Guidance for preparing an

INTERMUNICIPAL AGREEMENT

for
State Revolving Fund Projects

An Intermunicipal Agreement, sometimes called a Cooperative Endeavor Agreement or other similar name, for purposes of the SRF program, is a written agreement between two municipalities that provides for sharing certain sewerage facilities. The shared components are usually treatment plants but may include all or parts of collection sewers, interceptor sewers including lift stations and force mains, treatment plants, and outfall sewers including effluent pumping facilities.

Background information

Jurisdiction over the treatment and disposal of sanitary sewage lies with parishes, incorporated municipalities, sewerage districts, and some state agencies . Even privately owned community sewerage systems must be approved by, and operate under the jurisdiction of, one of these governmental agencies. Generally, incorporated municipalities have jurisdiction within their corporate limits; but this is subject to conditions at the time of incorporation. For example, when a municipality is incorporated within an existing sewerage district, the sewerage district retains jurisdiction. Sewerage districts may be created and granted jurisdiction by parishes, municipalities, and the legislature. Sewerage districts retain jurisdiction until they are abolished or modified by the agency that created them. State agencies, such as sewerage and water boards, port commissions, etc, may be granted jurisdiction over sewerage disposal by the legislation that created them. Parishes, by default, have jurisdiction over any area that does not fall under one of the other agencies.

No governmental agency should provide or offer sewerage services to any customer outside its area of jurisdiction without the knowledge and consent of the agency that has jurisdiction over that customer. While it is usually not a problem for a municipality to provide sewerage services to individual homes and subdivisions outside its corporate limits, problems sometimes arise when the municipality is unaware of another agency's plans to provide services to the same area.

Requirement for an Intermunicipal Agreement

An Intermunicipal Agreement is required any time two municipalities share sewerage facilities and either one of them receives SRF assistance, and any time a municipality receiving SRF assistance provides sewer service to customers outside is jurisdiction. Generally, Agreements are between two incorporated municipalities or one incorporated municipality and a sewerage district, but may be between any two or more of the agencies that have jurisdiction over sewerage disposal.

A formal Intermunicipal Agreement may not be required in cases where a municipality or other agency serves a relatively small number of individual customers or subdivisions outside its jurisdiction, but some

evidence should be presented to show that the other governing authority is aware of and does not object to such service being offered.

If an Intermunicipal Agreement is necessary it must be submitted and approved by the Municipal Facilities Division prior to execution of the Loan Agreement. If there is any uncertainty about whether an Intermunicipal Agreement is required, contact the Division for assistance.

Required provisions of an Intermunicipal Agreement

If an Intermunicipal Agreement is required, then the following items must be addressed:

- **Ownership of the shared facilities**. Usually treatment works are owned by one municipality and the other is a user (customer), but the facilities may be jointly owned. The Agreement should specify which municipality owns what facilities, or the ratio of ownership in case of jointly owned facilities.

- **Distribution of costs**. The Agreement must specify how O&M costs will be divided between the participants. This can be done in many ways, some examples that are acceptable include:

    - If jointly owned, all OM&R costs might be split according to the ratio of ownership.

    - Whether or not jointly owned, O&M costs might be split according to the percent of design capacity that each participant expects to use. If not jointly owned, the owning municipality might bill the other municipality or other users as regular customers in accordance with its user charge system.

    In the case of joint ownership the Agreement should specify how capital costs will be distributed between the owners and how any debt owed on the facilities will be paid.

    Whenever OM&R costs will be split according to a ratio of ownership or use, the Agreement should specify how the annual budget will be prepared and some mechanism whereby both parties must agree to the budget amounts and a method for resolving any disagreements.

    Whenever one municipality will be billed as a user, the Agreement should contain some provision for the user municipality to participate in and/or concur with any changes in rates, and a mechanism for resolving any disagreements.

- **Legal requirements**. The Agreement should specify which party is responsible for permit compliance and what the responsibilities of the other party are. If the party owning the facilities has a Sewer Use Ordinance, the user municipality should have its own ordinance or the Agreement should specifically allow the owning municipality to enforce its ordinance within the user's area of jurisdiction. The same requirement applies to any applicable Pretreatment Program.

- **Revision/Cancellation**. The Agreement should contain provisions for revisions agreed to by both parties and/or cancellation at the request of either party. The Agreement might be revised if the ratio of use changes over time, or for other reasons. The Agreement might be canceled if the shared facilities are no longer adequate to serve both parties and one party wishes to assume sole ownership and use, with the other party to construct replacement facilities of its own. The Agreement might also be canceled if the political climate between the parties deteriorates.

  If the Agreement is canceled, the disposition of any jointly owned assets should be specified. If one party owns the shared facilities but the other has contributed a percentage of the cost of acquisition of the facilities, and the Agreement is canceled, some method of recovering some of its cost might be needed.