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**IDAPA 37
TITLE 02
Chapter 02**

37.02.02 - FUNDING PROGRAMS RULES

000. LEGAL AUTHORITY (Rule 0).

The purpose of these rules is to define the administration of the Water Management Account established by Section 42-1760, Idaho Code, and the Revolving Development Account established by Section 42-1750, Idaho Code.

(7-1-93)

001. -- 024. (RESERVED)

01. Purpose. The Board may make loans or grants from the Water Management Account for new water projects or the rehabilitation of existing water projects limited to the following purposes: (7-1-93)

a. Reclamation; (7-1-93)

b. Upstream storage; (7-1-93)

c. Offstream storage; (7-1-93)

d. Aquifer recharge; (7-1-93)

e. Reservoir site acquisition and protection; (7-1-93)

f. Water supply, water quality, recreation, and water resource studies, including feasibility studies for qualifying projects. (7-1-93)

02. Expenditures. Expenditures may be made from the account to provide public monies for participation in any project constructed with funds from the Revolving Development Account. (7-1-93)

03. Grants and Loans. Grants and loans may be made by the Board from the account for any project in the public interest authorized by this section. No grant for a single project shall exceed fifty-thousand dollars (\$50,000) unless legislative approval has been obtained. (7-1-93)

026. -- 029. (RESERVED).

030. PURPOSE OF REVOLVING DEVELOPMENT ACCOUNT (Rule 30).

The Board may make loans from the Revolving Development Account to financially assist and support the development of the water resources of this state through the construction of water projects, including the rehabilitation, improvement, or extension of existing systems. Major items to be considered by the Board in setting loan priorities include the following: (7-1-93)

01. Emergency Nature. The emergency nature of the project; (7-1-93)

02. Utilization. The utilization of unappropriated surface and ground waters; (7-1-93)

03. Benefits. The economic, environmental, and water conservation benefits of the project. (7-1-93)

04. Public Nature and Benefits. The public nature and benefits of the project. (7-1-93)

031. -- 034. (RESERVED).

035. LETTER OF INTENT (Rule 35).

01. Notification. Any sponsor desiring a loan or grant should notify the Idaho Water Resource Board by a letter of intent. This letter should include the following information: (7-1-93)

- a. Name, address, and telephone number of requesting group and principal representative; (7-1-93)
- b. Project title or name, location, and brief description (including maps or plans); (7-1-93)
- c. Preliminary estimate of project costs and approximate financial requirements; (7-1-93)
- d. Brief justification for project or general benefits to be realized; (7-1-93)
- e. Statement of sponsor's willingness to provide project data and information and to prepare engineering and economic feasibility studies of the project if deemed necessary by the Board; and (7-1-93)
- f. Additional information as needed to fully explain the intent of the request project or study. (7-1-93)

02. Receipt of Letter of Intent. The letter of intent must be received twenty-one (21) calendar days before the Board meeting at which action is to be taken and should be addressed to: Chairman, Idaho Water Resource Board, 1301 North Orchard Street, Boise, Idaho 83706. The Chairman can waive the twenty-one day period upon a showing by the applicant an extreme need exists and that the public interest is best served by the early consideration of the application. (7-1-93)

03. Method of Review. The Director of the Department of Water Resources shall review the applicant's letter for the Board to determine if: (7-1-93)

- a. Preliminary analysis indicates that the applicant has the ability to repay a loan if granted; (7-1-93)
- b. The project is in conformance with the State Water Plan and all applicable provisions of law; (7-1-93)
- c. Preliminary analysis indicates that project benefits, including social and environmental, outweigh project costs. (7-1-93)

04. Assistance. In the event that the Director finds that the applicant and the project meet these criteria, he may assist the applicant in preparing the necessary information for a final loan application. (7-1-93)

05. Inform in Writing. In the event that the Director finds that the applicant does not meet the above conditions, he shall inform the applicant in writing, listing his reasons for finding against the applicant. (7-1-93)

06. Hearing. The applicant may seek a hearing before the Board to review the Director's decision by filing a petition for review pursuant to the Rules for Practice and Procedure, before the Department of Water Resources. The petition shall be filed with the Director within fifteen (15) days of the date of mailing of the decision. (7-1-93)

036. -- 039. (RESERVED).

040. FIELD REVIEW (Rule 40).

After receipt and evaluation of the letter of intent, the Board may, at the discretion of the Chairman, contact the sponsor to schedule a field review of the project. At such field review Department staff, and, when deemed necessary by the Chairman, a Board member selected by the Chairman, will meet with the sponsor and other interested parties and visit the site. (7-1-93)

041. -- 044. (RESERVED).

045. APPLICATION REQUIREMENTS (Rule 45).

01. Preparation. The applicant shall be responsible for preparing the necessary data or feasibility studies for presentation of the project to the Board for approval. The sponsor applicant may apply for a loan or grant from the Water Management Account to conduct necessary investigations or feasibility studies separate from the funding request for the proposed project. However, no loans shall be made from the Revolving Development Account to finance feasibility studies except as part of the overall project costs.

(7-1-93)

02. Investigations. The Board will consider applications for grants to conduct investigations on qualified water projects on a matching dollar-for-dollar basis up to twenty-five thousand dollars (\$25,000). A commitment for a grant to conduct an investigation carries no further guarantee of financial assistance from the Idaho Water Resource Board.

(7-1-93)

03. Not Used for Refinancing. It is Board policy that funds are not to be used for refinancing except when deemed necessary to prevent default.

(7-1-93)

042. Contents. Application f shall include the following:

(7-1-93)

a. Project data or a feasibility study for the construction, operation and maintenance of the proposed project, providing information as to its expected costs and benefits;

(7-1-93)

b. A complete and legible legal description of the entire project area, including a map showing the layout of the project, and the location and number of acres served by the project (e.g. assessors' maps, aerial photographs or other similar maps);

(7-1-93)

c. A complete and legible copy of the legal description of the property being offered as security for the loan, together with any assessor's plat on which the proposed security may be identified;

(7-1-93)

d. A review of the water required to satisfy project needs, source and amounts of the supply, rights to the water, water quality, and a schedule of flows to meet project requirements;

(7-1-93)

e. A complete and itemized cost estimate of the proposed project (an estimate from a commercial supplier, contractor is preferred);

(7-1-93)

f. Proof of ownership, easements or agreements, showing that the applicant holds or can acquire all lands, other than public lands, and interest therein and water rights necessary for the construction of the proposed project;. Copies of deeds to lands served, easements or agreements and water right permits would constitute the required proof;

(7-1-93)

g. Information that demonstrates that the project complies with applicable local land use regulations and other applicable regulations and ordinances, including permits or letters of authorization;

(7-1-93)

h. Organization sponsoring the project - including the name, type of organization, brief history of organization, powers and authority under state law, taxing or assessing authority, financial status, and physical assets;

(7-1-93)

i. For municipal borrowers, a letter legal counsel affirming that the constitutional issue of borrowing has been satisfactorily resolved;

(7-1-93)

j. An application fee of two percent (2%) of loan amount, or a minimum of one-hundred dollars (\$100) to cover initial costs of application review will be charged for loans. This fee must be received before Board action and is non-refundable. The fee may be financed in the loan. In addition, the Board shall charge the applicant the amount required to reimburse the Board for costs that exceed the application fee incurred in connection with the application. The applicant shall be advised of these additional costs before they are incurred. Costs may include, but are not limited to, any of the following: appraisal fees, site visit, copying, field survey, personnel costs, drafting

graphics and other costs incurred in the processing of the application. The Board will provide a checklist of items to assist the applicant. (7-1-93)

046. -- 049. (RESERVED).

050. BOARD ACTION (Rule 50).

01. Prepare Resolution. If a loan or grant is to be committed, the Board will prepare a resolution committing the funds, which includes findings of fact with respect to: (7-1-93)

a. The plan does not conflict with the Idaho State Water Plan; (7-1-93)

b. The proposed project is feasible from an engineering and legal standpoint and is economically and financially justified; (7-1-93)

c. The plan for development of the proposed project is satisfactory; (7-1-93)

d. The applicant is qualified and responsible; (7-1-93)

e. There is reasonable assurance that the borrower can repay any loan.; (7-1-93)

f. The loan does not exceed \$500,000 if the loan is to be made from state appropriations. (7-1-93)

02. Analysis and Consideration. During the board meeting, the director's analysis will be given and the Board will then consider the resolution. The Board may approve, deny, or approve with conditions, or refer the application to the Director for further study. (7-1-93)

03. Other. The board's resolution will also identify the applicant, the purpose of the loan or grant, the project location, specify the maximum amount of the loan or grant, the interest rate and repayment period, and other conditions to be placed on the loan or grant. (7-1-93)

051. -- 054. (RESERVED).

055. LOAN OR GRANT AGREEMENT (Rule 55).

01. General. The Board will enter into a contract with the project sponsor for a loan or grant from the Water Management Account or Revolving Development Account, specifying the loan or grant amount, loan or grant schedule, repayment schedule, and other terms, including items covering security and project operation and maintenance. The loan or grant agreement will contain provisions protecting the Idaho Water Resource Board investment in case of forfeiture of contract terms by the sponsor. (7-1-93)

02. Modification. During the course of the loan agreement the Board may in its sole discretion take action to modify the terms of the agreement to reduce the interest rate to be applied to the unpaid principal during the remaining term of the agreement. Such action may be taken by the Board where it is deemed necessary to preserve the viability of the project and it is determined to be in the best interest of the public. (7-1-93)

03. Approval. All contract documents developed as part of the loan or grant agreement will be approved by the Attorney General's office or other legal counsel engaged in accordance with the Board's by-laws. (7-1-93)

056. -- 059. (RESERVED).

060. LOAN SECURITY (Rule 60).

The State of Idaho shall have a lien on property used for securing a loan obtained from the Revolving Development Account or Water Management Account. The security shall be a mortgage, deed of trust, or other security agreement

upon the applicant's property, which may include, but is not limited to, the following types of property associated with the project: project facilities, equipment, easements, real property, and water rights. The value of security pledged must be three times the loan amount. The Board may choose to require verification of asset value by an independent appraiser. (7-1-93)

061. -- 064. (RESERVED).

065. PROJECT APPROVAL (Rule 65).

At the completion of the project, staff will make a final review of the project with the sponsor to determine if the project has been satisfactorily completed before giving approval of construction and final loan or grant payment. (7-1-93)

066. -- 069. (RESERVED).

070. CONTRACT CLOSURE (Rule 70).

01. Loans. Upon completion of loan payments, the contract will be terminated and security interests released by the Board. (7-1-93)

071. -- 999. (RESERVED).