

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 363
PROCEDURE FOR ISSUING GRANTS FROM THE ANTI-POLLUTION
BOND ACT AND THE BUILD ILLINOIS ACT FOR SEWAGE TREATMENT WORKS

SUBPART A: INTRODUCTION

Section	
363.101	Purpose
363.102	Definitions

SUBPART B: GENERAL CRITERIA

Section	
363.201	Relationship to Other Grant Programs
363.202	Reimbursement
363.203	Allocation of Grant Funds
363.204	Supplemental Grants
363.205	Required Content and Filing of Applications for Bond Act Grants
363.206	Limitations Upon Grants for Collection Systems
363.207	State Owned Facilities

SUBPART C: STANDARD PRIORITY PROJECT GRANTS

Section	
363.301	Project Priority Requirement
363.302	Consolidation of Priorities

SUBPART D: HEALTH RISK GRANTS

Section	
363.401	Determination of Health Risk
363.402	Priorities for Issuance

SUBPART E: REGIONALIZATION PROJECT GRANTS

Section	
363.501	Availability of Funding
363.502	Priorities for Issuance

SUBPART F: BACKLOG PROJECT GRANTS

Section	
363.601	Availability of Funding (Repealed)
363.602	State/Federal Piggyback Grants (Repealed)
363.603	State Reimbursement Grants (Repealed)

SUBPART G: BUILD ILLINOIS BOND FUND GRANTS

Section	
363.701	Availability of Funding
363.702	Build Illinois Bond Fund Grants
363.703	Supplemental State/Federal Piggyback Grants (Repealed)
363.704	Supplemental State Reimbursement Grants (Repealed)
363.705	Supplemental Build Illinois Bond Fund Grants

SUBPART H: UNSEWERED COMMUNITIES GRANTS

Section	
363.801	Applicability
363.802	Eligibility
363.803	Grant Percentage and Design Grants (Repealed)
363.804	Limitations

AUTHORITY: Implementing and authorized by Section 4 of the Anti-Pollution Bond Act [30 ILCS 405/4], Section 1-3 of the Build Illinois Act [30 ILCS 750/1-3] and Section 4 of the Environmental Protection Act [415 ILCS 5/4].

SOURCE: Adopted and codified at 8 Ill. Reg. 15914, effective August 17, 1984; amended at 9 Ill. Reg. 3951, effective March 15, 1985; amended at 10 Ill. Reg. 216, effective December 20, 1985; amended at 27 Ill. Reg. 13421, effective July 25, 2003; amended at 41 Ill. Reg. 13225, effective October 20, 2017.

SUBPART A: INTRODUCTION

Section 363.101 Purpose

- a) The Anti-Pollution Bond Act [30 ILCS 405] provides that the State of Illinois may issue grants to units of local government for the planning, financing, and construction of sewage treatment works. These grants are made under the direction of the Agency.

- b) This Part sets forth the procedures used by the Agency in the issuance of grants to units of local government for the planning, financing, and construction of sewage treatment works.

(Source: Amended at 41 Ill. Reg. 13211, effective October 20, 2017)

Section 363.102 Definitions

- a) Unless specified otherwise, all terms shall have the meanings set forth in the Environmental Protection Act and the federal Clean Water Act (33 USC 1251) and regulations promulgated under those Acts.

- b) For purposes of this Part, the following definitions apply:

“Agency” means the Illinois Environmental Protection Agency.

“Bond Act” means the Anti-Pollution Bond Act [30 ILCS 405].

“Build Illinois Bond Act” means the Build Illinois Act [30 ILCS 750].

“Title II” means Title II of the federal Clean Water Act (33 USC 1281).

“State Owned Facilities” means mental health or developmental centers or institutions for which the Department of Human Services-Division of Mental Health exercises executive and administrative supervision under 20 ILCS 1705/4, and correctional institutions or facilities for which the Department of Corrections or the Department of Juvenile Justice maintains and administers control under the State Penitentiary System in accordance with 730 ILCS 5/3-2-2.

(Source: Amended at 41 Ill. Reg. 13211, effective October 20, 2017)

SUBPART B: GENERAL CRITERIA

Section 363.201 Relationship to Title II Grants

- a) Subject to Section 363.207, no recipient shall receive a grant or any other assistance under the Bond Act for the planning, financing or construction of sewage treatment works if a grant has been offered under Title II that would provide 100% or more of the eligible project costs.
- b) The combination of assistance provided under the Bond Act, Title II and any other State or federal assistance shall not exceed 100% of the eligible project costs.

SUBTITLE C

- c) Assistance under this Part may be reduced if required by the Clean Water Act.

(Source: Amended at 41 Ill. Reg. 13211, effective October 20, 2017)

Section 363.202 Reimbursement

If the recipient of a Bond Act grant is at any time offered any State, federal or local grant, or any other funding source, to assist in the payment of expenses for which a Bond Act grant has been issued, the recipient shall reimburse the State of Illinois for any Bond Act grant funds used to pay expenses paid or offered to be paid under another grant or funding source.

(Source: Amended at 41 Ill. Reg. 13211, effective October 20, 2017)

Section 363.203 Allocation of Grant Funds

- a) Grant funds available under the Bond Act will be subject to an equal division of total grant funds available to the State between the service area of the Metropolitan Water Reclamation District of Greater Chicago and the area which is comprised of the geographical balance of the State, to the extent that projects in either area in any grant year have qualified to receive Bond Act grant funds and the Agency has determined that the projects are ready to proceed in accordance with the criteria for grant award.
- b) If insufficient projects in either area are ready to proceed in any grant year to permit an equal division of the total grant funds available to the State, grants will be made to those projects in either area that are ready to proceed to the extent that funds are available.
- c) Any imbalance in the division of the total grant funds available to the State shall be carried forward from year to year and shall be applied as projects are ready to proceed to achieve an accumulatively equal distribution, if possible within the constraints of this Part, to both areas of the total of the grant funds available to the State.

(Source: Amended at 41 Ill. Reg. 13211, effective October 20, 2017)

Section 363.204 Supplemental Grants

A unit of local government that has received a State grant offer shall be eligible for a supplemental State grant not to exceed 100% of eligible costs of the project. The issuance of a

supplemental grant will be based on the availability of Bond Act funds.

(Source: Amended at 41 Ill. Reg. 13211, effective October 20, 2017)

Section 363.205 Required Content and Filing of Applications for Bond Act Grants

- a) All projects receiving grants pursuant to this Part must comply with the requirements of 35 Ill. Adm. Code 360.
- b) Bond Act grants will be made only for the funding of eligible project costs that comply with the requirements of 40 CFR 35, subpart I appendices A and B (2017).

(Source: Amended at 41 Ill. Reg. 13211, effective October 20, 2017)

Section 363.206 Limitations Upon Grants for Collection Systems

The facilities that convey wastewater from individual structures or from private property to the public lateral sewer are not eligible for grant funding, with the exception of pumping units and pressurized lines for individual structures or groups of structures when those units are cost effective and owned and maintained by the grant recipient.

(Source: Amended at 41 Ill. Reg. 13211, effective October 20, 2017)

Section 363.207 State Owned Facilities

- a) Bond Act grants for that portion of the local share of eligible project costs attributable to State owned facilities shall not be awarded unless the following conditions are met:
 - 1) The grant is in conjunction with and in addition to a Title II grant or a Bond Act grant under Subpart C, D or E awarded to an eligible unit of local government;
 - 2) The proposed treatment works project must provide service to residential, industrial and commercial users within the boundaries of the unit of local government in addition to providing service to the State owned facility;
 - 3) The proposed sewage treatment works must be owned and operated by a unit of local government and must be located on property that is also owned by the unit of local government;

SUBTITLE C

- 4) Grants to the applicant for a share of the local cost attributable to the State owned facility must be awarded to the unit of local government at the time that the Step 3 grant is awarded and prior to initiation of construction of the sewage treatment works;
 - 5) The grant for the share of the local cost attributable to the State owned facility shall not be awarded unless the Agency has approved a cost effective analysis of the treatment works configuration in facility planning; and
 - 6) The grant for the share of the local cost attributable to the State owned facility shall not exceed 100% of the State share of eligible project costs, as determined by a signed written service agreement between the applicant and the State agency that operates the State owned facility that is to be served by the treatment works.
- b) No grant under this Section may be made if the State owned facility is eligible and has been approved by the Capital Development Board for securing its share of the local funding under the Capital Development Bond Act of 1972 [30 ILCS 420] or any other bonding program of the State of Illinois.

(Source: Amended at 41 Ill. Reg. 13211, effective October 20, 2017)

SUBPART C: STANDARD PRIORITY PROJECT GRANTS

Section 363.301 Project Priority Requirement

- a) Bond Act grants to units of local government under this Section shall be made in accordance with the grant applicant's priority as established by 35 Ill. Adm. Code 364.
- b) Except as set forth in Subparts D and E, the Director of the Agency shall not approve a project for funding under this Subpart unless the priority of the project is within the range of project priorities for which grant funding from combined State and federal resources is available.

(Source: Amended at 41 Ill. Reg. 13211, effective October 20, 2017)

Section 363.302 Consolidation of Priorities

- a) Notwithstanding Section 363.301, two or more needs of one or more applicants which are initially ranked at different priorities, may be consolidated into one need at the higher (highest) priority, and a grant may be issued under this Subpart

SUBTITLE C

for the consolidated need at the higher (highest) priority, if the following conditions are satisfied:

- 1) The applicant must have a facilities plan approved by the Agency which concludes that the two or more needs will be most cost-effectively met by an integrated solution; and
 - 2) Available state and federal funding must be adequate to permit complete funding of the consolidated need.
- b) Such consolidations may include:
- 1) Sewer rehabilitation work and sewage treatment plant improvements and/or intercepting sewer construction;
 - 2) Projects to eliminate on-system wet weather overflow and sewage treatment plant improvements and/or intercepting sewer construction;
 - 3) Projects to construct collection systems in currently unsewered communities and projects to construct a new sewage treatment plant and/or intercepting sewer.

SUBPART D: HEALTH RISK GRANTS

Section 363.401 Determination of Health Risk

- a) Notwithstanding Subpart C, the Agency may, based on the availability of grant funds and criteria in this Part, provide grant assistance under this Subpart for construction of sewage treatment works if, in the judgment of the Director, an actual or potential severe health hazard exists because of a lack of adequate sewage treatment works.
- b) Prior to determining whether a grant will be offered under this Subpart, the Director will consult with other state agencies, including the Illinois Department of Public Health, to identify those projects for which the most severe health risk exists.
- c) In the event that alleviation of a health risk would require construction of a sewage collection system, the Director will consult with local health authorities to determine whether the health is of such an area-wide nature that installation of a collection system is appropriate. In making this determination the Director shall evaluate available information on the area-wide nature of:

- 1) cases of gastro-intestinal illness
- 2) probable body contact with exposed sewage from septic tanks
- 3) formal complaints of odors from exposed sewage from septic tanks
- 4) soil samples indicating unsatisfactory soil types.

Section 363.402 Priorities for Issuance

Projects eligible under this Subpart will be funded under the following priorities to the extent funds are made available by the General Assembly:

- a) First health risk priority is assigned to those projects that have already been notified by the Agency of the availability of grant funds under this Subpart, but have not yet completed the requirements of Section 363.205. If an applicant is to remain eligible, the Director must determine that the applicant is making satisfactory progress toward completing the requirements of Section 363.205 in accordance with the schedule contained in Step I grant.
- b) Second health risk priority is assigned those projects which will reduce contamination of a public water supply.
- c) Third health risk priority is assigned to those projects which will reduce the probability of primary contact with effluent from inadequately functioning septic tanks.
- d) Fourth health risk priority is assigned to those projects which will reduce the probability of primary contact with sewage overflows from inadequately sized sewage collection systems during periods of wet weather. This class includes basement backups.
- e) The following project costs are not eligible for funding under this Subpart:
 - 1) Project costs for collection systems or for facilities which convey wastewater from individual structures or from private property to the collector sewer.
 - 2) Project costs for on-system wet weather overflow facilities for interception and for storage of treatment overflows.

SUBPART E: REGIONALIZATION PROJECT GRANTS

SUBTITLE C

Section 363.501 Availability of Funding

- a) Notwithstanding Subpart C, the Agency may provide grant assistance under this Subpart, to units of local government that are entirely or partially unsewered, for the planning, financing and construction of interceptor or collector sewers if the following requirements are met:
 - 1) The proposed sewer system is included in an area of regionalization in which State or federal funds have been or will be obligated to construct a regional treatment facility; and
 - 2) The regional treatment facility has been planned to accommodate, and designed with capacity to treat, sewage to be conveyed by the proposed sewer system.
- b) Bond Act grants may be available to fund up to 100% of the eligible project costs for planning, design and construction of interceptor or collector sewers.
- c) The following projects and project costs are not eligible for funding under this Subpart:
 - 1) Projects of which federal or State standard priority construction grant funds are expected to be available;
 - 2) Projects costs for systems designed to intercept, store, or treat wet weather overflows; and
 - 3) Projects that consist of sewer systems for partially sewerred communities that are tributary to single-municipal treatment facilities.

(Source: Amended at 41 Ill. Reg. 13211, effective October 20, 2017)

Section 363.502 Priorities for Issuance

Projects eligible under this Subpart will be funded under the following priorities to the extent that funds are made available by the General Assembly:

- a) First regionalization priority is assigned to those projects that have already been notified by the Agency of the availability of grant funds for them under this Subpart but have not yet completed the requirements of Section 363.205. If an applicant is to remain eligible, the Director must determine that it is making satisfactory progress toward completing the requirements of Section 363.205.

- b) Second regionalization priority is assigned to sewer systems for entirely unsewered communities tributary to a multi-municipal regional treatment facility which is operational.
- c) Third regionalization priority is assigned to sewer systems for entirely unsewered communities tributary to a multi-municipal regional treatment facility where the regional treatment facility has been or can be funded (through Step 2 or Step 3 grant award) but is not operational.
- d) Fourth regionalization priority is assigned to sewer systems for partially sewerred communities tributary to a multi-municipal regional treatment facility which is operational.
- e) Fifth regionalization priority is assigned to sewer systems for partially sewerred communities tributary to a multi-municipal regional treatment facility which has been or can be funded (through Step 2 or Step 3 grant award) but is not operational.

SUBPART F: BACKLOG PROJECT GRANTS

Section 363.601 Availability of Funding (Repealed)

(Source: Repealed at 41 Ill. Reg. 13211, effective October 20, 2017)

Section 363.602 State/Federal Piggyback Grants (Repealed)

(Source: Repealed at 41 Ill. Reg. 13211, effective October 20, 2017)

Section 363.603 State Reimbursement Grants (Repealed)

(Source: Repealed at 41 Ill. Reg. 13211, effective October 20, 2017)

SUBPART G: BUILD ILLINOIS BOND FUND GRANTS

Section 363.701 Availability of Funding

Build Illinois Bond Fund grants to units of local government under this Section shall be made in

accordance with the criteria set forth in 35 Ill. Adm. Code 363.301.

(Source: Added at 10 Ill. Reg. 216, effective December 20, 1985)

Section 363.702 Build Illinois Bond Fund Grants

For those projects not receiving a Title II grant, a Build Illinois Bond Fund grant may be issued provided:

- a) the State share does not exceed 100%;
- b) the State share of either planning or design, or both, will be an allowance in accordance with the criteria set forth in Section 363.205.

(Source: Amended at 41 Ill. Reg. 13211, effective October 20, 2017)

Section 363.703 Supplemental State/Federal Piggyback Grants (Repealed)

(Source: Repealed at 41 Ill. Reg. 13211, effective October 20, 2017)

Section 363.704 Supplemental State Reimbursement Grants (Repealed)

(Source: Repealed at 41 Ill. Reg. 13211, effective October 20, 2017)

Section 363.705 Supplemental Build Illinois Bond Fund Grants

To the extent that Build Illinois Bond Funds are available, a supplemental Build Illinois Bond Fund grant may be issued under this Section for those projects that received a Bond Act grant on or before September 30, 1984, and that did not receive full 100% funding of eligible project costs provided that:

- a) the Agency has received construction bids on the project, and
- b) the State share does not exceed 100% of the total eligible project cost.

(Source: Amended at 41 Ill. Reg. 13211, effective October 20, 2017)

Section 363.801 Applicability

- a) All projects receiving unsewered communities grants pursuant to this Subpart must comply with the requirements of 35 Ill. Adm. Code 360.
- b) For projects receiving unsewered communities grants pursuant to this Subpart that also receive a Water Pollution Control Loan Program loan, compliance with 35 Ill. Adm. Code 365 will satisfy the requirements of 35 Ill. Adm. Code 360.
- c) Except Section 363.802(c), any of the requirements of Subpart H may be waived if the purpose of the requirement has been accomplished or if the requirement is not considered by the Agency to be necessary to assure that the project attains the goals of the Unsewered Communities Grant Program.

(Source: Amended at 41 Ill. Reg. 13211, effective October 20, 2017)

Section 363.802 Eligibility

A unit of local government is eligible for an unsewered communities grant if it has met all of the following requirements:

- a) it is a municipality as defined in Article VII, Section 1 of the Illinois Constitution and was incorporated on or before July 1, 1988 or a Sanitary District established on or before July 1, 1988 under the Sanitary District Acts of 1917 [70 ILCS 2405] or 1936 [70 ILCS 2805];
- b) it lacks a permitted sewerage system;
- c) it is on an enforceable compliance schedule as defined in 35 Ill. Adm. Code 366.102(b); and
- d) it has submitted a pre-application to be scored in accordance with 35 Ill. Adm. Code 366 and appears on the current fiscal year priority list.

(Source: Added at 27 Ill. Reg. 13421, effective July 25, 2003)

Section 363.803 Grant Percentage and Design Grants (Repealed)

(Source: Repealed at 41 Ill. Reg. 13211, effective October 20, 2017)

Section 363.804 Limitations

The maximum financial assistance from all sources, including grants and loans, cannot exceed 100% of eligible project costs.

(Source: Amended at 41 Ill. Reg. 13211, effective October 20, 2017)