



***Infrastructure Investments and Jobs Act (IIJA)
Bipartisan Infrastructure Law (BIL)***

*Emerging Contaminants in Small or Disadvantaged
Communities Grant Program*

Safe Drinking Water Act §1459A
FEBRUARY 2023

Emerging Contaminants in Small or Disadvantaged Communities Grant Program: Grant Implementation Document

Safe Drinking Water Act Section 1459A

Infrastructure Investment and Jobs Act (IIJA) of 2021 (P.L. 117-58) Division J (FY 2022 Appropriations), Title VI – State and Tribal Assistance Grants (6)

Summary

President Biden signed the Bipartisan Infrastructure Law (BIL) on November 15, 2021. The law's investment in the water sector is nothing short of transformational. It includes more than \$50 billion to the U.S. Environmental Protection Agency (EPA) to strengthen the nation's drinking water and wastewater systems – the single largest investment in clean water that the federal government has ever made. Among its provisions, the BIL provides a total of \$5 billion in fiscal years 2022-2026 for the Emerging Contaminants in Small or Disadvantaged Communities (EC-SDC) grant program, which focuses on addressing emerging contaminants—including perfluoroalkyl and polyfluoroalkyl substances (PFAS)—in small or disadvantaged communities' drinking or source water.

EPA recognizes that communities across the country need relief from emerging contaminants, including PFAS, in drinking water. That's why [EPA's PFAS Strategic Roadmap](#) identifies remediation as a central directive in EPA's approach. EC-SDC funding combines BIL resources and priorities to help states:

- Address PFAS and emerging contaminant challenges;
- Target resources to communities most in need of assistance to ensure that no community is left behind with unsafe, inadequate water; and
- Advance the priorities of equity and environmental justice, particularly by educating communities about this opportunity, and simplifying administrative procedures to reduce or eliminate barriers to access funds.

EPA is committed to a productive partnership with states, tribes, and territories to maximize the impact of these funds in addressing PFAS and emerging contaminant-related water challenges facing communities.

The BIL focuses on rebuilding America's infrastructure and investing in communities that have too often been left behind – from rural towns to struggling cities. The BIL presents a unique opportunity to provide funding for these communities, including under the Safe Drinking Water Act (SDWA) Section 1459A ***Assistance for Small and Disadvantaged Communities***, which prioritizes small or disadvantaged

communities. For the purposes of this grant program, “small or disadvantaged communities” are defined in Section 1459A(c) of the SDWA.¹

EPA released the March 2022 [Bipartisan Infrastructure Law SRF Memorandum](#), which details the Agency’s expectation of the states to review, refine, and improve as necessary their disadvantaged community definition and affordability criteria to ensure that they are reflective of current affordability issues within the state. This definition should capture both urban and rural disadvantaged communities and include criteria that are consistent with SDWA. Under the SDWA, a “disadvantaged community” is defined as “the service area of a public water system that meets affordability criteria established after public review and comment by the State in which the public water system is located.”² Similarly, for this grant funding, the definition and affordability criteria are critical to identifying areas most in need to direct grant award assistance under the SDWA 1459A programs. EPA is committed to working with states to evaluate and revise, as needed, the state’s disadvantaged community definition.

The EC-SDC grant funds are awarded to states and territories noncompetitively. As further described below, states and territories are best situated to identify and collaborate with the most vulnerable communities. In many cases, states and territories have established trusting relationships with disadvantaged or small communities and are well positioned to efficiently administer grant programs to communities. Additionally, using a non-competitive approach through the states and territories aids in identifying disadvantaged communities, strengthens program efficiency, promotes inclusivity and equity, and is consistent with congressional intent for these funds.

- **Identifying and prioritizing disadvantaged or small communities** – States and territories are uniquely positioned to ascertain the communities and water systems within their boundaries that are in need and would be best served financially with EC-SDC grant funding. States will use existing frameworks, such as the *Public Water System Supervision Program (PWSS)*, required under the SDWA Section 1443(a), to readily identify practices for successfully funding projects and building capacity in communities with the greatest need. The program establishes, implements, and enforces health protection standards for drinking water systems that serve the public. In preparation to use the funding, states can look to the PWSS to determine which systems need assistance and the kind of assistance needed. Under the PWSS, states are required to implement a capacity development strategy to support the technical, managerial, and financial (TMF) capacity of local communities through states’ PWSS drinking water programs. State TMF assessment strategies are a crucial component of the capacity building framework under SDWA, providing drinking water systems the support they need to provide safe, reliable drinking water sustainably over the long term.
- **Strengthen Program Efficiency** – Providing funding to states and territories noncompetitively will streamline the workplan and application process. States now have three years of experience

¹ See [Appendix F: SDWA SECTION 1459A ASSISTANCE FOR SMALL AND DISADVANTAGED COMMUNITIES](#)

² SDWA §1452(d)(3)

implementing EPA's WIIN *Small, Underserved and Disadvantaged Communities (SUDC) Grant* programs and have the expertise to efficiently administer the program. Additionally, States can use existing programs such as the State Revolving Fund (SRF) program or the PWSS programs to oversee the grant program. States can also serve as a technical assistance resource to grant recipients.

- **Equity and Inclusion** – A noncompetitive, State led grant program will reduce and simplify paperwork and as a result will reduce recipient burden. This will be most beneficial to disadvantaged and small systems, who generally have fewer resources to devote to the large administrative and programmatic requirements of federal grant programs. As a result, systems who have not had the resources necessary to apply for funding, manage grant funding, and streamline project implementation from development to completion will have an opportunity to do so with support and ample guidance.
- **Congressional Intent** – Congress appropriated State and Tribal Assistance Grant (STAG) funds for the implementation of this grant program. STAG funds are typically awarded noncompetitively and are integral to the EPA's cooperative partnerships with states. Awarding the EC-SDC grants noncompetitively is consistent with the Congressional intent of focusing on supporting small or disadvantaged communities in their effort to address emerging contaminant exposures in drinking water.

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PURPOSE

This *Emerging Contaminants in Small or Disadvantaged Communities (EC-SDC) grant* program, CFDA 66.442, Implementation Document describes how the U.S. Environmental Protection Agency (EPA) will administer grant funds to assist small or disadvantaged communities to improve their drinking water by carrying out projects and activities to address emerging contaminants. The purpose of this Implementation Document is to provide states with the information they need to apply for funding. For the purposes of this document, the term “state” means the 50 states, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa and the Commonwealth of the Northern Mariana Islands. State funds can be used to carry out activities that assist public water systems serving tribal populations that also meet the small or disadvantaged communities’ criteria, with consideration for those communities with the greatest needs. The statutory authority for the EC-SDC grant program requirements is Section 1459A of the Safe Drinking Water Act (SDWA), which is the same authority as EPA’s WIIN *Small, Underserved and Disadvantaged Communities (SUDC) Grant*.

The EC-SDC grant program, however, is different than the SUDC grant. The EC-SDC grant focuses funding emerging contaminants projects and activities necessary for a public water system in a small or disadvantaged community. The SUDC grant program prioritizes eligible projects needed to return to compliance under SDWA in underserved, small or disadvantaged communities. The EC-SDC grant **does not** have eligibilities for providing funds to *underserved communities*.

This document contains EC-SDC grant program information for EPA, States and Communities. Nothing in this document is meant to conflict with or supersede Office of Management and Budget Guidance, or EPA’s regulations, policy, or any grant terms and conditions. A separate tribal document will be made available containing information regarding implementation and the distribution of the 2% overall appropriations each FY for tribal funding. All public materials for the grant program are available at www.epa.gov/safewater/grants.

STRATEGIC PRIORITIES

The goals of the Infrastructure Investment and Jobs Act ([P.L. 117-58](#)), also known as the BIL, are to grow the economy equitably and sustainably, create jobs, and make U.S. infrastructure more resilient, especially to the impacts of climate change. It appropriates \$50 billion to EPA water programs, **\$5 billion of which is dedicated to the EC-SDC grant program** under SDWA Section 1459A. This funding represents a historic investment in small or disadvantaged water systems, many of which have long struggled to develop and access funding to implement urgently needed infrastructure improvements. The EC-SDC grant program enables small or disadvantaged water systems to make improvements necessary to identify and address emerging contaminants in their communities. EPA encourages states to use EC-SDC funding to do the following:

Target resources to communities most in need of assistance. States are encouraged to think creatively about how to reach communities in need with EC-SDC funds. EPA encourages states

to reach beyond traditional stakeholder organizations and engage neighborhood and other organizations connected to the community to help identify needs and communicate priorities. States may start by identifying recipients of other targeted programs; for example, state EC-SDC programs can collaborate with other state environmental programs with community-based projects, such as the Resource Conservation and Recovery Act (RCRA) Permitting, Corrective Action and Brownfields programs to identify vulnerable communities. Additionally, EPA will collaborate with state programs to share models, examples, and build state capacity to identify and target resources to disadvantaged communities and small systems lacking capacity. EPA is developing [technical assistance programs](#)— in close collaboration with states – to provide assistance to disadvantaged communities and small communities that lack the financial, managerial, and technical capacity to access this or other funding sources. Further information on reaching communities is provided in [ADDRESSING DISADVANTAGED COMMUNITIES AND AFFORDABILITY](#).

Advance Equity. Historically, some communities have suffered disproportionate burdens of pollution, chronic disinvestment, and lack of access to capital. These disadvantaged communities exist in every state, tribe, and territory and encompass urban, suburban, and rural areas across America. Characteristics may include low income; high and/or persistent poverty; high unemployment or underemployment; racial and ethnic segregation; linguistic isolation; high housing costs and substandard housing; disproportionate environmental stressors and high cumulative impacts; limited drinking water access and affordability; and/or disproportionate climate impacts. The goals of the [Justice40 initiative](#) are to ensure that federal agencies deliver at least 40% of benefits from certain federal investments to disadvantaged communities. States should educate these communities about this opportunity, simplify administrative procedures, and provide comprehensive technical assistance and support to eliminate barriers to participation and ensure improvements are successfully planned, developed, and implemented. States are encouraged to coordinate between their PWSS and DWSRF programs in their reviews and updates of the disadvantaged community definitions. This effort is anticipated to increase the number of disadvantaged communities that apply for grant funding, or seek to combine the grant with PWSS and/or DWSRF funds to support larger infrastructure projects/activities in communities of need.

Address PFAS and other emerging contaminants. The universe of substances considered to be emerging contaminants is, by its nature, variable and evolving. States are encouraged to think broadly about the type of contaminants that pose public health risks through drinking water. State EC-SDC programs are encouraged to coordinate with their states' hazardous waste management and cleanup programs to identify potential contaminants and potential sources of contamination. However, to the extent there are sufficient applications, projects that address PFAS should be prioritized. States are also encouraged to address perchlorate and other persistent “forever” chemicals. See [Eligible Provisions](#) and [Appendix F. SDWA Section 1459A](#)

[Assistance for Small and Disadvantaged Communities](#) provide information for states to use in evaluating project eligibility.

Drive toward energy efficient and climate smart water systems. EPA encourages states to use BIL funding to support emerging contaminant remediation projects with consideration to climate mitigation and adaptation that minimize greenhouse gas emissions, moderate energy usage, and include resilience to climate threats using the best available and most geographically relevant climate information, projections, and standards, such as the [Federal Flood Risk Management Standard](#).

Foster resilience to all threats and hazards. Consistent with [Presidential Policy Directive \(PPD\) 21](#), critical infrastructure must be secure and resilient to all threats and hazards, both natural and manmade, in an increasingly electrified, digitized, and interconnected society. EPA urges states to use the historic increase in grant funding to foster water, wastewater, and stormwater system resilience to all hazards, including new and emerging threats like cyberattacks.

Support American workers and build an inclusive water workforce. Through implementation of BIL, EPA is committed to working with states, tribes, and territories—as well as labor organizations, employers, and educators – to renew America’s water workforce and create good-paying jobs in communities across America. Throughout BIL implementation, EPA is committed to working with states, tribes, and territories – as well as labor organizations, employers, and educators – to renew America’s water workforce and create good-paying jobs in communities across America. As an example, as states implement the grant funding, they are to encourage pre-apprenticeship, registered apprenticeship, and youth training programs that open pathways to employment.

Cultivate domestic manufacturing. Congress established the Build America Buy America (BABA) Act, a domestic preference program to create long-term opportunities for domestic manufacturers and manufacturing jobs and build resilient domestic supply chains for a wide range of products. For EC-SDC recipients, BABA introduces domestic preference requirements for iron and steel, construction materials, and manufactured goods. EPA will support whole of government efforts to catalyze domestic manufacturing, resilient supply chains, and good jobs – while successfully delivering a wide range of critical infrastructure projects for states, local communities, counties, tribal nations and farms, factories, and businesses across the U.S. EPA released implementation procedures for [BABA compliance](#) for federal water infrastructure grant funding programs in November 2022. EPA recognizes this is a new and complex law and will work closely with states, tribes, and territories on technical assistance, compliance, and training.

States can refer to EPA's [BABA webpage](#) for the most current information. States should:

- Inform EC-SDC grant recipients of the BABA domestic preference requirements and/or waiver eligibilities. EPA will work with states to develop and provide information to EC-SDC recipients.
- Assist with overseeing BABA implementation across state EC-SDC-funded projects, as applicable, and relay detailed information, as provided by EPA and the Office of Management and Budget, on BABA compliance requirements, flexibilities, and processes to recipients.
- Collaborate with EPA and industry to incentivize and grow domestic supply chains and U.S. manufacturing capacity for products essential to drinking water infrastructure.
- Educate funding recipients about their eligibility for waivers and provide help applying for waivers. EPA will develop appropriate waivers and processes to facilitate compliance with these requirements.

Fully enforce civil rights. Under Title VI of the Civil Rights Act, EPA has a responsibility to ensure that federal funds are not being used to subsidize discrimination based on race, color, or national origin. This prohibition against discrimination under Title VI has been a statutory mandate since 1964, and EPA has had Title VI regulations since 1973. EPA's nondiscrimination regulations prohibit recipients of EPA financial assistance from taking actions in their programs or activities that are intentionally discriminatory and/or have a discriminatory effect based on race, color, national origin (including limited English proficiency), age, disability, or sex. EPA intends to carefully evaluate the implementation of EC-SDC funding under the BIL to ensure compliance with civil rights laws. EPA will provide interested states with technical assistance and training to support their compliance with Title VI obligations.

Streamline state programs to build the pipeline of projects. EPA encourages states to strategically use new authorities and funds from the BIL as a catalyst to continue building and maintaining a robust project pipeline of water infrastructure improvement projects. The EC-SDC and the Drinking Water State Revolving Fund (DWSRF) programs can complement each other in supporting disadvantaged communities' and small communities' development of projects to remediate emerging contaminants in drinking water. States must balance the need to use all funds in a timely and expeditious manner with a need for sustainable projects that can transform the sector.

ADDRESSING DISADVANTAGED COMMUNITIES AND AFFORDABILITY

The BIL is designed to rebuild America's infrastructure and invest in communities that have too often been left behind—from rural towns to struggling cities. SDWA requires states to define "disadvantaged communities" based on affordability criteria developed by the states, consistent with other laws, including federal non-discrimination statutes such as Title VI of the Civil Rights Act of 1964. Given the

new influx of funding from the BIL, EPA expects states to review, refine, and improve as necessary, their disadvantaged community definition to ensure that they are reflective of current affordability issues within the state.

EPA is committed to working with states to ensure EC-SDC funding is provided to disadvantaged communities and small communities with limited capacity to the maximum extent possible. EPA will use a variety of tools to accomplish this goal, including:

- **Review of the effective integration of the program to reach disadvantaged and small communities.** Recognizing that the communities in greatest need are often the least equipped or prepared to move forward with an EC-SDC project and application, EPA will review how the state is utilizing the technical assistance eligibilities in this program or DWSRF set-asides to support small and disadvantaged communities' efforts to identify needs, develop projects, and complete preliminary engineering steps that are necessary to apply for construction funding. States should make funding available to communities for public education, outreach, planning, design, and other pre-project costs for emerging contaminant projects, as these steps can be a barrier to communities to access funding for water infrastructure needs. Working collaboratively, EPA and states can make progress towards [Justice40](#), which aims to ensure that federal agencies deliver at least 40% of benefits from certain investments to disadvantaged communities.
- **Reaching disadvantaged neighborhoods within larger communities:** The SDWA authorizes states to define a "disadvantaged community." Some states define a disadvantaged community to include a large public water system where a particular project within the system addresses a sub-set of the service area that meets the affordability criteria. EPA has accepted this type of definition and believes that it is consistent with Section 1452(d)(3) of SDWA.
- **Evaluating capacity of systems:** EPA encourages states to review their existing PWS technical, managerial, and financial capacity (TMF) assessment strategies. The Agency expects the states to take the opportunity to better evaluate, identify, and prioritize small or disadvantaged systems who can most benefit from this funding. Under the SDWA Section 1443(a), states are required to implement a capacity development strategy to support and improve the TMF resources of local communities through their Public Water System Supervision (PWSS) drinking water programs. Through state TMF assessment strategies, small or disadvantaged systems are expected to receive the support they need to provide safe, reliable drinking water sustainably over the long term. In addition to a standard assessment of a system's TMF capacity, EPA encourages states to consider the presence of two or more of the following as an indication of insufficient capacity:
 - Census tract(s) served by systems are found to be disadvantaged using EPA's draft [Climate and Economic Justice Screening Tool](#).
 - High vulnerability (75th percentile or above) in Overall SVI (census tracts) on CDC's [Social Vulnerability Index](#) for the area served by the system in the most recent year available.
 - Minimal staff: fewer than 3 FTE staff for systems serving 3,300 – 10,000; fewer than 2 FTE staff for systems serving under 3,300 people.
 - Contract operator that is not on site on a daily basis.

- Poor system financial condition:
 - Water system only: Debt-credit ratio of 0.47 or below; operating ratio 0.86 or above.
 - Combined water system: Debt-credit ratio of 1.24 or below; operating ratio of 0.73 or above.³
- No Asset Management Plan
- No multi-year budget.
- Inadequate financial controls.
- No high-speed internet.

The geography of water system service areas may not align with the geographic units, such as U.S. Census Bureau-delineated census tracts or blocks for which information is available. States are encouraged to use the geographic area(s) that provide the best overlap with the majority of the population served. In cases where a water system serves multiple tracts or blocks that differ in their characteristics, states are encouraged to consider the presence of vulnerable tracts/blocks as an indication of capacity limitations. characteristics, states are encouraged to consider the presence of vulnerable tracts/blocks as an indication of capacity limitations.

- **Reallotments and partial awards:** States must identify sufficient eligible projects that will receive funding in their proposed workplan. After year one, states that are unable to fund sufficient eligible projects may receive partial grant awards until they are able to fund sufficient communities or projects. In instances where states are unable to identify sufficient eligible projects for awards or sub-awards, funds may be eligible for reallotment in the following fiscal year to support communities with substantial needs.
- **Oversight:** The criteria for the grant program is adherence to the *disadvantaged community* criteria as established under the DWSRF program and statutorily required under Section 1459A of SDWA. EPA will develop an annual review process and checklist to include questions related to disadvantaged communities, the States' evaluation of small communities' capacity to take on debt sufficient to complete the project, technical assistance, and solicitation.

³ Threshold values to indicate poor system financial conditions were developed for the EPA's [Climate Resilience Evaluation and Awareness Tool \(CREAT\)](#), which uses benchmark utility survey data from the following:

U.S. Environmental Protection Agency (EPA), 2009. 2006 Community Water System Survey (CWSS), Volume II: Detailed Tables and Survey Methodology. EPA 815-R-09-002.

American Water Works Association (AWWA), 2015. Benchmarking Performance Indicators for Water and Wastewater Utilities 2013, Survey Data and Analyses Report.

STATUTORY AUTHORITY

Infrastructure Investment and Jobs Act of 2021 (IIJA) (P.L. 117-58) Division J (FY 2022 Appropriations), Title VI – State and Tribal Assistance Grants (6), appropriates funds for small or disadvantaged communities under Section 1459A of SDWA as follows:

“(6) \$5,000,000,000 for grants for addressing emerging contaminants under subsections (a) through (j) of section 1459A of the Safe Drinking Water Act (42 U.S.C. 300j–19a).”⁴

Water systems receiving assistance through EC-SDC grants funded by this BIL appropriation do not have to serve communities that meet the definition of “underserved community”:

“Provided further, That funds provided to States under this paragraph may be used for projects that address emerging contaminants supporting a community described in section 1459A, subsection (c)(2), of the Safe Drinking Water Act, notwithstanding the definition of underserved communities in section 1459A, subsection (a)(2), of the Safe Drinking Water Act.”⁵

The cost sharing and match requirements in SDWA Section 1459A(g) also **do not** apply to these grant funds:

“Provided further, That funds provided under this paragraph in this Act shall not be subject to the matching or cost share requirements of section 1459A of the Safe Drinking Water Act.”⁶

EPA understands the above provision waiving the matching and cost share requirements under SDWA Section 1459A to refer specifically to direct, one-time project and activity costs under SDWA 1459A(g)(1) and (2). Ongoing operation and maintenance costs as described in SDWA 1459A(g)(3) are not eligible for funding and must be paid for by the eligible entity.

Section 1459A of SDWA, as amended by the 2016 WIIN Act and the 2018 America’s Water Infrastructure Act (AWIA) authorizes EPA to award grants to states to assist underserved, small and disadvantaged communities that are unable to finance activities needed to comply with SDWA, as well as respond to a drinking water contaminant. The 2021 Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (BIL), removes the *underserved* criterion in the previous two amendments. In other words, communities do not need to meet the definition of underserved to be eligible for EC-SDC funding (SDWA § 1459A(a)(2)).

⁴ BIL (P.L. 117-58) Division J (FY 2022 Appropriations), Title VI – State and Tribal Assistance Grants (6).

⁵ Ibid.

⁶ Ibid.

As defined in SDWA Section 1459A, the terms ‘small’ and ‘disadvantaged’ (emphasis added) are specified in the EC-SDC grant program statute as communities:

“(A) that, under affordability criteria established by the State under section 1452(d)(3), is determined by the State—

‘(i) to be a disadvantaged community; or

‘(ii) to be a community that may become a disadvantaged community as a result of carrying out a project or activity under subsection (b); or

‘(B) with a population of less than 10,000 individuals that the Administrator determines does not have the capacity to incur debt sufficient to finance a project or activity under subsection (b).”⁷

States are best positioned and have the in-depth knowledge to identify the appropriate small communities that lack the capacity to incur debt and can most benefit from this funding opportunity.

The SDWA added an EPA-administered grant program to help states assist underserved communities to respond to imminent and substantial contamination. EPA responded with grant funding requesting states to assist communities when contaminants are present in and pose an imminent and substantial threat to their public water system or underground drinking water sources. Further, this funding would be available when EPA or a court of competent jurisdiction determines that the appropriate authorities have not responded in a sufficient manner.

The authorizing grant funding to states for responding to a drinking water contaminant is provided in SDWA Section 1459A(j):

“(j) STATE RESPONSE TO CONTAMINANTS.—

(1) IN GENERAL.—The Administrator may, subject to the terms and conditions of this section, issue a grant to a requesting State, on behalf of an underserved community, so the State may assist in, or otherwise carry out, necessary and appropriate activities related to a contaminant—

(A) that is determined by the State to—

(i) be present in, or likely to enter into, a public water system serving, or an underground source of drinking water for, such underserved community; and

(ii) potentially present an imminent and substantial endangerment to the health of persons; and

(B) with respect to which the State determines appropriate authorities have not acted sufficiently to protect the health of such persons.”⁸

⁷ SDWA § 1459A(c)(2), 42 U.S.C. 300j-19a(c)(2).

⁸ SDWA § 1459A(j) [42 U.S.C. 300j-19a(j)]

ELIGIBLE APPLICANTS AND BENEFICIARIES

Funds will be awarded to states (the “eligible entity”) based on the established allocation formula (see [ALLOCATION OF FUNDS](#)). Eligible entities include the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. Consistent with this definition, the term “state” will be used throughout this document to refer to all eligible entities.

States will use funding to provide workplans that focus on assistance to public water systems that serve small or disadvantaged communities. Public water systems include existing privately- and publicly-owned community water systems and non-profit non-community water systems, including systems utilizing point of entry or residential central treatment. In its oversight capacity, EPA intends to review state work plans for the state’s methodology to evaluate and identify communities that lack the capacity to incur debt and can most benefit from this funding opportunity.

In the event a state or territory does not apply to receive EC-SDC funds, EPA will work with technical assistance providers and stakeholders to provide direct outreach and assistance to communities and public water systems located in the non-participating state or territory. For example, this assistance can help PWSs in need of funding to identify and apply for other sources of funding, such as from state DWSRF programs.

ELIGIBILITY PROVISIONS

For a project or activity to be eligible for funding under the EC-SDC grant program, it must be otherwise eligible for funding under SDWA §1459A(a) through (j), except that (g) cost-sharing is not required,⁹ and the primary purpose must be to address one or more [emerging contaminants](#), including PFAS, in drinking water. Other contaminants or deficiencies, including those that are subject to primary or secondary drinking water regulations, may be addressed as a secondary purpose of a project. To the extent there are sufficient applications, states should prioritize projects with the primary purpose of addressing PFAS in drinking water systems or source water. To maximize public health protection, EPA also encourages states to address perchlorate and contaminants that have higher levels of occurrence or potential health concerns. States are encouraged to use this funding to establish the identification of emerging contaminants within their jurisdictions in small or disadvantaged communities.

If EPA has set a maximum contaminant level (MCL) under the [National Primary Drinking Water Regulations](#) (NPDWR) for a contaminant, it is not an emerging contaminant, and a project whose primary purpose is to address that contaminant is not eligible for funding, with the PFAS exception noted below. For example, a project for which the primary purpose is to address arsenic or nitrate in drinking water is not eligible because arsenic and nitrate are regulated under the NPDWRs. A project

⁹ SDWA Sections 1459A(g)

with a primary purpose of addressing chlorpyrifos, which is not a regulated drinking water contaminant, that would also address arsenic or nitrate contamination would be eligible.

EPA expects to establish a [NPDWR](#) for two PFAS- PFOA and PFOS. The Agency is also evaluating additional PFAS and groups of PFAS. EPA has determined that PFAS-focused projects will be eligible for funding under this appropriation regardless of whether EPA has established a NPDWR for that particular PFAS or group of PFAS. More information on PFAS is located here: <https://www.epa.gov/pfas>.

The evolving nature of contaminants, the regulatory requirement to produce water that meets multiple primary and secondary standards, and the need to consider multiple contaminants in the planning, design, and implementation of infrastructure improvements all support a holistic and comprehensive approach to contaminants as the most efficient and cost-effective means of achieving the objectives of SDWA §1459A and BIL. If projects are funded from multiple sources, States must only charge eligible project activities to each respective award.

Costs to make drinking water system improvements are not eligible for EC-SDC funding unless they are directly and reasonably related to the project to address emerging contaminants. For example, a project to develop a new well to address emerging contaminant issues that is located a distance away from the current treatment facility could include installing a transmission line to connect them. A project to replace a water main, where the replacement is unrelated to an emerging contaminant, at a separate location in the distribution system would not be eligible for funding.

Definition of “primary” purpose: For the purposes of determining eligible projects, “primary” means the components of the project that address emerging contaminant(s) exceed 50% of the total project costs or level of effort (LOE). In addition, in the case that the costs or LOE attributable to the emerging contaminant do not exceed 50% and the project components attributable to both emerging and other contaminants are co-located, the primary purpose still can be considered as addressing emerging contaminants provided that a preliminary engineering report, alternatives analysis, or similar engineering document identifies the emerging contaminant-attributable activities as a preferred method for addressing emerging contaminants.

***Example:** A water system has elevated levels of PFAS and also has long struggled to maintain arsenic levels below the MCL. Treatment is determined to be the best alternative for addressing PFAS, and a treatment facility must be constructed. The system would like to install and add arsenic treatment in the water system at the same time. The costs of constructing the facility and installing both arsenic and PFAS treatment are eligible for funding, provided the costs or LOE attributable to PFAS treatment exceed 50% of the project total. In the case that the costs and LOE to address PFAS are not more than 50%, all costs can still be eligible provided that the selected PFAS treatment components are identified as the preferred method of addressing PFAS. If the arsenic treatment were to be constructed at a separate system or a different time, those costs cannot exceed 49% of the total project cost.*

When determining whether components of EC-SDC grant-funded projects are eligible for EC-SDC grant funding, as long as the project component is integral to the EC purpose of the project, expenses related to that component may be drawn from the EC-SDC grant funding.

Eligible Uses and Activities

Activities eligible for EC-SDC funding: In accordance with the statutory eligibilities under Section 1459A of SDWA¹⁰, these actions may include but are not limited to, the following categories for addressing emerging contaminants:

- Scoping and identification
- Testing or sampling for baseline assessment¹¹
- Research and testing
- Planning and design
- Treatment
- Source
- Storage
- Water system restructuring, consolidation, or creation
- Providing households access to drinking water services
- Technical assistance
- Public communication, engagement, and education

A list of example activities that could be funded under each category can be found in [Appendix D](#) for further reference. These lists are not intended to represent all types of activities. If a state wishes to fund an activity not specifically listed, an explanation of how the activity addresses the critical main functions under Section 1459A of SDWA must be included in the workplan ([see SCOPE OF WORK \(WORKPLAN\)](#)). Also note that a wide range of costs and expenditures associated with an infrastructure construction project are eligible as part of a project budget. Contact EPA with any questions regarding the eligibility of proposed activities.

Technical assistance to develop EC projects is eligible: Technical assistance can be provided in several ways. First, states are encouraged to use EC-SDC funds to provide hands-on technical assistance to water systems serving small or disadvantaged communities. Funds may be used by states to directly assist systems or subcontract with technical assistance providers. The state can help identify needs, develop projects, apply for funding, and design and implement projects. Second, the BIL grant funding also provides EPA with administrative set-aside funding. The agency plans to use the funding to support building capacity in states and communities and leveraging new or existing technical assistance (TA)

¹⁰ SDWA § 1459A(b)(2), 42 U.S.C. § 300j-19a(b)(2).

¹¹ This includes the development of biochemical markers that complement the toxicity profile of these contaminants and highlight the need for further research on ECs and their implications, and the regulations required to protect human health, etc.

programs to help disadvantaged or small communities access federal resources. Additionally, EPA has provided grants to multiple regional Environmental Finance Centers (EFCs) that can provide hands-on assistance to communities. Finally, EPA supports small systems through the existing Training and Technical Assistance grant competition established under SDWA §1442(e), as funded by Congress. The TA provided through this grant enables small systems to achieve and maintain compliance with drinking water regulations and may include circuit-rider and multi-state regional TA programs, training, and assistance in implementing regulations, source water protection plans, monitoring plans, water security enhancements, etc. All these activities are critical in improving rural and urban community water system infrastructure and the personnel serving these systems.

Workforce development activities as part of EC projects are eligible: The BIL provides an opportunity to support the workforce needed to accomplish the infrastructure investment through the EC-SDC grant funding. Eligible activities may include reasonable costs to support on-the-job training, apprenticeship, pre-apprenticeship, and youth training programs that open pathways to employment. Examples of workforce activities can be found under [Appendix C](#).

Ineligible Activities/Uses of Grants

Consistent with the statutory provisions for the WIIN Act *SUDC grant* program and the DWSRF program, funding for bottled water is not eligible under this EC-SDC grant program. Examples of additional ineligible uses of grant funds are listed below. Please note that this list is intended to be illustrative and is not all inclusive. Grant funding may not be used for the following activities:

- Projects whose primary purpose is not to address emerging contaminants.
- Remediation of contaminated groundwater or underlying aquifers.
- Operations and maintenance costs (prohibited by statute).¹²
- Lead service line replacement.
- Replacement of premise plumbing.
- Construction or rehabilitation of dams.
- Activities needed primarily for fire protection.
- Activities needed primarily to serve future population growth.
- Activities that have received assistance from the tribal allotment for Indian Tribes and Alaska Native Villages.
- Costs that are unallowable (e.g., lobbying and alcoholic beverages) under [2 CFR 200 Subpart E – Cost Principles](#).

¹² SDWA § 1459A(g), 42 U.S.C. § 300j-19a(g). While operations and maintenance costs are ineligible costs, water systems may wish to use Design-Build-Operate procurement approach to facilitate greater lifetime project efficiencies. In such cases, the cost of operations must be clearly identifiable.

If a state wishes to fund an activity not specifically listed as ineligible, an explanation of how the activity addresses the critical main functions under Section 1459A of SDWA must be included in the workplan ([see SCOPE OF WORK \(WORKPLAN\)](#)). Also note that a wide range of costs and expenditures associated with an infrastructure construction project are eligible as part of a project budget. Contact EPA with any questions regarding the eligibility of proposed activities. Examples of activities under these categories can be found in [Appendix D](#).

PRIVATE WELLS

Section 1459A(j) of the SDWA does not allow EPA to authorize grants to states to address contaminants in communities with individual private wells unless the purpose of the activity is determining whether the individual private wells should be connected to an existing public water system or create a new public water system. The authority does not provide funding to remediate contaminated aquifers, including treatment of individual wells, that do not impact public water systems.

NOTICE OF INTENT

States that wish to receive EC-SDC grant program funding must submit a **Letter of Intent (LOI) to the Agency**. The LOI should state the lead state agency/department charged with the state's oversight and responsible for receipt of funds and actions pertaining to the grant program. The LOI must be addressed to the EPA Administrator. It must be signed by the state governor, the director of the designated agency, or other authorized official. It must certify one state agency designated to receive the funds with legal and administrative authority to enter into a grant or cooperative agreement with EPA. Upon receipt, EPA will consider the state agency designated by the governor as the lead agency for the state for the purposes of the EC-SDC grant program.

If a **state does not intend** to request or accept the funding allocation for this EC-SDC grant program in a given fiscal year, the state should indicate through correspondence this intention not to receive the funding for the fiscal year cycle within the first quarter of the given fiscal year. Funds intended to be allocated to a state that chooses not to participate will be reallocated to participating states as described in [ALLOCATION OF FUNDS](#).

The LOI can be submitted by email to WIINDrinkingWaterGrants@epa.gov. The EPA Office of Ground Water and Drinking Water (OGWDW) will forward the letters of intent to participate to the appropriate EPA Regional Office for review. Regions will work with states as necessary to resolve any identified issues. See [Appendix D. Sample Notice of Intent to Participate](#).

States that do not choose to participate in one year may submit a LOI in a subsequent fiscal year to receive funds. States that have already submitted a LOI will not be asked to submit another in subsequent years. States that participate in one year but choose not to participate in a subsequent year must notify EPA within the first quarter of the given fiscal year.

ALLOCATION OF FUNDS

The BIL focuses on rebuilding America’s infrastructure and investing in communities that have too often been left behind – from rural towns to struggling cities. The BIL presents a unique opportunity to provide funding for these communities. Under the authority provided in the Safe Drinking Water Act (SDWA) Section 1459A **Assistance for Small or Disadvantaged Communities** program, EPA is providing and prioritizing funding on an annual basis to eligible states and territories for participation in the EC-SDC grant program. If all 50 states, the District of Columbia, and the five qualifying territories participate in the Program, then each will be allocated funds based on a formula that includes factors for population below poverty, small water systems, and occurrence of unregulated emerging contaminants. All funding will be allocated accordingly and distributed to participating entities, States and Territories.

If fewer than all states and territories participate, the formula will be applied to any remaining unclaimed base funds, and these funds will be reallocated to all participating states and territories. States that do not request funds in one year may request funds in subsequent years.

APPLICATION PACKAGE AND SUBMISSION INFORMATION

This section lists the required documentation and information states must provide EPA to apply. The EPA Regional offices are the primary points of contact to approve workplans, process grant applications and award funding.

Application package: The application package must include the following forms:

- Standard Form (SF) 424**, Application for Federal Assistance
- Standard Form (SF) 424A**, Budget Information for Non-Construction Programs
- Standard Form (SF) 424B**, Assurances for Non-Construction Programs
- EPA Form 5700-54**, Key Contacts Form
- EPA Form 4700-4**, Pre-award Compliance Review
- Project Narrative Attachment Form**

Applicants should note there is additional guidance available through the Office of Grants and Debarment that formalizes the definition and categorization of construction costs listed in an applicant’s budget for all EPA financial assistance programs. The associated documentation and guidance can be found on EPA’s Office of Grants and Debarment under [Interim General Budget Development Guidance for Applicants and Recipients of EPA Financial Assistance](#).

Optional Submissions: **Negotiated indirect cost rate agreement** (as applicable)

Submission Instructions: Application packages must be submitted by August 31st of each fiscal year cycle in which appropriations are made available for the grant program. EPA Regions will communicate to states the instructions for submitting applications through Grants.gov (www.grants.gov), including how to access the opportunity. Funding Opportunity Number: EPA-CEP-02, CFDA# 66.442.

SCOPE OF WORK (WORKPLAN)

When requesting funds under the EC-SDC grant program, states must submit a workplan detailing the intended use of funds. A draft workplan should be submitted to the appropriate EPA Region for review prior to submitting the final workplan (see [STATE ACTIVITIES SELECTION](#)). States are encouraged to consider a phased approach to identifying, planning, and implementation of eligible projects, particularly to ensure that *all* eligible communities are evaluated for eligible work and that lack of previous planning or evaluation does not place otherwise eligible systems at a disadvantage. States are encouraged to request year one (FY 2022) funds to complete a comprehensive review for the assessment of the emerging and regulated contaminant needs of water systems serving small or disadvantaged communities, including but not limited to planning, design and scoping, in order to develop a Small or Disadvantaged Communities List (SDC List) for inclusion in subsequent years' work plans. States may include their reasonable program administration costs, which must be clearly identified and supported. These reasonable costs may include costs incurred by other state programs that support the drinking water program in these efforts, such as community engagement, hazardous waste management and cleanup programs (see [AWARD ADMINISTRATION INFORMATION, Funding to Other State Agencies](#)).

States should consider the following parameters when developing their scope of work:

Project and Budget Period: It is anticipated that project/budget periods will be no more than six years. EPA can modify workplans, adjust budgets, and extend the period of performance for grants to address impacts or delays, consistent with applicable law relating to the availability of appropriations or otherwise, [2 CFR 200.308](#), and the [General Term and Condition](#) for recipients if necessary.

Eligible Activities: States will use funding for eligible activities in small or disadvantaged communities (see [ELIGIBLE ACTIVITIES](#)). States are encouraged to include public engagement and communication activities with all projects. The communities benefiting from assistance must meet the statutory definition of either small with insufficient capacity or disadvantaged, with consideration for those communities with the greatest needs (see [STATUTORY AUTHORITY](#)). As relevant, the determination of small systems' lack of capacity will be reviewed by EPA.

EPA encourages participating states to include in their workplan the identification of the small or disadvantaged communities (SDCs) that are eligible for assistance and have plans for projects/activities eligible for funding. In addition to identifying the community, the state should provide sufficient detail in the workplan to support the prioritization of the communities with the greatest needs. States are to describe the proposed infrastructure project work or activities planned, and add details of necessary preparation such as planning, testing, or community engagement as needed. The grant funding may be used for such a purpose. States will work with EPA Regional staff to determine the activities to be funded, provide sufficient detail in the

workplan as to how that determination was made (see [STATE ACTIVITIES SELECTION](#)), and develop the timeline for each phase of the project through completion.

EPA recognizes that there is a wide variation among states and is presenting this process to provide a general outline of the steps to be followed for state submissions. Each state will submit a draft workplan to their respective EPA Region. The EPA must be able to determine from the draft workplans that activities conform to all applicable requirements of the grant program. The EPA will work with the state to ensure that the final workplan: (1) is designed to help achieve the goals and objectives of the grant program; (2) includes costs that are eligible, reasonable, necessary, allowable and consistent with the grant program; and (3) clearly identifies the specific outcomes, outputs, and other results that are linked to funding and includes target dates and milestones for achieving them.

Justice40 reporting metrics:

The main goal of the EC grant funding is for states to provide grants to public water systems in small or disadvantaged communities to address emerging contaminants, including PFAS.

For the purposes of this Program, the following indicators will be used to provide metrics for the Justice40 objectives and must be reported to EPA, including:

- Number and location of small or disadvantaged communities receiving funds.
- Total dollar amount of assistance to small or disadvantaged communities.
- Number and location of impacted public water systems.
- Number of systems evaluated for EC detections of concern.
- Number of treatment projects or activities targeting emerging contaminants reduction.

Grant Programmatic Priorities: The principal objective of the program is to enable water systems serving small or disadvantaged communities to effectively address emerging contaminants in drinking and/or source water, and to minimize potential public health risks from emerging contaminants in the future. A secondary objective is to enable water systems to achieve compliance with standards for regulated contaminants. For example, a project for which the primary purpose is to address an emerging contaminant in a water system through treatment, and also addresses the system's compliance arsenic issue, may be eligible for funding. In this case, a water system will be able to achieve and maintain compliance with SDWA. States are required to use project funds to benefit small or disadvantaged communities, as defined in SDWA Section 1459A(c).

Strategic Plan Linkage, Anticipated Outputs and Outcomes: Pursuant to Section 6a of [EPA Order 5700.7, Environmental Results under EPA Assistance Agreements](#), recipients must link proposed assistance agreement workplans with the Agency's Strategic Plan. EPA also requires

that workplans adequately describe environmental outputs and outcomes to be achieved under assistance agreements:

Linkage to EPA’s Strategic Plan: The activities to be funded must support the EPA’s FY 2022 – 2026 Strategic Plan. Funding will primarily support the following:

Goal 5: “Ensure Clean and Safe Water for All Communities,” Objective 5.1 “Ensure Safe Drinking Water and Reliable Water Infrastructure.”

Funding may also support other EPA FY 2022 – 2026 Strategic Plan, including:

Goal 1: “Tackle the Climate Crisis,” Objective 1.1 “Reduce Emissions that Cause Climate Change,” and Objective 1.2 “Accelerate Resilience and Adaptation to Climate Change Impacts.”

Goal 2: “Take Decisive Action to Advance Environmental Justice and Civil Rights,” Objective 2.1 “Promote Environmental Justice and Civil Rights at the Federal, Tribal, State, and Local Levels,” and Objective 2.2 “Embed Environmental Justice and Civil Rights into EPA’s Programs, Policies, and Activities.”

Goal 6: “Safeguard and Revitalize Communities,” Objective 6.1 “Clean Up and Restore Land for Productive Uses and Healthy Communities,” Objective 6.3 “Prepare for and Respond to Environmental Emergencies.”

States must explain in their workplan how their projects will further these objectives. States may address these linkages by describing the overall state process for providing technical assistance, project review and ranking, and making funding decisions that furthers these objectives. A state may request technical assistance from EPA to develop processes and technical assistance offerings in a manner that supports these strategic plan objectives.

States must also include specific statements describing the expected public health and/or environmental results of proposed activities in terms of well-defined outputs and, to the maximum extent practicable, well-defined outcomes that will demonstrate how activities will contribute to program priorities. These should include target dates and milestones.

Outputs: The term “output” means an environmental activity, effort, and/or associated work product related to an environmental goal and objective that will be produced or provided over a period of time or by a specified date. Outputs may be quantitative or qualitative but must be measurable during an assistance agreement funding period.

Expected outputs from the activities to be funded under this announcement may include, but are not limited to, the following:

- Number of communities evaluated for meeting disadvantaged criteria.
- Number of small communities (population <10,000) evaluated for capacity to complete a project in the absence of funding assistance.
- Number of water systems tested for presence of emerging contaminants and the population served.

- Number of water systems for which the source of emerging contaminants is researched and the population served.
- Number of households tested for a drinking water contaminant and identified for action to address contaminant concerns.
- Number of preliminary engineering reports conducted and the population served by systems for which reports are prepared.
- Number of water systems provided technical assistance and the population served.
- Number of water systems restructured or consolidated with other water systems and the population served.
- Number plans designed and the population served by the systems for which they are prepared.
- Number of public outreach and engagement resources created and meetings/workshops conducted.
- Number of new wells developed and the population served.
- Number of operators trained to use new equipment/technology and the population served.

Outcomes: The term “outcome” means the result, effect, or consequence that will occur from carrying out an environmental program or activity that is related to an environmental or programmatic goal or objective. Outcomes may be qualitative and environmental, behavioral, health-related, or programmatic in nature, but must also be quantitative. They may not necessarily be achievable within an assistance agreement funding period.

Expected outcomes from the activities to be funded under this announcement may include, but are not limited to, the following:

- Reduction in the number of public water systems serving small or disadvantaged communities that face real or potential public health threats due to emerging contaminants.
- Reduction in the number of public water systems serving small or disadvantaged communities that are out of compliance with health-based drinking water standards and the population served.
- Increased technical, managerial, and financial capacity of public water systems serving small or disadvantaged communities and the population served.
- Reduction in the population that is served by a water system or, private wells connected to an existing public water system or to create a new public water system, threatened by emerging contaminants and that benefit from the Federal investments in drinking water infrastructure improvements to respective communities.
- Increase in community engagement and trust among small and disadvantaged communities.
- Improved public awareness of threats posed by emerging and regulated contaminants.

For the purposes of reporting, the outputs and outcomes will be used to identify the performance reporting measures, such as the total funds awarded annually to address PFAS or emerging contaminants. Regular, frequent reporting and monitoring schedule to ensure progress of BIL project characteristics, intended community impact and milestone information no less than semiannually will be added to reporting required through the terms and conditions of the grant award.

Expeditious Commitments and Expenditures: BIL funds must be committed and expended in an expeditious and timely manner, consistent with law, regulation, and guidance, including the [Uniformed Grant Guidance](#) (2 CFR 200 to 200.301). States must make commitments to proceed with workplan activities within one year after receipt of the grant from EPA. States must make an effort to draw down (expend) funds routinely and continue to demonstrate progress in drawing funds for the implementation and completion of projects.

STATE ACTIVITIES SELECTION

EPA recognizes that there is a wide variation among states and is presenting this process to provide a general outline of the steps to be followed for state submissions.

States are required to submit a draft workplan with a list of communities and projects eligible for funding to their respective EPA Region. EPA Regions must be able to determine from the draft workplans that activities conform to all applicable requirements of the EC-SDC grant program. The EPA Region will work with the state to ensure that the final workplan: (1) includes projects that serve small or disadvantaged communities, as defined in SDWA Section 1459A(c); (2) is designed to help achieve the goals and objectives of the grant program; (3) includes costs that are eligible, reasonable, necessary, allowable, and consistent with the grant program; and (4) clearly identifies the specific outcomes, outputs, and other results that are linked to funding and includes target dates and milestones for achieving them.

States are strongly encouraged to begin their internal process as early as possible to identify the extent of need in small or disadvantaged communities for activities to address emerging contaminants and to identify multiple potential projects in the event that one or more projects are ineligible. State hazardous waste management and cleanup programs may be able to provide valuable information about potential sources of emerging contaminants. States and EPA Regions are also encouraged, where feasible, to discuss proposed activities prior to submission of the draft workplan and SDC List so that the subsequent submission can be reviewed and approved quickly. EPA encourages states to submit draft workplans and SDC Lists to the EPA Region as soon as possible if they believe that there are difficult issues that may arise (e.g., whether a proposed activity is legally fundable or meets mandatory criteria established by statute).

Prior to beginning the award process, EPA Regions will discuss with each state a schedule to ensure timely award of the grant.

COST SHARING REQUIREMENTS

There is no cost share requirement for the EC-SDC grant program.

AWARD ADMINISTRATION INFORMATION

Regulatory Requirements for Grant Assistance Agreements: This award is subject to the regulations of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards; Title 2 CFR, Parts 200 and 1500. A listing and description of EPA's general regulations applicable to the award of assistance agreements may be viewed at: <https://www.epa.gov/grants/policy-regulations-and-guidance-epa-grants>.

Terms and Conditions: General administrative and programmatic terms and conditions applicable to EPA's assistance agreements may be viewed at www.epa.gov/grants/grant-terms-and-conditions. EPA Headquarters will provide the EPA Regions with a list of terms and conditions that will also be applicable. EPA Regions will ensure that all applicable terms and conditions are included in the grant agreements.

Funding to Subrecipients: Funding may be used to provide subawards of financial assistance provided the recipient complies with applicable requirements for subawards including those contained in 2 CFR Part 200 and [EPA's Subaward Policy](#). The National Term and Condition for Subawards is available at https://www.epa.gov/sites/production/files/2016-02/documents/gmc_subaward_policy_appendix_b_national_t_and_c.pdf.

Funding to Other State Agencies: The EPA's general policy, based on the definitions of the terms "Non-federal entity" ([2 CFR §200.69](#)), "Pass-through entity" ([2 CFR §200.74](#)) "Recipient" ([2 CFR §200.86](#)) and "State" ([2 CFR §200.90](#)), is that the state itself is the legal entity that receives the funds even if one particular component of the state is named in the assistance agreement as the recipient. Transfers of funds between state agencies to perform a particular financial assistance agreement would, therefore, be governed by state law. Additionally, [2 CFR §200.417](#) "Interagency Services" contemplates situations in which one agency provides services to another agency within the same unit of government as a direct cost of performing EPA assistance agreement.

If utilizing interagency service agreements between state agencies under 2 CFR §200.417, the expenditures the state agency makes to carry out the Interagency Service Agreement should be shown in the corresponding direct cost categories (Personnel, Travel, Contractual etc.). If state law characterizes agreements under which one state agency provides services to another state agency as a procurement contract, then the costs would be placed in the contractual category. In interagency service situations, 2 CFR §200.417 provides the state may charge a pro-rated share of indirect costs for the service, or 10% of the ". . .direct salary and wage cost of providing the service (excluding overtime, shift premiums, and fringe benefits) may be used in lieu of determining the actual indirect costs of the service." Centralized services included in central service cost allocation plans subject to [2 CFR Part 200 Appendix V](#) are accounted for separately.

There may be situations in which state law provides that state agencies or instrumentalities are legally separate for the purposes of financial transactions between them or when state financial management policies for Federal assistance agreements require separate instruments for accounting purposes (e.g. due to differences in indirect cost rates). In those situations, a state may characterize appropriate funding transfers as subawards. Note, however, that if one state agency provides a subaward to another state agency, the state agency acting as the passthrough entity must comply with applicable provisions of 2 CFR Part 200 (including [2 CFR §200.331](#)), the National Term and Condition for Subawards, and EPA Subaward Policy unless EPA provides an exception. The aggregate cost estimates for subawards to other state agencies or instrumentalities should be included as line items in the “Other” budget category.

Procurements: When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with [2 CFR §200.322](#) Procurement of Recovered Materials and ensure that every purchase order or other contract includes any clauses required by section [2 CFR §200.326](#) Contract provisions. All other non-Federal entities, including subrecipients of a state (other than another state agency), will follow §200.318 General Procurement Standards through §200.326 Contract Provisions.

Performance Partnership Grants: Funds awarded under this program are not eligible for inclusion with the state’s Performance Partnership Grants.

Expenses Incurred Prior to the Project Period: As described in [2 CFR §200.458](#) and as authorized by [2 CFR §200.309](#) and [2 CFR §1500.8](#), pre-award costs incurred prior to the effective date of the federal award or subaward that are directly pursuant to the negotiation and in anticipation of the Federal award, where such costs are necessary for the efficient and timely performance of the scope of work, are allowable to the extent that they meet all other eligibility requirements, with the written approval and requirements set forth by EPA. Pre-award costs are generally acceptable for time periods within the 90 days of the award date. EPA defines pre-award costs as costs incurred prior to the award date, but on or after the start date of the Budget period and Period of performance as those terms are defined in 2 CFR 200.1. Under EPA’s interpretation of 2 CFR 200.308(e)(1) and 2 CFR 1500.9 all eligible costs must be incurred during the budget/ performance period as defined by the start and end date shown on the grant award to receive EPA approval. This interpretation is implemented in a grant-specific Term and Condition entitled “Pre-award Costs” which must be included in all awards when the applicant has incurred EPA approved costs prior to award. If pre-award costs are sought for periods greater than 90 days, EPA approval will be required. All costs incurred before the Federal awarding agency makes the Federal award are at the recipient's risk (*i.e.*, the Federal awarding agency is not required to reimburse such costs if for any reason the recipient does not receive a Federal award or if the Federal award is less than anticipated and inadequate to cover such costs).

Quality Assurance/Quality Control: Activities that include the collection of environmental data, such as household water quality testing, will need to comply with the Quality Assurance/Quality Control requirements in [2 CFR 1500.12](#). Environmental data are any measurements or information that describe environmental processes, location, or conditions; ecological or health effects and consequences; or the performance of environmental technology. States should allow sufficient time and resources for this

process. EPA can assist states in determining whether QA/QC is required for a proposed project and, if required, the appropriate QA/QC practices needed.

Application of Federal Cross-Cutting Authorities (Cross-Cutters): A number of federal laws, executive orders, and government-wide policies apply by their own terms to projects and activities receiving federal financial assistance, regardless of whether the statute authorizing the assistance makes them applicable. All programs, projects, and activities for which a state provides assistance are subject to the following federal anti-discrimination laws: Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d et seq.; section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; and the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6102. A state is responsible for ensuring that assistance recipients comply with the requirements of crosscutters, see [Appendix A. Other Applicable Provisions](#).

Reporting Requirements: Entities receiving assistance are required to provide semiannual and annual performance progress reports, including grant fund reporting elements and summaries of the project activity and status of outputs during the reporting period. EPA will provide recipients with the criteria for reporting and the platform in which the reporting will be submitted. Reports must adhere to the Performance and Financial Monitoring and Reporting requirements as outlined in the Office of Management and Budget's Uniform Grant Guidance ([2 CFR §200](#)). The reporting period will be identified in the terms and conditions of the assistance agreements. Further, in accordance with [2 CFR §200.329](#), the recipient agrees to report on key project characteristics, milestones, and environmental/public health protection results in the following areas: 1) achievement of the outputs and outcomes established in the workplan; 2) the reasons for delays if established outputs or outcomes were not met; and 3) any additional pertinent information on environmental/public health results. Information provided in the reports helps monitor the state's progress with implementing their project and also directly supports the EC-SDC grant program by highlighting measurable accomplishments to the public and Congress.

Semiannual Reports: The semiannual report will reflect information pertaining to the state and its agency with oversight and the work performed to meet the objectives of the program and the grant activity during the period of performance. Reporting must provide a comprehensive review of the small or disadvantaged communities receiving assistance; the type of assistance provided / activities performed; and the breakdown of financial and direct grant assistance which subsidized the activities performed during the reporting cycle. Participating states and territories should coordinate with the EPA Regional offices on reporting elements after applications have been approved for awards. The second semiannual report in a given year may be combined with the annual report. Reports are due 30 days after the end of the reporting period.

Annual Reports: The annual report will reflect the participating entity's comprehensive efforts towards assisting public water systems in small and/or disadvantaged communities in addressing emerging contaminants as well as, where applicable, meeting the requirements of national primary drinking water regulations and/or expanding access for small and/or disadvantaged communities to household drinking water services. Reports are due 90 days after the end of the reporting period.

Final Project Reports: The final report must include: a summary of the project or activity, outputs and outcomes achieved, expenditures, lessons learned, and any other resources leveraged during the project and how they were used. The final report shall be submitted to EPA, per 2 CFR 200.329 within 120 calendar days of the project/budget period end date.

Reporting requirements will be made available to grantees 45 days after grant award packages are complete. Reporting criteria may be subject to annual revisions.

APPENDIX A. OTHER APPLICABLE PROVISIONS

Equivalency: BIL supplemental appropriations are federal funds. Projects funded through the EC-SDC program cannot be used to meet the equivalency requirements of other federal programs such as DWSRF.

Build America, Buy America Act: BIL creates the Build America, Buy America (BABA) Act domestic sourcing requirements for Federal financial assistance programs for infrastructure, including the drinking water grant programs.¹³ BABA expands the emphasis on domestically produced products in federally funded projects beyond AIS. In addition to domestic iron and steel, it requires the use of domestic manufactured products and construction materials to be used in any federal financial assistance program for infrastructure. Its inclusion of domestic iron and steel requirements crosscuts AIS requirements into BABA, meaning that BABA's requirements for domestic iron and steel must follow the AIS requirements.

Reporting: Transparency and consistency are of the utmost importance to ensure that the funds are being used effectively and efficiently. States will use EPA's preferred data platform to report key BIL project characteristics and milestone information no less than twice a year. Additional reporting will be required through the terms and conditions of the grant award.

The Federal Funding Accountability and Transparency Act (FFATA) of 2010 requires the WIIN Program to report on recipients that received federal dollars in the FFATA Subaward Reporting System (www.fsr.gov). FFATA reporting must exactly equal the grant amount.

Federal Flood Risk Management Standards: On May 20, 2021, President Biden signed Executive Order (EO) 14030, Climate-Related Financial Risk, reinstating EO 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input (January 30, 2015). EO 13690 amends the original floodplain management standard established in 1977 by EO 11988, and was revoked by EO 13807 in August 2017, though is now reinstated. This action reestablishes the Federal Flood Risk Management Standard (FFRMS) for federally funded projects. The FFRMS will increase the resilience of infrastructure for flooding events caused by climate disasters. The new standard will go into effect in fiscal year 2022 for the EC-SDC grants (included in the Bipartisan infrastructure Law funding). The FFRMS applies to actions where federal funds are used for new construction, substantial improvement (i.e., projects worth more than 50% of the market value or replacement cost of the facility), or to address substantial damage to structures and facilities. If a potential grant recipient requires assistance with evaluating their water system or project with respect to this new standard, they are to reach out to their respective programmatic region for additional resources on Floodplain Management or use EPA's tools and resources available, including several that would assist with utilizing the climate-informed science approach (<https://www.epa.gov/crwu>).

¹³ BIL §70901

Environmental Reviews: Consistent with the procedural requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq., as implemented by the Council on Environmental Quality (CEQ) Regulations (40 CFR Parts 1500 through 1508), and EPA’s NEPA Regulations (40 CFR Part 6), grant recipients may be required to conduct environmental reviews. Consistent with NEPA’s procedural requirements, EPA is including in its decision-making processes procedures to ensure the appropriate and careful consideration of the environmental effects of proposed actions, to analyze potential environmental effects of proposed actions and their alternatives for public understanding and scrutiny, to avoid or minimize adverse effects of proposed actions, and to restore and enhance environmental quality to the extent practicable.

Federal Civil Rights Responsibilities, Including Title VI of the Civil Rights Act of 1964: In 1994, [Executive Order 12898](#)¹⁴ was issued to direct Federal agencies to incorporate achieving environmental justice into their mission. The Presidential Memorandum¹⁵ accompanying that Executive Order required in part, that consistent with Title VI of the Civil Rights Act of 1964, each Federal agency “...ensure that all programs or activities receiving Federal financial assistance that affect human health or the environment do not directly, or through contractual or other arrangements, use criteria, methods, or practices that discriminate on the basis of race, color, or national origin.”

EPA has a responsibility to ensure that recipients and subrecipients of federal financial assistance from EPA comply with federal civil rights laws that prohibit discrimination on the basis of race, color, national origin (including limited English proficiency), disability, sex and age, including Title VI of the Civil Rights Act of 1964.¹⁵

EPA’s implementing regulation generally prohibits discrimination in any programs, activities and services receiving federal financial assistance. 40 CFR § 7.30. In addition, EPA’s implementing regulations at 40 CFR § 7.35, states that programs or activities receiving EPA assistance “shall not directly or through contractual, licensing, or other arrangements on the basis of race, color, or national origin...”:

- Subject a person to segregation or separate treatment;
- Deny a person or group the opportunity to participate as members of any planning or advisory body;
- Restrict a person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, aid, or benefit provided by the program;
- Use criteria or methods of administration “which have the effect of subjecting individuals to discrimination;” or

¹⁴ Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994.

¹⁵ [Presidential Memorandum](#) on Executive Order for Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (pdf).

Choose a site or location of a facility with “the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination,” among other things.

EPA’s nondiscrimination regulation in 40 CFR Parts 5 and 7 also contain longstanding procedural requirements applicable to applicants for and recipients (including sub-recipients) of EPA financial assistance.¹⁶ These requirements include having a notice of nondiscrimination, nondiscrimination coordinator, grievance procedures, a process for collecting and maintaining nondiscrimination compliance information, and pursuant to Title VI and the Rehabilitation Act of 1973, developing policies and procedures for ensuring meaningful access to programs and activities for individuals with limited-English proficiency and individuals with disabilities. In addition, recipients’ public participation processes must also be implemented consistent with the federal civil rights laws.¹⁷

EPA intends to carefully evaluate the implementation of BIL SRF funding to ensure compliance with civil rights laws by recipients of EPA funding and to confirm no community is excluded from receiving or denied benefit of SRF funding based on race, color, national origin (including limited English proficiency), age, disability or sex. EPA expects the state to review program activities to ensure compliance with Title VI of the Civil Rights Act of 1964 and make an affirmative statement documenting the review and commitment to Title VI requirements in IUPs. Further, financial award agreements and contracts must include appropriate Title VI nondiscrimination language.

For more information about the federal civil rights laws enforced by EPA, including Title VI, please visit: <https://www.epa.gov/ocr/title-vi-laws-and-regulations> and <https://www.epa.gov/ogc/external-civil-rights-compliance-office-title-vi>.

¹⁶ EPA’s nondiscrimination regulation at 40 CFR Parts 5 and 7 requires recipients to establish and implement their own nondiscrimination programs. See CFR §§ 7.80-7.100.

¹⁷ See Title VI, 42 U.S.C. 2000(d) *et seq.*; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; *Lau v. Nichols*, 414 U.S. 563, 568-69 (1974) (finding that the government properly required language services to be provided under a recipient’s Title VI obligations not to discriminate based on national origin); 40 CFR § 7.35(a). See also U.S. EPA, Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons. 69 FR 35602 (June 25, 2004) (available at https://www.epa.gov/sites/production/files/2020-02/documents/title_vi_lep_guidance_for_epa_recipients_2004.06.25.pdf); U.S. EPA, Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs, 71 FR 14207 (March 21, 2006) (available at https://www.epa.gov/sites/production/files/2020-02/documents/title_vi_public_involvement_guidance_for_epa_recipients_2006.03.21.pdf); U.S. EPA, Procedural Safeguards Checklist for Recipients, at https://www.epa.gov/sites/production/files/2020-02/documents/procedural_safeguards_checklist_for_recipients_2020.01.pdf (rev. Jan. 2020) (which provides a more detailed explanation of nondiscrimination obligations and best practices); U.S. EPA, Disability Nondiscrimination Plan Sample, at https://www.epa.gov/sites/production/files/2020-02/documents/disability_nondiscrimination_plan_sample_for_recipients_2020.01.pdf (2017).

Additional cross-cutting federal authorities:

Environmental Authorities

Archeological and Historic Preservation Act, Pub. L. 93-291, as amended
Clean Air Act, Pub. L. 95-95, as amended
Clean Water Act, Titles III, IV and V, Pub. L. 92-500, as amended
Coastal Barrier Resources Act, Pub. L. 97-348
Coastal Zone Management Act, Pub. L. 92-583, as amended
Endangered Species Act, Pub. L. 93-205, as amended
Environmental Justice, Executive Order 12898
Flood Plain Management, Executive Order 11988 as amended by Executive Order 12148 and 13690
Intergovernmental Review, Executive Order 12372
Protection of Wetlands, Executive Order 11990 as amended by Executive Order 12608
Farmland Protection Policy Act, Pub. L. 97-98
Fish and Wildlife Coordination Act, Pub. L. 85-624, as amended
Magnuson-Stevens Fishery Conservation and Management Act, Pub. L. 94-265
National Historic Preservation Act, Pub. L. 89-655, as amended
Safe Drinking Water Act, Pub. L. 93-523, as amended
Wild and Scenic Rivers Act, Pub. L. 90-54, as amended

Economic and Miscellaneous Authorities

Debarment and Suspension, Executive Order 12549
Demonstration Cities and Metropolitan Development Act, Pub. L. 89 -754, as amended
Intergovernmental Review of Federal Programs, Executive Order 12372
Drug-Free Workplace Act, Pub. L. 100-690
New Restrictions on Lobbying, Section 319 of Pub. L. 101-121
Prohibitions relating to violations of the Clean Water Act or Clean Air Act with respect to Federal contracts, grants, or loans under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, and Executive Order 11738
Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646, as amended

Civil Rights, Nondiscrimination, Equal Employment Opportunity Authorities

Age Discrimination Act, Pub. L. 94-135
Equal Employment Opportunity, Executive Order 11246
Section 13 of the Clean Water Act, Pub. L. 92-500
Section 504 of the Rehabilitation Act, Pub. L. 93-112 supplemented by Executive Orders 11914 and 11250
Title VI of the Civil Rights Act, Pub. L. 88-352 Disadvantaged Business Enterprise Authorities
Participation by Disadvantaged Business Enterprises in Procurement Under Environmental Protection Agency (EPA) Financial Assistance Agreement

APPENDIX B. SUMMARY OF KEY WORKPLAN ELEMENTS

A complete workplan must include the elements described below.

Section 1. Project Summary and Overall Approach

ACTIVITIES: A description of activities to be funded, as described in Section V. **ELIGIBLE ACTIVITIES,** including a discussion of how the proposed activities are necessary for a public water system and/or state to address emerging contaminants, other contaminants, and/or provides household water quality testing. The activities described in the workplan must fund projects and activities that benefit small and/or disadvantaged communities, as described in Section III. [STATUTORY AUTHORITY](#). This section also includes the SDC List, as described in Section IX. [SCOPE OF WORK](#).

States wishing to request funds to develop their SDC List should state so clearly and describe their plan for its development. States that do not have a comprehensive list of the emerging contaminant-related needs of all systems serving small or disadvantaged communities should include in their workplan efforts to further develop their SDC List, in addition to any specific projects or activities they may wish to undertake.

ROLES AND RESPONSIBILITIES: A discussion of the roles and responsibilities of the state and any other project partners, contractors, or subrecipients.

TIMELINE AND MILESTONES: A timeline for the activities selected for funding, including milestones for specific tasks. A workplan may cover multiple years.

Section 2. Programmatic Priorities and Strategic Plan Goals

Clearly state how the activities described support the grant programmatic priorities and EPA Strategic Plan goals as described in Section IX. [SCOPE OF WORK](#).

Section 3. Environmental Results – Outputs and Outcomes

Clearly describe and discuss the anticipated outputs and outcomes of the project/activities, as described in Section IX. [SCOPE OF WORK](#).

Section 4. Budget Narrative

Description of the budget, including estimated funding amounts for each component/task.

APPENDIX C. EXAMPLES OF WORKFORCE ACTIVITIES ELIGIBLE FOR FUNDING

Workforce development activities as part of EC projects are eligible. Workforce development activities targeted towards the residents of the small or disadvantaged communities in which emerging contaminant projects are funded are especially encouraged. Some examples are as follows:

- *Water System A receives funds to install a new treatment system to address PFAS, with which their operator is unfamiliar. They may use funds to train their operator(s) in the operation of the system.*
- *Company B may be contracted to conduct testing and research to identify the presence of an emerging contaminant and the extent of contamination. As part of their funded work, they may train an apprentice in the methods and practices necessary to complete the work, or they may host a class from a local technical training program to discuss the project and practices. The added costs associated with apprentice training or introduced inefficiencies from hosting a class are eligible for funding.*
- *Company C may be contracted to install a new treatment system to address an emerging contaminant. They may train a new employee on the methods and skills required necessary to perform this work.*
- *Water System D receives funds to develop a new source and pump station in order to address an emerging contaminant of concern. They previously had one certified operator, but operational requirements now make it necessary to have two operators. They may use a portion of funds to cover the training and certification of a local resident to be a new operator.*
- *State E uses a portion of its grant funds to host a water careers training event at a high school or community college serving the community that is receiving funds to complete the EC-SDC project.*

States and PWSs are encouraged to think creatively about how projects may build the size, capability, and diversity of the water workforce. Contact the relevant EPA region for questions of the eligibility of specific workforce-supportive project elements.

APPENDIX D. EXAMPLES OF CATEGORY ACTIVITIES

The following lists include **examples** of activities that could be funded under each category. These lists are not intended to represent all types of activities.

Category 1 –Research and Testing*
<i>Example Activities</i>
<ul style="list-style-type: none"> • Research and investigations to identify the presence, source, or extent of emerging contaminant contamination in water systems or source water, including: <ul style="list-style-type: none"> ○ Monitoring and testing (non-routine). • Direct technical assistance to public water systems (of any size) and respective source water resources with emerging contaminants and treatment problems which could lead to requests for grant funding. • PFAS and other emerging contaminants project pre-development activities (technical and engineering expert engagement and planning, partnership development with community-based organizations that have experience conducting community outreach). • Provisions to provide household water quality testing, including testing for unregulated contaminants • Technical assistance for eligible systems to diagnose emerging contaminants problems at their water systems. • Post-remediation testing to verify whether contaminant(s) are still present after removal actions have been completed. • Supplying water test kits and instructions to households. • Upgrading Supervisory Control and Data Acquisition (SCADA) system to aid with the detection of emerging contaminants. • Pilot testing for treatment alternatives. • Conducting initial, special (non-routine/non-compliance) testing to establish a baseline understanding of a contaminant of concern or operation of newly-used technology. • Purchase of lab equipment and materials, including equipment that is shared/rotated among public water systems, is an eligible capital expense to fully assess the potential for emerging contaminants impacting the public water system and/or source. <p>*Research and testing activities do not need to find emerging contaminants to be eligible. Efforts undertaken to determine whether emerging contaminants are present are eligible regardless of the findings.</p>

Category 2 – Planning and Design to Address Emerging Contaminant(s)
<i>Example Activities</i>
<ul style="list-style-type: none"> • Developing emerging contaminant action plans • Preliminary engineering reports • Alternatives analyses • Preliminary and final design • Climate and cybersecurity risk assessment to address gaps that may increase levels of emerging contaminant exposure due to the prevalence of such actions as <i>extreme weather events</i> or <i>public water system interruptions</i> that may cause unintended threats to source waters and/or water treatment systems.

- Energy efficiency analyses
- Source water protection plans and plan updates
- Environmental and archaeological review, including the costs to hire a cultural resources management firm if required based upon archaeological or historic issues discovered during the environmental review process
- Capacity building, administrative support, technical assistance, training, outreach, reports/studies, tools, and other eligible activities
- Permit fees

Category 3 – Treatment of Emerging Contaminant(s)
<i>Example Activities</i>
<ul style="list-style-type: none"> • Build new treatment facilities with emerging contaminant removal capability. • Upgrade existing treatment facilities to add new treatment processes such as activated carbon, ion exchange, and reverse osmosis. • Treatment or protection measures against emerging contaminants in source water. • Development of a new source (i.e., new/replacement well or intake for a public water system) that addresses an emerging contaminant issue.

Category 4 – Source Water Activities Related to Emerging Contaminant(s)
<i>Example Activities</i>
<ul style="list-style-type: none"> • Source exploration and new source development. • Source water protection activities (e.g., developing source water protection plans, well abandonment, etc.). • Testing water sources through the installation of monitoring wells, equipment, or mapping software to analyze whether or not specifically funding actions/projects have remediated contaminant issue. • Source water impacted by emerging contaminants, aquifer storage and recovery (ASR) system for water storage (e.g., part of a reclaimed water system), including wells, pumps, pipes, and wellhead structures. • Implementation of voluntary source water protection activities in delineated drinking water source areas (as defined in SDWA Section 1453) to mitigate EC. • Implementing protection measures to treat against contamination-impacted source water, or contaminated land and industrial sources that may impact source water, where it is found to be the most cost-effective alternative to respond to and alleviate a vulnerability that would substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water. • Construction of an extensive water transmission and distribution system that consolidated several smaller public water systems where the source water was impacted by harmful algal blooms and other contaminants, into one regional entity, including areas without public water previously.

Category 5 – Storage
<i>Example Activities</i>
<ul style="list-style-type: none"> • New storage or replacement/rehabilitation of existing structures to continue to maintain compliance and protect public health by preventing microbiological contaminants from entering a public water system.

- Development of supplemental treatment to finished water storage facilities as a protective distribution “barrier” that prevents contamination of water.
- Animal control services to mitigate bacteria and pathogen contamination.
- Aquifer storage and recovery (ASR) system for water storage (e.g., part of a reclaimed water system).

Category 6 – Water System Restructuring, Consolidation, or Creation**

Example Activities

- Planning, negotiations, and public processes necessary to support restructuring, consolidation, partnership, or new system creation due to emerging contaminant concerns.
- Administrative restructuring.
- Consolidation with another water system that does not have emerging contaminants present or has removal capability.
- Creation of a new community water system to address unsafe drinking water provided by individual (i.e., privately-owned) wells or surface water sources.
- Creation of a Source Water Protection Partnership.

***Activities that result in restructured, consolidated, or regionalized systems are eligible even if the water system with which the recipient water system partners or consolidates does not serve a community meeting the definition of small or disadvantaged, or the newly-consolidated/regionalized system does not serve a community meeting the definition of small or disadvantaged. Activities resulting in the elimination of a water system serving a small and/or disadvantaged community are eligible.*

Category 7 – Providing Households Access to Drinking Water Services

Example Activities

- Connection to an existing water system without emerging contaminant contamination.
- Point-of-Use / Point-of-Entry devices that are certified by a third-party using science-based test methods for the removal of contaminants of concern, as a temporary, interim measure completed by recipient of the grant funding while determining whether to connect to an existing PWS or create a new water system.
- Investments necessary for providing accurate and current information about the need for filtration and filter safety, including proper use and maintenance practices.

Category 8 – Technical Assistance

Example Activities

- Technical assistance to help PWSs plan, develop, administer, or perform any other eligible activity or use.
- Staff training on operation of new equipment or implementation of new practices.
- Implementation of TMF surveys for the determination of small system capacity.
- Hiring of staff to administer and support otherwise eligible work.
- Development of statewide contracts for services such as preliminary engineering.
- Assistance in conducting engineering evaluations of proposed work.
- Local contractor training on emerging contaminant projects, as part of a construction contract.
- State hiring of staff, nonprofit organizations, or regional, interstate, or municipal entities to assist the system and/or community. The form of that assistance is flexible and could include, but is not limited to, outreach, technical evaluation of drinking water solutions, technical

evaluation of contaminated land and industrial sources that may impact source water, preparation of applications, or preliminary engineering reports.

- Hiring staff/contracting with third-party service providers to assist with Federal requirement compliance.
- Subcontracts and Subawards, including subawards with nonprofit organizations that have water system technical expertise, to provide technical assistance.

Category 9 – Public communication, engagement, and education

Example Activities

- Conducting community stakeholder meetings.
- Shared decision-making processes.
- Establishing public information and reporting web portals.
- Educational support to agencies and partners.
- Development of educational materials and programs.
- Advisory councils/committees to provide research opportunities and mechanisms to improve understanding of emerging contaminants.

APPENDIX E. SUMMARY OF GRANT TIMELINE

Steps to secure funding:

Submit notice of Intent to Participate (NOIP) by XX DATE: The NOIP may be submitted by email to WIINDrinkingWaterGrants@epa.gov. States that do *not* intend to participate may send notice of their intent not to participate to the same address.

Review the NOIP: EPA Office of Ground Water and Drinking Water (OGWDW) will forward the NOIPs to the appropriate EPA Regional Office for review. Regions will work with states as necessary to resolve any identified issues.

Allocation distribution: After the NOIP open period closes, the program anticipates notifying all states of final allocation amounts.

Submit draft workplan and SDC List to EPA Region for review: Contact your region for details...

Submit funding application package by XX DATE: Submit a complete application package as described below in VIII. APPLICATION PACKAGE AND SUBMISSION INFORMATION through applications through Grants.gov (www.grants.gov).

Review of application packages: OGWDW will forward application packages to the appropriate EPA Regional Office for review. Regions will work with states as necessary to resolve any issues.

Notification of acceptance: OGWDW will notify all participating states that have submitted complete and appropriate applications of their acceptance.

Grant or cooperative agreement execution: Contracts will be issued XYZ.

APPENDIX F. SAMPLE NOTICE OF INTENT TO PARTICIPATE

State governors or designees can communicate their intention to participate in the EC-SDC grant by emailing EPA at WIINDrinkingwatergrants@epa.gov using the following format:

Dear Administrator Regan:

On behalf of the state/territory of _____, I submit this email as notice of intent to participate in the Emerging Contaminants – Small and Disadvantaged Communities grant program as funded under the Bipartisan Infrastructure Law. The (insert State/territory Department or Agency here) will serve as the lead state/territory agency for this program. Please send any information pertaining to the grant program to the following contact person:

Name:

Phone number:

Email:

Mailing address.

APPENDIX G. BIL DIVISION J TITLE VI APPROPRIATION

(6) \$5,000,000,000 for grants for addressing emerging contaminants under subsections (a) through (j) of section 1459A of the Safe Drinking Water Act (42 U.S.C. 300j–19a): Provided, That \$1,000,000,000, to remain available until expended, shall be made available for fiscal year 2022, \$1,000,000,000, to remain available until expended, shall be made available for fiscal year 2023, \$1,000,000,000, to remain available until expended, shall be made available for fiscal year 2024, \$1,000,000,000, to remain available until expended, shall be made available for fiscal year 2025, and \$1,000,000,000, to remain available until expended, shall be made available for fiscal year 2026: Provided further, That funds provided to States under this paragraph may be used for projects that address emerging contaminants supporting a community described in section 1459A, subsection (c)(2), of the Safe Drinking Water Act, notwithstanding the definition of underserved communities in section 1459A, subsection (a)(2), of the Safe Drinking Water Act: Provided further, That funds provided under this paragraph in this Act shall not be subject to the matching or cost share requirements of section 1459A of the Safe Drinking Water Act: Provided further, That up to three percent of the amounts made available under this paragraph in this Act in each of fiscal years 2022 through 2026 shall be for salaries, expenses, and administration: Provided further, That one-half of one percent of the amounts made available under this paragraph in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Environmental Protection Agency for oversight of funding provided to the Environmental Protection Agency in this title in this Act;

APPENDIX H. SDWA SECTION 1459A ASSISTANCE FOR SMALL AND DISADVANTAGED COMMUNITIES

42 USC 300j-19a: Assistance for small and disadvantaged communities

Text contains those laws in effect as of February 28, 2022.

SEC. 1459A. ASSISTANCE FOR SMALL AND DISADVANTAGED COMMUNITIES.

(a) DEFINITION OF UNDERSERVED COMMUNITY.—In this section:

(1) IN GENERAL.—The term ‘underserved community’ means a political subdivision of a State that, as determined by the Administrator, has an inadequate system for obtaining drinking water.

(2) INCLUSIONS.—The term ‘underserved community’ includes a political subdivision of a State that either, as determined by the Administrator—

(A) does not have household drinking water or wastewater services; or

(B) is served by a public water system that violates, or exceeds, as applicable, a requirement of a national primary drinking water regulation issued under section 1412, including—

(i) a maximum contaminant level;

(ii) a treatment technique; and

(iii) an action level.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Administrator shall establish a program under which grants are provided to eligible entities for use in carrying out projects and activities the primary purposes of which are to assist public water systems in meeting the requirements of this title.

(2) INCLUSIONS.—Projects and activities under paragraph (1) include—

(A) investments necessary for the public water system to comply with the requirements of this title;

(B) assistance that directly and primarily benefits the disadvantaged community on a per-household basis;

(C) programs to provide household water quality testing, including testing for unregulated contaminants;

(D) the purchase of point-of-entry or point-of-use filters and filtration systems that are certified by a third party using science-based test methods for the removal of contaminants of concern;

(E) investments necessary for providing accurate and current information about—

(i) the need for filtration and filter safety, including proper use and maintenance practices; and

(ii) the options for replacing lead service lines (as defined in section 1459B(a)) and removing other sources of lead in water; and

(F) entering into contracts, including contracts with nonprofit organizations that have water system technical expertise, to assist—

(i) an eligible entity; or

(ii) the State of an eligible entity, on behalf of that eligible entity.

(c) ELIGIBLE ENTITIES.—Except for the purposes of subsections (j) and (m), an eligible entity under this section—

(1) is—

- (A) a public water system;
- (B) a water system that is located in an area governed by an Indian Tribe; or
- (C) a State, on behalf of an underserved community; and

(2) serves a community—

(A) that, under affordability criteria established by the State under section 1452(d)(3), is determined by the State—

- (i) to be a disadvantaged community; or
- (ii) to be a community that may become a disadvantaged community as a result of carrying out a project or activity under subsection (b); or

(B) with a population of less than 10,000 individuals that the Administrator determines does not have the capacity to incur debt sufficient to finance a project or activity under subsection (b).

(d) PRIORITY.—In prioritizing projects and activities for implementation under this section, the Administrator shall give priority to projects and activities that benefit underserved communities.

(e) LOCAL PARTICIPATION.—In prioritizing projects and activities for implementation under this section, the Administrator shall consult with and consider the priorities of States, Indian Tribes, and local governments in which communities described in subsection (c)(2) are located.

(f) TECHNICAL, MANAGERIAL, AND FINANCIAL CAPABILITY.—The Administrator may provide assistance to increase the technical, managerial, and financial capability of an eligible entity receiving a grant under this section if the Administrator determines that the eligible entity lacks appropriate technical, managerial, or financial capability and is not receiving such assistance under another Federal program.

(g) COST SHARING.—Before providing a grant to an eligible entity under this section, the Administrator shall enter into a binding agreement with the eligible entity to require the eligible entity—

- (1) except as provided in subsection (l)(5) and subject to subsection (h), to pay not less than 10 percent of the total costs of the project or activity, which may include services, materials, supplies, or other in-kind contributions;
- (2) to provide any land, easements, rights-of-way, and relocations necessary to carry out the project or activity; and
- (3) to pay 100 percent of any operation and maintenance costs associated with the project or activity.

(h) WAIVER.—The Administrator may waive, in whole or in part, the requirement under subsection (g)(1) if the Administrator determines that an eligible entity is unable to pay, or would experience significant financial hardship if required to pay, the non-Federal share.

(i) LIMITATION ON USE OF FUNDS.—Not more than 4 percent of funds made available for grants under this section may be used to pay the administrative costs of the Administrator.

(j) STATE RESPONSE TO CONTAMINANTS.

- (1) IN GENERAL.—The Administrator may, subject to the terms and conditions of this section, issue a grant to a requesting State, on behalf of a community described in subsection (c)(2), so the

State may assist in, or otherwise carry out, necessary and appropriate activities related to a contaminant—

(A) that is determined by the State to—

(i) be present in, or likely to enter into, a public water system serving, or an underground source of drinking water for, that; and

(ii) potentially present an imminent and substantial endangerment to the health of persons; and

(B) with respect to which the State determines appropriate authorities have not acted sufficiently to protect the health of such persons.

(2) RECOVERY OF FUNDS.—If, subsequent to the Administrator’s award of a grant to a State under this subsection, any person or entity (including an eligible entity), is found by the Administrator or a court of competent jurisdiction to have caused or contributed to contamination that was detected as a result of testing conducted, or treated, with funds provided under this subsection, and such contamination violated a law administered by the Administrator, such person or entity shall, upon issuance of a final judgment or settlement and the exhaustion of all appellate and administrative remedies—

(A) notify the Administrator in writing not later than 30 days after such issuance of a final judgment or settlement and the exhaustion of all appellate and administrative remedies; and

(B) promptly pay the Administrator an amount equal to the amount of such funds.

APPENDIX I. DEFINITION OF EMERGING CONTAMINANTS

To be eligible to receive EC-SDC grant program funds, a project must be otherwise eligible and the primary purpose must be to address one or more emerging contaminants in drinking water. Projects that address any contaminant listed on any of EPA's [Contaminant Candidate Lists](#) are eligible (i.e., CCL1, 2, 3, 4, and the draft and the final CCL5 when completed). States may request consideration of other contaminants that they find to be of concern in the state. States contemplating this are encouraged to contact EPA to discuss it prior to submitting their application.

If EPA has promulgated a [National Primary Drinking Water Regulation](#) (NPDWR) for a contaminant, then a project whose primary purpose is to address that contaminant is not eligible for funding under this appropriation, with the PFAS exception explained below.

For example, a project for which the primary purpose is to address arsenic or nitrate in drinking water is not eligible because arsenic and nitrate are regulated under the NPDWRs. EPA expects to establish a [NPDWR](#) for PFOA and PFOS. The Agency is also evaluating additional PFAS and groups of PFAS. Given stated Congressional intent of this appropriation, PFAS-focused projects will be eligible for funding under this appropriation regardless of whether EPA has established a NPDWR for that particular PFAS or group of PFAS. More information on PFAS is located here: <https://www.epa.gov/pfas>.

Legionella: Even though there are MCLGs for Legionella and viruses, and these contaminants are subject to limitations as a class through the treatment techniques under the Surface Water Treatment Rules, there are no monitoring, treatment, or notification requirements within those NPDWRs that are specific to Legionella pneumophila or the specific viruses listed on CCL5 (although systems may use coliphage for source water monitoring for ground water systems). Therefore, EPA considers Legionella pneumophila and the specific viruses listed on CCL5 to be unregulated contaminants for purposes of eligibility for the CCL. Additionally, EPA received public nomination for viruses and Legionella for the Draft CCL 5, with Legionella pneumophila receiving the highest number of nominations. Legionella pneumophila qualifies as an emerging contaminant.

APPENDIX J. RESOURCES

Contacts:

EPA Regional Contacts by State and Territory for Small and Disadvantaged Communities grant program

<https://www.epa.gov/dwcapacity/wiin-grant-assistance-small-and-disadvantaged-communities-drinking-water-grant>

Grants, procurement, and EPA contracts:

Grants Policy Resources. Includes searchable table of the latest resources that may be pertinent to your grant. Use the keyword search.

<https://www.epa.gov/grants/epa-grants-policy-resources>

Other Grant Policy references:

EPA Grants Policy Issuance 16-01 (Sub-awards Policy): <https://www.epa.gov/grants/grants-policy-issuance-gpi-16-01-epa-subaward-policy-epa-assistance-agreement-recipients>

Office of Grants and Debarment Guidance on Selected Items of Cost for Recipients:

<https://www.epa.gov/grants/rain-2018-g01-r>

Cost review template and guidance for project officers' grants Under 40 CFR Part 35 Subpart A:

<https://www.epa.gov/grants/cost-review-template-and-guidance-project-officers-grants-under-40-cfr-part-35-subpart>

Interim Guidance on Cost Review of Grants/Performance Partnership Grants Awarded under 40 CFR Part

35 Subpart A: <https://www.epa.gov/grants/interim-guidance-cost-review-grantsperformance-partnership-grants-awarded-under-40-cfr-part>

Best Practice Guide for Procuring Services, Supplies, and Equipment Under Assistance Agreements:

<https://www.epa.gov/grants/best-practice-guide-procuring-services-supplies-and-equipment-under-epa-assistance-agreements>

Grants Management Training for Applicants and Recipients: <https://www.epa.gov/grants/epa-grants-management-training-applicants-and-recipients>