Loans requires detailed financial projections, utility customer profiles listing the top 10 utility customers, the municipality's capital improvement plan, and debt structure. These details are not required to begin the process for a General Obligation Loan application. Once a loan application request is submitted, BCPL will provide the

applying municipality with a loan application that includes the specific resolution BCPL requires the municipality's board or council to adopt.

AS APPLIED TO GREEN BAY & SHEBOYGAN

As Wisconsin municipalities, Sheboygan and Green Bay are eligible to apply for BCPL loans. To use BCPL Revenue Obligation Loans or General Obligation Loans of more than 10 years to pay for distributed GSI, which are likely eligible project types, the Cities would likely need to own and operate each BMP. The Cities may be able to use BCPL General Obligation Loans of 10 years or less to finance distributed GSI without obtaining an ownership interest in the GSI facilities.

Resources

- [BCPL Loan Program Overview](#)
- [Fact Sheet - Revenue Obligation Loans](#)
- [BCPL Loan Application Request Form Municipal Utility Revenue Loan](#)
- [Fact Sheet - General Obligation Loans](#)
- [BCPL Loan Application Request Form Municipal General Obligation Loan](#)

HUD SECTION 108 LOAN GUARANTEE PROGRAM

OVERVIEW

Housing and Urban Development's (HUD) Section 108 Loan Guarantee Program is part of the Community Development Block Grant (CDBG) program. The primary objective of the CDBG Program is to develop viable urban and rural communities, by expanding

Financing Sheboygan GSI Incentive Programs

Sheboygan may be able to finance the below incentive programs with Section 108 loans:

- ✓ GSI grant program
- ✓ GSI design grant

For a full description of these incentive programs see American River's report.

economic opportunities and improving the quality of life, principally for persons of low- and moderate-income. To achieve this objective, at least 70 percent of CDBG funds, including Section 108 loans, must be utilized to benefit low- and moderate-income persons.

In this context, Section 108 loans can be used to address community resilience projects aimed at benefiting low- and moderate- income communities. For organizations looking to improve water systems, this includes waterfront fortification, green infrastructure improvements, and water infrastructure improvements. Section 108 projects focused on community resilience can be tailored and designed to meet multiple elements of community resilience, including resilient water management, while addressing inclusion and climate change impacts. The loan guarantees can help recipients leverage limited public resources to catalyze investment in communities, especially those facing, among other challenges, persistent poverty and the need to increase community resilience following the impact of natural disasters. This flexibility of uses makes it a potent and important public investment tool for local governments.

Section 108 borrowers are required to pledge current and future Community Development Block Grant allocations to repay and secure the loan. In addition, borrowers must pledge additional security for the loan such as property liens, tax increment revenue, or other collateral.

WHAT CAN HUD SECTION 108 LOANS PAY FOR?

Projects to be funded under Section 108 must either primarily **benefit low-moderate income people**, aid in **elimination or prevention of slums/blight**, or **meet urgent needs of the community**.

Typical water resilience projects include capital projects for:

- ✓ Waterfront fortification
- ✓ Green infrastructure improvements

✓ Water infrastructure improvements

For purposes of determining eligibility, the Community Development Block Grant rules and requirements also apply. Section 108 loans cannot be used to pay for ongoing operation and maintenance.

WHO'S ELIGIBLE FOR SECTION 108 LOANS?

Section 108 loan guarantee funding is available to a number of eligible public entities including:

- States,
- Metropolitan cities and urban counties (i.e., Community Development Block Grant entitlement recipients), and
- Cities with a population of less than 50,000 or counties with a population of less than 200,000 that are assisted in the submission of applications by States that administer the Community Development Block Grant Program.

Local city or state governments may apply directly for the loan. Smaller units of local government must apply through the state.

APPLICATION PROCESS

The Section 108 loan guarantee process is a 2-part process, including an application phase and a funding phase.

In the **Application Phase** an eligible community develops and submits an application for a project (or a loan fund), and the local HUD field office and Section 108 Office at HUD Headquarters concurrently review the application and make a recommendation to the Deputy Assistant Secretary for Grant Programs.

In the **Funding Phase**, the Community (or its designated public entity) and the Section 108 Office, as well as its Program Counsel, prepare the financing documents necessary for the project (or the first project under a loan fund) to be guaranteed by HUD.

AS APPLIED TO GREEN BAY & SHEBOYGAN

As municipalities that receive Community Development Block Grants, Green Bay and Sheboygan are eligible to apply for direct Section 108 loans. In addition, these loans can be used to finance distributed GSI investments on public and private property, including

Financing Green Bay GSI Incentive Programs

Green Bay may be able to finance the below incentive programs with Section 108 loans:

- ✓ Rebates
- ✓ Grants
- ✓ Revolving loan fund (w/initial capitalization as a grant to the fund)

For a full description of these incentive programs see American River's report.

distributed GSI implemented via consumer incentive programs such as grants or rebates, so long as the distributed GSI benefits low- and moderate-income persons, aids in the elimination or prevention of slums or blight, or meets urgent needs of the community. Distributed GSI can provide water managers ways to locate needed water infrastructure improvements in neighborhoods and communities that have previously disproportionately born the impacts of challenges like combined sewer overflows, flooding, and stormwater pollution and are also most in need of the co-benefits that localized solutions provide like urban greening, permanent jobs, and reduced heat islands. Because by their nature localized GSI strategies are distributed across the community they provide significant opportunity to ensuring the just distribution of costs and benefits among water utility's stakeholders. Given these benefits, it's likely distributed GSI strategies can meet the Section 108 loan requirements.

In addition, to leverage Section 108 loans to finance distributed GSI investments, Green Bay and Sheboygan may need to meet the requirements of Chapter 67 of the Wisconsin Statutes for "municipal obligations"⁴¹ depending on the revenue source the Cities use to secure the loan. For example, if a Section 108 loan were not secured with the Cities' taxing power Chapter 67 may not apply.

Resources

- [Tap into Resilience Toolkit: Section 108 Loans](#)
- [Tap into Resilience Toolkit: Addressing Equity Challenges](#)
- [Section 108 Loans and CDBG Requirements](#)
- [Section 108 Technical Assistance](#)
- Webinar: [Leveraging HUD Section 108 Loans for Innovative Water Infrastructure Investments](#)

⁴¹ Wis. Stat. § 67.01(6).

ACCOUNTING FOR GSI INVESTMENTS

Generally Accepted Accounting Principles (GAAP) that apply to local government and public utilities allow “capital expenditures”—expenditures for fixed or capital assets—to

Doesn't My Utility Need to Control an Asset Before We Can Capitalize the Cost?

Not always—this is the basic difference between GASB Concepts Statement 4 and GASB Statement 62.

Standard accounting for public entities is generally done in conformity with Governmental Accounting Standards Board (GASB) Concept 4 which reflects the GAAP rule that only assets controlled by the entity can be financed with debt, i.e., capitalized.

However, GASB Statement 62 authorizes public agencies to book these expenditures as “regulatory assets” that can be capitalized (see below). Statement 62 accounting does not require that the utility own or control the asset in order to capitalize the cost; the asset is the binding promise to repay the loan, not the items procured or produced with the loan.

be debt financed. For distributed GSI expenditures to be capital expenditures under GAAP, the expenditure must, among other things, result in the acquisition, improvement or creation of an “asset” of the utility. Distributed GSI on public property not owned or controlled by the utility and private property may constitute an asset of the utility if the distributed GSI expenditure creates a “regulatory asset” under Governmental Accounting Standards Board (GASB) Statement No. 62.

GASB Statement 62 allows public agencies to book the cost of “business-type activities” as assets instead of annual expenses—a Regulated Operations accounting approach. These are called “regulatory assets” and can be capitalized by cities and public water utilities. The

Regulated Operations approach is a complete alternative to traditional public agency accounting for capital assets. To use Regulated Operations accounting and access debt-financing for distributed GSI, local water providers need to have a governing board that:

- ✓ Is empowered to set rates;
- ✓ Can set those rates at levels to cover the cost of the specific programs to be financed; and
- ✓ Can commit to setting rates in the future to pay for the cost of these programs.

As municipalities with governing boards empowered to set stormwater rates, e.g., Green Bay’s and Sheboygan’s Common Council,⁴² the Cities can meet these criteria.

Electricity utilities have been bond financing distributed energy conservation programs on private properties for many years using GASB 62 accounting. However, this is not an approach that has been widely embraced by the public water resource sector and many water utility chief financial officers questioned whether it truly could apply to investments in consumer incentives for localized water strategies. Addressing this uncertainty, in May 2018, GASB issued new guidance under GASB 62 making it clear that

⁴² Sheboygan Municipal Code, Sec. 122-634(a); Green Bay Municipal Code, Sec. 42-203(b)

public water resource agencies are authorized to capitalize investments in localized waters strategies employing consumer rebates and direct installations as “Regulated Operations.” The practical implication of this clarification is that utilities can now access municipal bond proceeds to invest in consumer rebate (and/or direct installation) programs. The GASB 62 accounting approach applies to investments made through both municipal revenue and general obligation bonds and can be used when issuing tax-exempt or taxable municipal bonds, as well as other forms of debt.

Distributed GSI expenditures can also qualify as capital expenditures if the municipality or utility exercises “control” over the asset sufficient to satisfy the requirement of **GASB Concepts Statement No. 4**—the traditional accounting treatment for debt financing capital assets. As a general matter, control results from the city or utility’s ability to determine the nature and manner of use of the investment. Easements or contracts can usually establish the needed level of control. A small but important set of water utilities are finding that they can invest municipal bond proceeds in distributed infrastructure and comply with GASB Concepts Statement No. 4. For example, over the last two decades, the Southern Nevada Water Authority has bond financed more than \$250 million (as of 2020) in incentive programs such as private property turf replacements generating approximately 430,000 acre feet in water supply for the Las Vegas region. Similarly, the Milwaukee Metropolitan Sewerage District (MMSD) capitalizes and bond finances GSI investments on property it does not own by requiring recipients of GSI grants to enter into a conservation easement with MMSD. In 2019, MMSD invested \$1.9 million in private property GSI. In February 2020, MMSD issued a certified Climate Bond to finance \$20 million in “community based” GSI.

Resources

- [Tap into Resilience Toolkit: Answering Accounting Questions](#)
- [Go Green: Muni Bond Financing for Distributed Water Solutions](#)
- [GASB 62: How Does It Work?](#)
- [MMSD Green Bond Framework](#)
- [MMSD: Conservation Easement](#)
- [How Can Utilities Capitalize Spending On Consumer Rebates? Frequently Asked Questions](#)

GSI INVESTMENTS FOR PUBLIC PURPOSES

Article 8, Section 3 and Article 8, Section 7 of the Wisconsin Constitution allow the state and municipalities to use its credit in aid of individuals, associations, or corporations in order to make funds available to acquire, construct, develop, **extend, enlarge, or improve** land, waters, property, highways, railways, buildings, equipment, or facilities for public purposes. The state may also use its credit in order to achieve a public purpose not expressly specified in the Constitution.

The Wisconsin Supreme Court has explained that the Article 8, Section 8 prohibits the state from granting its credit to aid private business, but is silent on state-sponsored grants or subsidies, or the provision of services.⁴³ The Wisconsin Supreme Court has thus determined that Article 8, Section 3 does not prohibit programs such as unemployment compensation, welfare, or tuition grants. The only purpose of the section is to prevent the State from acting as surety or guarantor of the obligation of another party.⁴⁴

Wisconsin courts have also found that a statute that authorized municipalities to engage in industrial development projects did not violate Article 8, Section 3;⁴⁵ nor did the loaning of credit to rehabilitate blighted areas because that rehabilitation served a public purpose.⁴⁶

Constitutional Gift Prohibitions & Public Purpose Doctrine

All states prohibit “gifts” of public funds to private individuals or groups. However, most states have also developed extensive exceptions allowing public funds to be directed to private parties when these funds are deployed for primarily public benefits. These constitutional provisions were adopted in the wake of the public debt crisis of the 1830s—when eight states defaulted on debt incurred to build public infrastructure through private partnerships—nearly every state adopted a constitutional amendment to prohibit the use of public bonds and credit for private projects that do not benefit public interests. Together the amendments have formed the “**public purpose**” doctrine, which provides that public dollars must be allocated for public purposes and government interests and cannot only be used to aid private persons.

Because of these exceptions state gift prohibitions should not be viewed as barriers to implementing distributed GSI on private property with public capital. Most states allow expenditures that incidentally benefit private interests, as long as they primarily serve and effectuate a public purpose. Some states choose to apply narrow interpretations of terms like “public purpose” and “private benefit” to limit the scope of the prohibition. Other states, however, have not extended an exemption as broadly as others.

⁴³ *State ex rel. Thomson v. Giessel*, 271 Wis. 15, 29 (1955).

⁴⁴ Wisconsin Attorney General Opinion, OAG-03-17 (Nov. 6, 2017).

⁴⁵ *State ex rel. Hammermill Paper Co. v. La Plante*, 58 Wis.2d 32, 61-62 (1973).

⁴⁶ *David Jeffrey Co. v. Milwaukee*, 267 Wis. 559, 573-81 (1954).

Under the Wisconsin Supreme Court’s narrow reading of Article 8, Section 3, if a city in Wisconsin were to use municipal bond proceeds, or other public capital, to pay for consumer rebates for distributed GSI, that city would likely not run afoul of the gift prohibition because the city would not be responsible for any debt of another party. In other words, the city would not be lending its credit to the individuals receiving a rebate. Similarly, because distributed GSI serve public purposes, e.g., managing stormwater runoff, reducing inflow and infiltration into municipal sewer systems, mitigating localized flooding, and providing multiple community benefits, under other Wisconsin courts’ application of Article 8, Section 3, it is likely that it would be within Wisconsin municipalities’ police power to use public funds to pay for distributed GSI projects and programs, including those that may be on private property or provide financial incentives to private parties.

Resources

- [State Gift Laws Database](#)

SUMMARY OF RESOURCES

The above compendium sections each include links to additional resources relevant to that topic for further reading. For ease of reference, these additional resources are also compiled below.

MUNICIPAL REVENUE BONDS

- [Tap into Resilience Toolkit](#)
- [Climate Bonds Initiative: Explaining Green Bonds](#)
- [Climate Bonds Initiative: Understanding Climate Bonds](#)
- [Case Study: DC Water Green Bond](#)
- [Case Study: Milwaukee Metropolitan Sewerage District Climate Bond](#)
- [Presentation: Very brief history of water infrastructure finance](#)

GENERAL OBLIGATION BONDS

- [Tap into Resilience Toolkit](#)

POOLED BONDS

- [Public Finance Authority Water & Wastewater Pooled Bonds Program](#)
- [Sustainable Development Goals](#)
- [Presentation: Role of Underwriter and Financing Options for Localized Infrastructure](#)

ENVIRONMENTAL IMPACT BONDS

- [Environmental Impact Bonds: How do they work?](#)
- [Environmental Impact Bonds: The Very Welcome New Kid on the Municipal Finance Block](#)
- [Case Study: DC Water EIB](#)
- [Case Study: Atlanta Green Infrastructure Investments](#)
- [Buffalo Sewer Authority closes on largest U.S. environmental impact bond](#)
- [Buffalo Sewer Authority: Sewer System Environmental Impact Bond Official Statement](#)
- [Quantified Ventures](#)

STATE REVOLVING LOAN FUND

- [Department of Natural Resource's SRF Reference Guide](#)
- [CWFP Application Process & Contents](#)
- [SFY 2022 Deadlines CWFP](#)
- [Forms and Publications](#)
- [Definition of "Storm Water Projects"](#)

SMALL LOAN PROGRAM

- [Small Loans Program](#)
- [SLP Summary & Interest Rates Overview](#)
- [Definition of "Storm Water Projects"](#)

PUBLIC PURPOSE PROJECT LOANS

- [BCPL Loan Program Overview](#)
- [Fact Sheet - Revenue Obligation Loans](#)
- [BCPL Loan Application Request Form Municipal Utility Revenue Loan](#)
- [Fact Sheet - General Obligation Loans](#)
- [BCPL Loan Application Request Form Municipal General Obligation Loan](#)

HUD SECTION 108 LOAN GUARANTEE PROGRAM

- [Tap into Resilience Toolkit: Section 108 Loans](#)
- [Tap into Resilience Toolkit: Addressing Equity Challenges](#)
- [Section 108 Loans and CDBG Requirements](#)
- [Section 108 Technical Assistance](#)
- [Webinar: Leveraging HUD Section 108 Loans for Innovative Water Infrastructure Investments](#)

ACCOUNTING FOR GSI INVESTMENTS

- [Tap into Resilience Toolkit: Answering Accounting Questions](#)
- [Go Green: Muni Bond Financing for Distributed Water Solutions](#)
- [GASB 62: How Does It Work?](#)
- [MMSD Green Bond Framework](#)
- [MMSD: Conservation Easement](#)
- [How Can Utilities Capitalize Spending On Consumer Rebates? Frequently Asked Questions](#)

GSI INVESTMENTS FOR PUBLIC PURPOSES

- [State Gift Laws Database](#)

CONCLUSION

Municipal bonds and other forms of debt have long been the financing vehicle of choice for cities and public water agencies to pay for capital water projects such as pipes, tunnels, and treatment plants. To invest in GSI at a scale necessary to maximize the stormwater management and co-benefits of GSI, cities and utilities will also need to access capital budgets and finance these projects as long-term capital projects. This debt-financing compendium serves as a quick reference guide to the options available to mid-sized Wisconsin cities to capitalize investments in GSI stormwater management strategies such as bioswales, rain gardens, permeable pavement, cisterns, green roofs, green streets, and urban tree canopy installed on both public and private property.

The compendium's summaries of available financing options and high level legal and accounting analysis are provided as tools to inform further discussion amongst Wisconsin cities' local stormwater managers and decision makers exploring new or expanded GSI programs. Communities interested in taking the next steps towards bringing GSI investments to scale are invited to become a [Tap into Resilience Pilot Community](#) and gain access to legal, policy, finance, and accounting expertise over a 6-12 month period, free of charge, to help them strategize the full scale financing of their particular GSI programs.