

**Water Treatment Plant Rehabilitation
City Project No. WTR-00017
January 19, 2024**

DESIGNER

HDR Engineering, Inc.
2365 Iron Point Road, Suite 300
Folsom, CA 95630
(916) 817-4700
(916) 817-4747 (Fax)

OWNER

City of Fort Bragg
416 North Franklin Street
Fort Bragg, CA 95437



01/19/2024

GENERAL

Scope

- A. This Addendum forms a part of the Bidding and Contract Documents and modifies the Project Specifications described below.
- B. This Addendum consists of 3 pages and the following attachments:
 - 1. Additional Attachment to Specification Section 00 73 73 – Funding – Financing Entity Requirements (57 pages) attached.
 - 2. Reissued Appendix A – WesTech’s Proposal for Specification Section 46 07 13 – Filter Treatment Units Retrofit (16 pages) attached.

Acknowledgment

- A. Acknowledge receipt of this Addendum in the space provided on the Bid Form.

REVISIONS TO SPECIFICATIONS

Section 00 73 73 – Funding-Financing Entity Requirements”

Article 7.

ADD

"7. Implementation of the Clean Water and Drinking Water State Resolving Fund Provisions of the Bipartisan Infrastructure Law."

Refer to the attached memorandum: "Implementation of the Clean Water and Drinking Water State Resolving Fund Provisions of the Bipartisan Infrastructure Law" (57 pages)

Section 03 15 19 – Anchorage to Concrete

Article 3.2.C.2.

DELETE

Section 23 34 00 – HVAC: FANS

Article 3.2.A.

DELETE

Section 33 47 13 – Geomembrane Liner

Article 3.5.H.1.e.

CHANGE

"e. A maximum of two extrusion beads can be laid side-by side on Enviro Liner 4000."

TO READ

"e. A maximum of two extrusion beads can be laid side-by side on Enviro Liner **6000**."

Article 3.6.

DELETE

Article 3.8.D.2.

CHANGE

"2. Field seam test samples shall be collected and tested in accordance with the provisions stated herein (peel strength, breakaway peel strength, and tensile strength)."

TO READ

"2. Field seam test samples shall be collected and tested in accordance with the provisions stated herein (peel strength and tensile strength)."

Article 3.8.F.1.b.

DELETE

Article 3.8.G.2.

CHANGE

"2. One seam test sample per 5,000 LF of rollstock-to-rollstock shop seams, or one seam test sample per panel, whichever yields the greater number of seam test samples, is required. Each seam test sample shall be tested for the required tests (peel strength, breakaway peel strength, and tensile strength)."

TO READ

"2. One seam test sample per 5,000 LF of rollstock-to-rollstock shop seams, or one seam test sample per panel, whichever yields the greater number of seam test samples, is required. Each seam test sample shall be tested for the required tests (peel strength and tensile strength)."

Article 3.8.H.2.

CHANGE

"2. One seam test sample per 500 FT of panel-to-panel field seam shall be tested for the required tests (peel strength, breakaway peel strength, and tensile strength)."

TO READ

"2. One seam test sample per 500 FT of panel-to-panel field seam shall be tested for the required tests (peel strength and tensile strength)."

Section 46 07 13 – Filter Treatment Units Retrofit

Appendix A

REPLACE WITH ATTACHED UPDATED WESTECH'S PROPOSAL

End of Addendum


FUNDING ENTITY REQUIREMENT NO. 7 – Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law, comprised of 56 pages



March 8, 2022

MEMORANDUM

SUBJECT: Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law

FROM: Radhika Fox
Assistant Administrator 

TO: EPA Regional Water Division Directors
State SRF Program Managers

Overview

President Biden signed the Bipartisan Infrastructure Law on November 15, 2021. The law's investment in the water sector is nothing short of transformational. It includes \$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.

EPA is committed to a productive partnership with states, tribes, and territories to maximize the impact of these funds in addressing urgent water challenges facing communities. The majority of water infrastructure dollars will flow through the Clean Water and Drinking Water State Revolving Funds (SRFs). For decades, the SRFs have been the foundation of water infrastructure investments, providing low-cost financing for local projects across America. EPA, states, tribes, and territories have successfully worked together to steward more than \$200 billion in SRF funds since 1988.

This memorandum provides information and guidelines on how EPA will award and administer SRF Capitalization Grants appropriated to the State and Tribal Assistance Grants (STAG) account in the Bipartisan Infrastructure Law (BIL) (P.L. 117-58), also known as the "Infrastructure Investment and Jobs Act of 2021" (IIJA). The information is organized in the following manner:

- **Implementation Memorandum.** This memorandum reviews key priorities for SRF BIL implementation. EPA Regional Water Divisions and Office of Water stand ready to work closely with states, tribes, and territories to collaboratively accomplish these goals.
- **Attachment 1: BIL Funding Implementation.** Attachment 1 provides detailed technical information pertaining to program requirements for the five SRF funds through the BIL: CWSRF General Supplemental Funding, CWSRF Emerging Contaminants Funding, DWSRF General

Supplemental Funding, DWSRF Emerging Contaminants Funding, and DWSRF Lead Service Line Replacement Funding.

- **Attachment 2: CWSRF Base Program Implementation.** Attachment 2 reviews key BIL amendments to the Clean Water Act (CWA), which include new provisions applicable to the base CWSRF programs and, unless otherwise directed, are also applicable to projects funded in whole or in part with funds made available by BIL.
- **Attachment 3: DWSRF Base Program Implementation.** Attachment 3 reviews key BIL amendments to the Safe Drinking Water Act (SDWA), which include new provisions applicable to the base DWSRF programs and, unless otherwise directed, are also applicable to projects funded in whole or in part with BIL funds.

This implementation memorandum is expected to be applicable to all five years of BIL appropriations. EPA will issue procedures during FYs 2023 through 2026 with allotment tables and any other necessary program updates. EPA will also issue, and periodically update, a list of questions and answers.

Key Priorities

Provide Flexibility to Meet Local Water Needs

A fundamental principle of the SRFs – which is reaffirmed in this BIL implementation memorandum – is the flexibility provided to states and borrowers to address a wide variety of local water quality and public health challenges. EPA continues to support and actively encourage flexibility in the implementation of BIL SRF funding. For borrowers, the SRFs remain a flexible source of capital that can be used in combination with additional funding sources to finance water infrastructure projects. With supplemental funding to the CWSRF and DWSRF – and creation of dedicated funding within the SRFs to tackle lead and emerging contaminants – states have a great deal of flexibility in program administration. This implementation memorandum and accompanying technical attachments confirm state flexibilities for the BIL SRF funding, including, but not limited to, the following:

As it relates to program administration and processes, states have the flexibility to:

- Determine priorities and select projects.
- Combine Intended Use Plans (IUPs) and Project Priority Lists (PPLs) for both the BIL and base funding or submit separate IUPs and PPLs for both base and BIL funding.
- Apply for conditional or partial grants.
- Craft single assistance agreements (e.g., loans or grants) that contain multiple types of construction components and activities funded by multiple pots if the funds are tracked separately.
- Design and manage the application process.
- Take administrative funds from each funding stream.
- Transfer funds between programs to address state needs.
- Use recycled funds for any eligible purpose.
- Set interest rates and repayment terms.

As it relates to the additional subsidy, states have the flexibility to:

- Define disadvantaged community and affordability criteria in a manner that is consistent with SDWA and CWA.
- Determine the amount of additional subsidization provided in each assistance agreement.

As it relates to emerging contaminants, states have the flexibility to:

- Choose projects that are CWSRF eligible whose primary purpose is to address emerging contaminants using a broad definition.
- Select projects that are DWSRF eligible whose primary purpose must be to address emerging contaminants, with a focus on PFAS, using the broad CCL 1-5.

Additionally, the Department of the Treasury has determined that State and Local Financial Recovery Funds under the American Rescue Plan Act available for the provision of government services, up to the amount of the recipient's reduction in revenue due to the public health emergency, may be used to meet the non-federal match requirements of the DWSRF and CWSRF programs. This provides states additional flexibility to meet match requirements included in the BIL. EPA will be providing a fact sheet to state SRF programs to support utilization of this flexibility.

Increase Investment in Disadvantaged Communities

A key priority of BIL is to ensure that disadvantaged communities benefit equitably from this historic investment in water infrastructure. Disadvantaged communities can include those with environmental justice concerns that often include low-income people and communities of color. Disadvantaged communities exist in every state, tribe, and territory and encompass urban, suburban, and rural areas across America. Disadvantaged communities experience, or are at risk of experiencing, disproportionately high exposure to pollution – whether in air, land, or water.

The BIL mandates that 49% of funds provided through the DWSRF General Supplemental Funding and DWSRF Lead Service Line Replacement Funding must be provided as grants and forgivable loans to disadvantaged communities. The BIL also requires that not less than 25% of funds provided through the DWSRF Emerging Contaminants Funding be provided as grants and forgivable loans to disadvantaged communities or public water systems serving fewer than 25,000 people. The SDWA requires states to establish a definition of disadvantaged communities that can receive this additional subsidization.

For the CWSRF, the BIL mandates that 49% of funds provided through the CWSRF General Supplemental Funding must be provided as grants and forgivable loans to the following assistance recipients or project types:

- Municipalities that meet the state's affordability criteria.
- Municipalities that do not meet the state's affordability criteria but seek additional subsidization to benefit individual ratepayers in the residential user rate class.
- Entities that implement a process, material, technique, or technology that addresses water or energy efficiency goals; mitigates stormwater runoff; or encourages sustainable project planning, design, and construction.

Congress, acting in a bipartisan fashion, included these provisions to ensure that disadvantaged communities fully benefit from these historic investments in the water sector. EPA will actively work with states to fully meet Congressional intent. This will include helping states identify communities in need, affirmatively reviewing SRF IUPs, and conducting annual reviews that evaluate progress toward this bipartisan requirement.

EPA will collaborate with state SRF programs to share models, examples, and build state capacity to target resources to disadvantaged communities. In addition to the technical assistance offered by the states to disadvantaged communities, EPA will launch a substantial technical assistance program – in

close collaboration with states – to provide assistance directly to disadvantaged communities that lack the financial, managerial, and technical capacity to access the SRF program.

Throughout the five years of BIL implementation, EPA expects states to:

- **Evaluate and revise, as needed, the DWSRF disadvantaged community definition and CWSRF affordability criteria.** This definition and these criteria should capture both urban and rural disadvantaged communities and include criteria that are consistent with the appropriate statute. For example, a state definition of “disadvantaged” under the SDWA entirely based on population and without reference to affordability is problematic. The technical guidance in Attachment 1, Appendix E provides further information on disadvantaged community definitions/affordability criteria and EPA oversight of this provision.
- **Evaluate the SRFs’ priority point system for project ranking commensurate with need.** Priority points may need to be redistributed to ensure disadvantaged communities are receiving funding. For example, states should evaluate the weight associated with points given for different ranking criteria to determine whether they act as a barrier to, or encourage, funding for disadvantaged communities.
- **Technical assistance funding.** EPA recommends states use the full DWSRF 2% small system technical assistance set-aside and the newly available CWSRF 2% technical assistance funds to enhance or build programs that proactively identify, reach out to, and provide assistance to rural, small, and tribal publicly owned treatment works and drinking water systems, particularly in disadvantaged communities. The programs should be designed to help disadvantaged communities identify needs, develop projects, apply for funding, design and implement projects, build capacity, and create training and career pathways.
- **Engage residents and community stakeholders in disadvantaged communities.** SRFs have successfully funded many projects in small and disadvantaged communities in the past. To continue and deepen this success, it may be necessary to develop relationships with new constituencies to reach disadvantaged communities with technical assistance and funding. EPA encourages states to reach beyond traditional stakeholder organizations and engage neighborhood and other organizations connected to the community to help identify needs, comment on IUPs, and communicate priorities.

Working collaboratively, EPA and SRF programs can make progress towards Justice40, which aims to ensure that federal agencies deliver at least 40% of benefits from certain investments to disadvantaged communities.

Make Rapid Progress on Lead Service Line Replacement

The BIL contains a historic \$15 billion in dedicated funding through the DWSRF for lead service line (LSL) identification and replacement. This funding is being provided to states with no match requirement. EPA will collaborate with state SRF programs to share models, guidance, and build state capacity to assist local communities and ensure lead service line funding is effectively and equitably deployed. DWSRF supplemental funding and base funding can be used for LSL identification and replacement.

As states plan for the use of these funds, EPA recommends:

- **Working closely with local water agencies to rapidly complete LSL inventories.** While inventories do not need to be complete before LSL replacement begins, EPA strongly encourages

states to devote funding and technical assistance to help local water systems develop LSL inventories and undertake replacement planning. Under the Lead and Copper Rule Revisions, all water systems must have initial inventories by October 2024, but EPA urges states to employ technical assistance set-aside funds to help water systems develop inventories more quickly, wherever practicable. Preparing the inventory will allow systems to assess the magnitude of their LSLs, better identify sampling locations, and begin planning for LSL removal actions, including applying for BIL funds.

- **Supporting water agencies in planning for full, not partial, LSL replacement.** Any project funded under this \$15 billion appropriation for the replacement of LSLs must replace the entire LSL, not just a portion, unless a portion has already been replaced. States should affirmatively convey this to potential SRF applicants to ensure that they propose projects that fully replace, and pay for, both public and private LSLs. This BIL requirement helps address a long-standing equity challenge – for some Americans, the cost to replace their portion of LSLs is prohibitively high. Americans unable to replace their portion of the LSL remain disproportionately exposed to lead and its harmful impacts.

Address PFAS and Emerging Contaminants

The BIL provides \$5 billion through the SRFs to reduce people’s exposure to perfluoroalkyl and polyfluoroalkyl substances (PFAS) and other emerging contaminants through their drinking water and to help address discharges through wastewater and, potentially, nonpoint sources. This is a unique opportunity to prioritize investment to local communities that are on the frontlines of PFAS contamination and that have few options to finance solutions through traditional programs. The BIL provides emerging contaminants funding through the SRFs that must be distributed to communities entirely as forgivable loans or grants. States are not required to provide matching funds. This demonstrates an unprecedented commitment from Congress to addressing PFAS water contamination across the nation.

PFAS are not the only emerging contaminants that threaten our water supplies and environment. Water projects that address other emerging contaminants will also be eligible for funding under this program. In Attachment 1, Appendices B and C, EPA has provided a description of emerging contaminants for the SRF programs to use in evaluating project eligibility.

Support Resilience and One Water Innovation

One of the defining features of the SRFs is the broad range of eligible projects that states can fund to flexibly support priority needs. EPA encourages states to utilize the significant increase in SRF funding for infrastructure projects that make water systems more resilient to all threats – whether it is natural disasters, climate change, or threats such as bioterrorism and cyber-attacks.

States are strongly encouraged to fund projects that:

- **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 SRF funding to foster water, wastewater, and stormwater system resilience to all hazards, including new and emerging threats like cyber-attacks.
- **Support climate adaptation.** EPA strongly encourages states to support water, wastewater, and stormwater infrastructure projects that apply the best available and most geographically relevant

climate information, projections, and standards, such as the Federal Flood Risk Management Standard. States should consider how to incorporate climate resilience criteria into their prioritization of SRF funding under the BIL.

- **Drive toward energy efficient and climate smart water systems.** Water and wastewater systems are significant energy users and release potent greenhouse gases, including nitrous oxide and methane. EPA strongly encourages states to utilize BIL funding to support local water and wastewater agencies' efforts to reduce nitrous oxide and methane emissions, incorporate renewable energy generation, and complete other projects that reduce the greenhouse gas footprint of the water industry.

Support American Workers and Renew the Water Workforce

The BIL is not only an opportunity to reinvest in America's water infrastructure, but also an opportunity to invest in the American worker. BIL investments will create jobs in construction, operations, and maintenance, and other family-supporting careers – at a pivotal moment when more than one-third of the water workforce will retire in the next five years. 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 states implement SRF funding, they should:

- Enforce long-standing Davis-Bacon related act prevailing wage requirements across projects that receive CWSRF and DWSRF resources, as required under federal law.
- Encourage pre-apprenticeship, registered apprenticeship, and youth training programs that open pathways to employment.
- Encourage SRF funding recipients to support safe, equitable, and fair labor practices by adopting collective bargaining agreements, local hiring provisions (as applicable), project labor agreements, and community benefits agreements. EPA, in collaboration with the Department of Labor, will provide information and tools to support these efforts.

Cultivate Domestic Manufacturing

Acting in a bipartisan fashion, Congress passed the Build America Buy America (BABA) Act in 2021, concurrently with the BIL. Congress established this 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 SRF recipients, BABA expands existing American Iron and Steel (AIS) requirements (which EPA has implemented since 2014) to include construction materials and manufactured goods.

The Office of Management and Budget will release program guidance to federal agencies. EPA will then issue implementation procedures for BABA compliance for federal water infrastructure funding programs. EPA recognizes this is a new and complex provision, and we will work closely with states, tribes, and territories on technical assistance and training.

As states deploy BIL SRF funding, programs should:

- Oversee BABA implementation across state SRF-funded projects, as applicable, and provide detailed information on BABA compliance requirements, flexibilities, and processes to recipients.
- Inform SRF grant and loan recipients of the domestic preference requirements. EPA will work with states to develop and provide information to SRF recipients.
- Collaborate with EPA and industry to incentivize and grow domestic supply chains and U.S. manufacturing capacity for products essential to drinking water, wastewater, and stormwater infrastructure.
- Educate funding recipients about their eligibility for waivers and provide help applying for waivers. EPA will develop appropriate waivers and processes to facilitate a smooth transition to these expanded 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 SRF 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.

Refine State SRFs to Build the Pipeline of Projects

EPA encourages states to strategically use new authorities and funds from BIL as a catalyst to continue building and maintaining a robust project pipeline of SRF projects. It is critical that states use all funds—both from BIL and the base SRF programs—in a timely and expeditious manner. At the same time, sustainable projects are necessary to transforming the sector. To help achieve this balance, EPA recommends states use practices already exemplified in some SRF programs:

- **Simplify and streamline the application process.** Burdensome application processes, additional program requirements, or other barriers may discourage program participation from disadvantaged communities. States should take actions that reduce the burden including moving to a digital application process, coordinating applications and requirements across funding programs, and more. States are encouraged to introduce greater flexibility to the application timeline, such as eliminating application deadlines or operating a year-round application cycle with quarterly project ranking.
- **Use set-asides and technical assistance.** Some disadvantaged communities lack the capacity to navigate the SRF application process and manage the project. States should offer and expand pre-development and pre-construction funding to seed project development for small and disadvantaged communities.
- **Encourage integrated, regional approaches.** Regionalization, partnerships, and/or non-physical consolidation may be the best option for some systems. This can be encouraged and

incentivized through the SRFs. State SRF programs should explore ways to provide funding to communities that agree to connect small systems to their wastewater and drinking water systems. SRF programs should also employ state-led regional education and planning opportunities, giving emphasis to integrated planning as authorized under CWA Section 402(s).

- **Increase internal and external outreach and communications about the SRF programs and the BIL funding.** This could include presentations or other marketing events to municipal and utility officials, targeted outreach to distressed water systems or those with substantial infrastructure needs, workshops and webinars, in-person training programs, training video or digital modules on the application process, and partnering with community groups and philanthropic organizations.

Conclusion

Building on the long and successful history of the SRFs, EPA, state and tribal water programs, and local governments can transform the water sector through this funding. EPA is committed to ensuring all communities have access to drinkable, fishable, and swimmable water – particularly historically disadvantaged communities. EPA is committed to a productive partnership with states, tribes, and territories to maximize the impact of these funds in addressing urgent water challenges facing communities.

Attachments

Attachment 1: BIL Funding Implementation

Guidance on CWSRF General Supplemental Funding, CWSRF Emerging Contaminants Funding, DWSRF General Supplemental Funding, DWSRF Emerging Contaminants Funding and DWSRF Lead Service Line Replacement Funding.

Appendices to Attachment 1

- A. Bipartisan Infrastructure Law: Environmental Protection Agency: 2022 State Revolving Fund (SRF) Grants to States, Tribes, and Territories by Program
- B. CWSRF Definition of Emerging Contaminants
- C. Detailed List of DWSRF Emerging Contaminants Project and Activity Examples
- D. Detailed List of DWSRF Lead Service Line Replacement Project and Activity Examples
- E. Additional Information to Assist States with Developing a Disadvantaged Community Definition and Affordability Criteria

Attachment 2: Implementation of CWSRF-Related Amendments in the BIL

The BIL amends the CWA to include new provisions applicable to the base CWSRF programs and unless otherwise directed, applicable to projects funded in whole or in part with funds made available by BIL.

Attachment 3: Implementation of DWSRF-Related Amendments in the BIL

The BIL amends the SDWA to include new provisions applicable to the base DWSRF programs and unless otherwise directed, applicable to projects funded in whole or in part with funds made available by BIL.

Attachment 1: BIL Funding Implementation

Implementation of CWSRF and DWSRF Funding in the Bipartisan Infrastructure Law (BIL)

This attachment assists states in implementing funding appropriated from the Bipartisan Infrastructure Law (BIL), also known as the Infrastructure Investment and Jobs Act (IIJA) of 2021, (P.L. 117-58), signed by President Biden on November 15, 2021. The following information guides the implementation of five BIL appropriations:

- CWSRF General Supplemental Funding
- CWSRF Emerging Contaminants Funding
- DWSRF General Supplemental Funding
- DWSRF Emerging Contaminants Funding
- DWSRF Lead Service Line Replacement Funding

I. BACKGROUND

The BIL appropriates more than \$43 billion to be administered through the existing CWSRF and DWSRF programs from fiscal years (FYs) 2022 through 2026. There are two appropriations per year for the CWSRF and three appropriations per year for the DWSRF. Table 1 below shows a summary of the five distinct appropriations and annual appropriation amounts. Per statute, EPA will use the existing SRF allotment formulas¹ for all BIL SRF appropriations. For the DWSRF, the allotment formula will change upon release of new data derived from the Seventh Drinking Water Needs Survey and Assessment (DWINSA). Allotment tables for FY 2022 are included in Appendix A.

Funds will remain available for obligation to states for the fiscal year in which they are appropriated and the following fiscal year, per the Clean Water Act (CWA) and Safe Drinking Water Act (SDWA).² For example, EPA will make the FY 2022 funds available for obligation to states during FY 2022 and FY 2023. EPA strongly encourages states to apply in the first fiscal year of availability. States must make commitments (i.e., they must sign assistance agreements, such as loans, with eligible recipients) within one year after the receipt of each capitalization grant payment from EPA.³ Once EPA obligates the capitalization grants to the states, the funds will be available to states pursuant to grant regulations.

States administer the funds through the existing SRF programs. SRF requirements and procedures apply to these new funds. The partnership between the federal government and states is key to addressing our significant water infrastructure challenges. A central tenant of this partnership is the flexibility provided to states that allow for funding to be used to address each state's unique needs. General information on the SRF programs can be found at: <https://www.epa.gov/cwsrf> and <https://www.epa.gov/dwsrf>.

¹ 33 U.S.C. §1384(c) and 42 U.S.C. 300j-12 (a)(1)(E)

² 33 U.S.C. §1384(c)(2) and 42 U.S.C. 300j-12 (a)(1)(E)

³ 40 CFR § 35.3135(c) and §35.3550(e)

Local drinking water and wastewater systems (and other eligible assistance recipients) apply for BIL SRF funding directly through their state [CWSRF](#) and [DWSRF](#) programs. Local leaders should direct questions about applications and state program eligibilities to their state SRF managers.

Table 1. Summary of BIL Appropriations (FY 2022 through FY 2026)						
Appropriation	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Five Year Total
CWSRF General Supplemental	\$1,902,000,000	\$2,202,000,000	\$2,403,000,000	\$2,603,000,000	\$2,603,000,000	\$11,713,000,000
CWSRF Emerging Contaminants	\$100,000,000	\$225,000,000	\$225,000,000	\$225,000,000	\$225,000,000	\$1,000,000,000
DWSRF General Supplemental	\$1,902,000,000	\$2,202,000,000	\$2,403,000,000	\$2,603,000,000	\$2,603,000,000	\$11,713,000,000
DWSRF Emerging Contaminants	\$800,000,000	\$800,000,000	\$800,000,000	\$800,000,000	\$800,000,000	\$4,000,000,000
DWSRF Lead Service Line Replacement	\$3,000,000,000	\$3,000,000,000	\$3,000,000,000	\$3,000,000,000	\$3,000,000,000	\$15,000,000,000

II. APPLICATION REQUIREMENTS FOR BIL CAPITALIZATION GRANT FUNDS

EPA recommends that states submit grant applications to EPA as soon as possible. States have the flexibility to combine Intended Use Plans (IUPs) and Project Priority Lists (PPLs) for both the BIL and base funding or submit separate IUPs and PPLs for both base and BIL funding. If combined, states must construct the IUPs and PPLs to ensure that EPA and the public can clearly identify BIL- and base-eligible projects, including identifying additional subsidization and funding amounts. The IUPs and PPLs must meet existing SRF requirements. Because of the BIL’s appropriations for particular purposes, and to be consistent with existing grants regulations and reporting requirements, states must submit separate grant applications for each BIL appropriation, and separately from “base” SRF capitalization grant applications in grants.gov.

To receive BIL funding, states must submit the following documents to EPA:

A. INTENDED USE PLANS

Section 606(c) of the CWA and section 1452(b) of the SDWA require the states to prepare a plan identifying the intended uses of the funds in the SRF and describing how those uses support the goals of the SRF. An IUP, meeting all requirements of Title VI of the CWA and regulations, or section 1452 of the SDWA and regulations, will be required for EPA’s approval of a grant award and release of awarded funds. Public engagement is strongly encouraged during the state’s solicitation stage to ensure an abundance of diverse applicants as the IUP is being developed. EPA will review IUPs to ensure consistency between the state’s DWSRF disadvantaged community definition or CWSRF affordability criteria and the statutory requirements.

1. List of Projects: States have flexibility to fund a wide variety of projects. Under CWA §606(c)(1), the IUP must include a list of publicly owned treatment works projects on the state’s Project Priority List (PPL), developed pursuant to section 216 of the CWA, that are eligible for

SRF construction assistance. This list must include: the name of the community; permit number or other applicable enforceable requirement, if available; the type of financial assistance; and the projected amount of eligible assistance. The IUP must also contain a list of the activities eligible under section 603(c) of the CWA, including the nonpoint source and national estuary protection activities that the state expects to fund from its SRF. The fundable list must contain eligible projects for which the total cost of assistance requested is at least equal to the amount of the grant(s) being applied for. States should make every effort to identify projects for all available SRF funds (i.e., capitalization grants, recycled funds, interest earnings, etc.) to ensure previously appropriated dollars revolve.

Under SDWA, states retain similar funding flexibility. SDWA §1452(b)(3)(B), requires state IUPs to include a list of projects that are eligible for assistance under section 1452 and are to be assisted pursuant to the plan (i.e., a PPL). This list must include: the name of the public water system, a description of the project, the priority assigned to the project, the expected terms of financial assistance, and the size of the community served. The IUP must contain a fundable list of projects for which the total cost of assistance requested is at least equal to the amount of the grant being applied for. States should make every effort to identify projects for all available SRF funds (i.e., capitalization grants, recycled funds, interest earnings, etc.) to ensure previously appropriated dollars revolve. The IUP must also contain a comprehensive list of projects that may receive DWSRF assistance in the future. A state may combine the fundable and comprehensive lists into one list, provided that projects which are expected to receive assistance from available funds designated for use in the current IUP are identified.

2. Priority Setting: The IUP must include a priority system for ranking individual projects for funding that provides sufficient detail for the public and EPA to readily understand the criteria used for ranking. The priority for the use of funds should address water quality, the most serious risks to public health, ensure compliance, and assist systems most in need based on the state's affordability criteria and disadvantaged community definition. States should review their SRF priority setting system to ensure they adequately address these priorities.

3. Explanation About Administrative Funds: The maximum *annual* amount of CWSRF and DWSRF money (not including any fees collected that are placed in the fund) that may be used to cover the reasonable costs of administering the fund (i.e., all BIL and base appropriations) is the greatest of the following: an amount equal to 4% of all grant awards to the fund received by a state CWSRF (less any amounts that have been used in previous years to cover administrative expenses) or DWSRF for the fiscal year; \$400,000; or 1/5 percent of the current valuation of the fund. The BIL did not alter these options or the calculation of available administrative funds and verification procedures already in place.

4. CWSRF 2% Technical Assistance: BIL includes the following provision:

(k) Additional Use of Funds.--A State may use an additional 2 percent of the funds annually awarded to each State under this title for nonprofit organizations (as defined in section 104(w)) or State, regional, interstate, or municipal entities to provide technical assistance to rural, small, and tribal publicly owned treatment works (within the meaning of section 104(b)(8)(B)) in the State.

States have the flexibility to use up to an amount equal to 2% of their annual CWSRF capitalization grant for the purpose of hiring staff, nonprofit organizations, or regional, interstate,

or municipal entities to assist rural, small, and tribal publicly owned treatment works. The form of that assistance is flexible and could include, but is not limited to, community outreach, technical evaluation of wastewater solutions, preparation of applications, preliminary engineering reports, and financial documents necessary for receiving SRF assistance. This provision applies to the base program, the BIL CWSRF General Supplemental fund, and the BIL CWSRF Emerging Contaminants fund.

The maximum amount of CWSRF money that may be used to provide technical assistance consistent with section 603(k) of the CWA is an amount equal to 2% of all grant awards received by a state CWSRF after November 15, 2021. If a state does not utilize the full amount of the technical assistance funds allowed under a capitalization grant, they may reserve the right to utilize the unused portion at a later date.

States must include in the IUP the amount of the technical assistance funds they plan to use and a description of the activities they plan to fund. In the Annual Report and the SRF Reporting System, states must provide a detailed accounting of the use of the funds. EPA encourages states to maximize the use of the 2% technical assistance funds to identify and conduct proactive outreach to, and facilitate applications from, disadvantaged communities previously unable to begin or complete SRF funding requirements.

5. Public Review and Comment: The IUP must contain a statement of how the state met the requirement of CWA section 605 or SDWA section 1452(b)(1) for meaningful public review and comment on the preparation of the IUP. When seeking public review, states should include a diverse set of potential interested parties, including community groups, neighborhood associations, environmental organizations, environmental justice organizations, and public health groups, that represent a broad spectrum of community interests and extend beyond those on existing mailing lists and traditional participants in the SRF process. In addition, states should strive to achieve the following objectives when seeking public review: (1) assure that the public has the opportunity to understand official programs and proposed actions, and that the state fully considers the public's concerns; (2) assure that the state does not make any significant decision on any SRF activity without consulting interested and affected segments of the public; (3) assure that the state action is as responsive as possible to public concerns; (4) encourage public involvement in implementing the SRFs; (5) keep the public informed about significant issues and proposed project or program changes as they arise; (6) foster a spirit of openness and mutual trust between the state and the public; and (7) use all feasible means to create opportunities for public participation, and to stimulate and support public participation. States should make a particular effort to identify and engage organizations that work in disadvantaged communities. EPA will review IUPs with particular focus on whether the state has meaningfully engaged an inclusive spectrum of community interests.

6. Draft IUPs for Purposes of Conditional Grants: States may need additional time to complete public review or approval of an IUP by boards or state governments and have the flexibility to request conditional grants to facilitate expeditious use of funds upon final public review and/or approval. To receive a conditional grant, a draft IUP must be ready for public review and/or consideration by state government bodies and include the information shown above. Conditional awards will contain a grant condition stating that funds may not be drawn until an IUP has completed the review process. States must submit an IUP that has completed the public review process and satisfied the term and condition of the grant before funds may be drawn. This option provides additional flexibility to states to accelerate the grants process.

7. IUPs for Purposes of Partial Grants: States that have not identified projects in an amount equal to the funds they are eligible to receive under each BIL appropriation have the flexibility to apply for a partial award. The IUP for a partial award must include the information shown above. EPA will only make a partial award for an amount equal to the total cost of the project list. An amended IUP including projects in an amount equal to the remaining funds available to the state under BIL must be submitted by the state to EPA before the grant is amended to award the remaining funds. This includes a revised grant application package through grants.gov. Certain requirements (e.g., additional subsidization and green project reserve) are calculated based on a percentage of the capitalization grant *awarded*. Per statute, states may not apply exclusively for the set-asides or the additional subsidization portion of the capitalization grant.

B. OTHER APPLICATION COMPONENTS

1. SF-424 Application for Federal Assistance, with original signature, including:
 - a. SF-424A, Budget by categories and indirect cost rate.
 - b. SF-424B, Assurances for non-construction programs.
2. Certification regarding lobbying and SF LLL (applicable if EPA funds are over \$100,000).
3. EPA Form 4700-4 pre-award compliance review report.
4. Detailed itemized budget.
5. Copy of negotiated indirect cost rate agreement.
6. Key contacts form.
7. Attorney General’s opinion, as required by 40 CFR §35.3110(d)(2), and 40 CFR §35.3545(d).
8. If applicable, workplans for DWSRF set-asides.

III. SUMMARY OF BIL PROVISIONS

The BIL amends the CWA and SDWA to include several new provisions that apply to both base SRF programs as well as projects funded in whole or in part with funds made available by the BIL. The BIL also includes several provisions specific to projects funded in whole or in part with BIL. These provisions are described below.

All provisions promulgated through statute, guidance, or regulations issued by EPA for the implementation of the CWSRF and DWSRF programs will remain in effect (e.g., American Iron and Steel and Davis-Bacon related prevailing wage requirements) unless they are inconsistent with the BIL, capitalization grant conditions, or the requirements contained in this document. The BIL supplemental appropriations are federal funds and therefore all equivalency requirements apply to projects funded by BIL.

A. CWSRF GENERAL SUPPLEMENTAL PROVISIONS

1. Eligible Use of Funds: All CWSRF-eligible projects and activities may be funded from this appropriation.

2. Match: BIL contains the following provision:

“Provided further, That for the funds provided under this paragraph in this Act in fiscal year 2022 and fiscal year 2023, the State shall deposit in the State loan fund from State moneys an amount equal to at least 10 percent of the total amount of the grant to be made to the State, notwithstanding sections 602(b)(2), 602(b)(3) or 202 of the Federal Water Pollution Control Act”

This language reduces the state match requirement to 10% of the total amount of the capitalization grant in fiscal years 2022 and 2023. The match requirement returns to 20% of the capitalization grant in fiscal year 2024 and thereafter.

3. Additional Subsidization: BIL contains the following provision:

Provided further, That for the funds made available under this paragraph in this Act, forty-nine percent of the funds made available to each State for Clean Water State Revolving Fund capitalization grants shall be used by the State to provide subsidy to eligible recipients in the form of assistance agreements with 100 percent forgiveness of principal or grants (or any combination of these), notwithstanding section 603(i)(3)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1383):

This language requires states to provide 49% of the capitalization grant amount as additional subsidization in the form of principal forgiveness or grants.

Additional subsidization must be provided to eligible CWSRF assistance recipients or project types as described in section 603(i) of the CWA:

- to benefit a municipality that meets the state's affordability criteria as established under the CWA section 603(i)(2);
- to benefit a municipality that does not meet the state's affordability criteria but seeks additional subsidization to benefit individual ratepayers in the residential user rate class; or
- to any eligible recipient to implement a process, material, technique, or technology that addresses water or energy efficiency goals; mitigates stormwater runoff; or encourages sustainable project planning, design, and construction.

State Affordability Criteria

Section 603(i)(2) of the CWA specifically requires states to develop affordability criteria for distribution of additional subsidization based on income, unemployment data, population trends, and other data determined relevant by the state. The IUP must include the state's criteria for providing additional subsidy.⁴ The BIL explicitly seeks to ensure that disadvantaged communities have access to funds to improve their wastewater infrastructure to protect public health and improve water quality. Given the level of funding under BIL, the state should review its definition to ensure that it is sufficient to address affordability issues that impact the goals of the Clean Water Act within the state.

Within the CWA statutory framework, EPA expects states will review, refine, and improve their CWSRF affordability definitions and priority point systems to ensure that additional subsidy is provided to disadvantaged communities to the maximum extent possible. EPA recognizes some communities will require assistance in meeting requirements to receive SRF funds and expects states to use the 2% technical assistance funds noted above to attract disadvantaged communities including those previously unable to complete SRF funding requirements. EPA encourages state SRF programs to identify and proactively reach out to disadvantaged communities that have wastewater needs but are not yet on a state PPL. EPA also expects states to offer benefits to

⁴ 40 CFR § 35.3150

disadvantaged communities in addition to additional subsidization, including lower interest rates and extended loan terms.

Allocating Additional Subsidy

States must include in the IUP, the amount and type of additional subsidy that is available under each appropriation, the projects that will receive this subsidy, and the respective amounts. The BIL explicitly seeks to ensure that disadvantaged communities receive funds to improve their water and wastewater infrastructure. Although the CWA does not require states to provide additional subsidization only to communities that meet the state's affordability criteria, states are strongly encouraged to use these funds for communities or subsets of communities that are most in need and use the 2% technical assistance funds to provide support necessary to ensure these communities receive needed funding.

Additional information on the management of the additional subsidization can be found in Section IV.B. of this guidance.

B. CWSRF EMERGING CONTAMINANTS PROVISIONS

1. Eligible Use of Funds: BIL contains the following provision:

“Provided further, That funds provided under this paragraph in this Act shall be for eligible uses under section 603(c) of the Federal Water Pollution Control Act that address emerging contaminants”

Emerging contaminants refer to substances and microorganisms, including manufactured or naturally occurring physical, chemical, biological, radiological, or nuclear materials, which are known or anticipated in the environment, that may pose newly identified or re-emerging risks to human health, aquatic life, or the environment. These substances, microorganisms, or materials can include many different types of natural or manufactured chemicals and substances – such as those in some compounds of personal care products, pharmaceuticals, industrial chemicals, pesticides, and microplastics. A description of emerging contaminants for the purposes of CWSRF financing can be found in Appendix B.

For a project or activity to be eligible under this appropriation, it must be otherwise eligible under section 603(c) of the CWA and the primary purpose must be to address emerging contaminants. States may utilize an amount up to 2% of this appropriation to provide technical assistance to small, rural, and tribal publicly-owned treatment works. The technical assistance funds must be used in a manner that meets the statutory purpose of this appropriation (“to address emerging contaminants”).

States have the flexibility to craft single assistance agreements (e.g., loans or grants) that contain multiple types of construction components and activities. Given the narrower eligibilities under this appropriation, states must be careful to only charge eligible project components to this appropriation. For a project component to be eligible to receive funds under this appropriation, the primary purpose of that component must be to address emerging contaminants.

2. Match: BIL contains the following provision:

“Provided further, That funds provided under this paragraph in this Act shall not be subject to the matching or cost share requirements of sections 602(b)(2), 602(b)(3), or 202 of the Federal Water Pollution Control Act”

This language waives the requirement of Title VI of the CWA to provide state match for the CWSRF Emerging Contaminants capitalization grant.

3. Additional Subsidization: BIL contains the following provision:

“Provided further, That funds provided under this paragraph in this Act deposited into the state revolving fund shall be provided to eligible recipients as assistance agreements with 100 percent principal forgiveness or as grants (or a combination of these)”

This language requires states to provide 100% of the capitalization grant amount as additional subsidization in the form of principal forgiveness and/or grants. Additional subsidization may be provided to any eligible CWSRF assistance recipient for any project eligible under section 603(c) of the CWA that addresses emerging contaminants. EPA expects states to review, refine, and improve their CWSRF affordability criteria and priority point systems to ensure that additional subsidy is provided to disadvantaged communities. EPA encourages states to prioritize communities that meet the state’s affordability criteria or communities that do not meet the state’s affordability criteria but seek additional subsidization to benefit individual ratepayers in the residential user rate class in providing additional subsidy, and to use the 2% technical assistance funds to provide the support necessary to ensure these communities receive needed funding.

Additional information on the management of additional subsidization can be found in Section IV.B. of this memorandum.

C. DWSRF GENERAL SUPPLEMENTAL PROVISIONS

1. Eligible Use of Funds: All DWSRF-eligible projects and set-aside activities may be funded from this appropriation.

Any project funded under this appropriation involving the replacement of a lead service line must replace the entire lead service line, not just a portion, unless a portion has already been replaced or is concurrently being replaced with another funding source. To address household affordability concerns, we encourage states to fund the private portion of service line replacements at no additional cost to the homeowner.

2. Match: BIL contains the following provision:

“Provided further, That for the funds provided under this paragraph in this Act in fiscal year 2022 and fiscal year 2023, the State shall deposit in the State loan fund from State moneys an amount equal to at least 10 percent of the total amount of the grant to be made to the State, notwithstanding section 1452(e) of the Safe Drinking Water Act”

This language reduces the state match to 10% of the total amount of the capitalization grant in fiscal years 2022 and 2023. The match requirement returns to 20% of the capitalization grant in fiscal year 2024 and thereafter.

3. Additional Subsidization: BIL contains the following provision:

“Provided further, That for the funds made available under this paragraph in this Act, forty-nine percent of the funds made available to each State for Drinking Water State Revolving Fund capitalization grants shall be used by the State to provide subsidy to eligible recipients in the form of assistance agreements with 100 percent forgiveness of principal or grants (or any combination of these), notwithstanding section 1452(d)(2) of the Safe Drinking Water Act (42 U.S.C. 300j-12)”

This language requires states to provide 49% of the capitalization grant amount as additional subsidization in the form of principal forgiveness and/or grants. States must provide additional subsidization to water systems that meet the state’s disadvantaged community criteria as described in section 1452(d) of the SDWA. That SDWA subsection defines a “disadvantaged community” 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.”⁵

Pursuant to 40 CFR § 35.3555, the IUP must describe how a state’s disadvantaged community program will operate including the state’s definition of a disadvantaged community, a description of affordability criteria used to determine the amount of disadvantaged assistance, the amount and type of loan subsidies that may be made available to disadvantaged communities, and an identification of projects that will receive disadvantaged assistance and the respective amounts.

Given the level of funding under BIL, states should review the current disadvantaged community definition to ensure that it is sufficient to address public health and affordability issues within the state. The BIL explicitly seeks to ensure disadvantaged communities have access to funds to improve their water infrastructure to protect public health. EPA expects states to review, refine, and improve their DWSRF disadvantaged community definitions and priority point systems to ensure that additional subsidy is provided to disadvantaged communities. EPA recognizes that some communities will require assistance to meet requirements to receive SRF funds and expects states to use set-aside funds to attract and assist disadvantaged communities previously unable to complete SRF funding requirements. EPA encourages state SRF programs to identify and proactively communicate with water systems with health-based violations and significant deficiencies but are not yet on a state PPL. EPA also expects states to offer benefits to disadvantaged communities beyond additional subsidization, as needed, including lower interest rates and extended loan terms.

Additional information on the management of the additional subsidization can be found in Section IV.B. of this guidance.

D. DWSRF EMERGING CONTAMINANTS PROVISIONS

1. Eligible Use of Funds: BIL contains the following provision:

“Provided further, That funds provided under this paragraph in this Act shall be to address emerging contaminants in drinking water with a focus on perfluoroalkyl and

⁵ 42 U.S.C. 300j-12 (d)(3)

polyfluoroalkyl substances through capitalization grants under section 1452(t) of the Safe Drinking Water Act for the purposes described in section 1452(a)(2)(G) of such Act”

For a project or activity to be eligible for funding under this appropriation, it must be otherwise DWSRF eligible and the primary purpose must be to address emerging contaminants in drinking water. Given the clear Congressional intent that these funds focus on projects addressing perfluoroalkyl and polyfluoroalkyl substances (hereinafter PFAS), EPA expects states to actively solicit and prioritize PFAS-focused projects. States, however, have the flexibility to fund projects for any contaminant in any of EPA’s [Contaminant Candidate Lists](#). For example, EPA also encourages states to consider using these funds to address perchlorate as well as contaminants that have higher levels of occurrence or health concerns.

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. It should be noted that these projects may be eligible for funding under the DWSRF Base or General Supplemental appropriations.

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>.

Congress has established multiple set-asides under the DWSRF. States have the flexibility to take set-asides from this appropriation. Set-asides must be used to either administer this capitalization grant or meet the statutory purpose of these funds: “to address emerging contaminants in drinking water with a focus on perfluoroalkyl and polyfluoroalkyl substances.”

Appendix C contains examples of projects and activities eligible for funding under this DWSRF appropriation.

EPA recommends that states coordinate with other funding programs, such as the Assistance for Small and Disadvantaged Communities Grant program, SDWA 1459A, that also received BIL funding specifically to address emerging contaminants in drinking water.

States have the flexibility to craft single assistance agreements (e.g., loans or grants) that contain multiple types of construction components and activities. Given the narrower eligibilities under this appropriation, states must be careful to only charge eligible project components to this appropriation. For a project component to be eligible to receive funds under this appropriation, the primary purpose of that component must be to address emerging contaminants. For example, if an assistance agreement includes the construction of both an activated carbon treatment facility (whose primary purpose is to treat PFAS) *and* the replacement of water mains (whose primary purpose is to replace failing pipes as part of the water system’s capital improvement plan), only the activated carbon treatment facility may be charged to this capitalization grant.

2. Match: BIL contains the following provision:

“Provided further, That funds provided under this paragraph in this Act shall not be subject to the matching or cost share requirements of section 1452(e) of the Safe Drinking Water Act”

This language waives the requirement of section 1452(e) of the SDWA to provide state match for the emerging contaminants capitalization grant.

3. Additional Subsidization: BIL contains the following provision:

“Provided further, That funds provided under this paragraph in this Act deposited into the State revolving fund shall be provided to eligible recipients as loans with 100 percent principal forgiveness or as grants (or a combination of these)”

This language requires states to provide 100% of the capitalization grant amount, net of set-asides taken, as additional subsidization in the form of principal forgiveness and/or grants. Per SDWA, states must direct at least 25% of these funds to disadvantaged communities (as defined by the state under SDWA 1452(d)) or public water systems serving fewer than 25,000 persons.⁶ EPA encourages states to offer benefits to disadvantaged communities in addition to grants and/or principal forgiveness including lower interest rates and extended loan terms.

Pursuant to 40 CFR § 35.3555, the IUP must describe how a state's disadvantaged community program will operate including the state's definition of a disadvantaged community, a description of affordability criteria used to determine the amount of disadvantaged assistance, the amount and type of loan subsidies that may be made available to disadvantaged communities, and an identification of projects that will receive disadvantaged assistance and the respective amounts.

Given the level of funding under BIL, this is an opportunity for the state to review its disadvantaged community definition to ensure that it is sufficient to address public health and affordability issues within the state as well as be broad enough to accommodate this increased SRF funding. The BIL explicitly seeks to ensure that disadvantaged communities have access to funds to improve their water infrastructure to address public health concerns. EPA encourages states to identify potential opportunities to refine and improve their DWSRF disadvantaged community definitions and priority point systems to ensure additional subsidy is provided to disadvantaged communities and communities with affordability concerns to the maximum extent possible.

Additional information on the management of the additional subsidization can be found in Section IV.B. of this guidance.

E. DWSRF LEAD SERVICE LINE REPLACEMENT PROVISIONS

1. Eligible Use of Funds: BIL contains the following provision:

“Provided further, That the funds provided under this paragraph in this Act shall be for lead service line replacement projects and associated activities directly connected to the identification, planning, design, and replacement of lead service lines”

⁶ 42 U.S.C. 300j-12 (a)(2)(G)(ii)(I)

For a project or activity to be eligible for funding under this appropriation, it must be otherwise DWSRF eligible and be a lead service line replacement (LSLR) project or associated activity *directly connected* to the identification, planning, design, and replacement of lead service lines. Any project funded under this appropriation involving the replacement of a lead service line must replace the entire lead service line, not just a portion, unless a portion has already been replaced or is concurrently being replaced with another funding source. To address household affordability concerns and to minimize adverse public health effects, we encourage states to fund the private portion of service line replacements at no additional cost to the homeowner.

To define a “lead service line” for the purpose of this appropriation, EPA will use an amended version of the [Lead and Copper Rule Revisions](#)’ regulatory definition, which is,

“...a service line made of lead, which connects the water main to the building inlet. A lead service line may be owned by the water system, owned by the property owner, or both. For the purposes of this subpart, a galvanized service line is considered a lead service line if it ever was or is currently downstream of any lead service line or service line of unknown material. If the only lead piping serving the home or building is a lead gooseneck, pigtail, or connector, and it is not a galvanized service line that is considered an LSL the service line is not a lead service line.”

EPA has expanded the eligible uses beyond the definition above to also include the replacement of lead goosenecks, pigtails, and connectors as eligible expenses, whether standalone or connected to a lead service line.

Appendix D contains examples of eligible projects and activities under this appropriation. Corrosion control studies, corrosion control infrastructure, and water meters are not eligible under this appropriation, but are eligible under the DWSRF base program and BIL General Supplemental. Consistent with the base DWSRF program, funding for bottled water and premise plumbing are not eligible under this appropriation. Temporary pitcher filters or point-of-use (POU) devices certified by an American National Standards Institute accredited certifier to reduce lead during or for a short time period after LSLR projects are eligible.

Congress has established multiple set-asides under the DWSRF. States have the flexibility to take set-asides from this appropriation. Set-asides must be used to either administer this capitalization grant or meet the statutory purpose of these funds: “for lead service line replacement projects and associated activities directly connected to the identification, planning, design, and replacement of lead service lines.”

Under the DWSRF program, states have the flexibility to craft single assistance agreements (e.g., loans or grants) that contain multiple types of construction components and activities. Given the narrower eligibilities under this appropriation, states must be careful to only charge eligible project components consistent with the purpose of this appropriation. For example, if an assistance agreement includes the replacement of lead service lines and the replacement of water mains, only the LSLR and associated components may be charged to this capitalization grant.

2. Match: BIL contains the following provision:

“Provided further, That the funds provided under this paragraph in this Act shall not be subject to the matching or cost share requirements of section 1452(e) of the Safe Drinking Water Act”

This language waives the requirement of section 1452(e) of the SDWA to provide state match for the lead service line capitalization grant.

3. Additional Subsidization: BIL contains the following provision:

“Provided further, That for the funds made available under this paragraph in this Act, forty-nine percent of the funds made available to each State for Drinking Water State Revolving Fund capitalization grants shall be used by the State to provide subsidy to eligible recipients in the form of assistance agreements with 100 percent forgiveness of principal or grants (or any combination of these), notwithstanding section 1452(d)(2) of the Safe Drinking Water Act (42 U.S.C. 300j-12)”

This language requires states to provide 49% of the capitalization grant amount as additional subsidization in the form of principal forgiveness and/or grants. States must provide additional subsidization to water systems that meet the state’s disadvantaged community criteria as described in section 1452(d) of SDWA. That SDWA subsection defines a “disadvantaged community” 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.”⁷

Pursuant to 40 CFR § 35.3555, the IUP must describe how a state's disadvantaged community program will operate including the state's definition of a disadvantaged community, a description of affordability criteria used to determine the amount of disadvantaged assistance, the amount and type of loan subsidies that may be made available to disadvantaged communities, and an identification of projects that will receive disadvantaged assistance and the respective amounts.

Given the level of funding under BIL, the state should review its disadvantaged community definition to ensure that it is sufficient to address public health and affordability issues within the state. The BIL explicitly seeks to ensure that disadvantaged communities have access to funds to improve their water infrastructure. EPA expects states to review, refine, and improve their DWSRF disadvantaged community definitions and priority point systems to ensure that additional subsidy is provided to disadvantaged communities. EPA recognizes that some communities will need assistance to meet requirements to receive SRF funds and expects states to use set-aside funds to support disadvantaged communities previously unable to complete SRF funding requirements. EPA encourages state SRF programs to identify and proactively reach out to disadvantaged communities that could benefit from this funding but are not yet on a state PPL. EPA also expects states to offer benefits to disadvantaged communities beyond additional subsidization, including lower interest rates and extended loan terms.

Additional information on the management of the additional subsidization can be found in Section IV.B. of this guidance.

⁷ 42 U.S.C. 300j-12 (d)(3)

F. OTHER APPLICABLE PROVISIONS

1. **Equivalency:** BIL supplemental appropriations are federal funds and therefore all equivalency requirements apply to projects funded by each BIL capitalization grant. Projects funded through the base SRF programs cannot be used to meet the equivalency requirements of the BIL capitalization grants. Each BIL capitalization grant must meet the equivalency requirements separately.

2. **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 SRF programs.⁸ For more specific information on BABA implementation, please refer to the Office of Management and Budget's Build America, Buy America Act Implementation Guidance. EPA will issue a separate memorandum for BABA after the United States Office of Management and Budget (OMB) publishes its guidance. The American Iron and Steel provisions of both the CWSRF and DWSRF continue to apply.

3. **Reporting:** Transparency and consistency is of the utmost importance to ensure that the funds are being used effectively and efficiently. States must use EPA's SRF Data System to report key BIL project characteristics and milestone information no less than quarterly. 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 SRF programs to report on recipients that received federal dollars in the FFATA Subaward Reporting System (www.fsr.gov). FFATA reporting must exactly equal the capitalization grant amount.

4. **Blending Funds and Cash Draws:** States have the flexibility to craft single assistance agreements (e.g., loans) that contain multiple types of construction components and activities. These assistance agreements may commit funds from multiple BIL capitalization grants and base program funds. Upon disbursement of funds, these assistance agreements may draw from both BIL and base SRF capitalization grants for eligible project components. For example, state DWSRF programs may sign a single loan with a community water system for a project to replace lead service lines *and* replace water mains. In that example, the state may draw funds from the BIL DWSRF LSLR appropriation for the eligible LSLR project components and the 2022 DWSRF base appropriation for the water main components.

BIL and base funds must be separately managed and tracked for accounting purposes. States are encouraged to draw BIL funds first when projects are funded with both BIL and base funds.

5. **Green Project Reserve:** If provided for in the annual appropriation, the green project reserve (GPR) is applicable to the BIL capitalization grants for the corresponding fiscal year.

6. **Inter-SRF Transfers:** Per SRF statute and regulation, states have the flexibility to transfer funds between the CWSRF and DWSRF.⁹ Given BIL's requirements, authorities, and narrower SRF eligibilities, states may only transfer funds between the specific BIL appropriations in the equivalent CWSRF or DWSRF program. In other words, states may only transfer funds between the CWSRF and DWSRF General BIL capitalization grants and between the CWSRF and

⁸ BIL §70901

⁹ 42 U.S.C. 300j- 12 note and 40 CFR § 35.3530(c)

DWSRF BIL Emerging Contaminants capitalization grants. Because there is no similar CWSRF appropriation to the DWSRF BIL LSLR appropriation, no funds may be transferred from or to the DWSRF BIL LSLR appropriation. States may not transfer BIL appropriations to or from base appropriations.

Transfers do not impact the state match calculation, the set-asides calculations in the DWSRF, or the administration and 2% technical assistance calculations in the CWSRF. Those calculations are based upon the original capitalization grant allotment amounts for each SRF.

All BIL supplemental funds are federal capitalization grant funds. Therefore, transferred funds carry the same requirements from the transferring SRF with respect to additional subsidization and GPR. For example, if a state's original BIL General allotments are \$60M for DWSRF and \$30M for CWSRF and the state chooses to transfer \$10M from the DWSRF grant to the CWSRF grant, then the post-transfer capitalization grants will be \$50M for DWSRF and \$40M for CWSRF and the state must calculate the additional subsidy requirement using those *post-transfer* amounts.

States also have the flexibility to reserve *authority* for BIL inter-SRF transfers and use that authority in later years from subsequent BIL appropriations.¹⁰ Funds may be transferred between the CWSRF and DWSRF on a net basis, as long as the statutory 33% ceiling is not breached. Transfers of BIL CWSRF and DWSRF Emerging Contaminants Supplemental funds are calculated based on BIL DWSRF Emerging Contaminants Supplemental allotments.

For details on inter-SRF transfers, see the [SRF Transfer Policy](#).

7. Reservation of DWSRF Set-Aside Authority: Consistent with the DWSRF regulations, states have the flexibility to reserve the *authority* (under the 2%, 4%, and 10% set-asides) to take from future capitalization grants those set-aside funds they have not included in workplans.¹¹ However, given the narrower eligibilities under the BIL Emerging Contaminants and LSLR appropriations, future use of authority reserved under those BIL capitalization grants will be limited to eligible uses under those grants. For example, reserved authority for LSLR set-asides can only be used in the future for BIL LSLR eligible set-aside activities. Reserved authority for Emerging Contaminants set-asides can only be used in the future for BIL Emerging Contaminants-eligible set-aside activities.

8. Recycled Funds: To the extent assistance recipients repay BIL funds or provide interest payments to the state SRF program, those repaid funds and interest have the flexibility to be used for any SRF-eligible purpose. For example, repaid DWSRF BIL LSLR funds are not limited to future LSLR projects and activities.

9. Potential State Match Flexibility: To support implementation of the SRF program, the Department of the Treasury has determined that State and Local Financial Recovery Funds under the American Rescue Plan Act (ARPA) available for the provision of government services, up to the amount of the recipient's reduction in revenue due to the public health emergency, may be used to meet the non-federal match requirements of the DWSRF and CWSRF programs. EPA

¹⁰ 40 CFR §35.3530(c)(4)

¹¹ 40 CFR §35.3540(d)(2)

will be providing a fact sheet in the near future to state SRF programs to support utilization of this additional flexibility.

10. Federal Civil Rights Responsibilities, Including Title VI of the Civil Rights Act of 1964:

In 1994, [Executive Order 12898](#)¹² was issued to direct Federal agencies to incorporate achieving environmental justice into their mission. The Presidential Memorandum¹³ 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.”¹⁴

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
- 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

¹² Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994.

¹³ Presidential Memorandum on Executive Order for Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (pdf).

¹⁴ *Id.*

¹⁵ Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000(d) *et seq.* (Title VI); Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C., 29 U.S.C. § 794, Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*; Age Discrimination Act of 1975, 42 U.S.C. §§ 6101 *et seq.*; Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92 500 § 13, 86 Stat. 903 (codified as amended at 33 U.S.C. § 1251 (1972)); 40 CFR Parts 5 and 7.

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

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>.

IV. PROGRAM IMPLEMENTATION

A. EXPEDITIOUS COMMITMENTS AND EXPEDITURES

BIL funds must be committed and expended in an expeditious and timely manner, consistent with law, regulation, and guidance. States must make commitments (i.e., they must sign assistance agreements, such as loans, with eligible recipients) within one year after the receipt of each capitalization grant payment from EPA.¹⁸ States must make effort to draw down (expend) funds within two years of capitalization grant award.

B. MANAGEMENT OF ADDITIONAL SUBSIDIZATION

1. **Opportunities to Address 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. The level of funding provided under BIL and the amount of additional subsidy available that must be directed to these communities presents a unique opportunity for the SRF programs. The CWA and SDWA require states to develop “affordability criteria” and definitions of “disadvantaged communities” to best address

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).

¹⁸ 33 U.S.C. §1382(b)(3) and 40 CFR §35.3550(e)(1)

affordability needs consistent with other laws, including federal non-discrimination statutes, such as, Title VI of the Civil Rights Act of 1964, discussed above.

Given this new influx of funding, EPA expects 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. In Appendix E, EPA provides examples of factors that states may consider in updating their disadvantaged community definition or affordability criteria. States must include the disadvantaged community definition and the state affordability criteria in the IUP, which provides an opportunity for meaningful public review and comment.

EPA is committed to working with states to ensure additional subsidy is provided to disadvantaged communities and communities with affordability concerns to the maximum extent possible. EPA will use a variety of tools to accomplish this goal:

- **Review of the Effective Integration of the Program to Reach Disadvantaged Communities:** Recognizing that the communities in greatest need are often the least equipped or prepared to move forward with an SRF project and application, EPA will review how the state is utilizing the flexibilities and set-asides to support the disadvantaged communities' efforts to undertake deficiency or need identification, project development, and preliminary engineering steps that are necessary to apply for funding. States should also make funding sources available to communities for planning, design, and other pre-projects costs, as these steps can be a barrier to communities working to access SRF funding for water infrastructure needs. Working collaboratively, EPA and SRF programs can make progress towards Justice40, which aims to ensure that federal agencies deliver at least 40% of benefits from certain investments to disadvantaged communities.
- **Review of Disadvantaged Community Definition and Affordability Criteria:** EPA will review IUPs with a particular focus on the definition of disadvantaged community, state affordability criteria, and communities on the PPL slated for additional subsidization. EPA will actively work with states to identify potential opportunities to refine and improve DWSRF disadvantaged community definitions and CWSRF affordability criteria to be consistent with the language and intent of SDWA and the CWA.
- **Reaching Disadvantaged Neighborhoods within Larger Communities:** The CWA specifically allows CWSRF programs to provide additional subsidization to communities that do not meet a state's affordability criteria, but where the assistance recipient seeks additional subsidization to benefit individual ratepayers in the residential user rate class that will experience a significant hardship from the increase in rates necessary to finance the project if additional subsidization is not provided. EPA expects states to work with EPA and stakeholders to identify how this provision can be implemented. EPA expects states to evaluate their affordability criteria to determine whether it can be crafted broadly to include neighborhoods with affordability concerns within larger communities.

The SDWA authorizes states to define a "disadvantaged community." Note that 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 affordability criteria. EPA has accepted this type of definition and believes that it is consistent with the definition of "disadvantaged community" at 42 U.S.C. §1452(d)(3). These definitions are not prohibited and

serve to make the DWSRF definition of “disadvantaged community” consistent with the CWSRF affordability criteria which considers particular ratepayers.

- **Terms and Conditions of State Grants:** EPA will provide a term and condition on the grants detailing the amount and eligible uses of additional subsidy to meet statutory language and congressional intent to ensure that disadvantaged communities that have historically struggled to access SRF funding can do so through the BIL.
 - **Reallocation and Partial Awards:** States must identify in the IUP sufficient eligible projects that will receive additional subsidization. States that are unable to identify sufficient eligible projects may receive partial grant awards until they are able to fund sufficient communities or projects that meet the criteria for receiving additional subsidization. Funds will be reallocated in instances where states are unable to identify sufficient eligible communities or projects to receive additional subsidization by the end of the second fiscal year of grant availability. This is consistent with both SRF statutes.
 - **Oversight:** EPA will discuss the state’s affordability criteria and disadvantaged community definition during the capitalization grant application process and annual review so that any needed adjustments can be made for BIL funding. One focus will be how project priority systems support the goal of reaching disadvantaged communities and address the most serious risks to human health. EPA will amend the annual review checklist to include detailed questions related to additional subsidization assistance to disadvantaged communities, capacity development, technical assistance, and solicitation.
2. **Eligible Forms of Additional Subsidy:** Loans with principal forgiveness and grants are the only authorized methods states may use to deliver BIL additional subsidy to assistance recipients.
 3. **Calculation of Additional Subsidization Provided:** Appendix A includes additional subsidy tables for each state and BIL appropriation. The additional subsidization requirement is considered met when the subsidy funds required have been disbursed. Each state must report on the use of additional subsidization in the SRF Reporting System and in the state’s Annual or Biennial Report.
 4. **Eligible Recipients of Additional Subsidy:** For the CWSRF General Supplemental, the DWSRF General Supplemental, and the DWSRF LSLR funding, BIL requires 49% of the funds be made available as additional subsidy. Congress specified that it made this appropriation “notwithstanding” the specific provisions of the CWA and SDWA (CWA 603(i)(3)(B) and SDWA1452(d)(2)) that provide for minimum and maximum percentages that may be additional subsidy. In doing so, Congress made clear its intent that the only-exception it was making to EPA’s underlying authority was to the provision specifying the minimum and maximum additional subsidization levels and not to any of the other provisions regarding additional subsidization. Therefore, Congress expected the other limitations on additional subsidization, including the limitation to the eligible uses, to remain intact. For the DWSRF, states must provide additional subsidization to water systems that meet the state’s disadvantaged community criteria as described in section 1452(d) of the SDWA, and for the CWSRF additional subsidy must be provided to eligible CWSRF assistance recipients or project types as described in section 603(i) of the CWA.

For the CWSRF Emerging Contaminants Funding, BIL requires 100% of the funds be made available as additional subsidy. For this funding, Congress did not use the “notwithstanding” language. Therefore, as it has in prior appropriations bills containing similar language, Congress is creating a new subsidization program separate from the statutorily authorized program which provides additional subsidy to any eligible CWSRF assistance recipient for any project eligible under section 603(c) of the CWA that addresses emerging contaminants.

For the DWSRF Emerging Contaminants funding, BIL requires 100% of the funding to be made available as additional subsidy. For this funding, Congress did not use the “notwithstanding” language. In addition, in the SDWA, Congress established separate provisions for emerging contaminants (SDWA §1452(a)(2)(G)). Appropriations language in the BIL can be read along with the DWSRF provisions in the SDWA – there is no conflict between the provisions in the BIL and the SDWA statutory provision. Therefore, with respect to the DWSRF Emerging Contaminants appropriation, each state must provide at least 25% of the funds to either disadvantaged communities (as defined in subsection (d)(3)) or public water systems serving fewer than 25,000 persons that address emerging contaminants in drinking water with a focus on perfluoroalkyl and polyfluoroalkyl substances.

5. **Structuring Assistance Agreements:** Assistance agreements may include any combination of additional subsidization (i.e., principal forgiveness or grant) and repayable financing, subject to the limitations of the BIL. For example, a state might structure a \$1 million loan to include \$200,000 of repayable principal and \$800,000 of forgiven principal. In that example, the \$800,000 in principal forgiveness counts towards the limitations of the BIL. A state may structure an individual assistance agreement to provide 100% principal forgiveness, as well. The state has the flexibility to determine the amount of additional subsidization provided in a given assistance agreement.

6. **Laws, Regulations, and Requirements for Assistance Agreements in the Form of Grants:** BIL allows state CWSRF and DWSRF programs to provide grants to eligible recipients. States should be aware that “grant” recipients are legally considered “subrecipients” for the purposes of OMB’s grant regulations at 2 CFR Part 200 *et. seq.* In other words, assistance recipients receiving additional subsidy in the form of a grant are subject to additional cross-cutting federal requirements not applicable to those receiving other forms of additional subsidy. EPA’s [subaward policy](#) establishes the requirements and procedures for Grants Management Offices and Program Offices in making determinations regarding subrecipient eligibility, overseeing pass-through entity monitoring and management of subawards, and authorizing fixed amount subawards under 2 CFR 200.331, 200.332, and 200.333 (“the applicable regulations”).

Note that the use of a “grant” as an additional subsidy instrument does not change the established SRF cash draw rules.¹⁹ SRF assistance recipients (e.g., a water or wastewater system) must first incur a cost associated with an executed assistance agreement for the state SRF to have the authority to draw capitalization grant funds from the Treasury and disburse those funds to the assistance recipient.

C. REALLOTMENT

¹⁹ 40 CFR §35.3155(d)(2) and §35.3565(a)(1)

Consistent with the CWA and SDWA,²⁰ EPA will reallocate unobligated BIL funds after the second fiscal year of availability. The procedure is explained in *State Revolving Fund Capitalization Grant Reallocation Procedure* memorandum, September 2020.

V. EPA Oversight

To fulfill our critical programmatic and fiduciary oversight responsibilities for the SRF programs, each EPA Region will provide oversight of the BIL funds. Oversight will include BIL project file and transaction reviews in addition to the reviews of the base SRF files and transaction tests. During the on-site reviews, EPA Regions will discuss ongoing implementation of BIL funding with the states, including supporting disadvantaged communities and how they are utilizing additional subsidization. BIL observations, findings, and/or corrective actions will be documented in the Program Evaluation Report (PER).

²⁰ 33 U.S.C. §1384(c)(2) and 42 U.S.C. 300j-12 (a)(1)(E)

**Attachment 1 – Appendix A:
Bipartisan Infrastructure Law: Environmental Protection Agency
2022 State Revolving Fund (SRF) Grants to States, Tribes, and Territories by
Program**

	DWSRF General	DWSRF Lead Service Line Replacement	DWSRF Emerging Contaminants	CWSRF General	CWSRF Emerging Contaminants
Alabama	\$38,787,000	\$61,114,000	\$16,286,000	\$19,901,000	\$1,045,000
Alaska	\$17,992,000	\$28,350,000	\$7,555,000	\$10,652,000	\$559,000
Arizona	\$32,359,000	\$50,986,000	\$13,587,000	\$12,021,000	\$632,000
Arkansas	\$27,070,000	\$42,653,000	\$11,367,000	\$11,642,000	\$612,000
California	\$158,733,000	\$250,107,000	\$66,649,000	\$127,290,000	\$6,687,000
Colorado	\$35,550,000	\$56,015,000	\$14,927,000	\$14,236,000	\$747,000
Connecticut	\$17,992,000	\$28,350,000	\$7,555,000	\$21,804,000	\$1,145,000
Delaware	\$17,992,000	\$28,350,000	\$7,555,000	\$8,738,000	\$459,000
District of Columbia	\$17,992,000	\$28,350,000	\$7,555,000	\$8,738,000	\$459,000
Florida	\$70,829,000	\$111,601,000	\$29,741,000	\$60,077,000	\$3,156,000
Georgia	\$42,400,000	\$66,808,000	\$17,804,000	\$30,092,000	\$1,581,000
Hawaii	\$17,992,000	\$28,350,000	\$7,555,000	\$13,785,000	\$724,000
Idaho	\$17,992,000	\$28,350,000	\$7,555,000	\$8,738,000	\$459,000
Illinois	\$67,885,000	\$106,964,000	\$28,505,000	\$80,494,000	\$4,229,000
Indiana	\$27,502,000	\$43,334,000	\$11,548,000	\$42,893,000	\$2,253,000
Iowa	\$28,504,000	\$44,913,000	\$11,969,000	\$24,088,000	\$1,265,000
Kansas	\$20,875,000	\$32,891,000	\$8,765,000	\$16,065,000	\$844,000
Kentucky	\$29,649,000	\$46,717,000	\$12,450,000	\$22,652,000	\$1,190,000
Louisiana	\$26,930,000	\$42,433,000	\$11,308,000	\$19,565,000	\$1,028,000
Maine	\$17,992,000	\$28,350,000	\$7,555,000	\$13,777,000	\$724,000
Maryland	\$32,960,000	\$51,934,000	\$13,840,000	\$43,046,000	\$2,261,000
Massachusetts	\$41,750,000	\$65,783,000	\$17,531,000	\$60,428,000	\$3,175,000
Michigan	\$44,168,000	\$69,593,000	\$18,546,000	\$76,528,000	\$4,020,000
Minnesota	\$27,465,000	\$43,276,000	\$11,533,000	\$32,713,000	\$1,719,000
Mississippi	\$19,368,000	\$30,518,000	\$8,133,000	\$16,035,000	\$842,000
Missouri	\$31,720,000	\$49,980,000	\$13,319,000	\$49,339,000	\$2,592,000
Montana	\$17,992,000	\$28,350,000	\$7,555,000	\$8,738,000	\$459,000
Nebraska	\$17,992,000	\$28,350,000	\$7,555,000	\$9,103,000	\$478,000
Nevada	\$20,857,000	\$32,864,000	\$8,758,000	\$8,738,000	\$459,000
New Hampshire	\$17,992,000	\$28,350,000	\$7,555,000	\$17,786,000	\$935,000
New Jersey	\$30,708,000	\$48,385,000	\$12,894,000	\$72,730,000	\$3,821,000
New Mexico	\$17,992,000	\$28,350,000	\$7,555,000	\$8,738,000	\$459,000
New York	\$73,481,000	\$115,781,000	\$30,854,000	\$196,443,000	\$10,318,000
North Carolina	\$55,254,000	\$87,062,000	\$23,201,000	\$32,122,000	\$1,688,000
North Dakota	\$17,992,000	\$28,350,000	\$7,555,000	\$8,738,000	\$459,000

	DWSRF General	DWSRF Lead Service Line Replacement	DWSRF Emerging Contaminants	CWSRF General	CWSRF Emerging Contaminants
Ohio	\$45,251,000	\$71,300,000	\$19,001,000	\$100,195,000	\$5,264,000
Oklahoma	\$25,508,000	\$40,192,000	\$10,711,000	\$14,379,000	\$755,000
Oregon	\$23,673,000	\$37,300,000	\$9,940,000	\$20,106,000	\$1,056,000
Pennsylvania	\$55,403,000	\$87,296,000	\$23,264,000	\$70,500,000	\$3,704,000
Puerto Rico	\$17,992,000	\$28,350,000	\$7,555,000	\$23,214,000	\$1,220,000
Rhode Island	\$17,992,000	\$28,350,000	\$7,555,000	\$11,950,000	\$628,000
South Carolina	\$23,302,000	\$36,716,000	\$9,784,000	\$18,233,000	\$958,000
South Dakota	\$17,992,000	\$28,350,000	\$7,555,000	\$8,738,000	\$459,000
Tennessee	\$31,253,000	\$49,243,000	\$13,123,000	\$25,855,000	\$1,358,000
Texas	\$140,993,000	\$222,155,000	\$59,202,000	\$81,347,000	\$4,274,000
Utah	\$17,992,000	\$28,350,000	\$7,555,000	\$9,378,000	\$493,000
Vermont	\$17,992,000	\$28,350,000	\$7,555,000	\$8,738,000	\$459,000
Virginia	\$29,357,000	\$46,256,000	\$12,327,000	\$36,424,000	\$1,914,000
Washington	\$40,196,000	\$63,336,000	\$16,878,000	\$30,951,000	\$1,626,000
West Virginia	\$17,992,000	\$28,350,000	\$7,555,000	\$27,745,000	\$1,457,000
Wisconsin	\$30,666,000	\$48,319,000	\$12,877,000	\$48,116,000	\$2,527,000
Wyoming	\$17,992,000	\$28,350,000	\$7,555,000	\$8,738,000	\$459,000
States Total	1,772,254,000	2,792,475,000	\$744,167,000	\$1,753,080,000	\$92,094,000
American Samoa	\$6,778,000	\$10,680,000	\$2,846,000	\$9,997,000	\$526,000
Guam	\$6,301,000	\$9,928,000	\$2,646,000	\$7,234,000	\$380,000
Northern Marianas	\$5,305,000	\$8,359,000	\$2,228,000	\$4,646,000	\$245,000
Virgin Islands	\$8,605,000	\$13,558,000	\$3,613,000	\$5,802,000	\$305,000
Territories Total	\$26,989,000	\$42,525,000	\$11,333,000	\$27,679,000	\$1,456,000
Tribes	\$38,040,000	\$60,000,000	\$16,000,000	\$38,040,000	\$2,000,000
CWA 604(b) Total	\$0	\$0	\$0	\$17,984,000	\$950,000
EPA Admin	\$57,060,000	\$90,000,000	\$24,000,000	\$57,060,000	\$3,000,000
OIG Oversight	\$6,657,000	\$15,000,000	\$4,000,000	\$6,657,000	\$500,000
AMS M & O	\$1,000,000	\$0	\$500,000	\$1,500,000	\$0
Grand Total	\$1,902,000,000	\$3,000,000,000	\$800,000,000	\$1,902,000,000	\$100,000,000

**Bipartisan Infrastructure Law:
Environmental Protection Agency
2022 Clean Water Act (CWA) 604(b) Grants to States and Territories by Program**

	604(b)	604(b) Emerging Contaminants	604(b) BIL Total
Alabama	\$201,000	\$11,000	\$212,000
Alaska	\$108,000	\$6,000	\$114,000
Arizona	\$121,000	\$6,000	\$127,000
Arkansas	\$118,000	\$6,000	\$124,000
California	\$1,286,000	\$68,000	\$1,354,000
Colorado	\$144,000	\$8,000	\$152,000
Connecticut	\$220,000	\$12,000	\$232,000
Delaware	\$88,000	\$5,000	\$93,000
District of Columbia	\$88,000	\$5,000	\$93,000
Florida	\$607,000	\$32,000	\$639,000
Georgia	\$304,000	\$16,000	\$320,000
Hawaii	\$139,000	\$7,000	\$146,000
Idaho	\$88,000	\$5,000	\$93,000
Illinois	\$813,000	\$43,000	\$856,000
Indiana	\$433,000	\$23,000	\$456,000
Iowa	\$243,000	\$13,000	\$256,000
Kansas	\$162,000	\$9,000	\$171,000
Kentucky	\$229,000	\$12,000	\$241,000
Louisiana	\$198,000	\$10,000	\$208,000
Maine	\$139,000	\$7,000	\$146,000
Maryland	\$435,000	\$23,000	\$458,000
Massachusetts	\$610,000	\$32,000	\$642,000
Michigan	\$773,000	\$41,000	\$814,000
Minnesota	\$330,000	\$17,000	\$347,000
Mississippi	\$162,000	\$9,000	\$171,000
Missouri	\$498,000	\$26,000	\$524,000
Montana	\$88,000	\$5,000	\$93,000
Nebraska	\$92,000	\$5,000	\$97,000
Nevada	\$88,000	\$5,000	\$93,000
New Hampshire	\$180,000	\$9,000	\$189,000
New Jersey	\$735,000	\$39,000	\$774,000
New Mexico	\$88,000	\$5,000	\$93,000
New York	\$1,984,000	\$104,000	\$2,088,000
North Carolina	\$324,000	\$17,000	\$341,000
North Dakota	\$88,000	\$5,000	\$93,000
Ohio	\$1,012,000	\$53,000	\$1,065,000

	604(b)	604(b) Emerging Contaminants	604(b) BIL Total
Oklahoma	\$145,000	\$8,000	\$153,000
Oregon	\$203,000	\$11,000	\$214,000
Pennsylvania	\$712,000	\$37,000	\$749,000
Puerto Rico	\$234,000	\$12,000	\$246,000
Rhode Island	\$121,000	\$6,000	\$127,000
South Carolina	\$184,000	\$10,000	\$194,000
South Dakota	\$88,000	\$5,000	\$93,000
Tennessee	\$261,000	\$14,000	\$275,000
Texas	\$822,000	\$43,000	\$865,000
Utah	\$95,000	\$5,000	\$100,000
Vermont	\$88,000	\$5,000	\$93,000
Virginia	\$368,000	\$19,000	\$387,000
Washington	\$313,000	\$16,000	\$329,000
West Virginia	\$280,000	\$15,000	\$295,000
Wisconsin	\$486,000	\$26,000	\$512,000
Wyoming	\$88,000	\$5,000	\$93,000
States Total	\$17,704,000	\$936,000	\$18,640,000
American Samoa	\$101,000	\$5,000	\$106,000
Guam	\$73,000	\$4,000	\$77,000
Northern Marianas	\$47,000	\$2,000	\$49,000
Virgin Islands	\$59,000	\$3,000	\$62,000
Territories Total	\$280,000	\$14,000	\$294,000
Grand Total	\$17,984,000	\$950,000	\$18,934,000

**Bipartisan Infrastructure Law:
Environmental Protection Agency
2022 State Revolving Fund (SRF) Additional Subsidy Amounts**

	DWSRF General²¹	DWSRF Lead Service Line Replacement²²	DWSRF Emerging Contaminants²³	CWSRF General²⁴	CWSRF Emerging Contaminants²⁵
Alabama	\$19,005,630	\$29,945,860	\$16,286,000	\$9,751,490	\$1,045,000
Alaska	\$8,816,080	\$13,891,500	\$7,555,000	\$5,219,480	\$559,000
Arizona	\$15,855,910	\$24,983,140	\$13,587,000	\$5,890,290	\$632,000
Arkansas	\$13,264,300	\$20,899,970	\$11,367,000	\$5,704,580	\$612,000
California	\$77,779,170	\$122,552,430	\$66,649,000	\$62,372,100	\$6,687,000
Colorado	\$17,419,500	\$27,447,350	\$14,927,000	\$6,975,640	\$747,000
Connecticut	\$8,816,080	\$13,891,500	\$7,555,000	\$10,683,960	\$1,145,000
Delaware	\$8,816,080	\$13,891,500	\$7,555,000	\$4,281,620	\$459,000
Florida	\$34,706,210	\$54,684,490	\$29,741,000	\$29,437,730	\$3,156,000
Georgia	\$20,776,000	\$32,735,920	\$17,804,000	\$14,745,080	\$1,581,000
Hawaii	\$8,816,080	\$13,891,500	\$7,555,000	\$6,754,650	\$724,000
Idaho	\$8,816,080	\$13,891,500	\$7,555,000	\$4,281,620	\$459,000
Illinois	\$33,263,650	\$52,412,360	\$28,505,000	\$39,442,060	\$4,229,000
Indiana	\$13,475,980	\$21,233,660	\$11,548,000	\$21,017,570	\$2,253,000
Iowa	\$13,966,960	\$22,007,370	\$11,969,000	\$11,803,120	\$1,265,000
Kansas	\$10,228,750	\$16,116,590	\$8,765,000	\$7,871,850	\$844,000
Kentucky	\$14,528,010	\$22,891,330	\$12,450,000	\$11,099,480	\$1,190,000
Louisiana	\$13,195,700	\$20,792,170	\$11,308,000	\$9,586,850	\$1,028,000
Maine	\$8,816,080	\$13,891,500	\$7,555,000	\$6,750,730	\$724,000
Maryland	\$16,150,400	\$25,447,660	\$13,840,000	\$21,092,540	\$2,261,000
Massachusetts	\$20,457,500	\$32,233,670	\$17,531,000	\$29,609,720	\$3,175,000
Michigan	\$21,642,320	\$34,100,570	\$18,546,000	\$37,498,720	\$4,020,000
Minnesota	\$13,457,850	\$21,205,240	\$11,533,000	\$16,029,370	\$1,719,000
Mississippi	\$9,490,320	\$14,953,820	\$8,133,000	\$7,857,150	\$842,000

²¹ States must provide 49% of the BIL DWSRF General capitalization grant amount as additional subsidization in the form of principal forgiveness or grants. This additional subsidization must be provided to eligible DWSRF assistance recipients that meet the state’s disadvantaged community criteria as described in SDWA §1452(d).

²² States must provide 49% of the BIL DWSRF Lead Service Line Replacement capitalization grant amount as additional subsidization in the form of principal forgiveness or grants. This additional subsidization must be provided to eligible DWSRF assistance recipients that meet the state’s disadvantaged community criteria as described in SDWA §1452(d).

²³ States must provide 100% of the BIL DWSRF Emerging Contaminants capitalization grant amount, net of set-asides taken, as additional subsidization in the form of principal forgiveness or grants. Per SDWA §1452(a)(2)(G)(ii)(I), at least 25% of these funds must be provided to eligible DWSRF assistance recipients that meet the state’s disadvantaged community criteria as described in SDWA §1452(d) or to public water systems serving fewer than 25,000 persons.

²⁴ States must provide 49% of the CWSRF general capitalization grant amount as additional subsidization in the form of principal forgiveness or grants. Additional subsidization must be provided to eligible CWSRF assistance recipients or project types as described in section 603(i) of the CWA.

²⁵ States must provide 100% of the emerging capitalization grant amount as additional subsidization in the form of principal forgiveness and/or grants. Additional subsidization may be provided to any eligible CWSRF assistance recipient for any project eligible under section 603(c) of the CWA that addresses emerging contaminants.

	DWSRF General²¹	DWSRF Lead Service Line Replacement²²	DWSRF Emerging Contaminants²³	CWSRF General²⁴	CWSRF Emerging Contaminants²⁵
Missouri	\$15,542,800	\$24,490,200	\$13,319,000	\$24,176,110	\$2,592,000
Montana	\$8,816,080	\$13,891,500	\$7,555,000	\$4,281,620	\$459,000
Nebraska	\$8,816,080	\$13,891,500	\$7,555,000	\$4,460,470	\$478,000
Nevada	\$10,219,930	\$16,103,360	\$8,758,000	\$4,281,620	\$459,000
New Hampshire	\$8,816,080	\$13,891,500	\$7,555,000	\$8,715,140	\$935,000
New Jersey	\$15,046,920	\$23,708,650	\$12,894,000	\$35,637,700	\$3,821,000
New Mexico	\$8,816,080	\$13,891,500	\$7,555,000	\$4,281,620	\$459,000
New York	\$36,005,690	\$56,732,690	\$30,854,000	\$96,257,070	\$10,318,000
North Carolina	\$27,074,460	\$42,660,380	\$23,201,000	\$15,739,780	\$1,688,000
North Dakota	\$8,816,080	\$13,891,500	\$7,555,000	\$4,281,620	\$459,000
Ohio	\$22,172,990	\$34,937,000	\$19,001,000	\$49,095,550	\$5,264,000
Oklahoma	\$12,498,920	\$19,694,080	\$10,711,000	\$7,045,710	\$755,000
Oregon	\$11,599,770	\$18,277,000	\$9,940,000	\$9,851,940	\$1,056,000
Pennsylvania	\$27,147,470	\$42,775,040	\$23,264,000	\$34,545,000	\$3,704,000
Puerto Rico	\$8,816,080	\$13,891,500	\$7,555,000	\$11,374,860	\$1,220,000
Rhode Island	\$8,816,080	\$13,891,500	\$7,555,000	\$5,855,500	\$628,000
South Carolina	\$11,417,980	\$17,990,840	\$9,784,000	\$8,934,170	\$958,000
South Dakota	\$8,816,080	\$13,891,500	\$7,555,000	\$4,281,620	\$459,000
Tennessee	\$15,313,970	\$24,129,070	\$13,123,000	\$12,668,950	\$1,358,000
Texas	\$69,086,570	\$108,855,950	\$59,202,000	\$39,860,030	\$4,274,000
Utah	\$8,816,080	\$13,891,500	\$7,555,000	\$4,595,220	\$493,000
Vermont	\$8,816,080	\$13,891,500	\$7,555,000	\$4,281,620	\$459,000
Virginia	\$14,384,930	\$22,665,440	\$12,327,000	\$17,847,760	\$1,914,000
Washington	\$19,696,040	\$31,034,640	\$16,878,000	\$15,165,990	\$1,626,000
West Virginia	\$8,816,080	\$13,891,500	\$7,555,000	\$13,595,050	\$1,457,000
Wisconsin	\$15,026,340	\$23,676,310	\$12,877,000	\$23,576,840	\$2,527,000
Wyoming	\$8,816,080	\$13,891,500	\$7,555,000	\$4,281,620	\$459,000
States Total	\$859,588,380	\$1,354,421,250	\$736,612,000	\$854,727,580	\$91,635,000

Attachment 1 – Appendix B: CWSRF Definition of Emerging Contaminants

Emerging contaminants refer to substances and microorganisms, including manufactured or naturally occurring physical, chemical, biological, radiological, or nuclear materials, which are known or anticipated in the environment, that may pose newly identified or re-emerging risks to human health, aquatic life, or the environment.²⁶ These substances, microorganisms or materials can include many different types of natural or manufactured chemicals and substances – such as those in some compounds of personal care products, pharmaceuticals, industrial chemicals, pesticides, and microplastics.^{27,28}

The main categories of emerging contaminants include but are not limited to:

- **Perfluoroalkyl and polyfluoroalkyl substances (PFAS) and other persistent organic pollutants (POPs)** such as polybrominated diphenyl ethers (PBDEs; used in flame retardants, furniture foam, plastics, etc.) and other persistent organic contaminants such as perfluorinated organic acids, PFAS free foam flame retardants;
- **Biological contaminants and microorganisms**, such as antimicrobial resistant bacteria, biological materials, and pathogens;
- **Some compounds of pharmaceuticals and personal care products (PPCPs)**, including a wide suite of human prescribed drugs (e.g., antidepressants, blood pressure medications, hormones), over-the-counter medications (e.g., ibuprofen), bactericides, fragrances, UV filters (sunscreen agents), detergents, preservatives, and repellents;²⁹
 - Insect Repellents, Cosmetics and UV filters: DEET, Methylparabens, Benzophenone³⁰
 - Fragrances: HHCb and AHTN (7-acetyl-1,1,3,4,4,6-hexamethyl-1,2,3,4-tetrahydronaphthalene; CAS 21145-77-7; Tonalide)³¹
 - Cosmetic and food preservatives: BHA (butylated hydroxyanisole) and BHT (butylated hydroxytoluene)³²
 - Veterinary medicines such as antimicrobials, antibiotics, anti-fungals, growth promoters, investigational new animal drugs, and hormones;
 - Substances that illicit endocrine-disrupting chemicals (EDCs), including synthetic estrogens (e.g., 17 α ethynylestradiol, which also is a PCPP) and androgens (e.g., trenbolone, a veterinary drug), naturally occurring estrogens (e.g., 17 β -estradiol, testosterone), as well as many others (e.g., organochlorine pesticides, alkylphenols)
- **Nanomaterials** such as carbon nanotubes or nano-scale particulate titanium dioxide, of which little is known about either their environmental fate or effects.

²⁶ 2020 White House Office of Science & Technology Policy document which focused on drinking water/human health

²⁷ Contaminants of Emerging Concern under the Clean Water Act 2019, Congressional Research Services

²⁸ White Paper Aquatic Life Criteria for Contaminants of Emerging Concern 2008

²⁹ Peck, A.M. Analytical methods for the determination of persistent ingredients of personal care products in environmental matrices. *Anal Bioanal Chem* **386**, 907–939 (2006). <https://doi.org/10.1007/s00216-006-0728-3>

³⁰ Diana Montes-Grajales, Mary Fennix-Agudelo, Wendy Miranda-Castro,

Occurrence of personal care products as emerging chemicals of concern in water resources: A review, *Science of The Total Environment*, Volume 595, 2017, Pages 601-614, ISSN 0048-9697,

<https://doi.org/10.1016/j.scitotenv.2017.03.286>. (<https://www.sciencedirect.com/science/article/pii/S0048969717308161>)

³¹ J Environ Eng (New York). Author manuscript; available in PMC 2010 Feb 1. Published in final edited form as:

J Environ Eng (New York). 2009 Nov 1; 135(11): 1192. doi: 10.1061/(ASCE)EE.1943-7870.0000085

³² Soliman, Mary A., et al. "Human Pharmaceuticals, Antioxidants, and Plasticizers in Wastewater Treatment Plant and Water Reclamation Plant Effluents." *Water Environment Research*, vol. 79, no. 2, 2007, pp. 156–167., <https://doi.org/10.2175/106143006x111961>.

- **Microplastics/Nanoplastics:** synthetic solid particle or polymeric matrix, with regular or irregular shape and with size smaller than 5 mm, of either primary or secondary manufacturing origin, or larger plastic materials that degrade into smaller pieces, including from tire wear (such as 6PPD), which are insoluble in water.³³ Primary microplastics include particles produced intentionally of this very small dimension, like pre-production pellets used as intermediate in plastic production, microbeads for abrasive functions or microfibers that form from synthetic textiles.³⁴

Projects that address contaminants with [water quality criteria established by EPA](#) under CWA section 304(a), except for PFAS are not eligible for CWSRF Emerging Contaminants funds.

³³ J.P.G.L. Frias, Roisin Nash, Microplastics: Finding a consensus on the definition, Marine Pollution Bulletin, Volume 138, 2019, Pages 145-147, ISSN 0025-326X, <https://doi.org/10.1016/j.marpolbul.2018.11.022>.
(<https://www.sciencedirect.com/science/article/pii/S0025326X18307999>)

³⁴ Silvia Galafassi, Luca Nizzetto, Pietro Volta, Plastic sources: A survey across scientific and grey literature for their inventory and relative contribution to microplastics pollution in natural environments, with an emphasis on surface water

Attachment 1 – Appendix C: Detailed List of DWSRF Emerging Contaminants Project and Activity Examples

Below are non-exhaustive lists of DWSRF-eligible projects and activities under the BIL DWSRF Emerging Contaminants capitalization grants. For a project or activity to be eligible for funding under this appropriation, it must be otherwise DWSRF eligible, and the primary purpose must be to address emerging contaminants in drinking water with a focus on perfluoroalkyl and polyfluoroalkyl substances (PFAS) Projects that address any contaminant listed on any of EPA’s [Contaminant Candidate Lists](#) are eligible (i.e., CCL1 – draft CCL5).

From the DWSRF Infrastructure Fund:

- Emerging contaminants costs associated with the construction of a new treatment facility or upgrade to an existing treatment facility that addresses emerging contaminants.
- Development of a new source (i.e., new/replacement well or intake for a public water system) that addresses an emerging contaminant issue [Note: water rights purchases must still meet the criteria in the [Class Deviation for Water Rights](#)].
- Consolidation with another water system that does not have emerging contaminants present or has removal capability.
- Costs for planning and design and associated pre-project costs.
- Infrastructure related to pilot testing for treatment alternatives.
- Creation of a new community water system to address unsafe drinking water provided by individual (i.e., privately-owned) wells or surface water sources.

From the DWSRF Set-asides:

- Direct technical assistance to public water systems (of any size) with emerging contaminants and treatment problems which could lead to a loan application.
- PFAS and other emerging contaminants project pre-development activities (such as determining if and where there is a problem).
- Technical assistance for eligible systems to diagnose emerging contaminants problems at their water systems.
- Project planning, preliminary engineering, and design.
- Funding state PWSS staff who are working on PFAS and emerging contaminants oversight.
- Incorporating training on PFAS and emerging contaminants into state operator certification materials.
- Obtain test kits/laboratory equipment for systems to test for newly recognized contaminants of concern and training to use that equipment.
- Pilot testing and studies on improving public water system operation.
- Source water protection activities (e.g., developing source water protection plans, well abandonment, etc.).
- Conducting initial, special (non-routine/non-compliance) monitoring to establish a baseline understanding of a contaminant of concern or operation of newly-used technology.

Attachment 1 – Appendix D: Detailed List of DWSRF Lead Service Line Replacement Project and Activity Examples

Below are non-exhaustive lists of DWSRF-eligible projects and activities under the BIL DWSRF Lead Service Line Replacement (LSLR) capitalization grants. For a project or activity to be eligible for funding under this appropriation, it must be otherwise DWSRF eligible and be a LSLR project or associated activity *directly connected* to the identification, planning, design, and replacement of lead service lines. Any project funded under this appropriation involving the replacement of a lead service line must replace the entire lead service line, not just a portion, unless a portion has already been replaced.

From the DWSRF Infrastructure Fund:

- Complete removal of lead service lines (public and privately owned portion) or service lines made of galvanized iron or galvanized steel (that are currently or have previously been downstream of lead components) and replacement with a pipe that meets the requirements established under 40 CFR 143 and which complies with state and local plumbing codes and or building codes.
- Removal of lead or galvanized goosenecks, pigtails, and connectors, and replacement with an acceptable material that meets the requirements established under 40 CFR 143 and which complies with state and local plumbing codes and or building codes.
- Replacement of curb stops, curb stop boxes, and other service line appurtenances that are removed as part of full LSLR.
- Site restoration, including landscaping, sidewalks, driveways, etc. if the removal was necessary to replace the lead service line.
- Permit fees if the fees are normal, required, and specific to the LSLR. It is recommended that communities waive these fees.
- Temporary pitcher filters or point-of-use (POU) devices certified by an American National Standards Institute accredited certifier to reduce lead during or for a short time period after LSLR projects.
- Development or updating of lead service line inventories, including locating and mapping lead service lines.
 - Methods of investigation to develop inventories could include visual observation, water quality sampling (non-compliance), excavation, vacuum or hydro-excavation, statistical analysis, or other emerging technologies.
- Planning and design for infrastructure projects listed above.
- Non-routine lead sampling (if not for compliance purposes) as part of a LSLR project.

From the DWSRF Set-asides:

- Planning and design for LSLR infrastructure projects.
- Developing or updating lead service line inventories, including locating and mapping lead service lines.
- Providing technical assistance to small water systems undertaking lead service line inventories or construction projects.
- Funding state staff and contractors to work on LSLR education and outreach and inventory plans, etc.
- Non-routine lead sampling (if not for compliance purposes).

Attachment 1 – Appendix E: Additional Information to Assist States with Developing a Disadvantaged Community Definition and Affordability Criteria

Congress established that 49% of funding allocated to the SRF programs through the General Supplemental and Lead Service Line Replacement (LSLR) capitalization grants must be provided as additional subsidization for eligible CWSRF assistance recipients or project types as described in section 603(i) of the Clean Water Act (CWA) and water systems that meet the state’s disadvantaged community criteria as described in section 1452(d) of the Safe Drinking Water Act (SDWA) for the DWSRF. Also, for the DWSRF Emerging Contaminants funding, states must direct at least 25% of these funds to disadvantaged communities (as defined by the state under SDWA 1452(d)) or public water systems serving fewer than 25,000 persons.

Under Section 50216 of the BIL, EPA must conduct an analysis of programs under CWA title VI and SDWA section 1452 to identify historical distribution of funds to small and disadvantaged communities and new opportunities and methods to improve the distribution of funds under those programs to low-income, rural, minority, and indigenous communities. A report must be submitted to the congressional committees upon completion of the analysis by November 15, 2023.

There is significant variation across the country in the amount of assistance directed to disadvantaged communities and the characteristics of communities that qualify for this assistance. The CWA and the SDWA both state that the Administrator may publish information to assist states in establishing affordability criteria. The information in this memo is one step in an ongoing EPA effort to analyze criteria and adjust them as needed to ensure that the definitions used are compliant with the CWA and SDWA as well as meet the community affordability needs within states. Some key considerations are described below for evaluating how different affordability criteria can capture communities in need. EPA will work with states to strengthen their criteria for distributing additional subsidization. EPA may also provide additional information identified as part of Justice 40. Any criteria or thresholds should be modified by SRF programs to reflect state conditions and considerations.

Examples of criteria within affordability and disadvantaged community definitions that can be barriers include:

- Definitions solely based or contingent upon an “unaffordable” rate. Some state rate considerations serve to assist in affordability determinations, but others do so in a way that can be a barrier to systems with low capacity and a poor rate structure.
- Definitions that include a low cap on additional subsidy (e.g., 30%) are a barrier to communities that need a higher amount of additional subsidization to be able to take the loan.
- Definitions based solely on population or definitions that include population as a determining factor.

EPA strongly encourages states to amend their affordability and disadvantaged community definitions if they currently utilize any of these three criteria.

CWSRF Affordability Criteria

Section 603(i)(2) of the CWA states:

AFFORDABILITY CRITERIA.—
(A) ESTABLISHMENT.—

- (i) *IN GENERAL.*—Not later than September 30, 2015, and after providing notice and an opportunity for public comment, a State shall establish affordability criteria to assist in identifying municipalities that would experience a significant hardship raising the revenue necessary to finance a project or activity eligible for assistance under subsection (c)(1) if additional subsidization is not provided.
- (ii) *CONTENTS.*—The criteria under clause (i) shall be based on income and unemployment data, population trends, and other data determined relevant by the State, including whether the project or activity is to be carried out in an economically distressed area, as described in section 301 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161).
- (B) *EXISTING CRITERIA.*—If a State has previously established, after providing notice and an opportunity for public comment, affordability criteria that meet the requirements of subparagraph (A)—
- (i) the State may use the criteria for the purposes of this subsection; and
- (ii) those criteria shall be treated as affordability criteria established under this paragraph.
- (C) *INFORMATION TO ASSIST STATES.*—The Administrator may publish information to assist States in establishing affordability criteria under subparagraph (A).

The CWA section 603(i)(2) requires states to develop affordability criteria that will assist them in identifying applicants that would have difficulty financing projects without additional subsidization. The CWA section 603(i)(2)(A) requires that criteria be based on:

- income;
- unemployment data;
- population trends; and
- other data determined relevant by the state.

Income, unemployment data, and population trends must be reflected in state affordability criteria; however, the statute does not prescribe the weight that must be given to each type of criteria. States have the flexibility to determine which of the required criteria are most relevant to their CWSRF programs and may structure their program’s criteria accordingly. States should periodically review and update their criteria to ensure that it is still appropriate for economic conditions in the state and that they are utilizing the most current data.

Additional Information to Assist States in Establishing Affordability Criteria

Per section 603(i)(2) of the CWA, the CWSRF affordability criteria must include income, unemployment data, and population trends. As demonstrated by the wide range of criteria developed by the states, there are many factors to consider within each criterion. The following are examples of metrics that EPA suggests states consider when reviewing their affordability criteria. States have the flexibility to use different percentages based on demographics and other state-specific factors. The metrics may be set numbers for a state or tiered numbers to address specific yet diverse state needs. States should also consider how a mix of affordability criteria may be used to meet community needs. States should periodically review their affordability criteria to ensure that it is still appropriate for the socioeconomic conditions in the state and uses the most current available data.

Income:

- Community MHI is less than 80% of State MHI
- Communities with \$25,766 or less upper limit of Lowest Quintile Income
- Communities with ≥ 30.9% Population Living Under 200% of Poverty Level

- Community with census tracts that have a poverty rate greater than or equal to 20%³⁵

Unemployment Data:

- Communities with $\geq 3.4\%$ Unemployed Population ≥ 16 years in Civilian Labor Force

Population Trends:

- Communities with $\geq 12.1\%$ Vacant Households

Other Data Determined Relevant by the State:

- Community in a county with a Social Vulnerability Index score higher than 0.80³⁶
- Combined sewer and drinking water costs are greater than 2% of the 20th percentile household income (i.e., the Lowest Quintile of Income for the Service Area)
- Communities with 10% of failing decentralized systems
- Communities with $\geq 11.7\%$ Population Receiving Food Stamps/SNAP Benefits
- Communities with Lagoon systems not achieving water quality standards

DWSRF Disadvantaged Communities

Section 1452 (d) of the SDWA states:

Assistance for disadvantaged communities

(3) "Disadvantaged community" defined

In this subsection, the term "disadvantaged community" means 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. The Administrator may publish information to assist States in establishing affordability criteria.

Additional Information to Assist States in Establishing a Disadvantaged Community Definition

The following are examples of criteria that states are currently using or may want to consider using. Note that 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 affordability criteria. States may use different percentages and thresholds based on demographics and other state-specific factors. The metrics may be set numbers for a state or tiered numbers to address specific state needs to best address the health protection objectives of SDWA. States should also consider how a mix of affordability criteria may be used to meet community needs. States should periodically review their affordability criteria and disadvantaged community definition to ensure that it is still appropriate for the economic conditions in the state and uses the most current available data.

- Communities with census tracts that have [X poverty indicator] are eligible for lead service line additional subsidy if the recipient uses those funds for the direct benefit of those residents
- Community MHI is less than 80% of State MHI
- Communities with \$25,766 or less upper limit of Lowest Quintile Income
- Communities with $\geq 30.9\%$ Population Living Under 200% of Poverty Level
- Community with census tracts that have a poverty rate greater than or equal to 20%³⁷
- Communities with $\geq 3.4\%$ Unemployed Population ≥ 16 years in Civilian Labor Force
- Communities with $\geq 12.1\%$ Vacant Households

³⁵ Using the Census Bureau's official poverty measure (OPM).

³⁶ Using the most recent SVI score calculated by the Centers for Disease Control and Prevention (CDC) using the American Community Survey (ACS). <https://svi.cdc.gov/map.html>

³⁷ Using the Census Bureau's official poverty measure (OPM).

- Community in a county with a Social Vulnerability Index score higher than 0.80³⁸
- Combined sewer and drinking water costs are greater than 2% of the 20th percentile household income (i.e., the Lowest Quintile of Income for the Service Area)
- Communities with $\geq 11.7\%$ Population Receiving Food Stamps/SNAP Benefits

³⁸ Using the most recent SVI score calculated by the Centers for Disease Control and Prevention (CDC) using the American Community Survey (ACS). <https://svi.cdc.gov/map.html>

Attachment 2: Implementation of CWSRF-Related Amendments in the Bipartisan Infrastructure Law

On November 15, 2021, President Biden signed the Bipartisan Infrastructure Law (BIL) into law. Among its provisions are amendments to Title VI the Clean Water Act (CWA) that make changes to the base CWSRF program. This document summarizes the key changes and provides the relevant legislative text. These changes apply to all capitalization grants awarded after November 15, 2021.

Summary of Changes to Base CWSRF

- **Reauthorization of CWSRF:** The BIL reauthorized the CWSRF from federal fiscal years 2022 through 2026. The funding levels will be set by through the annual appropriations process. Authorized levels are provided in the table below.

FY22	FY23	FY24	FY25	FY26
\$2.4B	\$2.75B	\$3.0B	\$3.25B	\$3.25B

- **Additional Authorization:** The BIL authorizes additional appropriations of \$1,639,000,000 for each fiscal year 2022 through 2026. The funding levels will be set by through the annual appropriations process.
- **Additional Subsidization:** The BIL amended requirements related to additional subsidization. States are required to use at least 10% (an increase from 0%), but no more than 30%, of the capitalization grant amount to provide additional subsidy to the following:
 - municipalities that meet the state’s affordability criteria;
 - municipalities that do not meet the state’s affordability criteria but seek additional subsidization to benefit individual ratepayers in the residential user rate class;
 - entities that implement a process, material, technique, or technology that addresses water or energy efficiency goals; mitigates stormwater runoff; or encourages sustainable project planning, design, and construction.

The BIL also expands the eligible uses of additional subsidy to include:

- grants;
- buying, refinancing, or restructuring of debt; and
- other loan forgiveness.
- **Technical Assistance Funding:** The BIL includes a provision that allows states to use up to an amount equal to 2% of their annual CWSRF capitalization grant for the purpose of hiring staff, nonprofit organizations, or regional, interstate, or municipal entities to assist rural, small, and tribal publicly owned treatment works.
- **Analysis of Fund Distribution to Disadvantaged Communities:** The BIL included a provision that directs EPA to conduct an analysis of fund distributions to small and disadvantaged communities by November 15, 2023. EPA Headquarters and Regions will work collaboratively with states in this analysis.

- **Build America, Buy America:** The BIL established the Build America, Buy America (BABA) Act domestic sourcing requirements for federal financial assistance programs for infrastructure, including the SRF programs. EPA water infrastructure programs must comply with the BABA provision. EPA will be issuing BABA guidance for all water infrastructure programs upon publication of Office of Management and Budget agency-wide guidance.
- **Clean Watersheds Needs Survey:** The BIL expands the Clean Watersheds Needs Survey to include all capital projects eligible for CWSRF funding. It also authorizes \$5 million for implementing the Clean Watershed Needs Survey.

Amended Legislative Text and Explanation

Text in *italics* is new and text in ~~strike through~~ was deleted.

BIL §50210(a)(1)(A): Types of Assistance

Section 603(d)

As amended, CWA section 603(d) now states:

(d) TYPES OF ASSISTANCE.—Except as otherwise limited by State law *and provided in subsection (k)*, a water pollution control revolving fund of a State under this section may be used only—

Explanation: The CWA now incorporates an additional type of CWSRF assistance, as described in subsection (k). See below for additional information about this type of assistance.

BIL §50210(a)(1)(B): Additional Subsidization

Section 603(i)

As amended, the CWA section 603(i) now states:

(i) ADDITIONAL SUBSIDIZATION.—

(1) IN GENERAL.—In any case in which a State provides assistance to an eligible recipient under subsection (d), the State may provide additional subsidization (*including forgiveness of principal, grants, negative interest loans, other loan forgiveness, and through buying, refinancing, or restructuring debt*) ~~including forgiveness of principal and negative interest loans~~—

(A) to benefit a municipality that—

(i) meets the affordability criteria of the State established under paragraph (2); or

(ii) does not meet the affordability criteria of the State if the recipient—

(I) seeks additional subsidization to benefit individual ratepayers in the residential user rate class;

(II) demonstrates to the State that such ratepayers will experience a significant hardship from the increase in rates necessary to finance the project or activity for which assistance is sought; and

(III) ensures, as part of an assistance agreement between the State and the recipient, that the additional subsidization provided under

- this paragraph is directed through a user charge rate system (or other appropriate method) to such ratepayers; or
- (B) to implement a process, material, technique, or technology—
- (i) to address water-efficiency goals;
 - (ii) to address energy-efficiency goals;
 - (iii) to mitigate stormwater runoff; or
 - (iv) to encourage sustainable project planning, design, and construction.
- (2) AFFORDABILITY CRITERIA.—
- (A) ESTABLISHMENT.—
- (i) IN GENERAL.—Not later than September 30, 2015, and after providing notice and an opportunity for public comment, a State shall establish affordability criteria to assist in identifying municipalities that would experience a significant hardship raising the revenue necessary to finance a project or activity eligible for assistance under subsection (c)(1) if additional subsidization is not provided.
 - (ii) CONTENTS.—The criteria under clause (i) shall be based on income and unemployment data, population trends, and other data determined relevant by the State, including whether the project or activity is to be carried out in an economically distressed area, as described in section 301 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161).
- (B) EXISTING CRITERIA.—If a State has previously established, after providing notice and an opportunity for public comment, affordability criteria that meet the requirements of subparagraph (A)—
- (i) the State may use the criteria for the purposes of this subsection; and
 - (ii) those criteria shall be treated as affordability criteria established under this paragraph.
- (C) INFORMATION TO ASSIST STATES.—The Administrator may publish information to assist States in establishing affordability criteria under subparagraph (A).
- (3) LIMITATIONS.—
- (A) IN GENERAL.—A State may provide additional subsidization in a fiscal year under this subsection only if the total amount appropriated for making capitalization grants to all States under this title for the fiscal year exceeds \$1,000,000,000.
- (B) TOTAL AMOUNT OF SUBSIDIZATION.—
- (i) *In general.--For each fiscal year, of the amount of the capitalization grant received by the State under this title, the total amount of additional subsidization made available by a State under paragraph (1)—*
 - (I) *may not exceed 30 percent; and*
 - (II) *to the extent that there are sufficient applications for assistance to communities described in that paragraph, may not be less than 10 percent.*
 - (ii) *Exclusion.--A loan from the water pollution control revolving fund of a State with an interest rate equal to or greater than 0 percent shall not be considered additional subsidization for purposes of this subparagraph.*
- ~~(B) ADDITIONAL LIMITATION.—~~
- ~~(i) GENERAL RULE.—Subject to clause (ii), a State may use not more than 30 percent of the total amount received by the State in capitalization~~

~~grants under this title for a fiscal year for providing additional subsidization under this subsection.~~

~~(ii) EXCEPTION.—If, in a fiscal year, the amount appropriated for making capitalization grants to all States under this title exceeds \$1,000,000,000 by a percentage that is less than 30 percent, clause (i) shall be applied by substituting that percentage for 30 percent.~~

~~(C) APPLICABILITY.—The authority of a State to provide additional subsidization under this subsection shall apply to amounts received by the State in capitalization grants under this title for fiscal years beginning after September 30, 2014.~~

~~(D) CONSIDERATION.—If the State provides additional subsidization to a municipality or intermunicipal, interstate, or State agency under this subsection that meets the criteria under paragraph (1)(A), the State shall take the criteria set forth in section 602(b)(5) into consideration.~~

Explanation: Section 603(i) of the CWA now requires states to provide between 10% and 30% of their capitalization grant as additional subsidization whenever the annual appropriation is greater than \$1,000,000,000, “to the extent there are sufficient applications for assistance.” States unable to find sufficient eligible projects should explain in their Intended Use Plan (IUP) and Annual Report why the provision was not met and what they are doing to ensure that this provision is met in future years (e.g., marketing, outreach, technical assistance).

Additional subsidization may only be provided for the following:

- to benefit a municipality that meets the state’s affordability criteria as established under the CWA section 603(i)(2);
- to benefit a municipality that does not meet the state’s affordability criteria but seeks additional subsidization to benefit individual ratepayers in the residential user rate class; or
- to any eligible recipient to implement a process, material, technique, or technology that addresses water or energy efficiency goals; mitigates stormwater runoff; or encourages sustainable project planning, design, and construction.

If additional subsidization is being used to benefit individual ratepayers in the residential user rate class of a municipality that does not meet the affordability criteria, then the recipient must demonstrate to the CWSRF’s satisfaction that these ratepayers would otherwise experience a significant hardship from the increase in rates necessary to finance the project or activity for which assistance is being sought. Additionally, the assistance agreement between the CWSRF and the recipient must include language indicating that the additional subsidization would be provided to these ratepayers through a user charge rate system or other appropriate method.

This section has also been amended by BIL to expand the eligible types of additional subsidy that states may offer to assistance recipients. Prior to the passage of BIL, CWA authorized additional subsidies explicitly in the form of a *loan* (e.g., loans which include principal forgiveness and/or a negative interest rate).

As amended by BIL, CWA section 603(i) now explicitly adds grants as an eligible form of additional subsidy.³⁹ States should be aware that “grant” recipients are legally considered “subrecipients” for the purposes of OMB’s grant regulations at 2 CFR Part 200 *et. seq.* In other words, assistance recipients

³⁹ Though not explicitly mentioned, states could still provide additional subsidy as grants under CWA section 603(i)

receiving additional subsidy in the form of a grant are subject to additional cross-cutting federal requirements not applicable to those receiving other forms of additional subsidy. EPA's [subaward policy](#) establishes the requirements and procedures for Grants Management Offices and Program Offices in making determinations regarding subrecipient eligibility, overseeing pass-through entity monitoring and management of subawards, and authorizing fixed amount subawards under 2 CFR 200.331, 200.332, and 200.333 ("the applicable regulations").

As amended by BIL section 603(i) also adds "buying, refinancing, or restructuring of debt" as options for offering additional subsidy to eligible assistance recipients. States may only purchase, refinance, or restructure debt that was associated with a CWSRF-eligible project. It is not necessary for the debt to have originated with the state's CWSRF program. However, the projects must still have been CWSRF-eligible and met all applicable CWSRF requirements. It is important to note that BIL codifies that an assistance agreement with a 0% or higher interest rate is not considered to be additional subsidy. In other words, the monetary savings to an assistance recipient for a loan with, for example, a 2% interest rate versus a 4% interest rate is not considered additional subsidization.

Finally, CWA section 603(i) allows states to provide additional subsidy in the form of other loan forgiveness. Any state intending to offer other loan forgiveness must provide sufficient documentation within the Intended Use Plan, showing that such assistance is consistent with the other eligible forms of additional subsidy by resulting in a permanent reduction in principal that must be repaid.

BIL §50210(a)(1)(C): Technical Assistance

Section 603(k)

As amended, the CWA now includes section 603(k), which states:

(k) Additional Use of Funds.--A State may use an additional 2 percent of the funds annually awarded to each State under this title for nonprofit organizations (as defined in section 104(w)) or State, regional, interstate, or municipal entities to provide technical assistance to rural, small, and tribal publicly owned treatment works (within the meaning of section 104(b)(8)(B)) in the State.

Explanation: States may use up to an amount equal to 2% of their annual capitalization grant to provide assistance to nonprofit organizations⁴⁰ or State, regional, interstate, or municipal entities to provide technical assistance to rural, small, and tribal publicly owned treatment works. Examples of such assistance include, but are not limited to, retaining circuit riders to provide technical assistance; contracting with technical assistance providers; contracting with engineering firms directly to help develop projects; retaining certified public accountants or financial institutions to help recipients

⁴⁰ Consistent with the definition of *Nonprofit organization* at 2 CFR § 200.1, the term nonprofit organization means any corporation, trust, association, cooperative, or other organization that is operated mainly for scientific, educational, service, charitable, or similar purpose in the public interest and is not organized primarily for profit; and uses net proceeds to maintain, improve, or expand the operation of the organization. The term includes nonprofit colleges, universities, other educational institutions and tax-exempt nonprofit neighborhood and labor organizations. Nonprofit organizations that are not exempt from taxation under section 501 of the Internal Revenue Code must submit other forms of documentation of nonprofit status; such as certificates of incorporation as nonprofit under state or tribal law. Nonprofit organizations exempt from taxation under section 501(c)(4) of the Internal Revenue Code that lobby are not eligible for EPA funding as provided in the Lobbying Disclosure Act, 2 U.S.C. 1611.

complete the financial portions of SRF application packages; and retaining entities to complete Davis-Bacon related acts and/or AIS/BABAA compliance for recipients.

The maximum amount of CWSRF money that may be used to provide technical assistance consistent with section 603(k) of the CWA is an amount equal to 2% of all grant awards received by a state CWSRF after November 15, 2021. If a state does not utilize the full amount of the technical assistance funds allowed under a capitalization grant, they may reserve the right to utilize the unused portion at a later date.

States must include in the Intended Use Plan the amount of the technical assistance funds they plan to use as well as a description of the activities they plan to fund. In the Annual Report and the SRF Reporting System, states must provide a detailed accounting of the use of the funds.

BIL §50210(b): Capitalization Grant Reauthorization

Section 607

As amended, CWA section 607 now states:

SEC. 607. AUTHORIZATION OF APPROPRIATIONS.—

There is authorized to be appropriated to carry out the purposes of this title ~~the following sums:~~

- ~~(1) \$1,200,000,000 per fiscal year for each of fiscal year 1989 and 1990;~~
- ~~(2) \$2,400,000,000 for fiscal year 1991;~~
- ~~(3) \$1,800,000,000 for fiscal year 1992;~~
- ~~(4) \$1,200,000,000 for fiscal year 1993; and~~
- ~~(5) \$600,000,000 for fiscal year 1994.~~
- (1) \$2,400,000,000 for fiscal year 2022;
- (2) \$2,750,000,000 for fiscal year 2023;
- (3) \$3,000,000,000 for fiscal year 2024; and
- (4) \$3,250,000,000 for each of fiscal years 2025 and 2026.

Explanation: This section reauthorizes the CWSRF from federal fiscal years 2022 through 2026. The funding levels will be set through the annual appropriations process.

BIL §50220: Clean Watersheds Needs Survey

As amended, the CWA now includes section 609, which states:

SEC. 609. CLEAN WATERSHEDS NEEDS SURVEY.

(a) Requirement.--Not later than 2 years after the date of enactment of this section, and not less frequently than once every 4 years thereafter, the Administrator shall---

(1) conduct and complete an assessment of capital improvement needs for all projects that are eligible under section 603(c) for assistance from State water pollution control revolving funds; and

(2) submit to Congress a report describing the results of the assessment completed under paragraph (1).

(b) Authorization of Appropriations.--There is authorized to be appropriated to carry out the initial needs survey under subsection (a) \$5,000,000, to remain available until expended.

Explanation: This section expands the Clean Watersheds Needs Survey to include all capital projects eligible for CWSRF funding under CWA section 603(c). It also authorizes \$5 million for implementing the Clean Watershed Needs Survey.

Other BIL sections involving the CWSRF

BIL §50216: Small and Disadvantaged Community Analysis

This section is part of BIL and relates to the CWSRF but is not a new section of the CWA.

(a) ANALYSIS.—*Not later than 2 years after the date of enactment of this Act, using environmental justice data of the Environmental Protection Agency, including data from the environmental justice mapping and screening tool of the Environmental Protection Agency, the Administrator shall carry out an analysis under which the Administrator shall assess the programs under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) and section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12) to identify historical distributions of funds to small and disadvantaged communities and new opportunities and methods to improve on the distribution of funds under those programs to low income communities, rural communities, minority communities, and communities of indigenous peoples, in accordance with Executive Order 12898 (42 U.S.C. 4321 note; 60 Fed. Reg. 6381; relating to Federal actions to address environmental justice in minority populations and low-income populations).*

(b) REQUIREMENT.—*The analysis under subsection (a) shall include an analysis, to the extent practicable, of communities in the United States that do not have access to drinking water or wastewater services.*

(c) REPORT.—*On completion of the analysis under subsection (a), the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committees on Energy and Commerce and Transportation and Infrastructure of the House of Representatives a report describing—*

- (1) the results of the analysis; and*
- (2) the criteria the Administrator used in carrying out the analysis.*

Explanation: This section directs EPA to conduct an analysis of fund distributions to small and disadvantaged communities by November 15, 2023.

BIL §70901: Build America, Buy America Act

Title IX of BIL creates the Build America, Buy America (BABA) Act domestic sourcing requirements for Federal financial assistance programs for infrastructure, including the SRF programs. See Title IX language beginning on page 866 of [the BIL](#). For more specific information on BABA implementation, please refer to the upcoming Office of Management and Budget’s Build America, Buy America Act Implementation Guidance. EPA will issue a separate memorandum for BABA after OMB publishes its guidance.

EPA General Provisions Section 614: CWSRF Additional Authorization

This section is part of the EPA General Provisions in BIL:

SEC. 614. (b) Clean Water.—*There is authorized to be appropriated to carry out the purposes of title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.), in addition to amounts otherwise authorized to be appropriated for those purposes, an additional \$1,639,000,000 for each of fiscal years 2022 through 2026.*

Explanation: This section authorizes additional appropriations from federal fiscal years 2022 through 2026. The funding levels will be set by through the annual appropriations process.

Attachment 3: Implementation of DWSRF-Related Amendments in the Bipartisan Infrastructure Law

On November 15, 2021, President Biden signed the Bipartisan Infrastructure Law (BIL) into law. Among its provisions are amendments to the Safe Drinking Water Act §1452 (42 U.S.C. 300j-12) that make changes to the base DWSRF program. This document summarizes the key changes and provides the relevant legislative text. These changes apply to all capitalization grants awarded after November 15, 2021.

Summary of Changes to Base DWSRF

- **Reauthorization of DWSRF:** The BIL reauthorized the DWSRF from federal fiscal years 2022 through 2026. The funding levels will be set through the annual appropriations process. Authorized levels are provided in the table below.

FY22	FY23	FY24	FY25	FY26
\$2.4B	\$2.75B	\$3.0B	\$3.25B	\$3.25B

- **Additional Authorization:** The BIL authorizes additional appropriations of \$1,126,000,000 for each fiscal year 2022 through 2026 for the DWSRF. The funding levels will be set through the annual appropriations process.
- **Assistance for Disadvantaged Communities:** The BIL amended requirements related to additional subsidy assistance for disadvantaged communities. States are required to use at least 12% (an increase from 6%), but no more than 35%, of the capitalization grant amount for additional subsidy for state-defined Disadvantaged Communities. The BIL also expands the eligible uses of additional subsidy to include:
 - grants;
 - buying, refinancing, or restructuring debt; and
 - other loan forgiveness.
- **Technical Assistance Set-Aside:** The EPA Administrator is authorized to take a portion of DWSRF appropriations for the small system technical assistance national set-aside. The authorized set side is up to 2% and is taken prior to the calculation of the state allotments. This authorization lasts through federal fiscal year 2026. This authorization has existed since the 1996 SDWA Amendments.
- **Analysis of Fund Distribution to Disadvantaged Communities:** The BIL directs EPA to conduct an analysis of fund distributions to small and disadvantaged communities by November 15, 2023. EPA Headquarters and Regions will work collaboratively with states in this analysis.
- **Build America, Buy America:** The BIL established the Build America, Buy America (BABA) Act domestic sourcing requirements for federal financial assistance programs for infrastructure, including the SRF programs. EPA water infrastructure programs must comply with the BABA provision. EPA will be issuing BABA guidance for all water infrastructure programs upon publication of Office of Management and Budget agency-wide guidance.

- **American Iron and Steel (AIS):** AIS is now permanent for all DWSRF-funded projects.

Amended Legislative Text and Explanation

Text in *italics* is new and text in ~~strikethrough~~ was deleted.

BIL §50102(a): American Iron and Steel Requirement

As amended, the SDWA §1452(a)(4)(A) now states:

(4) American iron and steel products

(A) In general

~~During fiscal years 2019 through 2023, funds~~ *Funds* made available from a State loan fund established pursuant to this section may not be used for a project for the construction, alteration, or repair of a public water system unless all of the iron and steel products used in the project are produced in the United States.

Explanation: This section makes the American Iron and Steel (AIS) provision permanent for DWSRF-funded projects.

BIL §50102(a): Authorization of Appropriations

As amended, the SDWA §1452(m) now states:

(m) Authorization of appropriations

(1) There are authorized to be appropriated to carry out the purposes of this section, except for subsections (a)(2)(G) and (t)-

(A) \$1,174,000,000 for fiscal year 2019;

(B) \$1,300,000,000 for fiscal year 2020; ~~and~~

(C) \$1,950,000,000 for fiscal year 2021-; *and*

(D) \$2,400,000,000 for fiscal year 2022;

(E) \$2,750,000,000 for fiscal year 2023;

(F) \$3,000,000,000 for fiscal year 2024; *and*

(G) \$3,250,000,000 for each of fiscal years 2025 and 2026.

(2) To the extent amounts authorized to be appropriated under this subsection in any fiscal year are not appropriated in that fiscal year, such amounts are authorized to be appropriated in a subsequent fiscal year. Such sums shall remain available until expended.

Explanation: This section reauthorizes the DWSRF from federal fiscal years 2022 through 2026. The funding levels will be set through the annual appropriations process.

BIL §50102(a): Authorization of Small System Technical Assistance Set-aside

As amended, the SDWA §1452(q) now states:

(q) Small system technical assistance

The Administrator may reserve up to 2 percent of the total funds made available to carry out this section for each of fiscal years ~~2016 through 2021~~ *2022 through 2026* to carry out the provisions of section 300j-1(e) of this title (relating to technical assistance for small systems), except that the total amount of funds made available for such purpose in any fiscal year through

appropriations (as authorized by section 300j–1(e) of this title) and reservations made pursuant to this subsection shall not exceed the amount authorized by section 300j–1(e) of this title.

Explanation: This section reauthorizes the EPA Administrator to take up to 2% of the Congressional DWSRF appropriation, prior to the calculation of the state allotments, for the small system technical assistance national set-aside. This authorization lasts through federal fiscal year 2026. This authorization has existed since the 1996 SDWA Amendments.

BIL §50102(b): Assistance for Disadvantaged Communities

As amended, the SDWA §1452(d) now states:

(d) Assistance for disadvantaged communities

(1) Loan subsidy

~~Notwithstanding any~~ (A) *IN GENERAL.*—*Notwithstanding any other provision of this section, in any case in which the State makes a loan pursuant to subsection (a)(2) to a disadvantaged community or to a community that the State expects to become a disadvantaged community as the result of a proposed project, the State may provide additional subsidization (including forgiveness of principal), grants, negative interest loans, other loan forgiveness, and through buying, refinancing, or restructuring debt).*

(B) *EXCLUSION.*—*A loan from a State loan fund with an interest rate equal to or greater than 0 percent shall not be considered additional subsidization for purposes of this subsection.*

(2) Total amount of subsidies

For each fiscal year, of the amount of the capitalization grant received by the State for the year, the total amount of loan subsidies made by a State pursuant to paragraph (1)-

(A) may not exceed 35 percent; and

~~(B) to the extent that there are sufficient applications for loans to communities described in paragraph (1), may not be less than 6 percent.~~

(B) *to the extent that there are sufficient applications for loans to communities described in paragraph (1), may not be less than 12 percent.*

(3) "Disadvantaged community" defined

In this subsection, the term "disadvantaged community" means 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. The Administrator may publish information to assist States in establishing affordability criteria.

Explanation: This section requires states to use at least 12%, but no more than 35%, of the capitalization grant amount for additional subsidy for state-defined Disadvantaged Communities. Before BIL, the floor was 6%. This requirement pertains to capitalization grants awarded by EPA to states after November 15, 2021. For most states, this is the Federal Fiscal Year 2022 capitalization grant. Note that the Disadvantaged Community Additional Subsidy authority is distinct from the additional subsidy authority Congress provided under recent appropriations acts.

States must continue to implement a Disadvantaged Community Program and solicit applications from water systems. EPA encourages states to maximize the use of this authority to help address affordability of drinking water in disadvantaged communities.

This section also expands the eligible types of Disadvantaged Community Additional Subsidy that states may offer to assistance recipients. Prior to the passage of BIL, SDWA authorized additional subsidies exclusively in the form of a *loan* (e.g., loans which include principal forgiveness and/or a negative interest rate).

States may now offer additional subsidization under this authority to assistance recipients in the form of grants. States should be aware that “grant” recipients are legally considered “subrecipients” for the purposes of OMB’s grant regulations at 2 CFR Part 200 *et. seq.* In other words, assistance recipients receiving additional subsidy in the form of a grant are subject to additional cross-cutting federal requirements not applicable to those receiving other forms of additional subsidy, including a *loan* with principal forgiveness or a negative interest rate. EPA’s [subaward policy](#) establishes the requirements and procedures for Grants Management Offices and Program Offices in making determinations regarding subrecipient eligibility, overseeing pass-through entity monitoring and management of subawards, and authorizing fixed amount subawards under 2 CFR 200.331, 200.332, and 200.333 (“the applicable regulations”).

BIL also adds “other loan forgiveness” and “buying, refinancing, or restructuring of debt” as additional subsidization options for states to consider offering to assistance recipients. States may only purchase, refinance, or restructure debt and provide “other loan forgiveness” for projects that were DWSRF-eligible and met DWSRF requirements. It is not necessary for the debt to have originated with the state’s DWSRF program. Like all DWSRF projects, these assistance agreements must be scored and ranked amongst all other projects and have met all DWSRF requirements.

BIL codifies that a loan with a 0% or higher interest rate is not considered to be additional subsidy. In other words, the monetary savings to an assistance recipient for a loan with, for example, a 2% interest rate versus a 4% interest rate is not considered additional subsidization. This affirms what is written in the current DWSRF regulations.⁴¹

As a reminder, fees included as principal in a loan cannot be assessed on a disadvantaged community receiving additional subsidy under the Disadvantaged Community Additional Subsidy authority.⁴²

EPA Regions must verify whether a state satisfies the mandate to use between 12% and 35% of the capitalization grant amount for the Disadvantaged Community Additional Subsidy at the time of grant application and during reviews.

Other BIL Sections Involving the DWSRF

BIL §50216: Small and Disadvantaged Community Analysis

This section is part of BIL and relates to the DWSRF but is not a new section of SDWA.

(a) ANALYSIS.—Not later than 2 years after the date of enactment of this Act, using environmental justice data of the Environmental Protection Agency, including data from the environmental justice mapping and screening tool of the Environmental Protection Agency, the Administrator shall carry out an analysis under which the Administrator shall assess the programs under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) and section 1452 of the Safe Drinking Water Act (42

⁴¹ 40 CFR §35.3525(b)

⁴² 40 CFR §35.3530(b)(3)

U.S.C. 300j–12) to identify historical distributions of funds to small and disadvantaged communities and new opportunities and methods to improve on the distribution of funds under those programs to low income communities, rural communities, minority communities, and communities of indigenous peoples, in accordance with Executive Order 12898 (42 U.S.C. 4321 note; 60 Fed. Reg. 6381; relating to Federal actions to address environmental justice in minority populations and low-income populations).

(b) REQUIREMENT.—The analysis under subsection (a) shall include an analysis, to the extent practicable, of communities in the United States that do not have access to drinking water or wastewater services.

(c) REPORT.—On completion of the analysis under subsection (a), the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committees on Energy and Commerce and Transportation and Infrastructure of the House of Representatives a report describing—

(1) the results of the analysis; and

(2) the criteria the Administrator used in carrying out the analysis.

Explanation: This section directs EPA to conduct an analysis of fund distributions to small and disadvantaged communities by November 15, 2023.

EPA General Provisions Section 614: DWSRF Additional Authorization

This section is part of the EPA General Provisions in BIL:

SEC. 614. (a) DRINKING WATER.—There is authorized to be appropriated to carry out the purposes of section 1452 of the Safe Drinking Water Act (42 U.S.C.300j–12), in addition to amounts otherwise authorized to be appropriated for those purposes, an additional \$1,126,000,000 for each of fiscal years 2022 through 2026.

Explanation: This section authorizes additional appropriations from federal fiscal years 2022 through 2026. The funding levels will be set through the annual appropriations process.

BIL §70901: Build America, Buy America Act

Title IX of BIL creates the Build America, Buy America (BABA) Act domestic sourcing requirements for Federal financial assistance programs for infrastructure, including the SRF programs. See Title IX language beginning on page 866 of [the BIL](#). For more specific information on BABA implementation, please refer to the upcoming Office of Management and Budget’s Build America, Buy America Act Implementation Guidance. EPA will issue a separate memorandum for BABA after OMB publishes its guidance.



Fort Bragg WTP Rehabilitation Project

California

Engineer

HDR

Representative

Dwight Craig
MISCOwater
Pleasanton, California
(925) 225-1900
dcraig@miscowater.com

Contact

Matt Swaney
mswaney@westech-inc.com

Miles Snyder
msnyder@westech-inc.com



Proposal Number: 1630021
Friday, January 12, 2024



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Technical Proposal

The following rehab/upgrade components are being proposed for the existing Trident units at Fort Bragg, CA. The existing design criteria is based on available project information, the current configuration of the units is as follows:

Existing Design Configuration	
Installation Year	1986 (Project No. 506148)
Model	TR-420 "S"
Number of Units	2
Tank Material	Carbon Steel
Tank Dimension	27'-3" L x 9'-10 5/8" W x 10'-1" H
Adsorption Clarifier® Area	77.1 ft ² per unit
AC Media	4 ft, Buoyant Media
Filter Area	154 ft ² per unit
Filter Underdrain	Header-Lateral Distribution
Filter Media	Mixed Media with Gravel Support
Backwash Method	Water Only – Surface Wash
Valves	Pneumatic Actuators
Influent Flow Control	Flow Meter and Modulating Influent Valve
Effluent Flow Control	Ultrasonic Filter Level
Blower	Regenerative, 300 scfm capacity, 15 HP

Reference Engineer's Specification
 Section: 46 07 13 Filter Treatment Units Retrofit
 Addendum: None

Item A – Two (2) Lots of Rehab/Upgrade Components for Existing Trident Units

Adsorption Clarifier Scope of Supply		
Feature	Quantity	Notes
Adsorption Clarifier	308.4 ft ³ /unit	Media depth is 4 ft. Adsorption Clarifier media is 50/50 R&S Media & NSF Std. 61 approved.
Clarifier Media Retention	77.1 ft ² /unit	Stainless steel screen mesh under aluminum grating
Inlet Distribution	1 Lot/unit	PVC header-lateral pipe system with supports
Air Distribution	1 Lot/unit	PVC header-lateral pipe system with supports
Air Tank Connection	1/unit	4 in tank connection with flanged ends

Note

- Components unless otherwise noted are shipped loose for installation by others.
- Air tank connection requires field welding by installing contractor.

Filter Scope of Supply		
Feature	Quantity	Notes
MULTIBLOCK® Underdrain	154 ft ² /unit	Dual lateral blocks, 11 in wide x 12 in high x 36 in long designed to interlock with each other to form the overall lateral length. The underdrain system shall include a factory installed media-retaining Laser Shield™ plate constructed of 304 stainless steel.
Air/Water Distribution	1 Lot/unit	304 stainless steel plenum with air and water connections
Effluent/Backwash Supply Pipe	1/unit	304 stainless steel construction, connecting the internal underdrain plenum to the tank wall.
Air Supply Pipe	1/unit	304 stainless steel construction, connecting the internal underdrain plenum to the tank wall.
Tank Stiffeners	1 Lot/unit	External vertical and horizontal stiffeners shipped as bare carbon steel bar stock for field cutting and welding into place by installing contractor.
Air Tank Connection	1/unit	6 in tank connection with flanged ends, requires field welding by installing contractor.

Note

- Concrete fill of 6.9 yd³/unit is required to be placed in the bottom of filter section for support of MULTIBLOCK laterals. Concrete fill and grout *not* by WesTech.
- Underdrain plenums, tank stiffeners and air tank connections requires field welding by installing contractor.
- All required hardware is supplied by WesTech for assembly of the tank internals at the jobsite by the contractor.
- Components unless otherwise noted are shipped loose for installation by others.

Filter Media Scope of Supply

Type	Quantity	Depth	Effective Size	U.C.	Packaging
Anthracite	468 ft ³	18 in	1.0-1.1 mm	≤1.7	Bagged and palletized
Silica Sand	244 ft ³	9 in	0.35-0.45 mm	≤1.4	Bagged and palletized
Garnet	82 ft ³	3 in	0.2-0.32 mm	≤1.7	Bagged and palletized

Note

- Media quantities shown above is the total quantity needed for installation in both units and includes sufficient volume for skimming.
- Media is shipped loose for installation by others.

Trident Control Panel Components Scope of Supply

Feature	Description	Notes
Control Panel Door	NEMA 12	Coated Steel
Sub-Panel	NEMA 12	Coated Steel
PLC	Allen Bradley CompactLogix	Included
RTB	Allen Bradley	1756 model
I/O Cards	Allen Bradley – Analog and Discrete	1756 model input and output cards
I/O Rack	Allen Bradley	1756 model
Communication Module	Allen Bradley	Communication protocol via Ethernet/IP
Memory Card	Allen Bradley	
Power Supply	Allen Bradley	
Selector Switches		Valves, Blowers, Pumps
Potentiometers & Relays		For modulating valve controls
Air Conditioner		Includes exhaust fan and thermostat
Programming		Programming modifications

Note

- Filter control panel components are shipped loose for field installation into existing panel by others.
- Field terminations within the Trident control panel are to be performed by others.

Raw Water Transfer Pump Panel Scope of Supply

Feature	Description	Notes
Enclosure	NEMA 12 – Coated Steel	Wall Mounted
Pump VFD	Allen Bradley	Included
Selector Switches		Valve and Pump
Terminal Strips		Included as Needed
Circuit Breaker		External Handle on Enclosure

Note

- Raw water transfer pump panel is shipped loose for field installation by others.
- Field terminations within the panel are to be performed by others.

Valves Scope of Supply

Item	Quantity	Size	Type	Operator Type
Effluent (LCV101, LCV201)	2	8 in	Butterfly	Electro-pneumatic – Modulating
Filter to Waste (LCV108, LCV208)	2	8 in	Butterfly	Electro-pneumatic – Modulating
AC Air Scour (V103, V203)	2	4 in	Butterfly	Pneumatic – Open/Close
Filter Air Scour (V105, V205)	2	6 in	Butterfly	Pneumatic – Open/Close
Backwash Inlet (V102, V202)	2	12 in	Butterfly	Pneumatic – Open/Close
Backwash High Rate (V009)	1	12 in	Butterfly	Pneumatic – Open/Close
Backwash Low-Rate Set	1	4 in	Butterfly	Manual – Handwheel
Backwash High-Rate Set	1	12 in	Butterfly	Manual – Handwheel
AC Air Check	2	4 in	Check	None
Filter Air Check	2	6 in	Check	None

Note

- All butterfly valves are Bray wafer style with cast iron body, nylon coated disc, EPDM seat and shaft seal.
- Automatic butterfly valves have Bray pneumatic cylinder actuators with solenoids locally mounted.
- Valves are shipped loose for installation by others.

Instrumentation Scope of Supply

Description	Quantity	Type	Signal	Notes
Treated Water Meter (FE/FIT-602)	1	Magnetic Flow	4–20 mA	Endress+Hauser
Backwash Supply Meter (FE/FIT-402)	1	Magnetic Flow	4–20 mA	Endress+Hauser
Treated Water Meter (FE/FIT-603)	1	Propeller Meter	4–20 mA	McCrometer
Backwash Control Level Switches (LSL 101, 201 & LSH 101, 201)	4	Float	On/Off	One low and one high
Clarifier Pressure Switch Assembly (PSH 104, 204)	2	2 ½ in, 0–5 psi with two pressure switches per assembly	Discrete	Ashcroft
Air Scour Blower Pressure Switch (PSH 001)	1	4 ½ in, 0–10 psi	Discrete	Ashcroft

Note

- Components are shipped loose for installation by others.
- Electrical wiring, conduit, and connection of electrical wiring to terminals within the Trident control panel is not provided by WesTech and is to be furnished and installed by others.

Air Scour Blower Scope of Supply

Quantity	Volume	Pressure	Type	Motor
2	350 scfm (each)	4.1 psi	Regenerative	15 hp, 460 V, 60 Hz, 3 ph, TEFC
Features				
Two local control panels in NEMA 12 enclosure with VFD, disconnect switch, and circuit breaker				
Sound enclosure with cooling fans				
Air intake filter with dirty filter indicator				
Spring loaded pressure safety relief valve				
Check valve				
Pressure indicator				
Aluminum housing with common steel baseplate				

Note

- Blower manufactured by FPZ.
- Pressure gauge and switch to be placed in main air supply line for installation by others.
- Components are shipped loose for installation by others.
- Motor starters (if required), electrical wiring, conduit, and connection of electrical wiring to terminals within the Trident control panel is not provided by WesTech and is to be furnished and installed by others.

WesTech Trips to the Site

Trips	Days	Includes
8	24	Installation inspection of major Trident components, observation of filter media installation, startup, and instruction of plant personnel
1	5	On-site supervision for Unit #1 functional testing, 120 hour duration
1	2	On-site supervision for Unit #2 functional testing, 72 hour duration
2	6	Controls and SCADA integration and troubleshooting

Note: Any Item Not Listed Above to Be Furnished by Others.

Clarifications and Exceptions

General Clarifications

Terms & Conditions: This proposal, including all terms and conditions contained herein, shall become part of any resulting contract or purchase order. Changes to any terms and conditions, including but not limited to submittal and shipment days, payment terms, and escalation clause shall be negotiated at order placement, otherwise the proposal terms and conditions contained herein shall apply.

Paint: If your equipment has paint included in the price, please take note to the following. Primer paints are designed to provide only a minimal protection from the time of application (usually for a period not to exceed 30 days). Therefore, it is imperative that the finish coat be applied within 30 days of shipment on all shop primed surfaces. Without the protection of the final coatings, primer degradation may occur after this period, which in turn may require renewed surface preparation and coating. If it is impractical or impossible to coat primed surfaces within the suggested time frame, WesTech strongly recommends the supply of bare metal, with surface preparation and coating performed in the field. All field surface preparation, field paint, touch-up, and repair to shop painted surfaces are not by WesTech.

Escalation: If between the proposal date and actual procurement and through no fault of the Seller, the relevant cost of labor, material, freight, tariffs, and other Seller costs combined relating to the contract, increase by greater than 2.5% of the overall contract price, then the contract price shall be subject to escalation and increased. Such increase shall be verified by documentation and the amount of contract price escalation shall be calculated as either the actual increased cost to the Seller or, if agreed by the Parties, the equivalent increase of a relevant industry recognized third-party index, and in both cases without any additional profit or margin being added.

USA Tariffs and Current Trade Laws: All prices are based on current USA and North America tariffs and trade laws/agreements at time of bid. Any changes in costs due to USA Tariffs and trade laws/agreements will be passed through to the purchaser at cost.

The Infrastructure Investment and Jobs Act of 2021 (IIJA) includes potentially significant changes to historical “Buy American” or “American Iron and Steel” (AIS) requirements for federally funded projects, including water-related infrastructure projects as administered by the Environmental Protection Agency (EPA). The IIJA was signed into law on Nov 15, 2021. However the EPA has yet to issue additional information and guidance clarifying the application and interpretation of these changes. Although WesTech makes every effort to source the steel for our equipment and products domestically, not everything is reasonably or commercially available to meet all project specific constraints. Consequently, any proposal or offer for sale by WesTech, including any resulting equipment order, does not guarantee compliance with the Buy American provisions of the Infrastructure Investment and Jobs Act of 2021 at this time.

Trident Clarifications

- The proposed components are for installation into two existing Trident TR-420 “S” units.
- All tank modifications, including sandblasting and painting, required to perform the proposed work on the Trident units is not by WesTech and to be completed by the installing contractor.
- The proposed field service installation supervision by WesTech is based on one Trident unit being rehabilitated at a time.

- WesTech will not be responsible for operating the plant at any time during start-up or the functional testing periods. During the functional testing period, a field service technician will be on-site during normal day hours and available via phone after normal day hours.
- The proposed Adsorption Clarifier air distribution assembly will require a new tank connection for the air supply be installed into the tank wall. This may require the removal of the existing external plenum box.
- The MULTIBLOCK underdrain allows for air scour as part of the filter backwash process. Therefore, the existing surface wash assemblies are not required and should be removed.
- For the control panel components, the existing control panel enclosure will be reused. The internal components will be upgraded and a new door installed to incorporate the manual control switches. The existing OIT/HMI will be reused and installed into the new door.
- The top of the filter media bed shall consist of material at a maximum of 1.1 mm particle size, not 1.2 mm as specified.
- A 50 percent duty cycle is recommended for the compressed air system.
- Availability of equipment components specified may dictate substitutions of equal quality at the discretion of WesTech.
- All hardware is crated and shipped to the jobsite for assembly by the contractor.

Items Not Furnished by WesTech

- Unloading of equipment from delivering carrier, protected storage of equipment, installation, supervision of installation.
- All underground and interconnecting piping, filter face piping and fittings, pipe supports, wall inserts or sleeves, Dresser or flexible couplings, hangers, valves (not specifically listed), pneumatic tubing from air compressor to filter batteries, air release piping and valves, sampling lines and sinks, small pressure water supply piping, field work of piping (i.e., drilling and tapping for instrumentation) and flow meters (not specifically listed).
- Interconnection wiring and conduit.
- Walkways, handrails, stairways and ladders.
- Finish paint and intermediate field coats, cathodic protection systems.
- All chemical feeders (not specifically listed), feed lines, chemicals, tanks (not specifically listed), labor and procedures for the disinfection of equipment, laboratory test equipment.
- Structural design, supply and installation of concrete pads, foundations, rebar, anchors, concrete, grout, sealant, sumps and concrete fill for filter underdrains.
- Motor control center, motor starters, disconnects, electrical wiring and conduit, connection of electrical wiring to terminals within WesTech's control panels, telemetering equipment, turbidity monitoring equipment (not specifically listed), supports for controls.
- SCADA System
- All pumps (not specifically listed), air compressors, dryers, operating and start-up lubricants.
- Any equipment or service not listed in this proposal.

Exceptions

WesTech is taking exception to Section 40 05 51 – Valve Basic Requirements. This section states valve actuators shall be electric. WesTech is providing pneumatic actuators as previously proposed and agreed upon for supply of replacing the existing Trident function valves listed in this proposal.

WesTech is taking exception to Section 40 05 64 – Butterfly Valves. WesTech is providing Bray wafer butterfly valves as previously proposed and agreed upon for supply of replacing the existing Trident function valves listed in this proposal.

Commercial Proposal

Proposal Name: Fort Bragg WTP Rehabilitation Project

Proposal Number: 1630021

Friday, January 12, 2024

1. Bidder's Contact Information

Company Name	WesTech Engineering, LLC
Primary Contact Name	Matt Swaney
Phone	(801) 265-1000
Email	mswaney@westech-inc.com
Address: Number/Street	3665 S West Temple
Address: City, State, Zip	Salt Lake City, UT 84115

2. Firm Pricing

Currency: USD

Scope of Supply

A	Two (2) Lots of Rehab/Upgrade Components for Existing Trident Units	\$895,500.00
	Taxes (sales, use, VAT, IVA, IGV, duties, import fees, etc.)	Not Included

Prices are valid for a period not to exceed 60 days from date of proposal.

Additional Field Service

	Daily Rate (Applicable Only to Field Service Not Included in Scope)	\$1,350
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Pricing does not include field service unless noted in scope of supply, but is available at the daily rate plus expenses. The greater of a two week notice or visa procurement time is required prior to departure date. Our field service policy can be provided upon request for more details.

3. Payment Terms

Purchase Order Acceptance and Contract Execution	10%
Submittals Provided by WesTech	15%
Release for Fabrication	35%
Notification of Ready to Ship	40%

All payments are net 30 days. Partial shipments are allowed. An approved Letter of Credit is required if Incoterms CIF, CFR, DAP, CIP, or CPT are applicable. Payment is required in full for all other Incoterms prior to international shipment. Other terms per WesTech proforma invoice. Please note that the advising bank must be named as: Wells Fargo Bank, International Department, 9000 Flair Drive, 3rd Floor, El Monte, California 91731, USA.

4. Schedule

Submittals, after Purchase Order Acceptance and Contract Execution	10 to 12 weeks
Ready to Ship, after Receipt of Final Submittal Approval	22 to 24 weeks
Estimated Weeks to Ready to Ship	32 to 36 weeks*

*Customer submittal approval is typically required to proceed with equipment fabrication and is not accounted for in the schedule above. Project schedule will be extended to account for time associated with receipt of customer submittal approval.

5. Freight

Domestic	FOB Shipping Point - Full Freight Allowed to Jobsite (FSP-FFA)	
From	Final Destination	Number of Trucks or Containers
WesTech Shops	Fort Bragg, CA	TBD

Two Year Warranty

WesTech is meeting a global need for clean water through technology treatment solutions. We are proud that the equipment and systems we design, build, maintain, and operate are making the world a better place and creating a more sustainable environment for future generations.

Equipment manufactured or sold by WesTech Engineering, LLC, once paid for in full, is backed by the following warranty:

Subject to the terms below, WesTech warrants all new equipment manufactured or sold by WesTech Engineering, LLC to be unencumbered and free from defects in material and workmanship, and WesTech will replace or repair, F.O.B. its factories or other location it chooses, any part or parts returned to WesTech which WesTech's examination and analysis determine have failed within the warranty period because of defects in material and workmanship. The warranty period is either, two (2) calendar years immediately following start-up, or thirty (30) months from when WesTech sent its ready-to-ship notification to the purchaser, whichever expires sooner. All repair or replacement parts qualifying under this warranty shall be free of charge. Purchaser will provide timely written notice to WesTech of any defects it believes should be repaired or replaced under this warranty. WesTech will reject as untimely any warranty defect claim that purchaser submits more than thirty (30) days after the possible warranty defect first occurred. Unless specifically stated otherwise, this warranty does not cover normal wear, consumables or coatings. Purchasers are invited to inspect the equipment in the shop for proper surface preparation and coating application prior to shipment. This warranty is not transferable.

This warranty shall be void and shall not apply where the equipment or any part thereof

- a) has been dismantled, modified, repaired or connected to other equipment, outside of a WesTech factory, or without WesTech's written approval, or
- b) has not been installed in complete adherence to all WesTech's or parts manufacturer's requirements, recommendations, and procedures, or
- c) has been subject to misuse, abuse, neglect, or accident, or has not at all times been operated and maintained in strict compliance with all of WesTech's requirements and recommendations therefor, including, but not limited to, the relevant WesTech Operations & Maintenance Manual and any other of WesTech's specified guidelines & procedures, or
- d) has been subject to force majeure events; use of chemicals not approved in writing by WesTech; electrical surges; overloading; significant power, water or feed supply fluctuations; or non-compliance with agreed feedwater or chemical volumes, specifications or procedures.

In any case where a part or component of equipment under this warranty is or may be faulty and the component or part is also covered under the warranty of a third party then the purchaser shall provide reasonable assistance to first pursue a claim under the third party warranty before making a claim under this warranty from WesTech. WesTech Engineering, LLC gives no warranty with respect to parts, accessories, or components purchased other than through WesTech. The warranties which apply to such items are those offered by the respective manufacturers.

This warranty is expressly given by WesTech and accepted by purchaser in lieu of all other warranties whether written, oral, express, implied, statutory or otherwise, including without limitation, warranties of merchantability and fitness for particular purpose. WesTech neither accepts nor authorizes any other person to assume for it any other liability with respect to its equipment. WesTech shall not be liable for normal wear and tear, corrosion, or any contingent, incidental, or consequential damage or expense due to partial or complete inoperability of its equipment for any reason whatsoever. The purchaser's exclusive and only remedy for breach of this warranty shall be the repair and or replacement of the defective part or parts within a reasonable time of WesTech's accepting the validity of a warranty claim made by the purchaser.

Terms & Conditions

Terms and Conditions appearing in any order based on this proposal which are inconsistent herewith shall not be binding on WesTech Engineering, LLC. The sale and purchase of equipment described herein shall be governed exclusively by the foregoing proposal and the following provisions:

1. SPECIFICATIONS: WesTech Engineering, LLC is furnishing its standard equipment as outlined in the proposal and as will be covered by final approved drawings. The equipment may not be in strict compliance with the Engineer's/Owner's plans, specifications, or addenda as there may be deviations. The equipment will, however, meet the general intention of the mechanical specifications of these documents.

2. ITEMS INCLUDED: This proposal includes only the equipment specified herein and does not include erection, installation, accessories, nor associated materials such as controls, piping, etc., unless specifically listed.

3. PARTIES TO CONTRACT: WesTech Engineering, LLC is not a party to or bound by the terms of any contract between WesTech Engineering, LLC's customer and any other party. WesTech Engineering, LLC's undertakings are limited to those defined in the contract between WesTech Engineering, LLC and its direct customers.

4. PRICE AND DELIVERY: All selling prices quoted are subject to change without notice after 30 days from the date of this proposal unless specified otherwise. Unless otherwise stated, all prices are F.O.B. WesTech Engineering, LLC or its supplier's shipping points. All claims for damage, delay or shortage arising from such equipment shall be made by Purchaser directly against the carrier. When shipments are quoted F.O.B. job site or other designation, Purchaser shall inspect the equipment shipped, notifying WesTech Engineering, LLC of any damage or shortage within forty-eight hours of receipt, and failure to so notify WesTech Engineering, LLC shall constitute acceptance by Purchaser, relieving WesTech Engineering, LLC of any liability for shipping damages or shortages.

5. PAYMENTS: All invoices are net 30 days. Delinquencies are subject to a 1.5 percent service charge per month or the maximum permitted by law, whichever is less on all past due accounts. Pro rata payments are due as shipments are made. If shipments are delayed by the Purchaser, invoices shall be sent on the date when WesTech Engineering, LLC is prepared to make shipment and payment shall become due under standard invoicing terms. If the work to be performed hereunder is delayed by the Purchaser, payments shall be based on the purchase price and percentage of completion. Products held for the Purchaser shall be at the risk and expense of the Purchaser. Unless specifically stated otherwise, prices quoted are for equipment only. These terms are independent of and not contingent upon the time and manner in which the Purchaser receives payment from the owner.

6. PAYMENT TERMS: Credit is subject to acceptance by WesTech Engineering, LLC's Credit Department. If the financial condition of the Purchaser at any time is such as to give WesTech Engineering, LLC, in its judgment, doubt concerning the Purchaser's ability to pay, WesTech Engineering, LLC may require full or partial payment in advance or may suspend any further deliveries or continuance of the work to be performed by the WesTech Engineering, LLC until such payment has been received.

7. ESCALATION: If between the proposal date and actual procurement and through no fault of the Seller, the relevant cost of labor, material, freight, tariffs, and other Seller costs combined relating to the contract, increase by greater than 2.5% of the overall contract price, then the contract price shall be subject to escalation and increased. Such increase shall be verified by documentation and the amount of contract price escalation shall be calculated as either the actual increased cost to the Seller or, if agreed by the Parties, the equivalent increase of a relevant industry recognized third-

party index, and in both cases without any additional profit or margin being added.

8. APPROVAL: If approval of equipment submittals by Purchaser or others is required, a condition precedent to WesTech Engineering, LLC supplying any equipment shall be such complete approval.

9. INSTALLATION SUPERVISION: Prices quoted for equipment do not include installation supervision. WesTech Engineering, LLC recommends and will, upon request, make available, at WesTech Engineering, LLC's then current rate, an experienced installation supervisor to act as the Purchaser's employee and agent to supervise installation of the equipment. Purchaser shall at its sole expense furnish all necessary labor equipment, and materials needed for installation.

Responsibility for proper operation of equipment, if not installed by WesTech Engineering, LLC or installed in accordance with WesTech Engineering, LLC's instructions, and inspected and accepted in writing by WesTech Engineering, LLC, rests entirely with Purchaser; and any work performed by WesTech Engineering, LLC personnel in making adjustment or changes must be paid for at WesTech Engineering, LLC's then current per diem rates plus living and traveling expenses.

WesTech Engineering, LLC will supply the safety devices described in this proposal or shown in WesTech Engineering, LLC's drawings furnished as part of this order but excepting these, WesTech Engineering, LLC shall not be required to supply or install any safety devices whether required by law or otherwise. The Purchaser hereby agrees to indemnify and hold harmless WesTech Engineering, LLC from any claims or losses arising due to alleged or actual insufficiency or inadequacy of the safety devices offered or supplied hereunder, whether specified by WesTech Engineering, LLC or Purchaser, and from any damage resulting from the use of the equipment supplied hereunder.

10. ACCEPTANCE OF PRODUCTS: Products will be deemed accepted without any claim by Purchaser unless written notice of non-acceptance is received by WesTech Engineering, LLC within 30 days of delivery if shipped F.O.B. point of shipment, or 48 hours of delivery if shipped F.O.B. point of destination. Such written notice shall not be considered received by WesTech Engineering, LLC unless it is accompanied by all freight bills for said shipment, with Purchaser's notations as to damages, shortages and conditions of equipment, containers, and seals. Non-accepted products are subject to the return policy stated below.

11. TAXES: Any federal, state, or local sales, use or other taxes applicable to this transaction, unless specifically included in the price, shall be for Purchaser's account.

12. TITLE: The equipment specified herein, and any replacements or substitutes therefore shall, regardless of the manner in which affixed to or used in connection with realty, remain the sole and personal property of WesTech Engineering, LLC until the full purchase price has been paid. Purchaser agrees to do all things necessary to protect and maintain WesTech Engineering, LLC's title and interest in and to such equipment; and upon Purchaser's default, WesTech Engineering, LLC may retain as liquidated damages any and all partial payments made and shall be free to enter the premises where such equipment is located and remove the same as its property without prejudice to any further claims on account of damages or loss which WesTech Engineering, LLC may suffer from any cause.

13. INSURANCE: From date of shipment until the invoice is paid in full, Purchaser agrees to provide and maintain at its expense, but for WesTech Engineering, LLC's benefit, adequate insurance including, but not limited

to, builders risk insurance on the equipment against any loss of any nature whatsoever.

14. SHIPMENTS: Any shipment of delivery dates recited represent WesTech Engineering, LLC's best estimate but no liability, direct or indirect, is assumed by WesTech Engineering, LLC for failure to ship or deliver on such dates.

WesTech Engineering, LLC shall have the right to make partial shipments; and invoices covering the same shall be due and payable by Purchaser in accordance with the payment terms thereof. If Purchaser defaults in any payment when due hereunder, WesTech Engineering, LLC may, without incurring any liability therefore to Purchaser or Purchaser's customers, declare all payments immediately due and payable with maximum legal interest thereon from due date of said payment, and at its option, stop all further work and shipments until all past due payments have been made, and/or require that any further deliveries be paid for prior to shipment.

If Purchaser requests postponements of shipments, the purchase price shall be due and payable upon notice from WesTech Engineering, LLC that the equipment is ready for shipment; and thereafter any storage or other charge WesTech Engineering, LLC incurs on account of the equipment shall be for the Purchaser's account.

If delivery is specified at a point other than WesTech Engineering, LLC or its supplier's shipping points, and delivery is postponed or prevented by strike, accident, embargo, or other cause beyond WesTech Engineering, LLC's reasonable control and occurring at a location other than WesTech Engineering, LLC or its supplier's shipping points, WesTech Engineering, LLC assumes no liability in delivery delay. If Purchaser refuses such delivery, WesTech Engineering, LLC may store the equipment at Purchaser's expense. For all purposes of this agreement such tender of delivery or storage shall constitute delivery.

15. WARRANTY: WesTech Engineering LLC warrants equipment it supplies only in accordance with the attached WesTech Warranty. This warranty is expressly given by WesTech and accepted by purchaser in lieu of all other warranties whether written, oral, express, implied, statutory or otherwise, including without limitation, warranties of merchantability and fitness for particular purpose. WesTech neither accepts nor authorizes any other person to assume for it any other liability with respect to its equipment. WesTech shall not be liable for normal wear and tear, corrosion, or any contingent, incidental, or consequential damage or expense due to partial or complete inoperability of its equipment for any reason whatsoever. The purchaser's exclusive and only remedy for breach of this warranty shall be the repair and or replacement of the defective part or parts within a reasonable time of WesTech's accepting the validity of a warranty claim made by the purchaser.

16. PATENTS: WesTech Engineering, LLC agrees that it will, at its own expense, defend all suits or proceedings instituted against Purchaser and pay any award of damages assessed against it in such suits or proceedings, so far as the same are based on any claim that the said equipment or any part thereof constitutes an infringement of any apparatus patent of the United States issued at the date of this Agreement, provided WesTech Engineering, LLC is given prompt notice in writing of the institution or threatened institution of any suit or proceeding and is given full control of the defense, settlement, or compromise of any such action; and Purchaser agrees to give WesTech Engineering, LLC needed information, assistance, and authority to enable WesTech Engineering, LLC so to do. In the event said equipment is held or conceded to infringe such a patent, WesTech Engineering, LLC shall have the right at its sole option and expense to a) modify the equipment to be non-infringing, b) obtain for Purchaser the license to continue using said equipment, or c) accept return of the equipment and refund to the Purchaser the purchase price thereof less a reasonable charge for the use thereof. WesTech Engineering, LLC will reimburse Purchaser for actual out-of-pocket expenses, exclusive of legal fees, incurred in preparing such information and rendering such assistance

at WesTech Engineering, LLC's request. The foregoing states the entire liability of WesTech Engineering, LLC, with respect to patent infringement; and except as otherwise agreed to in writing, WesTech Engineering, LLC assumes no responsibility for process patent infringement.

17. SURFACE PREPARATION AND PAINTING: If furnished, shop primer paint is intended to serve only as minimal protective finish. WesTech Engineering, LLC will not be responsible for the condition of primed or finish painted surfaces after equipment leaves its shops. Purchasers are invited to inspect paint in shops for proper preparation and application prior to shipment. WesTech Engineering, LLC assumes no responsibility for field surface preparation or touch-up of shipping damage to paint. Painting of fasteners and other touch-up to painted surfaces will be by Purchaser's painting contractor after mechanism installation.

Motors, gear motors, and other components not manufactured by WesTech Engineering, LLC will be painted with that manufacturer's standard paint system. It is WesTech Engineering, LLC's intention to ship major steel components as soon as fabricated, often before drive, motors, and other manufactured components. Unless Purchaser can ensure that shop primed steel shall be field painted within thirty (30) days after arrival at the job site, WesTech Engineering, LLC encourages the Purchaser to order these components without primer.

WesTech Engineering, LLC's prices are based on paints and surface preparations as outlined in the main body of this proposal. In the event that an alternate paint system is selected, WesTech Engineering, LLC requests that Purchaser's order advise of the paint selection. WesTech Engineering, LLC will then either adjust the price as may be necessary to comply or ship the material unpainted if compliance is not possible due to application problems or environmental controls.

18. CANCELLATION, SUSPENSION, OR DELAY: After acceptance by WesTech Engineering, LLC, this proposal, or Purchaser's order based on this proposal, shall be a firm agreement and is not subject to cancellation, suspension, or delay except upon payment by Purchaser of appropriate charges which shall include all costs incurred by WesTech Engineering, LLC to date of cancellation, suspension, or delay plus a reasonable profit. Additionally, all charges related to storage and/or resumption of work, at WesTech Engineering, LLC's plant or elsewhere, shall be for Purchaser's sole account; and all risks incidental to storage shall be assumed by Purchaser.

19. FORCE MAJEURE: Neither party hereto shall be liable to the other for default or delay in delivery caused by extreme weather or other act of God, strike or other labor shortage or disturbance, fire, accident, war or civil disturbance, act of government, pandemic, delay of carriers, failure of normal sources of supply, complete or partial shutdown of plant by reason of inability to attain sufficient raw materials or power, and/or other similar contingency beyond the reasonable control of the respective parties. The time for delivery specified herein shall be extended during the continuance of such conditions, or any other cause beyond such party's reasonable control. Escalation resulting from a Force Majeure event shall be equitably adjusted per the escalation policy stated above.

20. RETURN OF PRODUCTS: No products may be returned to WesTech Engineering, LLC without WesTech Engineering, LLC's prior written permission. Said permission may be withheld by WesTech Engineering, LLC at its sole discretion.

21. BACKCHARGES: WesTech Engineering LLC will not approve or accept backcharges for labor, materials, or other costs incurred by Purchaser or others in modification, adjustment, service, or repair of WesTech Engineering LLC furnished materials unless such back charge has been authorized in advance in writing by a WesTech Engineering LLC purchase order, or work requisition signed by WesTech Engineering LLC.

22. INDEMNIFICATION: Purchaser agrees to indemnify WesTech Engineering, LLC from all costs incurred, including but not limited to court costs and reasonable attorney fees, from enforcing any provisions of this contract, including but not limited to breach of contract or costs incurred in collecting monies owed on this contract.

23. ENTIRE AGREEMENT: This proposal expresses the entire agreement between the parties hereto superseding any prior understandings and is not subject to modification except by a writing signed by an authorized officer of each party.

24. MOTORS AND MOTOR DRIVES: In order to avoid shipment delays of WesTech Engineering, LLC equipment, the motor drives may be sent directly to the job site for installation by the equipment installer. Minor fit-up may be required.

25. EXTENDED STORAGE: Extended storage instructions will be part of information provided to shipment. If equipment installation and start-up is delayed more than 30 days, the provisions of the storage instructions must be followed to keep WARRANTY in force.

26. LIABILITY: Professional liability insurance, including but not limited to, errors and omissions insurance, is not included. In any event, liability for errors and omissions shall be limited to the lesser of \$100,000 USD or the value of the particular piece of equipment (not the value of the entire order) supplied by WesTech Engineering LLC against which a claim is sought.

27. ARBITRATION NEGOTIATION: Any controversy or claim arising out of or relating to the performance of any contract resulting from this proposal or

contract issued, or the breach thereof, shall be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered to any court having jurisdiction.

ACCEPTED BY PURCHASER

Customer Name: _____

Customer Address: _____

Contact Name: _____

Contact Phone: _____

Contact Email: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____