



P.O. Box 13231, 1700 N. Congress Ave.
Austin, TX 78711-3231, www.twdb.texas.gov
Phone (512) 463-7847, Fax (512) 475-2053

AGENDA ITEM MEMO

BOARD MEETING DATE: July 23, 2024

TO: Board Members

THROUGH: Bryan McMath, Interim Executive Administrator
Ashley Harden, General Counsel
Jessica Peña, Deputy Executive Administrator

FROM: Marvin Cole-Chaney, Director, Program Administration & Reporting

SUBJECT: Authorization for Emerging Contaminants in Small or Disadvantaged Communities (EC-SDC) Drinking Water Grant Application through the EPA

ACTION REQUESTED

Consider authorizing the executive administrator to submit an application to the Environmental Protection Agency for the Emerging Contaminants in Small or Disadvantaged Communities (EC-SDC) Drinking Water Grant.

BACKGROUND

The Infrastructure Investment and Jobs Act of 2021 (IIJA) appropriated grant funds for Federal Fiscal Years (FFY) 2022 to 2026 to reduce exposure to perfluoroalkyl and polyfluoroalkyl substances (PFAS) and other emerging contaminants through drinking water. The Environmental Protection Agency’s (EPA) EC-SDC Grant has an annual appropriation of \$1 billion for each FFY, of which there is no cost-share or match required by state or local recipients. The EPA has allotted to Texas \$114,696,000 under FFYs 2022-2023, and \$55,125,000 under FFY 2024 for a total allotment of \$169,821,000. Like the other State Revolving Fund (SRF) programs, in order for Texas to be awarded an allotment, an application must be submitted and approved by EPA.

The EC-SDC Grant is a supplemental program to the Drinking Water State Revolving Fund (DWSRF) Emerging Contaminants (EC) program. The EC-SDC Grant seeks to promote clean and safe drinking water by providing small or disadvantaged communities with funding to address emerging contaminants using principal forgiveness without a loan component. Many of the entities that have applied to the DWSRF-EC program would also be eligible to receive funding from the EC-SDC Drinking Water

Our Mission	Board Members
Leading the state’s efforts in ensuring a secure water future for Texas	Brooke T. Paup, Chairwoman George B. Peyton V, Board Member L’Oreal Stepney, P.E., Board Member Bryan McMath, Interim Executive Administrator

Grant. Submitted Project Information Forms (PIFs) for the DWSRF-EC program in State Fiscal Years (SFY) 2023 and 2024 have exceeded the allocations for that program. The EC-SDC Grant would supplement existing needs, meeting specific criteria, to address emerging contaminants in Texas.

Per the IJJA, all the funds will be awarded as grants to eligible emerging contaminant projects and/or activities in small or disadvantaged communities. Disadvantaged communities are defined by each state and the EC-SDC Grant and use the same definition as within the DWSRF-EC Intended Use Plan (IUP). The DWSRF-EC IUP defines disadvantaged communities as communities that (1) may have emerging contaminants, (2) in which at least 51% of the project beneficiaries have an Annual Median Household Income (AMHI) of no more than 150% of the state's AMHI level, and (3) the unemployment rate for the project beneficiaries is greater than 50% of the state's unemployment rate, or the population has declined, or the utility is a small system with 25,000 or fewer connections. Small communities are defined as communities or public water systems serving fewer than 10,000 people.

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. The focus will be on projects addressing PFAS, however, the program may fund, as a lower priority, projects addressing any contaminant in any of U. S. EPA's Contaminant Candidate Lists.

Program Highlights

- a) As required by law, all project funding will be provided as grants. All applicable federal requirements apply to all project funding;
- b) Prioritizes proposals that have identified and will address PFAS. This is consistent with the federal appropriations;
- c) Allows for testing or sampling to assist in scoping and identifying emerging contaminants within a water system; and
- d) Provides funding for the TWDB to evaluate the use and development of methods or programs to assist with identifying rural and small communities for outreach.

Program Tasks/Schedule

- Outreach to
 - entities that previously applied to DWSRF-EC program that did not receive funding and meet the eligibility requirements of this grant; and
 - entities that identified as serving 10,000 or less.
- Targeted solicitation of new projects for the EC-SDC Grant within the DWSRF-EC Program solicitations.
- Evaluation of Texas mapping and available data to assist in identifying small and disadvantaged communities that would be eligible for EC-SDC funding as well as other technical and funding assistance.

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RECOMMENDATION

The Executive Administrator recommends authorization to submit an application to the EPA for the EC-SDC Drinking Water Grant to supplement the existing DWSRF-EC program.

Attachments:

1. Draft EC-SDC Drinking Water Grant Workplan



Emerging Contaminants in Small and
Disadvantaged Communities (EC-SDC)
Drinking Water Grant Workplan

Federal Funds FFY2022 and FFY2023
Grant Program Period: 5/31/2023-9/30/2029

Document Date: May 31, 2024

1.Executive Summary

Texas Water Development Board (TWDB) will be applying for the FY22 and FY23 Emerging Contaminants in Small or Disadvantaged Communities (EC-SDC) Grant. The general approach for this program is described as follows:

Years 1-2

1. Develop project pipeline for the funds. This will be done primarily by soliciting for projects from small and disadvantaged communities to do sampling/testing for baseline assessments or testing for identification of presence, source, or extent of emerging contaminants in water or source water. A new Project Information Form (PIF) will be developed to show these options, which are different than the allowable activities under the Drinking Water State Revolving Fund (DWSRF) Emerging Contaminants (EC) program.
2. Use EC-SDC grant to assist applicants that previously applied for DWSRF-EC funding program, but were not funded under this program.
3. Evaluate state-wide mapping options in order to assist with identifying communities in need for future outreach efforts.

Years 2-3

1. Fund projects from the EC-SDC solicitation for pre-planning, planning, design, and construction, as applicable.
2. Continue funding additional projects on DWSRF-EC list that are eligible for the EC-SDC program for planning, design, and construction, as funds are available.
3. Continue to build and develop project pipeline for both EC-SDC program, and to use for other TWDB programs for assistance in addressing emerging contaminants. This may include state-wide mapping, pending evaluation completed in prior years.

Funding appropriations for the Federal Fiscal Year (FFY) 2022 and FFY23 to the State of Texas are \$114,696,000. Based on the level of interest in the DWSRF-EC program, and the total number of rural and small systems in the state of Texas, we expect demand for this program to be high.

2.Project Summary and Overall Approach

Emerging Contaminants in Small or Disadvantaged Communities (EC-SDC) grant program was funded by the Infrastructure Investment and Jobs Act (IIJA). The EC-SDC program focuses on addressing emerging contaminants, including perfluoroalkyl and polyfluoroalkyl substances (PFAS) in small or disadvantaged communities' drinking or source water. Other emerging contaminants (EC) are any listed on the United States Environmental Protection Agency's (EPA) Contaminant Candidate Lists (CCL). EC-SDC grant funds are awarded to states, and the Texas Water Development Board (TWDB) receives and manages funds from the EPA for the state of Texas. Allocations for the EC-

SDC Grant are available for the Federal Fiscal Years (FFY) 2022 and 2023. Additional allocations for FFY 2024-2026 are anticipated. The EC-SDC Grant is available for emerging contaminant projects and/or activities in small or disadvantaged communities.

- **Disadvantaged Community** is defined as:
 1. having emerging contaminants,
 2. 51% or more of the proposed project has an Annual Median Household Income (AMHI) level of less than 150% of the state's AMHI (e.g., \$100,982 for State Fiscal Year (SFY) 2023), and
 3. One of the following:
 - The unemployment rate for the project beneficiaries is more than 50% of the state unemployment rate (e.g., unemployment >2.61%); or
 - The population has declined; or
 - The system has fewer than 25,000 connections.
- **Small Community** is one that has a population of less than 10,000.

A list of proposed projects that is the basis of the Small or Disadvantaged Communities List (SDC List) is provided in **Attachment 1**. Additionally, through this program, the TWDB will solicit for additional projects and evaluate data collection and mapping tools to help identify entities for future outreach and potential assistance.

Project Eligible Activities

Eligible activities are for the public water system to address emerging contaminants. This workplan proposes the following activities to be funded, in accordance with statutory eligibilities under Section 1459A of the Safe Drinking Water Act (SDWA) and the EC-SDC Grant Program Implementation Document, dated February 2023. Note that additional information regarding eligible projects is included in the EC-SDC Grant Program Implementation Document and the following list is not comprehensive.

- **Scoping and identification**
- **Testing or sampling** for baseline assessment to develop and propose capital improvement projects.
- **Research and testing**, includes identification of emerging contaminants in water or source water; testing to verify whether contaminant(s) are still present after removal actions have been completed; upgrading Supervisory Control and Data Acquisition (SCADA) system to aid with the detection of emerging contaminants; and pilot testing for treatment alternatives.
- **Planning and design**, includes preliminary engineering reports, alternative analysis, preliminary and final designs; climate and cybersecurity risk assessment; and source water protection plans and plan updates.
- **Treatment**, includes construction of facilities to remove emerging contaminants, upgrading existing facilities to add new processes; and development of a new water source.

- **Source Water**, includes source exploration and new source development; source water protection activities; and construction of an extensive water transmission.
- **Storage**, includes new storage or replacement/rehabilitation of existing structures; and development of supplemental treatment to water storage facilities as a protective distribution “barrier” that prevents contamination of water.
- **Water system restructuring, consolidation, or creation**, includes planning, negotiations, and public processes necessary to support restructuring; consolidation with another water system that does not have emerging contaminants present or has removal capacity; and creation of a new community water system to address unsafe drinking water provided by individual (i.e., privately-owned) wells.
- **Providing households access to drinking water services** includes connection to an existing water system without emerging contaminant contamination.
- **Technical assistance** includes staff training on operation of new equipment or implementation of new practices; and public communication, engagement, and education.

Roles and Responsibilities

The EC-SDC grant will be administrated by the TWDB utilizing similar processes as the DWSRF-EC Program. TWDB plans to use lists developed as part of the DWSRF-EC Program to identify interested, eligible entities to be subrecipients of this grant, and form the basis for the Small or Disadvantaged Communities (SDC) List. This SDC list will be continually updated during the EC-SDC Program through additional solicitations for projects specifically for the EC-SDC Program. Additionally, the TWDB will evaluate developing a map to assist in identifying potential Public Water Supply systems that qualify as small or disadvantaged during the first two years of the program.

TWDB Outreach and Communications team will continue to publicize the program to encourage other small or disadvantaged communities to self-identify as interested in addressing emerging contaminants.

The TWDB will review the technical, managerial, and financial (TMF) capacity of entities. Entities interested in the program that do not meet TMF capacity requirements will be directed to the EPA’s Technical Assistance program and the TWDB Technical Assistance programs. The existing framework from the Public Water System Supervision Program (PWSS) will also be utilized to identify and review eligible systems.

TWDB will directly reach out to public water systems that serve a population of 10,000 or less in order to publicize the program.

TWDB will develop and publish a solicitation and new Project Information Form (PIF) for communities to self-identify and apply for EC-SDC Funding. Interested communities will be added to the project pipeline and presented with funds, as available.

To assist with identifying rural and small communities for targeted outreach, the TWDB will evaluate the use and development of a state-wide map to assist with identifying target communities for outreach. The TWDB will work with the internal Texas

Geographic Information Office (TxGIO) to evaluate the creation of a new public mapping tool that could include a synthesis of existing publicly available data. Existing data that will be evaluated includes:

- Justice40 (Climate and Economic Justice Screening Tool), <https://screeningtool.geoplatform.gov/en/#3/33.47/-97.5>
- Environmental Working Group PFAS Contamination, https://www.ewg.org/interactive-maps/pfas_contamination/map/
- Water well locations, from TWDB Groundwater Database and Submitted Driller's Reports
- Water District locations, Public Water Supply locations, and wastewater outfalls from Texas Commission on Environmental Quality (TCEQ), <https://gis-tceq.opendata.arcgis.com/search?categories=%252Fcategories%252Fwater>
- Location of Edwards Aquifer, TCEQ has dataset <https://gis-tceq.opendata.arcgis.com/maps/f4892e5b45a84764bfbb6b139872aaf2>
- Priority Groundwater Management Areas, as defined from and provided from TCEQ database <https://gis-tceq.opendata.arcgis.com/maps/bf38790406ec428f9be2e259ed3cc88a>
- Population data, American Community Survey data for 5-years, unemployment data, and population age under 18 from US Census Bureau
- Oil and gas well locations and underground injection wells from the Texas Railroad Commission (RRC), <https://www.rrc.texas.gov/resource-center/research/data-sets-available-for-download/>
- Locations of airports and military bases, as potential sources of PFAs in groundwater

The evaluation will review the feasibility of creating a map, making the map publicly available on the TWDB website, and updating the map during the course of the program. The evaluation will be concluded by the end of Year 1.

No funding to other state agencies is anticipated. The Texas Geographic Information Office is housed within the TWDB organization.

TWDB will follow Federal Cross-Cutters and will ensure that assistance recipients comply with the requirements. TWDB currently does this in the DWSRF-EC Program and regular DWSRF Program. Reporting will be completed by TWDB in accordance with guidance and criteria requested by the EPA.

Timeline and Milestones

The following general timeline is presented for the EC-SDC Program. Note the timeline begins after EPA approval of the workplan and receipt of funds for the program. TWDB will report to EPA annually and semi-annually per grant requirements.

Proposed Schedule	Activity/Milestone
Years 1-2	Outreach to systems identified in existing SDC List to confirm interest and project descriptions for EC-SDC Program. Direct outreach to systems identified as serving 10,000 or less. Solicitation of new project for the EC-SDC Program. Begin evaluation of overall Texas mapping and available data.
Years 2-3	Outreach to other small or disadvantaged systems identified through the mapping project or that have applied to other TWDB funding opportunities.

A general timeline for projects from interested applicants is as follows:

1. Review and rank project lists for priority projects for funding.
2. Send out Intent to Apply letters, hold pre-application meetings to further discuss the proposed project scope with each entity and the application process, and receive and process applications from entities.
3. Review applications and receive approval from the TWDB's Board. Notify EPA Region 6 of applicants and proposed projects.
4. Entities begin projects. Schedules will vary based on project scope.

This process will be repeated throughout the program to fully utilize all available funding. The timeline and milestones will be updated, as needed, during the course of the program.

3. Programmatic Priorities and Strategic Goals

The priority of the EC-SDC program is to complement and extend the impact of the DWSRF-EC program with a specific focus on water systems serving small or disadvantaged communities. The overall goals are to identify and provide funding for addressing emerging contaminants, maintaining and/or bringing Texas' PWSs into compliance with the SDWA, and to support affordable drinking water and sustainability.

The priorities will support the EPA's FY2022-2026 Strategic Plan, in particular Goal 5 (Ensure Clean and Safe Water for All Communities), Objective 5.1 (Ensuring Safe Drinking Water and Reliable Water Infrastructure). The overall project review and

ranking that goes into funding decisions will support this objective. Suggested project review and ranking will include the following:

- Proposals to identify PFAS or other emerging contaminants in drinking water source. This information can then be used to plan treatment/removal options.
- Prior identification of PFAS or other emerging contaminants that will be addressed by the proposed project.
- Proposed monitoring for the purposes of project development.
- First-time service connections to currently unserved populations with emerging contaminants in their existing water sources.
- Facilitate consolidation of one or more water systems with an identified presence of contaminants into another water system that does not have emerging contaminants or has removal capability.
- Project beneficiary area's Annual Median Household Income (AMHI), unemployment rate, population change percentage, and number of connections/people served.

Priorities

1. Use the EC-SDC 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) in small or disadvantaged communities.
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 SDWA.

Strategic 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 analytical testing funds in order to identify emerging contaminants.
4. Provide outreach to systems within Texas on the availability of this funding to address emerging contaminants.

4.Environmental Results – Outputs and Outcomes

TWDB is committed to addressing emerging contaminants in the state’s drinking water.

Outputs

Project activities are designed to meet project priorities, as noted in Section 2. Some specific outputs include:

- Use current list of systems under 10,000 in population to provide direct outreach.
- Review and rank applicants to the program based on TMF needs and project proposals.
- Use at least 75% of the funding to assist small or disadvantaged communities within the first 2 years of the program.

It is anticipated that the outputs listed above will be met over the course of the program. The referenced goals will be completed at the end of utilizing the FFY2022/2023 funding.

Outcomes

Outcomes for the EC-SDC Program are expected to include:

- Increased identification of public water systems serving small or disadvantaged communities that have emerging contaminants and need additional technical, managerial, and financial capacity.
- Increased accessibility to TWDB funding options to assist small or disadvantaged communities.
- Reduction in the population that is served by a water system threatened by emerging contaminants and that benefit from the Federal investments in drinking water infrastructure improvements to respective communities.

5. Budget Narrative

A total of \$114,696,000 was allocated to Texas for Federal Fiscal Year (FFY) 2022 and 2023. The allocation will be given as grants. No loan origination fees will be assessed. Regarding the outcomes and outputs discussed in Section 4, additional funding is anticipated to be available for FFY 2025-2026.

	EC-SDC	% of Grant
EC-SDC Allotment (FFY2022-2023)	\$114,696,000.00	
Set-Aside (TWDB administration)	\$4,587,840.00	4%
Total for Projects	\$110,108,160.00	

The Set-Aside funds will include TWDB administration of the grant, including coordination of the workplan with the EPA Region 6 and all associated reporting. In addition, a portion of the set-aside will be directed to the Texas Geographic Information Office, which is housed within the broader TWDB umbrella, in order to evaluate the mapping database.

Funding for projects will be grants and are considered Equivalency projects (i.e., following all federal requirements known as “cross cutters”).

The Draft SDC List is provided as **Attachment 1**.

The TWDB will invite certain entities from the SDC List to submit an application for their projects, using available funding. As part of the invitation process the TWDB will require the applicant to submit an intent to apply form by a specified deadline showing the applicant’s intent to request up to the eligible amount of funding originally requested. Failure to submit the requested intent to apply information by the established deadline will result in TWDB bypassing the project on the SDC list.

Prior to submitting an application, entities are required to participate in a pre-application meeting to discuss the application process and project requirements. All project applications must be determined administratively complete as submitted or within 14 days from the date the applicant receives a notice to correct deficiencies.