



**Clean Water State Revolving Fund
Intended Use Plan
Emerging Contaminants Funding
SFY 2023
(FFY 2022 Allotment)**

Draft Dated April 26, 2023

Texas Water Development Board | 1700 N. Congress Ave. Austin, Texas 78701 | www.twdb.texas.gov

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Clean Water State Revolving Fund Acronyms

ACS	American Community Survey
AIS	American Iron & Steel
AMHI	Annual Median Household Income
BABA	Build America, Buy America Act, 2021
CWA	Clean Water Act
CWSRF	Clean Water State Revolving Fund
DWSRF	Drinking Water State Revolving Fund
EPA	Environmental Protection Agency
FFY	Federal Fiscal Year
IIJA	Infrastructure Investment and Jobs Act, 2021
IIPL	Initial Invited Projects List
IUP	Intended Use Plan
NEPA	National Environmental Policy Act
PIF	Project Information Form
POTW	Publicly Owned Treatment Works
PPL	Project Priority List
SFY	State Fiscal Year
SRF	State Revolving Fund
TCEQ	Texas Commission on Environmental Quality
TWDB	Texas Water Development Board
WAP	Watershed Action Planning
WRRDA	Water Resources Reform and Development Act of 2014

I. Overview

The Infrastructure Investment and Jobs Act, 2021, Pub. L. 117-58 (IIJA) appropriated capitalization grant funds for Federal Fiscal Years (FFY) 2022 to 2026 for to reduce exposure to perfluoroalkyl and polyfluoroalkyl substances (PFAS) and other emerging contaminants through drinking water and to help address discharges through wastewater and, potentially, nonpoint sources.

The main categories of emerging contaminants for the CWSRF program funding include, but are not limited to:

- Perfluoroalkyl and polyfluoroalkyl substances (PFAS) and other persistent organic pollutants;
- Biological contaminants and microorganisms;
- Compounds of pharmaceuticals and personal care products ;
- Nanomaterials; and
- Microplastics / Nanoplastics.

This Intended Use Plan (IUP) covers the CWSRF capitalization grant funds allocated to Texas from FFY 2022 appropriations in the amount of \$4,274,000. The appropriations requires the entire amount allocated to project funding be provided as additional subsidization, which will be in the form of principal forgiveness. A total of \$4,103,040 is available for projects under this IUP as principal forgiveness.

For a project or activity to be eligible under this special appropriation, it must be otherwise eligible under section 603(c) of the Clean Water Act and the primary purpose must be to address emerging contaminants.

II. Background

In 1987 Congress passed federal amendments to the CWA that established the CWSRF program. The Texas Water Development Board (TWDB) is authorized by state law to administer this program for Texas. CWSRF is authorized by the CWA to provide financial assistance for the construction of publicly owned treatment works; the funding of nonpoint source projects; and the funding of estuary protection projects. In addition, the Water Resources Reform and Development Act (WRRDA) of 2014 and the America's Water Infrastructure Act of 2018 increased the types of projects eligible under the CWSRF. The Water Infrastructure Improvements for the Nation Act made changes to eligibility for additional subsidization.

The IIJA appropriated supplemental capitalization grant funds for Federal Fiscal Years (FFY) 2022 to 2026 for general activities, lead service line replacement, and emerging contaminants. The SFY 2023 IUP covering general activities using the FFY 2022 annual and IIJA appropriations was effective October 5, 2022. The draft IUP covering Lead Service Line Replacements is available for comment and proposed projects may be submitted through May 23, 2023.

III. Projects to Fund

A. Eligible Applicants

Applicants eligible to apply for assistance include:

- Wastewater treatment management agencies, including interstate agencies and water supply corporations that have been designated and approved as a management agency in the Texas Water Quality Management Plan
- Cities, commissions, counties, districts, river authorities, or other public bodies created by or pursuant to state law that have authority to dispose of sewage, industrial waste, or other waste
- Intermunicipal, interstate, or State agencies
- Authorized Indian tribal organizations
- Private entities for nonpoint source projects or estuary projects only
(A water supply corporation that has been designated and approved as a management agency in the Texas Water Quality Management Plan is considered a “municipality” and is therefore eligible for funding for Publicly Owned Treatment Works and other activities.)

Recipients eligible to receive assistance are dependent on project type and are defined in section 603(c) of the Clean Water Act.

B. Eligible and Ineligible Use of Funds

For a project or activity to be eligible, it first must be otherwise eligible under section 603(c) of the Clean Water Act and the primary purpose must be to address emerging contaminants. Section 603(c) of the Clean Water Act [33 USC §1383(c)] provides the CWSRF program with a broad range of project eligibilities including the construction of publicly owned treatment works, stormwater, management, and nonpoint source pollution control. Only capital costs (such as construction activities, equipment purchase) are eligible. The CWSRF cannot fund operation and maintenance activities, including monitoring, unless the monitoring is an integral part of the planning and design for a capital project. Planning and design for capital projects, as well as broader water quality planning where there is a reasonable expectation that the planning will result in an eligible capital project, are eligible.

Examples of eligible project costs under the twelve CWSRF program eligibilities under section 603(c) of the Clean Water Act include planning, acquisition, design, and construction of projects to:

- **Projects at wastewater treatment facilities:** Installation of technology to treat for PFAS and other emerging contaminants at publicly owned treatment works.
- **Water reuse:** Potable and non-potable water reuse/reclamation projects that may be applying advanced treatment (e.g., reverse osmosis, granulated activated carbon, or ion exchange) to remove PFAS or other emerging contaminants are eligible.

- **Stormwater:** In areas that are impaired or impacted by emerging contaminants based on previous monitoring efforts, projects that can trap and/or treat the contaminants in runoff prior to reaching waterbodies or instream treatment or removal may be eligible. Some examples include:
 - Construction of structures at industrial facilities to cover PFAS-containing materials that would otherwise be exposed to and transported in stormwater.
 - Development of a stormwater plan to identify capital projects that address emerging contaminants.
 - Purchase and installation of sampling equipment for industrial and municipal stormwater.
 - Purchase and installation of mesh screens and containment systems designed to capture and remove microplastics from industrial and municipal stormwater.
 - Installation of stormwater controls designed to filter and remove microplastics from stormwater.
 - Purchase of a vacuum or vacuum-type system to pick up microplastics to prevent flushing into stormwater.
 - Installation of stormwater controls designed to collect and capture emerging contaminants in stormwater discharges.
- **Non-point source projects:** Eligible nonpoint source projects are capital projects that support the implementation of a current EPA approved state nonpoint source management program plan or nine-element watershed-based plan established under Section 319 of the Clean Water Act and may be publicly or privately owned.
 - **Landfills:** Eligible landfill projects could include landfill closure (e.g., capping) or landfill runoff and leachate collection and treatment that will reduce runoff contaminated with PFAS or other emerging contaminants. The modification/expansion of existing or construction of new publicly owned landfills (local and regional) primarily designed and permitted (per state and federal regulations) to accept publicly owned treatment works biosolids with emerging contaminants.
 - **Surface Water Protection and Restoration:** Projects that address emerging contaminants in waterbodies including:
 - equipment for the physical or chemical removal of Harmful Algal Blooms, for example, strategically placed aeration blowers to remove and control algal blooms or flocculant-based methods to facilitate algae removal;
 - Projects that can skim surface water to remove microplastics along with other plastic pollutants

Examples of ineligible project costs include:

- If the primary purpose is not to address emerging contaminants.

- Projects that address contaminants with water quality criteria established by EPA under Clean Water Act section 304(a), except for PFAS are eligible for CWSRF program emerging contaminants funds.
- Operation and maintenance activities, including monitoring, unless the monitoring is an integral part of the planning and design for a capital project.

Planning and assessment activities

Planning and design for capital projects, as well as broader water quality planning, are eligible provided there is a reasonable expectation that the planning will result in a capital project. For example, funding can be used for preconstruction activities to help prepare planning, preliminary engineering, and alternatives analysis documents. Funding may also be used to procure and install monitoring equipment (e.g., auto samplers).

Monitoring

While water quality monitoring activities (including monitoring of PFAS associated with National Pollutant Discharge Elimination System (NPDES) permit or pretreatment requirements) at publicly owned treatment works are generally not eligible, monitoring for the specific purpose of project development (planning, design, and construction) is eligible. Monitoring in this capacity, and within a reasonable timeframe, can be integral to the identification of the best solutions (through an alternatives analysis) for addressing emerging contaminants and characterizing discharge and point of disposal. Though ideally the planning and monitoring for project development would result in a CWSRF-eligible capital project, in some instances, the planning could lead to outcomes other than capital projects to address the emerging contaminants. For nonpoint source projects, funding may also be used to assess project effectiveness after construction.

Examples of eligible planning and monitoring activities/costs could include:

- Purchase of monitoring or laboratory analysis equipment.
- Monitoring to characterize stormwater or wastewater to inform an engineering report and the identification and selection of the appropriate treatment technology/project alternatives. Wastewater characterization may already be a current requirement in some states for wastewater treatment system project planning.
- Monitoring of wastewater influent/effluent/sludge to determine the fate of PFAS, antimicrobial resistant bacteria, or other emerging contaminants, to inform the identification and selection of the appropriate treatment technology.

IV. Amount Available

1. Allocations

A total of \$4,103,040 is available for projects under this IUP, all in the form of principal forgiveness. No origination fees will be assessed.

2. Allocation of Grant Funds, including Additional Subsidization:

	Emerging Contaminants	
CWSRF FFY 2022 (SFY 2023)	\$4,274,000	% of Grant
Minimum & Maximum - Principal Forgiveness		
Minimum (Disadvantaged Comm.)	\$0	0%
Minimum (Any CWSRF-eligible recipient)	\$4,103,040	96%
Minimum & Maximum (Total)	\$4,103,040	96%
Current Allocation of Principal Forgiveness		
Total Currently Allocated	\$4,103,040	
Total Breakdown		
Total Principal Forgiveness Allocated to Projects	\$4,103,040	96%
TWDB Administration (including Project Management System)	\$170,960	4%
Total	\$4,274,000	100%

V. Funding Options and Terms

Equivalency projects (Federal Requirements) - All projects will be considered equivalency projects, which must follow all federal requirements commonly known as “cross-cutters”. More information on the federal cross-cutters may be found in Appendix E.

1. Funding Option Available:

Entities listed on the Initial Invited Projects List (IIPL) and subsequent Project Priority Lists (PPLs) may be invited to apply for the following funding option.

Emerging contaminant project funding

This funding is available to any eligible recipient. This funding option offers 100 percent principal forgiveness.

2. Federal Requirements on Available Funds

All funds are subject to certain federal requirements such as the (a) Davis-Bacon Act prevailing wage provision, (b) National Environmental Policy Act (NEPA)-like environmental review, (c) Generally Accepted Accounting Principles, (d) Cost and Effectiveness Analysis

(for municipality or intermunicipal, interstate, or State agencies only), and (e) Build America, Buy America. These CWSRF funds must follow all federal cross-cutters and EPA's signage requirements. (see Appendix E for details of Federal Requirements)

VI. Goals

The primary goal of the Texas CWSRF program is to restore and maintain the chemical, physical, and biological integrity of the state's waters by preventing the discharge of pollutants. In addition, the overall goals of the CWSRF program are to prevent the discharge of pollutants from point and nonpoint sources; identify and provide funding for maintaining and/or bringing publicly owned treatment works into compliance with EPA clean water standards; to support affordable and sustainable wastewater treatment processes; and to maintain the long-term financial health of the program. Goals specific to the emerging contaminants funding in this IUP are listed below.

A. Short-Term Goals

1. Fund eligible project proposals to address emerging contaminants up to the amount of funding available.
2. Prioritize proposals that have identified and will address perfluoroalkyl and polyfluoroalkyl substances (PFAS).
3. Prioritize project proposals that request construction funding.
4. Provide outreach to systems within Texas on the availability of this funding to address emerging contaminants.
5. The TWDB and TCEQ will collaborate on the deployment of these funds.

B. Long-Term Goals

1. Use the emerging contaminant grant funds provided to Texas to fund project proposals to address identified emerging contaminants projects eligible for assistance with an ongoing priority for addressing perfluoroalkyl and polyfluoroalkyl substances (PFAS).
2. To the extent eligible project proposals are received, use all the emerging contaminant funds allotted to Texas to improve public health and enhance the objectives of the Clean Water Act.
3. The TWDB and TCEQ will collaborate on the deployment of these funds in a manner that will provide the most benefit to public health and enhance the objectives of the Clean Water Act.

VII. Participating in the CWSRF Program

A. Solicitation of Project information

Project information was solicited from eligible entities across the state using direct emails, notices posted on the TWDB website, and regional financial assistance workshops held throughout the State. Potential applicants submitted Project Information Forms (PIFs) by

the response deadline of in Appendix A.

The required information submitted on a PIF consisted of:

- A detailed description of the proposed project.
- A list of the emerging contaminants that the project will address (if emerging contaminants have been identified, applicant needs to provide documentation of the presence)
- A map(s) showing the location of the service area.
- An estimated total project cost that is certified by a registered professional engineer if project costs are greater than \$100,000.
- A checklist and schedule of milestones to determine a project's readiness to proceed to construction.
- Information necessary to rank the project:
 - (a) Whether there are identified perfluoroalkyl and polyfluoroalkyl substances (PFAS) that will be addressed by the proposed project
 - (b) Whether there are other identified emerging contaminants on any of EPA's Contaminant Candidate Lists (CCLs) that will be addressed by the proposed project.
 - (c) Whether the proposed project requests funds for the construction phase
 - (d) Whether the project will remove emerging contaminants from downstream uses and if the project will provide first time service to un-served connections that have emerging contaminants in their existing on-site wastewater systems
 - (e) Project beneficiary area's Annual Median Household Income (and if seeking disadvantaged community status, all the required information).
 - (f) Project beneficiary area's unemployment rate
 - (g) Project beneficiary area's population change percentage
 - (h) System size – number of connections and population served.
- Signature of the applicant's authorized representative.
- Additional information detailed within the solicitation for projects as needed to establish the priority rating.
- Any survey being used for income determination must be conducted within five years of the date the TWDB receives the PIF.

B. Evaluation of the Project Information Received and Priority Rating System

All PIFs are evaluated by the TWDB and projects determined to be eligible for funding are scored and ranked according to the established rating criteria. The scores are based on information received by the established PIF deadline. Throughout the evaluation process, entities are contacted by staff if additional information was needed.

The TWDB performed the priority rating of projects by assigning points for projects that addressed factors provided in Appendix C

C. Ranking and Creation of the Project Priority List and Initial Invited Projects List

Each project submitted by the initial deadline and determined to be eligible is ranked from highest to lowest by the combined rating factors and included on the PPL. In the event of ties in the rating, priority is given to the project serving the fewest connections. Project information submitted after the PIF deadline is not considered for rating purposes prior to adoption of the initial PPL. Following approval of the IUP, changes to a ranked project that result in a project no longer addressing the issues for which it was rated will require the project to be re-rated and re-ranked. Changes in the project that do not trigger re-rating and re-raking are:

1. The applicant for a proposed project changes but the project does not change;
2. The number of participants in a regional project changes and the change does not result in a change to the rating; or
3. The fundable amount of a proposed project does not increase by more than 10 percent of the amount listed in the approved IUP. The Executive Administrator may waive the 10 percent limit to incorporate additional elements to the project; however, any Additional Subsidization awarded may not exceed the original IUP amount's allocation.

The IIPL presented in the IUP (Appendix K) refers to a subset of projects from the PPL and includes only the projects to be invited to apply for funding during the initial invitation round following the Board's approval of the IUP. The IIPL includes the type and amount of funding necessary to meet requirements and goals of the CWSRF, such as Additional Subsidization requirements. Based on a review of readiness to proceed to construction, the TWDB determined which phases would be eligible to receive funding. The phases indicated on the IIPL represent the phases deemed eligible based on that review.

D. Bypassing Projects

The TWDB's Executive Administrator may decide to bypass, or skip, higher ranked projects in favor of lower ranked projects to ensure that funds available are utilized in a timely manner, that statutory and capitalization grant requirements are met. In addition, if an entity is offered funding for any project that has an interrelated project ranked lower on the list, the Executive Administrator has discretion to also offer funding for the interrelated project. Reasons for bypassing projects are discussed in Appendix F.

E. Phases for Invited Projects

1. Pre-Design Funding Option (or Planning, Acquisition, Design and Construction Funding)

The pre-design funding option allows an applicant to receive a single commitment for all

phases of a project. The construction portion of the project must be deemed ready to proceed before funds for the construction phase will be released.

2. Construction Funding Only

All projects that were determined to be ready to proceed to construction based on the current status of their planning, acquisition, and design activities were included on the IIPL and will receive an invitation to fund the construction portion of the project.

3. Planning, Acquisition, and Design Funding

A project that was not deemed ready to proceed to construction may receive an invitation to fund only the Planning, Acquisition, and/or Design portion of the project.

4. Viability and Feasibility of Projects

A project must demonstrate to the TWDB that it is viable, feasible, and sustainable prior to being invited to submit an application and prior to receiving a commitment for any funding option, including additional subsidization/principal forgiveness, for the acquisition, design or construction phases of the project. A project may receive funds for the planning phase to assess the viability and feasibility of a project, including funds to prepare an asset management plan.

F. Invitations and Application Submissions

Entities with projects on the IIPL will be informed of the opportunity to submit an application for the project phases shown on the list using the available funding options. An entity on the list may not submit an application until it receives an invitation from TWDB. TWDB will consider the need to meet the minimum federal additional subsidization requirements when deciding whether it needs to bypass projects on the IIPL.

Intent to Apply

As part of the invitation process the TWDB may require the applicant to submit an intent to apply form or information by a specified deadline showing the applicant's intent to request up to the eligible amount of funding in the IUP. Failure to submit the requested intent to apply information by the established deadline will result in TWDB bypassing the project on the IUP list.

Prior to submitting an application, entities are required to participate in a pre-application meeting to discuss the application process and project requirements. Invited applications from projects on the IIPL that are received during the initial invitation round after Board approval of the IUP will be allotted available Additional Subsidization (principal forgiveness) based on rank order. All projects must be determined administratively complete as submitted or within 14 days from the date the applicant receives a notice to correct deficiencies or any Additional Subsidization may be reallocated on a first-come, first-served basis.

Each application received by the TWDB will be reviewed to ensure that the required milestones have been met to allow funding of the phase(s) being requested. If the application review determines that a project is not ready to proceed for funding for the phase(s) being requested, the project may be bypassed for any additional subsidy amounts or receive limited phases of funding.

Projects may be bypassed if an applicant fails to timely submit a complete application or additional requested information.

Deadline for Receipt of Invitation

The TWDB will establish a deadline for receipt of the application. If the application is not received by the established deadline, the project will be bypassed.

Subsequent Invitations

After the initial invitation period, if any funds remain unallocated then other projects on the PPL will be invited in rank order. Applicants may submit a PIF at any time for a project to be considered for inclusion on the amended PPL. The new projects will be considered after those on the original PPL list have been invited. Amendments to the project lists will undergo a 14-day public review period that will be advertised on the agency website.

G. Addressing Any Water Loss Mitigation within the Application

If an applicant that is a retail public utility providing potable water has a water loss that meets or exceeds the threshold for that utility in accordance with 31 Texas Administrative Code §358.6 the retail public utility must use a portion of any new CWSRF financial assistance, or any other financial assistance provided by TWDB, for eligible project costs to mitigate the utility's water loss. However, at the request of a retail public utility, the TWDB may waive this requirement if the TWDB finds that the utility is satisfactorily addressing the utility's system water loss. Mitigation, if necessary, will be in a manner determined by the retail public utility and the TWDB's Executive Administrator in conjunction with the project proposed by the utility and funded by TWDB.

H. Closing Deadlines

All commitments must close within six months from the date of the commitment. In extenuating circumstances, the Board may grant extensions of time to close if an applicant demonstrates sufficient reason for a delay. The TWDB may extend these closing deadlines if necessary to conform to the closing schedule for concurrent financing for the project from another TWDB financing program.

Type of Financial Assistance	Closing Deadline
All commitments	6 months

I. Limits

1. Proportionate Share/Capacity

The TWDB may limit the amount of total funding available to an individual entity or project based on a proportionate share of total funds available.

2. Additional Project Funding Before Closing

The total project costs may be increased if the entity shows that additional funds are necessary to implement the project.

J. Transfer of Funds

The TWDB reserves the right to transfer any portion of the CWSRF emerging contaminants funding to the DWSRF program's emerging contaminant funding IUP.

K. Updates to the Intended Use Plan

Substantive changes to the IUP may be made through an amendment after a 14-day public review and comment period. Non-substantive changes may be made by the TWDB without public notification.

VIII. Financial Status

The TWDB will comply with the requirements associated with the FFY 2022 allotments under this SFY 2023 IUP.

A. Administration / Technical Assistance

The maximum annual amount of CWSRF money (not including any origination fees) that may be used to cover the reasonable costs of administering the fund is the greatest of the following:

1. an amount equal to four percent of all grant awards received by a State CWSRF less any amounts that have been used in previous years to cover administrative expenses;
2. \$400,000; or
3. one-fifth of one percent of the current valuation of the fund.

The TWDB will draw funds for administration and technical assistance from the FFY 2022 Capitalization Grant in the amount of \$170,960. For this grant, the TWDB has allocated funds in accordance with the third option listed above.

Technical Assistance – for SFY 2023 the TWDB has elected not to take an additional two percent of the capitalization grant for technical assistance. The TWDB will provide technical assistance through the use of the portion of the grant allocated to administration and administration funds available under prior base program grants. TWDB reserves the

right to use an amount equal to two percent of the grants for technical assistance at a later date.

B. State Match

No state match is required for the emerging contaminant grant funds.

C. Binding Commitment Requirement

The TWDB will enter into binding commitments with entities during SFY 2023 that total 120 percent of the amount of a FFY 2022 grant payment allocated to projects within one year after receipt of the grant payment. A binding commitment occurs when the TWDB's Board adopts a resolution to commit funds to a project.

D. Cross-collateralization

On March 1, 2018, the TWDB has cross-collateralized the CWSRF and the DWSRF as a source of revenue and security for the payment of the principal and interest on bonds for the DWSRF and CWSRF programs. State authority is provided under Section 15.6042 of the Texas Water Code. The TWDB has received a certification from the state Attorney General that state law permits the TWDB to cross-collateralize the assets of the CWSRF and the DWSRF.

1. Summary of the cross-collateralization structure:

a. The type of moneys which will be used as security – Pledged Political Subdivision Bonds and certain other funds included in the Master Resolution (program account, portfolio account, and revenue account) will secure the bonds.

b. How moneys will be used in the event of a default - In the cross-collateralized scenario, Political Subdivision Bonds from the non-defaulting program will be used to cover the debt service delinquency on the defaulting program. If, for any reason, insufficient Political Subdivision Bonds exist in both programs, then program equity will be utilized.

c. Whether or not moneys used for a default in the other program will be repaid; and, if it will not be repaid, what will be the cumulative impact on the funds - While a decision to repay or not repay would be made at the time of default, the TWDB would either require repayment when funds are available or transfer repayment funds.

2. Proportionality – The proceeds generated by the issuance of bonds will be allocated to the purposes of the CWSRF and the DWSRF in the same proportion as the assets from the two funds that are used as security for the bonds.

3. State Match – In accordance with Texas Water Code §§ 17.853(c)(1) and 17.859, the TWDB intends to provide state match through the issuance of one or more revenue bonds in a program series that will fund the two SRF programs. Supplemental bond

resolutions for the issuance of each series will provide detail on what specific money is pledged as security for each program (CWSRF or DWSRF) within the series. As required, the CWSRF and DWSRF will continue to be operated separately. The cash flows for the DWSRF program and the CWSRF program will be accounted for separately. Repayments on loans in the CWSRF program will be paid to the CWSRF and repayments on loans made in the DWSRF program will be paid to the DWSRF.

Similar to other states' financing methods where state match is not provided by appropriation and is instead generated through debt issuance, the TWDB cross-collateralization structure allows the TWDB to retire bonds for the State Match with interest earnings payments only, not principal, earned from each SRF in accordance with 40 CFR § 35.3135(b)(2).

E. Method of Cash Draw

There is no state match and EPA has revised its cash draw policy. Therefore, TWDB will draw federal funds using acceptable evidence of expenditures.

F. Long-Term Financial Health of the Fund

The long-term financial health of the CWSRF is monitored through ongoing cash flow and capacity modeling. The TWDB lending rate policy has been established to preserve the corpus of the capitalization grants and state match funds, excluding the amount of additional subsidization, administration from each grant, and net transfers. The TWDB will continue to manage the CWSRF to ensure funds will be available in perpetuity for activities under the CWA.

G. Fees

No origination fee will be assessed on project financing.

H. EPA Program Evaluation Report and Audit

EPA has conducted an annual program review of the CWSRF program for SFY 2022 and will send their final report to TWDB upon completion.

The Texas State Auditor's Office published the results of the SFY 2022 Federal Portion Single Audit of the CWSRF on February 27, 2023 (Report 23-315). There were no findings as a result of the review.

IX. Navigating the Lists

Appendices G – K are a series of lists that detail the proposed project information for each project based upon the PIFs received. (Note: the project lists are not part of the draft Narrative of the IUP. The project lists will be part of the complete IUP.)

- **Appendix G** - The alphabetical list is the PPL sorted alphabetically. It contains the project information; the name of the applying entity, their total number of points and associated priority order rank, a detailed description of the proposed project, all project phases requested by the entity, the estimated construction start date, total project cost, the percentage of principal forgiveness if the project is eligible to receive disadvantaged funding, and a reference to any other related PIFs from the current or previous IUPs. A grand total for all of the projects is listed on the last page of the appendix.
- **Appendix H** – Lists projects that were deemed ineligible to receive CWSRF funding with a brief description as to why they were deemed ineligible.
- **Appendix I** – Lists projects that were deemed ineligible to receive disadvantaged funding with a brief description as to why they were deemed ineligible. The project may still be eligible to receive other funding options.
- **Appendix J** – Lists projects in order of highest priority to receive funding. The content is the same as the alphabetical list in Appendix G.
- **Appendix K** – Is the list of projects that will be invited in the initial invitation round. The information provided in this list is similar to the alphabetical and priority order lists. The TWDB has determined which project phases are eligible to receive funding during this SFY, which is depicted in the Phase(s) column. Projects on this list will receive an invitation letter from the TWDB upon Board approval of the IUP. Pertinent notes and the definitions of acronyms and footnotes are listed on the last page of the appendix along with a grand total for the projects.

Appendix A. Public Review and Comment

Public participation is an important and required component of the IUP development process. The TWDB takes seriously its responsibility in administering these funds and considers public input necessary and beneficial.

A. Notice

To seek public comment, the draft IUP narrative will be made available until June 7, 2023. The draft FFY 2022/SFY 2023 CWSRF Emerging Contaminants IUP narrative will be announced as follows:

- Public notification of the draft IUP narrative and the public comment period will be posted on the TWDB website at <https://www.twdb.texas.gov/>.
- A copy of the draft IUP narrative will be sent to EPA after published.

B. Comment

Comments will be accepted via the following two options from April 26, 2023, until midnight on June 7, 2023.

1. Emailing comments to the following electronic mail address and specifying in the subject line "*CWSRF Emerging Contaminants comments*".

CWSRF@twdb.texas.gov.

2. Mailing comments to the following postal mail address:

Mr. Mark Wyatt
Director, Program Administration and Reporting
Texas Water Development Board
P.O. Box 13231
Austin, TX 78711-3231

C. Effective Date

The FFY 2022/SFY 2023 CWSRF Emerging Contaminants IUP is considered final on the effective date.

D. Documentation

The entire final IUP, including project lists, will be formally submitted to the EPA and posted on the TWDB website.

Appendix B. Projected Sources and Uses of Funds
 (As of April 1, 2023)

SOURCES:

FFY 2022 Federal Capitalization Grant	\$4,274,000
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TOTAL SOURCES:	\$4,274,000
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USES:

Administration:

Administration	\$170,960
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Total Administration:	\$170,960
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Projects to be Funded:

SFY 2023 IUP Commitments – Principal Forgiveness	\$4,103,040
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Total Projects To Be Funded - SFY 2023:	\$4,103,040
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TOTAL USES:	\$4,274,000
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NET SOURCES (USES):	\$0
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Appendix C. Rating Criteria

1. Identified perfluoroalkyl and polyfluoroalkyl substances (PFAS) (Highest priority) and requested construction costs – 200 points (Highest priority) or
2. Identified emerging contaminants other than PFAS and requested construction costs – 100 points or
3. Proposals to identify emerging contaminants and/or requesting only planning and design and associated pre-project costs for any eligible purpose, without requesting the associated construction costs – 10 points

Plus the following:

4. Proposal that address the removal of emerging contaminants from treated wastewater/stormwater effluent that will eventually enter a drinking water treatment plant, or a proposal that address the removal of emerging contaminants from treated wastewater/stormwater effluent that will be beneficially reused for agricultural irrigation, potable water supply, groundwater replenishment, industrial processes, or environmental restoration – 15 points
5. Proposal that will provide first-time service to connections currently un-served by a central wastewater plant, and eliminate emerging contaminants, originating from the on-site waste systems from entering the watershed – 15 points
6. Disadvantaged Community or Small System – 30 points

A disadvantaged community is defined in Appendix D.

A small system is one serving fewer than 25,000 people.

7. A rural project is one that fits any of the following – 10 points:
 - i. An entity that provides services predominately in a rural area. Using the U.S. Bureau of the Census 2010 decennial census definitions of a rural area, not more than 20 percent of the residential service connections are in urbanized areas and not more than 50 percent are in urban clusters according to the most recent data available to TWDB. The calculation will be based on the utility service(s) associated with the proposed project;
 - ii. A project from a political subdivision with a population of 10,000 or less and located outside the extraterritorial jurisdiction of a city with a population of 500,000 or greater; or
 - iii. A project in a county in which no urban political subdivision exceeds 50,000 in population based upon the most current data available from the U.S. Bureau of the Census or TWDB-approved projections.

8. System size

Applicant entity serves under 1,000 connections – 15 points

Applicant entity serves between 1,000 and 10,000 connections – 10 points

Applicant entity serves between 10,000 and 25,000 connections – 5 points

Applicant entity serves over 25,000 connections but fewer than 50,000 connections – 2 points

Tie Breaker

Rating factors will be ranked in descending order with priority given to the entity serving the fewest connections first.

Appendix D. Affordability Criteria

An entity is considered an eligible disadvantaged community if it:

- 1) may have emerging contaminants,
- 2) 51 percent or more of the proposed project beneficiary area based on household connections has an Annual Median Household Income (AMHI) level that does not exceed 150 percent of the state's AMHI level. The state AMHI from the U.S. Census 2017-2021 American Community Survey (ACS) 5-year estimate is \$67,321; therefore the AMHI of the proposed project beneficiary area must not exceed \$100,982, and
- 3) the unemployment rate for the project beneficiaries is greater than 50 percent of the state unemployment rate or the population has declined or the utility is a small system with 25,000 or fewer connections for the applicable utility service.

Acceptable Source of Socioeconomic Data for FFY 2022

For this IUP, the TWDB will utilize:

(1) U.S. Census 2017-2021 ACS 5-year estimates. An Excel spreadsheet containing this data is located here:

<https://www.twdb.texas.gov/financial/instructions/doc/ACS-data-for-SFY2024.xlsx>

Entities may also access their U.S. Census 2017-2021 ACS 5-year estimate data directly from the U.S. Census webpage. Census Data Search guidance (WRD-284) is available on the TWDB website at: <http://www.twdb.texas.gov/financial/instructions/doc/WRD-284.docx>

OR

(2) Data from a socioeconomic survey approved by the Executive Administrator of a statistically acceptable sampling of customers in the service area completed in accordance with the most current Socioeconomic Surveys Guidelines (WRD-285) posted on the TWDB website. Any survey being used for income determination must be conducted within five years prior to the date the TWDB receives the PIF. An entity must submit documentation that substantiates the inadequate or absent Census data that led to the need to conduct a survey. **All entities must obtain prior approval to use survey data instead of the most recently available ACS data.**

In instances where the ACS data does not adequately reflect an entity's service area (e.g. an entity serves a community outside of its Certificate of Convenience and Necessity, an entity serves another system, the entity is a system without a Census Bureau defined boundary, etc.), a prorated analysis of ACS block group data will be performed to calculate the AMHI. Systems owned and operated by a public school or school district will be evaluated for their annual median household income for their school district boundary.

If recent reliable data is unavailable for the school district to determine the AMHI, the TWDB will use information from the Texas Education Agency's Title I, Part A program to determine income eligibility. If more than 50 percent of the school districts campuses are eligible for the program, the district's AMHI will be assumed to be eligible.

Methodology - Affordability Calculation and Disadvantaged Community Eligibility

City/Place, Census Tract and Block Group geographical U.S. Census geographical areas or an eligible income survey may be used for the AHMI, unemployment rate and population change calculations.

The methods below should be used to find the AMHI for the project beneficiary area. When finding the AMHI for the census geographic areas, applicants should also make note of the unemployment percentages and population change, as the same method and data source used for the AMHI calculation method below will be used for the unemployment rate and change in population. If an income survey is used, TWDB will use the most appropriate geographical area that represents the proposed project beneficiaries for determining the unemployment rate and change in population.

First method, easiest method to employ:

To lessen the burden on applicants who can meet the requirement without considering the 51% level, the TWDB will make the presumption that the average (mean) of the AMHI of all U.S. Census Bureau Cities/Places, Block Groups and/or Census Tracts containing any portion of the project service area is the AMHI for the project. Applicants must provide a list of all of the Cities/Places, Block Groups and/or Census Tracts containing any portion of the project service area, the AMHI for each City/Place, Block Group and/or Census Tract, and a detailed map of the proposed service area to be considered for using the presumptive approach in establishing the project's AMHI. TWDB will use the project area map to verify the associated Cities/Places, Block Groups and/or Census Tracts submitted. The Executive Administrator will then determine whether this option is a reasonable estimate of the AMHI for the project service area and may be used for the AMHI threshold calculation.

Second method, if first method does not meet the 150 percent threshold:

Any applicant that does not meet the 150 percent threshold by using the average (mean) of the U.S. Census Bureau Block Groups and/or Census Tracts containing any portion of the project service area may submit the actual number of household connections in each Block Group and/Census Tract and calculate the weighted average AHMI for the project service area.

Third method, if necessary to meet the 150 percent threshold:

Finally, if the AMHI of the applicant's project service area does not fall within 150 percent of the state AMHI threshold without consideration of the 51 percent calculation, the applicant would need to provide the number of household connections in each U.S. Census Bureau's geographical area that is used in the calculation.

Alternatively, as with general program activities, the entity may conduct an income survey for determining the applicable AMHI. Any survey being used for income determination must be completed within five years of prior to the date the TWDB receives the PIF.

Appendix E. Federal Requirements and Assurances

A. Federal Requirements

1) Build America, Buy America Act, 2021

The requirements of the Build America, Buy America Act, 2021 (P.L. 117-58) will apply to all projects funded for emerging contaminants. Additional information may be found on the TWDB website here: <http://www.twdb.texas.gov/financial/programs/BABA/index.asp>

2) Davis-Bacon Wage Rate Requirements

A subrecipient must comply with the requirements of section 513 of the Federal Water Pollution Control Act (33 U.S.C. 1372) in all procurement contracts and must require contractors to include compliance with section 513 of the Federal Water Pollution Control Act in all subcontracts and other lower tiered transactions. All contracts and subcontracts for the treatment works construction project must contain in full in any contract in excess of \$2,000 the wage rate requirements contract clauses prescribed by TWDB. Section 513 requires compliance with 40 U.S. Code Sections 3141 to 3144, 3146, and 3147 covering wage rate requirements. TWDB guidance is available at <http://www.twdb.texas.gov/financial/instructions/doc/DB-0156.pdf>.

3) American Iron and Steel (AIS)

The TWDB and all CWSRF financial assistance recipients will comply with the American Iron and Steel (AIS) requirements in Section 608 of the Federal Water Pollution Control Act (33 U.S.C. 1388). The statute requires all of the iron and steel products used in the construction, alteration, maintenance, or repair of treatment works funded by the CWSRF to be produced in the United States.

The term “iron and steel products” means the following products made primarily of iron or steel:

- lined or unlined pipes and fittings
- manhole covers and other municipal castings
- hydrants
- tanks
- flanges, pipe clamps and restraints
- valves
- structural steel
- reinforced precast concrete
- construction materials

EPA may waive the AIS requirement under certain circumstances.

Furthermore, if the original financial assistance agreement for the planning and/or design of a project closed prior to January 17, 2014, then the AIS provision would not apply to the construction phase of the same project. TWDB guidance is available at <http://www.twdb.texas.gov/financial/instructions/doc/TWDB-1106.docx>.

4) National Environmental Policy Act-like environmental review

NEPA-like environmental review applies to all CWSRF program emerging contaminants projects. These requirements are specified in Texas Administrative Code, Title 31, Part 10, Chapter 375. When conducting its NEPA-like review the TWDB will inform EPA when consultation or coordination by EPA with other federal agencies is necessary to resolve issues regarding compliance with applicable federal authorities.

5) Generally Accepted Accounting Principles

Assistance recipients must maintain project accounts according to Generally Accepted Accounting Principles as issued by the Governmental Accounting Standards Board, including standards relating to the reporting of infrastructure assets.

6) Cost and Effectiveness Analysis

A municipality or intermunicipal, interstate, or State agency that receives assistance from the CWSRF must certify that they have conducted a cost and effectiveness analysis. A cost and effectiveness analysis is an eligible cost under the CWSRF. The certification must be provided before CWSRF assistance is provided for final design or construction. TWDB guidance is available at

<http://www.twdb.texas.gov/financial/instructions/doc/TWDB-1107.pdf>.

7) Architectural and Engineering contracts

A contract to be carried out using CWSRF funds for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services must be negotiated in the same manner as a contract for architectural and engineering services is negotiated under 40 U.S.C. 1101 et seq. This applies to new solicitations, significant contractual amendments, and contract renewals. TWDB guidance is available at

<http://www.twdb.texas.gov/financial/instructions/doc/TWDB-1108.pdf>.

8) Compliance with Cross-cutting Authorities

There are a number of federal laws, executive orders, and federal policies that apply to projects and activities receiving federal financial assistance, regardless of whether the federal laws authorizing the assistance make them applicable. These federal authorities are referred to as cross-cutting authorities or cross-cutters. All cross-cutters apply to equivalency projects, which is all emerging contaminants projects

The cross-cutters can be divided into three groups: environmental; social policies; and, economic and miscellaneous authorities.

- Environmental cross-cutters include federal laws and executive orders that relate to preservation of historical and archaeological sites, endangered species, wetlands, agricultural land, etc. (Note – as described under Number 3 above, any project, whether considered equivalency or non-equivalency, that is considered a “treatment work” as defined in 33 U.S. Code § 1292 (2)CA), incorporated by reference in 33 U.S.C. § 1362 (26), must comply with 33 U.S.C. § 1371(c)(1). TWDB will apply to these

projects its “NEPA-like” environmental review process found in Texas Administrative Code, Title 31, Part 10, Chapter 375.)

- Social policy cross-cutters include requirements such as minority and women’s business enterprise participation goals, equal opportunity employment goals, and nondiscrimination laws. This cross-cutter requirement includes compliance with the EPA’s Disadvantaged Business Enterprise program administered by TWDB.
- Economic cross-cutters directly regulate the expenditure of federal funds such as the prohibition against entering into contracts with debarred or suspended firms.

The Equivalency projects that are considered federal are those entered into the Federal Funding Accountability and Transparency Act Subaward Reporting System.

9) Signage

CWSRF emerging contaminants projects must comply with applicable EPA signage requirements.

B. Assurances

1. Regulatory Assurances (Citations refer to sections of Title VI of the Clean Water Act (CWA-33 U.S.C. §§1251 *et seq.*):

- a. 602(b)(3) – Binding Commitments - The TWDB will enter into binding commitments for 120 percent of each quarterly payment within one year of receipt of that payment taking in account cumulative excess binding commitments.
- b. 602(b)(4) – Expeditious and Timely Expenditures - The TWDB will expend all funds in the CWSRF in a timely and expeditious manner.
- c. 602(b)(5) – First Use for Enforceable Requirements - The TWDB has previously met this requirement.
- d. 602(b)(6) – Compliance with Title II Requirements - The TWDB will comply with 511(c)(1) and 513 of this Act in the same manner as treatment works constructed with assistance under title II of this Act.
- e. 602(b)(6) – Environmental Reviews –A NEPA-like review will be conducted on all projects for the construction of treatment works.

2. Entry into the Federal Reporting Systems

The TWDB will enter information into EPA’s CWSRF Reporting System, the CWSRF National Information Management System, and the Federal Funding Accountability and Transparency Act Subaward Reporting System as required.

Appendix F. Bypass Procedures

The Executive Administrator may decide to bypass, or skip, higher ranked projects in favor of lower ranked projects to ensure that funds available are utilized in a timely manner and that statutory and capitalization grant requirements are met. If an entity is offered funding for any project that has an interrelated project ranked lower on the list, the TWDB Executive Administrator will have discretion to also offer funding for the interrelated project.

Reasons for bypassing projects are listed below, but are not limited to:

1. Fulfill the Minimum Additional Subsidization Requirement

A project on the PPL or IIPPL may be bypassed to fulfill the federal minimum additional subsidization requirement.

2. Intent to Apply and Application Submission Deadlines

A project may be bypassed if the applicant did not submit any intent to apply form or information by a specified deadline or the application is not received by the TWDB-established submission deadline and it is not administratively complete by the established deadline.

3. Readiness to Proceed

The Executive Administrator may bypass projects to include those deemed ready to proceed to construction.

4. Past Project Performance

If the applicant has failed to close a commitment or complete a project in a timely manner under a prior IUP, and it is determined that such failure to perform could jeopardize the timely use of funds for a project under this IUP, the Executive Administrator may bypass the project.

5. Financial Capacity

A project may be bypassed if the Executive Administrator determines that the applicant will be unable to repay the SRF financial assistance for the project or does not have acceptable financial records or audits.

Key to EPA Cost Categories

I.	Secondary Wastewater Treatment
II.	Advanced Wastewater Treatment
III.A.	Infiltration/Inflow Correction
III.B.	Sewer System Replacement or Major Rehabilitation
IV.A.	New Collector Sewers and Appurtenances
IV.B.	New Interceptor Sewer and Appurtenances
V.	CSO Correction
VI.A.	Stormwater Conveyance Infrastructure
VII.(A-L)	NPS (Sec. 319)
VII.M.	Estuary Management (Sec. 320)
VIII.	Confined Animals – Point Source
X.	Recycled Water Distribution