

April 25, 2025

Public Review and Comment Period

Legal notice of public review and comment period concerning the proposed 2024 Intended Use Plan (IUP) attached below for Oregon's new Bipartisan Infrastructure Law (BIL) Emerging Contaminants program. The BIL Emerging Contaminants increases funding to Oregon's existing Drinking Water State Revolving Fund (DWSRF) program with priority funding going towards perfluoroalkyl and polyfluoroalkyl substances (PFAS), manganese, and cyanotoxin mitigation.

One of Oregon Health Authority (OHA) Drinking Water Services (DWS) responsibilities as a state agency managing the DWSRF program as set forth under Section 1452 (40 CFR 35.555 (b)) of the amended 1996 Safe Drinking Water Act (SDWA) is to provide the public the opportunity to comment on the proposed IUP as part of the grant application process to the U.S. Environmental Protection Agency (EPA). This IUP explains how OHA-DWS prioritizes funding to eligible community and non-profit non-community public water systems and the funding of Set-Aside activities. It also is a key aspect of how we will procure the funding resources that the EPA has appropriated Oregon during Federal fiscal year 2024.

The public comment period for the IUP will be from Monday, May 5 through Thursday, June 5, 2025. If you would like to make a comment, please email your comments to DWS.SRF@odhsoha.oregon.gov by no later than 5pm on Thursday, June 5th to be considered. If you have questions, you may also email or call me at (503) 730-7055.

Thank you.

Tabitha Donaghue

FEDERAL FUNDING COORDINATOR, DWSRF/BIL

Drinking Water Services

800 N.E. Oregon St., STE 640

Portland, OR. 97232-2162

tabitha.donaghue@oha.oregon.gov

<http://healthoregon.org/srf>

<http://Oregon.gov/bil>

Tina Kotek, Governor

April 18, 2025

Ms. Lacey Davidson
Grants Specialist, EPA Region 10
United States Environmental Protection Agency
1200 Sixth Avenue, Suite 900, OMP-145
Seattle, WA 98101

Reference: Applications, FFY2024 Oregon's Drinking Water State Revolving Fund (FON: EPA-CEP-01) – IIJA Emerging Contaminants

Dear Ms. Davidson:

Please find in the Grants.gov application package the Oregon Health Authority's (OHA) complete Drinking Water State Revolving Fund – IIJA Emerging Contaminants capitalization grant applications and Intended Use Plans (IUP) for FFY2024 appropriations. This application package also includes OHA's Set-Aside work plans, the budget narrative (i.e., SF-424A), as well as the current indirect cost rate agreement and other required documents.

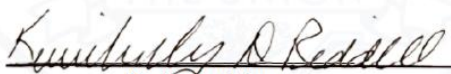
Our plans and strategy for implementing our programmatic goals while addressing the federal requirements will be copiously detailed and incorporated throughout the IUP and its attachments in the grant application packages.

If you have any questions or comments, please contact Tabitha Donaghue, Federal Funding Coordinator, at 503-730-7055 or via e-mail at tabitha.donaghue@oha.oregon.gov.

Sincerely,



André Ourso, MPH, JD
Administrator, Center for Health Protection
Public Health Division
Oregon Health Authority



Nadia Davidson for
Director of Finance
Public Health Division
Oregon Health Authority

Enclosures: Applications, FFY2024 Drinking Water State Revolving Fund (FON: EPA-CEP-01)

cc: Nic Taylor, EPA
Catie Jones, EPA
Tony Fields, OHA
Debra Lambeth, OHA
Amy Bleekman, OHA
Travis Labrum, DHS/OHA
Kristen Larson, BizOR
Richard Green, EPA
Samina Panwhar, OHA
Adam DeSemples, OHA
Tabitha Donaghue, OHA
Mai Quach, OHA
Nicole Bailey, BizOR

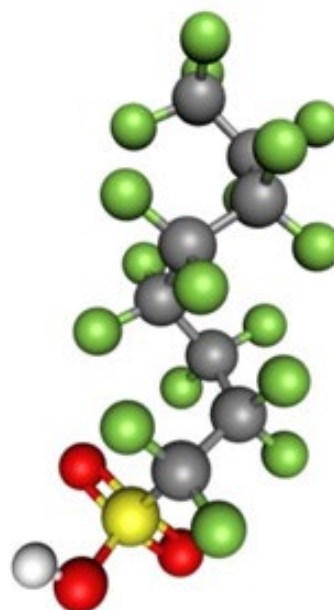
State of Oregon

Drinking Water State Revolving Fund (DWSRF) *Infrastructure Investment & Jobs Act (IIJA) – Emerging Contaminants Program*

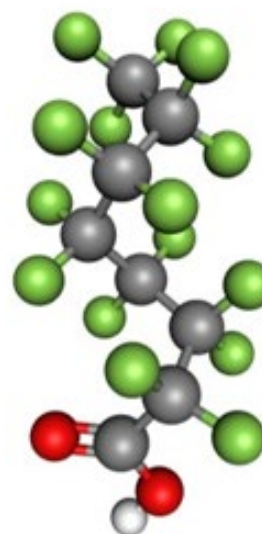
Intended Use Plan 2024

April 2025

Oregon Health Authority
Public Health Division
Center for Health Protection
Drinking Water Services
800 NE Oregon Street, STE 640
Portland, OR. 97232



PFOS



PFOA



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2024 Drinking Water State Revolving Fund – IIJA-Emerging Contaminants Program
Capitalization Grant Application and Intended Use Plan

State of Oregon

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APPENDICES

A. REQUIRED DOCUMENTS

- Attorney General Certification
- 2022-23-24 IIJA-Emerging Contaminants PPL
- IIJA-Emerging Contaminants Rating Form & Guidance
- FFATA Set-Aside Reporting Spreadsheet

B. SUPPORTING DOCUMENTS

- 2024 Grant Allotment Use Summary – IIJA-Emerging Contaminants
- Project Selection Methodology – IIJA-Emerging Contaminants (2024)
- Cost Allocation & Other Payroll Expense Letters (3)

C. TIMELY & EXPEDITIOUS USE OF FUNDS

- Sources & Uses Table

D. SET-ASIDE WORK PLANS

- State Program Management
- Local Assistance & Other State Programs
 - i. Capacity Development

E. PUBLIC NOTICES

- Intended Use Plan (IUP) Public Notice Letter
- Project Priority List Public Notice Letter

F. AGREEMENTS

- Interagency Agreement (with Business Oregon)
- Interagency Agreement (with DEQ)
- Operating Agreement (with EPA)

COMMON ACRONYMS

• ACS	-	AMERICAN COMMUNITY SURVEY
• AIS	-	AMERICAN IRON & STEEL
• AWWA	-	AMERICAN WATER WORKS ASSOCIATION
• AWIA	-	AMERICA’S WATER INFRASTRUCTURE ACT
• BABA	-	BUILD AMERICA, BUY AMERICA ACT
• BIL	-	BIPARTISAN INFRASTRUCTURE LAW
• BMP	-	BEST MANAGEMENT PRACTICES
• CA	-	COST ALLOCATION & CAPACITY ASSESSMENT
• CFR	-	CODE OF FEDERAL REGULATIONS
• CHP	-	CENTER FOR HEALTH PROTECTION
• CR	-	CONTINUING RESOLUTION
• CWSRF	-	CLEAN WATER STATE REVOLVING FUND
• DB	-	DAVIS BACON
• DBE	-	DISADVANTAGED BUSINESS ENTERPRISE
• DEQ	-	DEPARTMENT OF ENVIRONMENTAL QUALITY
• DWAC	-	DRINKING WATER ADVISORY COMMITTEE
• DWS	-	DRINKING WATER SERVICES
• DWSP	-	DRINKING WATER SOURCE PROTECTION
• DWSRF	-	DRINKING WATER STATE REVOLVING FUND
• EDU	-	EQUIVALENT DWELLING UNIT
• EPA	-	ENVIRONMENTAL PROTECTION AGENCY
• ER	-	ENVIRONMENTAL REVIEW
• ERP	-	ENFORCEMENT RESPONSE POLICY
• ETT	-	ENFORCEMENT TARGETING TOOL
• FFATA	-	FEDERAL FUNDING ACCOUNTABILITY & TRANSPARENCY ACT
• FFY	-	FEDERAL FISCAL YEAR
• FSRS	-	FFATA SUBAWARD REPORTING SYSTEM
• FTE	-	FULL TIME EQUIVALENT
• GIS	-	GEOGRAPHICAL INFORMATION SYSTEMS
• GPR	-	GREEN PROJECT RESERVE
• IAA	-	INTER-AGENCY AGREEMENT
• IFA	-	INFRASTRUCTURE FINANCE AUTHORITY
• IGA	-	INTERGOVERNMENTAL AGREEMENT
• IIJA	-	INFRASTRUCTURE INVESTMENT AND JOBS ACT
• IUP	-	INTENDED USE PLAN
• LOI	-	LETTER OF INTEREST
• MCL	-	MAXIMUM CONTAMINANT LEVEL
• MHI	-	MEDIAN HOUSEHOLD INCOME
• NIMS	-	NATIONAL INFORMATION MANAGEMENT SYSTEM
• OA	-	OPERATING AGREEMENT
• OAR	-	OREGON ADMINISTRATIVE RULE
• OFS	-	OFFICE OF FINANCIAL SERVICES
• OHA	-	OREGON HEALTH AUTHORITY
• OMB	-	OFFICE OF MANAGEMENT & BUDGET
• ORS	-	OREGON REVISED STATUTE
• PBR	-	PROJECT & BENEFITS REPORTING
• PER	-	PROGRAM EVALUATION REPORT
• PPL	-	PROJECT PRIORITY LIST
• PPP	-	PUBLIC PRIVATE PARTNERSHIPS
• RCAC	-	RURAL COMMUNITY ASSISTANCE CORPORATION
• RLDWA	-	REDUCTION OF LEAD IN DRINKING WATER ACT
• SDWA	-	SAFE DRINKING WATER ACT
• SDWRLF	-	SAFE DRINKING WATER REVOLVING LOAN FUND
• SFY	-	STATE FISCAL YEAR
• SIPP	-	SUSTAINABLE INFRASTRUCTURE PLANNING PROJECTS
• SOS	-	SECRETARY OF STATE
• SPM	-	STATE PROGRAM MANAGEMENT
• ULO	-	UNLIQUIDATED OBLIGATION
• WIFIA	-	WATER INFRASTRUCTURE FINANCE & INNOVATION ACT
• WIIN	-	WATER INFRASTRUCTURE IMPROVEMENT FOR THE NATION ACT

Oregon's 2024 DWSRF – IIJA-Emerging Contaminants, Intended Use Plan

I. Executive Summary

Introduction & Purpose

On August 6, 1996, the Safe Drinking Water Act (SDWA) Amendments of 1996 ([P.L. 104-182](#)) were signed into law. Section 1452 of this act authorized the Administrator of the U.S. Environmental Protection Agency (EPA) to establish a Drinking Water State Revolving Fund (DWSRF) program to assist public water systems with affordable financing for infrastructure needs to achieve or maintain compliance with the SDWA requirements and to protect public health.

Annually, Congress appropriates funding to the EPA for the DWSRF program. EPA then separates that appropriation into an allocation for each state using a set percentage based upon the results of the most recent EPA Drinking Water Infrastructure Needs Survey and Assessment. States must apply for the capitalization grant successfully and provide a match to be awarded the allocated funds by the EPA for their DWSRF program.

As part of each state's annual capitalization grant application process to the EPA, Section 1452(b) of the SDWA, requires states to submit an Intended Use Plan (IUP) identifying the use of funds in that state's DWSRF program and how those uses support the goal of protecting public health.

On November 15, 2021, the Infrastructure Investment and Jobs Act (IIJA) was signed into law, generating significant additional investments in the DWSRF program through the General Supplemental (GS) funding and targeted programs for Emerging Contaminants (EC) and Lead Service Line Replacement (LSLR). Throughout federal fiscal years, 2022 to 2026, EPA will allocate these funds annually as additional grants for states to apply for and manage, utilizing their existing DWSRF program.

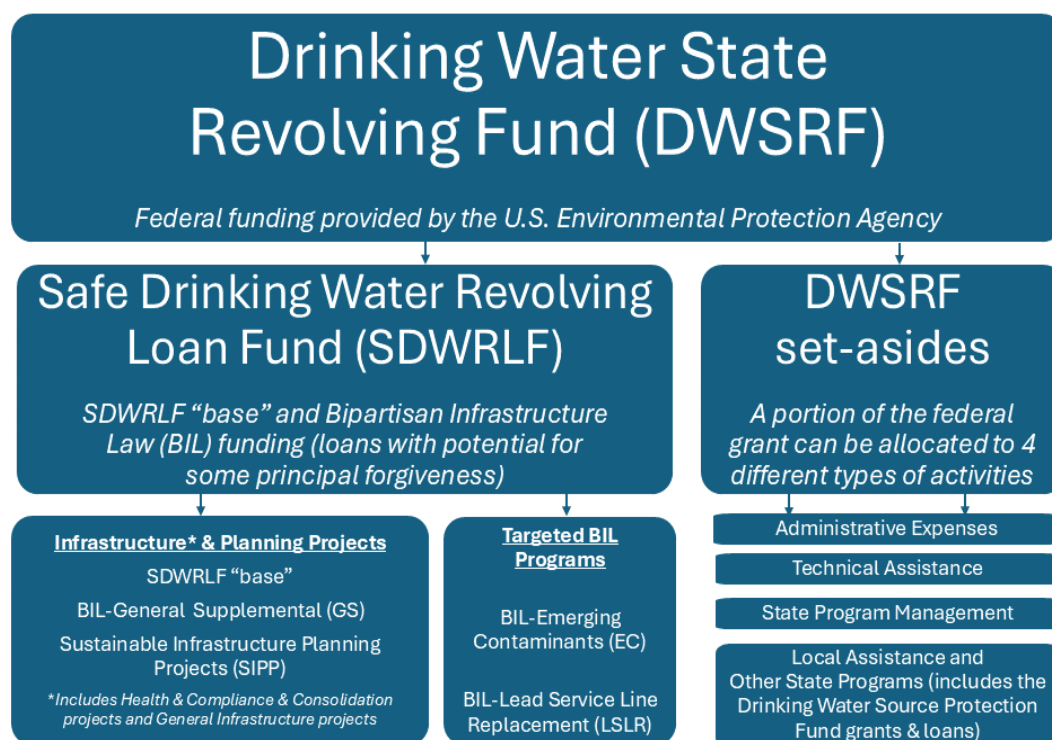
The purpose of this Intended Use Plan (IUP) document is to identify the intended uses of the 2024 BIL-EC allotment available to Oregon's DWSRF Program.

❖ Oregon's Awarded DWSRF Capitalization Grants Are Used for Two Key Functions:

1. **Safe Drinking Water Revolving Loan Fund (SDWRLF):** The SDWRLF is the loan fund of Oregon's DWSRF program (henceforth referred to as the "Loan Fund"). It assists eligible public water systems in achieving, maintaining, or regaining compliance and protecting public health by funding drinking water infrastructure or resiliency improvement projects such as treatment, distribution, and storage or creating a new source with low-cost financing. Oregon's DWSRF capitalizes the Loan Fund per [Oregon Administrative Rule \(OAR\) 123-049](#) and is managed by the Oregon Business Development Department, DBA Business Oregon through its Infrastructure Finance Authority (IFA). The SDWRLF Program will be detailed further in Section V.
2. **Program Set-Asides:** State DWSRF programs include four unique Set-Asides that

allow States the option of providing a portion of its capitalization grant towards those activities. Activities such as covering the costs to administer the DWSRF program, regulatory work (by counties) to ensure compliance with SDWA, technical assistance, and capacity development are a few of the primary focuses these Set-Asides support. Partner costs to Oregon’s Department of Environmental Quality (DEQ) are also covered by Set-Asides for its assistance with source water protection efforts throughout the State. Additionally, Set-Asides support source water protection objectives through grant awards to eligible entities. See Section VII below or **Appendix D** for more details about these four Set-Aside activities.

A visual representation of the uses of the DWSRF funding in Oregon is demonstrated below:



Summary

This IUP and its appendices, including its Project Priority List (PPL), incorporates IIJA-Emerging Contaminants grant funding details and federal mandates as part of Oregon’s DWSRF program to expand more funding options to eligible drinking water systems throughout the State. Additional capitalization will allow the Oregon DWSRF to expand its funding options and assistance to eligible drinking water systems throughout the State. These efforts will be in coordination with Business Oregon by continuing to offer low interest loans and forgivable loan awards from the Loan Fund to eligible drinking water systems while continuing to support the four separate program Set-Aside activities to meet federal drinking water program mandates.

EPA’s April 3 and May 1, 2024, memorandums allocated states, including Oregon, its 2024

traditional Base DWSRF and its [Infrastructure Investment and Jobs Act](#) capitalization grant amounts totaling \$81,729,000. These funds are targeted for use for State Fiscal Years 2025 through 2026 (July 1, 2024 – June 30, 2026).

This IUP will focus on the high-level intended uses of the BIL-Emerging Contaminants grant through the [Infrastructure Investment and Jobs Act \(H.R. 3684\)](#) (i.e., IIJA, Drinking Water Sec. 50101-50115). Oregon Health Authority (OHA) and its state agency partner (i.e., Business Oregon) are pursuing the entire FFY2024 IIJA-Emerging Contaminants (IIJA-EC) allotment of \$11,493,000 (plus \$343,000 FFY2022 and 23 IIJA-EC reallotted funds) to further expand its funding efforts to reduce and mitigate prevalent emerging contaminant concerns throughout Oregon.

These annual IIJA-Emerging Contaminants grant funding appropriations to Oregon’s DWSRF program will run from FFY2022-2026. For more IIJA details, see Section III in this IUP or visit Oregon.gov/bil.

Finally, many of the details throughout this IUP demonstrate Oregon’s continued efforts to programmatically improve processes and policies while protecting public drinking water supplies statewide.

Table 2: Oregon’s 2024 DWSRF – IIJA-Emerging Contaminants (EC) Allotment

The 2024 program is allotted as described in the tables below:

2024 IIJA-Emerging Contaminants	EPA Site Project Code	Federal Funds	Percent of Allotment	State Match Funds*
Project Loans for Water Systems	DA	\$ 10,302,226	87.00%	\$ -
Set-Aside Activities:				
1.) Administrative Expense	DD	\$ -	0.00%	\$ -
2.) Small System Tech. Assist.	DE	\$ -	0.00%	\$ -
3.) State Program Management	DF	\$ 591,800	5.00%	\$ -
4.) Local Assist. & Other St. Pro.				
<i>LA - Implementation of Protection</i>	DGD	\$ -	0.00%	\$ -
<i>LA - Capacity Development</i>	DGC	\$ 941,974	8.00%	\$ -
<i>LA - Drinking Water Source Protection</i>	DGB	\$ -	0.00%	\$ -
Total		\$ 11,836,000	100.00%	\$ -

(For more details, visit the Grant Allotment Use Summary sheet in the **Appendix B** portion of the IUP)

* State Match is not required for IIJA-Emerging Contaminants funding.

Allocation Table Description (See Section VII or Appendix D for details on Set-Asides)

- **Project Loans for Water Systems:** 87% of the IIJA-EC Allocation (\$10,302,226) is dedicated to funding project contracts of 100% forgivable loans to address or mitigate confirmed Emerging Contaminants in drinking water systems.

- **Administrative Expense:** For 2024 IIJA-EC funding, the Administrative Expense Set-Aside program activities will be covered by the Local Assistance-Capacity Development Set-Aside program.
- **Small System Technical Assistance:** For 2024 IIJA-EC funding, the Small System Technical Assistance Set-Aside program activities will be covered by the Local Assistance-Capacity Development Set-Aside program.
- **State Program Management:** 5% of the funds (\$591,800) will support regulatory work conducting sanitary surveys, responding to water quality alerts, following up on priority non-compliant water systems, administering contracts, and providing clerical support.
- **Local Assistance (LA):** 8% of the Local Assistance-Capacity Development Program funds (\$941,974) will support efforts to improve technical, managerial, and financial capacities of water systems as well as training for small water systems. Additionally, program administrative and technical assistance (via Circuit Rider) costs will also be covered by this set-aside for IIJA-EC related activities that directly benefit eligible water systems. Program and project administrative and operational activities are carried out jointly between OHA and Business Oregon.
- **EPA Site Project Code:** A simplified internal coding for tracking grant fund balances as required by EPA.
- **State Match:** Oregon's State Match funds are not required for IIJA-Emerging Contaminants funding.

Program Implementation

A. Interagency Implementation

The State of Oregon, Drinking Water Services (DWS) is an Oregon Health Authority (OHA) program located within the Center for Health Protection (CHP). Oregon's DWSRF program is carried out through direct involvement activities and with the utilization of partnership agreements. The primacy agency is OHA via its DWS who provide direct services with a complement of experienced regulatory technical staff.

OHA inter-agency agreements (IAAs) with Business Oregon and DEQ are maintained and updated on a biennial basis. Both Business Oregon and DEQ are state agencies with respective IAAs. Visit **Appendix F** to see IAAs with OHA.

Since OHA is the lead agency, it is responsible for establishing program and project priorities (via project ratings and rankings), oversight of program operations, technical assistance, capacity development, and the annual capitalization grant application and reporting processes. Business Oregon operates, manages, and administers the Safe Drinking Water Revolving Loan Fund (SDWRLF) for drinking water infrastructure projects, Drinking Water Source Protection (DWSP) loans and grants, and the Sustainable Infrastructure Planning Projects (SIPP) program funds (100% forgivable loans). While managing the Loan Fund, Business Oregon ensures compliance and reporting with subsidy (forgivable loan) requirements as outlined in annual grant agreements. Business Oregon staff also works with communities to provide loan servicing functions that result from the Loan Fund, as well as

project management services to ensure project completion and adherence to federal standards. DEQ with OHA, complete source water assessments and implement the local DWSP programs.

B. Operating Agreement (OA)

The original 1998 DWSRF Operating Agreement between the EPA and OHA was amended in 2016 and effective through 2021. The 2021 amended OA is expected to run through 2026. The OA explains and itemizes the agreed-upon implementation and management of Oregon's DWSRF program. OHA and Business Oregon plan to review and amend the current OA with EPA prior to the 2026 expiration.

II. Need for the Program

This IUP and its supporting documents (e.g., PPL, financing details) clearly demonstrates Oregon's robust IIJA-EC drinking water infrastructure needs and further explains how the funds are intended to be used.

A. Comprehensive 2022-23-24 IIJA-Emerging Contaminants Project Priority List Results

Systems seeking forgivable loan awards through the IIJA-EC funding must submit an application to be considered. Eligible applications are then prioritized to create a Project Priority List (PPL) during a rating process (See Section V for more details). The combined 2022, 2023, and 2024 IIJA-EC PPL under Oregon's DWSRF currently demonstrate over \$93.5 million in EC infrastructure financing assistance needed in communities. Given the ongoing high demand on the DWSRF, the Oregon SDWRLF program will not be able to fund all projects on the PPL in SFY2025-26. See **Appendix A** for details on the list of projects on the combined PPL and Public Notices.

The table below illustrates the total amount of funding requested of the DWSRF program across all programs for 2024 funding consideration.

Project Priority List Description	No. of Applications	Funding Request Total
Perfluoroalkyl & Polyfluoroalkyl Substances (PFAS)	19	\$31,241,526
Manganese	4	\$52,022,858
Cyanotoxins	7	\$10,258,547
Total	30	\$93,522,931

- OHA reviews all project applications for eligibility. Eligible projects are then prioritized to create a PPL.
- 19 of the potential projects submitted are to address or mitigate PFAS, 4 for manganese projects, and 7 are cyanotoxins projects.
- Twenty-one (21) of the 30 eligible projects (70%) are for small water systems serving fewer than 10,000 people.

- Twenty (20) of the 30 eligible projects (67%) are for disadvantaged communities.
- Given the ongoing high demand on the DWSRF, the Oregon SDWRLF program will not be able to fund all projects currently requesting funding in SFY2025-26. The program will continue to apply for IJA grants through FFY2026 to work towards meeting these robust needs statewide.
- See **Appendix A** for details on the combined PPL and Public Notices. Also, see [OHA's Project Priority List Webpage](#) for project details.

B. Drinking Water Infrastructure Needs Survey Results

EPA's Drinking Water Infrastructure Needs Survey and Assessment (DWINSAs) assesses the nation's public water systems' infrastructure needs over the next 20 years and is used to allocate DWSRF capitalization grants, including Infrastructure Investment and Jobs Act funding, to states. The 2019-20 nationwide DWINSAs, sponsored by the EPA with assistance from OHA and its water suppliers, was completed in 2022. Previous results conducted from the 2011 DWINSAs awarded OHA with 1.42 percent and 2015 results equaled 1.32 percent of the total annual EPA DWSRF appropriations.

The 2019-20 DWINSAs results supersede the 2011 and 2015 outcomes and now allocate 1.50 percent for Oregon's Base DWSRF, IJA-General Supplemental, and IJA-Emerging Contaminants. IJA-Lead Service Line Replacement annual allocation was reduced to 1.00 percent.

The 2019-20 surveyed results indicated that Oregon's drinking water infrastructure needs are more than \$10 billion over the next twenty years, representing a 160 percent increase from the 2015 results. Nearly half (i.e., \$5.14 billion) of needs in Oregon are for medium-sized water systems serving between 3,001 and 100,000 people according to the survey. The state will be working with EPA in 2025 to provide figures for the anticipated 8th annual DWINSAs.

Oregon's 1.50 percent allocation of the nationwide 2024 IJA-Emerging Contaminants DWSRF Allotment of approximately \$764,000,000, is \$11,493,000, the focus of this IUP.

C. Cumulative Grant Awards

The first grants from the DWSRF were distributed to states, tribes, and territories from the 1997 appropriation and totaled \$1.275 billion. From FFY1997 through June 30, 2024, cumulative federal grants (including ARRA) for the DWSRF program to states total approximately \$24.75 billion. Oregon's total federal grant allocations received through SFY2024 (including ARRA) is over \$351 million. This figure, compared with the DWISNA results above, demonstrates that the need for infrastructure financing far surpasses the federal amount received cumulatively.

D. Targeted Capacity Development for Priority Non-Compliers

In addition to these substantial infrastructure needs, many small water systems in Oregon lack the technical, managerial, and financial capacities to provide safe drinking water to their respective users. The capitalization grant provides Set-Aside funding for technical assistance and capacity development programs to help water systems, especially smaller ones, operate more efficiently and in compliance with federal regulations.

EPA utilizes an Enforcement Response Policy to ensure that no community water system or non-profit non-community system with project(s) from the System Scores list with a score of 11 or higher receive DWSRF funding unless the funding directly supports the water system in achieving or regaining compliance. A system score is a point-based value that provides a comprehensive approach for assessing a water system's level of compliance, calculated by an enforcement targeting tool (ETT). OHA uses its own ETT type list (called the Priority Non-Complier (PNC) list) to target systems for capacity development assistance and to ensure that these systems are given the fullest possible consideration for available DWSRF infrastructure financing. For Oregon's PNC list, see here, <https://yourwater.oregon.gov/sscore.php>.

III. Short and Long-Term Goals of the Program

This year's program continues significant initiatives begun in 1997 by OHA, including its partner agencies (e.g., Business Oregon), interested organizations, service providers, and public water systems. The primary goal of Oregon DWSRF's use of IIJA-EC funding is to reduce people's exposure to perfluoroalkyl and polyfluoroalkyl substances (PFAS) and other emerging contaminants through their drinking water. New initiatives, strategic proposals, and process improvements are continually introduced between partnering agencies so our goals and service to Oregonians continue to improve and adapt to a changing environment.

❖ Short-Term Goals

- Work with water systems to develop and fund projects that address known PFAS contamination in drinking water.
- Work with water systems to develop and fund projects to address known detections of other emerging contaminants (manganese, cyanotoxins) as funding allows.
- Fund feasibility studies in communities that have not yet planned to address emerging contaminants to evaluate project options, including consideration of ongoing costs anticipated for the operations and maintenance of any installed treatment.
- Provide 100 % subsidy to projects, prioritizing projects that will address the greatest public health need.
- Develop technical assistance and source protection efforts that sustain and/or

improve the operation, maintenance, and management of Oregon’s drinking water systems.

❖ **Long-Term Goals**

- Work with water systems to develop and fund projects to address PFAS at water systems that become aware of PFAS contamination through the 5th Unregulated Contaminant Monitoring Rule (UCMR5) monitoring, Oregon’s PFAS sampling project, or voluntary monitoring.
- Work with water systems to develop and fund projects to address future detections of other emerging contaminants (manganese, cyanotoxins) as funding allows.
- Support the state’s goal of ensuring Oregon’s water supplies provide safe drinking water by financially contributing to needed water system improvements.
- Increase water system compliance with state and federal drinking water requirements through technical assistance, capacity development and assessment of source water.

IV. Program Updates

A. IIJA-EC Application Process – New Annual Review Date

Through the base DWSRF program, OHA and Business Oregon have had a long-standing practice of utilizing a two-step Letter of Interest (LOI) and application solicitation process to inform, gather, and process (rating and ranking) requests from eligible water systems interested in funding drinking water infrastructure planning, design, and/or construction improvements. To be considered for IIJA-EC funding, a simplified one-step application process must be completed, which can be found on Business Oregon’s [SDWRLF webpage](#). Applications are accepted year-round but have moved to an annual submission deadline date of February 15th. This change improves OHA and Business Oregon’s ability to meet its funding and programmatic timelines and goals. The DWSRF plans to continue to apply for IIIJA funding on an annual basis as long as it is available, and as such lends itself to making funding decisions for projects on the PPL once per year.

B. Disadvantaged Community Definition Revision

Nationally, the Safe Drinking Water Act requires state DWSRF programs to establish affordability criteria. Under the SDWA section 1452(d), a disadvantaged community (DAC) is defined as the service area of a public water system that meets the state’s affordability criteria. During the project rating and ranking process, OHA assesses the affordability criteria of each water system to determine “disadvantaged” status under the DWSRF program, prior to placement on the Project Priority List. DACs are assigned additional

points during the rating process to further prioritize systems in need of assistance with affordable infrastructure financing.

For Oregon's DWSRF the following affordability criteria was previously used by OHA to determine disadvantaged community status:

- A disadvantaged community is a public water system that has a service area with a Median Household Income (MHI) below the state MHI. MHI is determined using the most recent American Community Survey (ACS) 5-year estimates available.

The EC projects included with this IUP for the 2024 Project Priority List were evaluated using the previous definition in early 2024. In 2024, OHA and Business Oregon decided to review and consider updates to the DAC definition. The agencies felt that relying solely on a single metric may result in needed assistance not being provided to communities that have a portion of their populations that are disadvantaged based on other socioeconomic factors. BIL funding and its requirements mean that meeting the DAC definition has even more significance for a community in terms of receiving loan subsidies through Oregon's SDWRLF. EPA's guidance for implementing BIL funding seeks to ensure impartial benefits from the funding by including a wider array of socioeconomic factors when establishing an "affordability criteria" as required under the SDWA. In addition, as noted in the EPA's March 8, 2022 IJA Implementation memo, for DWSRF IJA-EC funding, at least 25% of additional subsidy must be provided to eligible assistance recipients that meet the state's disadvantaged community criteria or to public water systems serving fewer than 25,000 persons.

Throughout 2024, several steps were completed to get to a draft preferred alternative of a new DAC definition. The EPA contracted with the consultant group Cadmus Group LLC (Cadmus) to assist Oregon through a process to consider options for change. Over the first half of 2024, OHA and Business Oregon staff met several times with and without Cadmus and EPA. Cadmus facilitated a review of Oregon's current DAC definition and determination process, available data sources, options of other socioeconomic indicators, and examples of other states' DAC definitions. With the analytical support of Cadmus, OHA and Business Oregon staff assessed several socioeconomic indicators that Oregon's DWSRF could consider including in its definition, such as rate of poverty, rate of unemployment, and percent of population that is housing cost burdened. OHA staff developed different scenarios incorporating various combinations of indicators and thresholds and the group examined the results of each scenario. For example, the agencies assessed the increase or decrease in the number of water systems or population served under each scenario.

The agencies selected a few top options to examine more closely and then reached consensus on the preferred alternative (i.e., Scenario 5 documented in [DAC report](#)) of a new definition of disadvantaged community. The preferred definition includes communities that currently meet the DAC definition and will include additional water systems. Oregon's revised DAC definition is as follows:

- A disadvantaged community is a public water system that has a service area with an MHI less than 100 percent of the state’s MHI, OR if the public water system has an MHI equal to or greater than 100 percent of the state MHI but less than 120 percent of the state MHI, then the system must meet 2 of the following 4 criteria:
 - Greater than the state poverty rate,
 - Greater than the state unemployment rate,
 - Greater than the state housing cost burdened rate,
 - Greater than the state rate of people with less than a high school education.

The MHI and criteria would be determined using the most recent American Community Survey five-year data available from the U.S Census Bureau.

In October 2024, the agencies held a virtual Open House to share more information about how they arrived at the preferred DAC alternative and more details on the criteria selected. OHA and Business Oregon considered any necessary adjustments to the proposed DAC definition based on feedback received through the Open House, public comment, and other discussions.

Having received no requests for one-on-one engagement, no submissions of public comments during the open 30-day period, and no input following the virtual Open House, Oregon’s DWSRF Program formally adopted the revised DAC definition in December 2024 as presented in the [DAC report](#) and as stated above.

Following the adoption of the revised DAC definition, OHA evaluated and updated its project rating criteria. Business Oregon also evaluated and updated its financing details document to ensure subsidy requirements are met.

The recording of the Open House, a finalized formal report from Cadmus on the process and preferred definition, and information about the public comment process is available on OHA’s DAC webpage, [Project Ranking and Disadvantaged Status webpage](#).

V. Drinking Water State Revolving Fund: Program Overview and Requirements

A. Financing Details

The SDWRLF is the loan fund of the DWSRF, administered by Business Oregon’s Infrastructure Finance Authority (IFA). The SDWRLF provides below market interest rates on loan financing and forgivable loan awards planning, design, and construction of drinking water infrastructure.

Financial offerings under the SDWRLF base program vary based on various factors, including:

- Socioeconomic indicators of the service area of the water system such as Median Household Income (MHI) and rates of poverty and unemployment.
- Current water rates, and how water rates would be impacted when the project is

complete.

- Source of the funding for the project (e.g. SDWRLF “base” versus BIL funding) due to subsidy requirements.

Currently, projects funded with the IJA-EC are eligible for forgivable loan amounts that are much higher than typically available under the Base program. For eligible public water systems with eligible projects, IJA-EC funding is awarded as a loan with 100% principal forgiveness. IJA requires that at least 25% of the IJA-EC funding the state receives be awarded to disadvantaged communities or public water systems serving fewer than 25,000 people.

Because the EC funding does not require loan underwriting, it is a one-step application process, rather than the base program’s standard process of obtaining a completed letter of interest followed by an invitation to apply. After the application submission and annual review date, Business Oregon will assess IJA-EC funding availability and water system readiness to proceed and invite systems to move forward with obtaining a funding award. Projects can additionally be offered funding in “phases” as they progress through the preliminary engineering, design, and construction portions of the overall EC abatement work.

The [Drinking Water Handbook](#) (located on lefthand column of webpage) provides guidance for those interested in applying for and administering awards for infrastructure, SIPP, and DWSP projects. The Handbook serves as both an internal and external resource and is a critical element to ensuring that loan and grant funds are administered in an effective and efficient manner and that regulations and guidelines are administered correctly and uniformly.

For more details on the financing policies under the SDWRLF program, see the current Financing Details in Appendix B of the IUP or at Business Oregon’s SDWRLF website (see bottom of Additional Resources).

B. Loan Principal Forgiveness Limitations

A forgivable loan award, also referred to as principal forgiveness, are loan awards that are 100% forgiven and not re-paid if a project is completed consistent with its contract terms. A forgivable loan is similar to a grant but is conditional. For eligible public water systems with eligible projects, IJA-EC funding is awarded as a loan with 100% principal forgiveness. IJA requires that at least 25% of the IJA-EC funding the state receives be awarded to disadvantaged communities or public water systems serving fewer than 25,000 people.

C. Project Eligibility, Rating & Ranking Process

OHA identifies water system with potential EC projects and works with Business Oregon annually to accept new [applications](#) from water systems interested in funding.

In Oregon, the unregulated contaminants listed on the EPA’s Contaminant Candidate Lists 1 through 5 most commonly found at the entry point are PFAS and Manganese. Since cyanotoxins are not regulated at the federal level, and can pose a significant public health risk, systems with cyanotoxin detections at the intake or entry point were included as well for identifying eligible water systems for potential funding. Once OHA identifies a water system with a PFAS, manganese, or cyanotoxin detection, OHA sends an email and/or letter to the water system with information about the IIJA-Emerging Contaminants funding and directs them to fill out an application if interested.

For details, see Section D below or **Appendix B, Project Selection Methodology**. OHA anticipates that this process will continue to evolve as the program moves through each year of IIJA-Emerging Contaminants funding.

With the IIJA-EC funding allocations awarded to the state for FY22 & FY23, Business Oregon has been working with OHA’s identified water systems for to determine eligible project scopes that will address emerging contaminants in drinking water with a focus on perfluoroalkyl and polyfluoroalkyl substances (PFAS). This work is performed by funding feasibility studies with IIJA-EC funding to perform preliminary engineering and the following:

- Analysis of project feasibility (e.g., engineering, regulatory, legal, et cetera).
- Analysis of alternatives for drinking water projects to address the emerging contaminant within the water system and recommended options, which will include but is not limited to, connecting to a nearby water system, developing a new water source and installing treatment.
- Estimate of up-to-date project costs for each alternative including material, labor, contingency budget, and other expenses.
- Design and/or construction timeline.
- Operational feasibility analysis including identification of expected changes in costs for ongoing operation, maintenance, and long-term replacement of the improvements.

Additional projects identified from completed preliminary engineering or systems that have completed preliminary engineering outside of engaging with IIJA funding are also invited to move forward with IIJA-EC funding for design or construction based on funding availability. The project scope will be confirmed by OHA as eligible with support and concurrence from EPA. Business Oregon will then manage awarded projects and determine that available IIJA-EC funding will meet the needs of the water systems.

D. Project Selection Criteria – Rating and Ranking, By-Pass

EPA’s DWSRF Interim Final Rule 40 CFR Section 35.3555 (c)(1) suggests that the IUP must include a priority system for ranking individual projects for funding that is detailed and understandable.

Oregon’s infrastructure, DWSP, SIPP program, and IIJA-Emerging Contaminants funding rating criteria are robust and meet this requirement. In summary, IIJA-EC rating criteria are based on:

- the water system's size,
- whether the project is to address PFAS,
- level/concentration of unregulated contaminant detected, and
- community affordability factors.

More information related to OHA's IJJA-Emerging Contaminants funding rating form and detailed criteria is available in **Appendix A**.

Due to increased demand on the DWSRF funds, IJJA-EC funding will be unable to address all water systems' needs. Systems currently on the IJJA-EC PPL will be contacted in the order they have been ranked with prioritized projects scoring and ranking the highest. For FY2024, all systems on the IJJA-EC PPL will be contacted and offered funding for preliminary engineering if not previously performed. Systems that complete preliminary engineering shall be invited to discuss and identify additional potential project scopes to address confirmed ECs. As systems identify project scopes that will require design and construction funding, Business Oregon will communicate this closely with OHA and contracts shall be amended to include additional project activities. Projects that have requested funds that exceed the available IJJA-EC funding may be partially funded and then targeted for additional IJJA-EC capitalization grants anticipated to be received through 2026 or supported by regional staff with information on Base DWSRF or IJJA-General Supplemental program funding. The goal of the funding process currently is to guide systems from project development to successful mitigation of an EC issue.

In the process of determining whether to formally invite a water system to move forward with funding, several topics are discussed with the system including (but not limited to) if the system has demonstrated a readiness-to-proceed, anticipated project cost compared to remaining fund availability, or whether the project has been funded by other state or federal sources. If the project is not ready to proceed or if the water system requests to be passed on for funding, the program staff implements a "by-pass" procedure by documenting the communication and proceeds to contact the next highest ranked project.

Readiness-to-proceed factors include but are not limited to:

- If the applicant is working with an engineer on the project.
- If the applicant currently has planning documentation for the project scope, which can be obtained with funding from this IJJA-EC source.
- Detailed cost estimates have been developed, if they include additional costs from federal requirements, and if the funding available is able to cover that amount requested.
 - Available funding is clearly discussed with the applicant and additional IJJA-EC funding is considered for subsequent project needs. Contingency budget line items are built into the application to ensure federal requirements are considered.
 - Obtaining cost estimates for IJJA-EC has also been supported by the Circuit Rider Program.
- Permits, regulatory processes, feasibility, or required easements or land acquisition can add uncertainty to the project and impact timeframes.

- Systems are not required to install treatment for ECs, some communities may voluntarily opt to further examine the extent of perfluorinated alkylated substances (PFAS) in the system prior to completing a construction project.

This is an ongoing process, and systems are provided several opportunities to work with program staff to obtain information on funding. Projects shall remain on the IIJA-EC PPL while IIJA-EC funding is available to the state ensuring time available to work on project development if needed. Additional by-pass information can be provided on request.

Business Oregon’s Regional Project Managers and Regional Development Officers work closely with communities to consider all options with the community when determining a project’s readiness to proceed. Business Oregon makes every effort to move a project forward and, if applicable, connect a water system with low-cost or free technical assistance (TA) resources to foster needed project development.

Finally, to comply with provisions of the Infrastructure Investment and Jobs Act (IIJA), Oregon will assure at least 25% of IIJA-Emerging Contaminants funding will be used to assist disadvantaged communities or those that serve 25,000 or fewer people. If it is not at the 25% mark, then “only” these disadvantaged systems will be considered until this federal requirement is met. Oregon expects to meet this requirement. Currently 20 out of 30 systems on the IIJA-Emerging Contaminants PPL met Oregon’s 2024 affordability criteria to be defined as disadvantaged.

E. Federal Funding Accountability and Transparency Act

The Federal Funding Accountability and Transparency Act of 2006 (FFATA), ensures that the public can access information on entities and organizations receiving Federal funds. The FFATA Subaward Reporting System (FSRS) is the reporting tool Federal prime awardees (i.e., prime grants recipients) use to capture and report subaward and executive compensation data regarding their first-tier subawards to meet the FFATA reporting requirements. On March 23, 2011, the EPA released a memo explaining this federal requirement to states and the use of the FFATA Subaward Reporting System (FSRS) tool.

States have the option to apply a subset of the Federal Crosscutting Authorities and Federal requirements to all awarded projects or only the projects and Set-Asides determined to be equivalency projects. During SFY2023-24, Oregon’s DWSRF program began identifying equivalency projects and reported them as FFATA projects, equivalent to the annual federal award amount.

Although project adherence to Federal Crosscutting Authorities is not limited to FFATA projects, the chart below demonstrates the projects Oregon intends to identify for the purposes of FFATA.

Additionally, and in accordance with the EPA September 22, 2014, memo, “Application of Equivalency Under the FFATA,” these reporting requirements specific to the Set-Asides relate only to subaward contracted obligations at or above \$30,000 and that only those Set-Aside activities that meet or exceed this amount need to be reported into the FSRS database.

Specific contract details can be found on the Set-Aside FFATA spreadsheet within the **Appendix A** section of the IUP.

2024 BIL-EC:		
Applicant	Applicant Number	Amount
Riverstone Mobile Home Park 4100240	SD-23-E20	\$ 20,000
Periwinkle MHP 4100029	SD-23-E01	\$ 75,000
Tivoli MHP 4101003	SD-23-E02	\$ 80,000
Albany Trailer and RV Park 4100004	TBD	\$ 1,000,000
Lakeside Mobile Home & RV Park 4100450	SD-23-E27	\$ 20,000
Lakewood Utilities 4101097	TBD	\$ 1,300,000
Springfield Utility Board 4100837	TBD	\$ 2,356,426
Rainbow Water District 4100839	TBD	\$ 1,400,000
Bend Water Department 4100100	SD-23-E28	\$ 100,000
Josephine County Parks – Lake Selmac	TBD	\$ 200,000
Myrtle Creek, City of 4100550	SD-23-E29	\$ 750,800
Rockwood PUD 4100668	TBD	\$ 1,500,000
Gresham, City of 4100357	TBD	\$ 1,500,000
Set-asides	n/a	\$ 1,533,774
FFATA Reportable Total:		\$11,836,000
FFY-2024 (BIL-EC) Appropriation:		\$11,836,000
Remaining to Obligate		\$ -

***Set-Aside contracts (i.e., county partners) of \$30,000 or above will be entered into the FSRS database.*

F. Federal Requirements of the Fund

Business Oregon staff will make funding recipients aware of all federal programmatic requirements early on, prior to inviting systems to receive a funding award. Templated, approved financing contract language and contract clauses are provided to funding recipients to assist with administering the project and will reflect those requirements. The funding recipient (water system) is responsible for ensuring these applicable clauses are included in applicable contracts between the water system and contractors with different curated language (applicable clauses) depending on whether the contract is for professional services (e.g., engineering) or construction activities. For IIJA-EC funding, Business Oregon works closely with communities to build additional contingencies into the budget of emerging contaminants projects to ensure that there is sufficient access to funding to support managing the applicable federal requirements. Communities may build additional IIJA-EC funding into their budget to hire third party support with to manage administration applicable to the federal requirements detailed below: Davis Bacon & Related Acts (DBRA) wage rate requirements apply to all construction, alteration and repair of treatment works carried out in whole or in part with assistance made available through the DWSRF. To ensure compliance, applicable DBRA contract clauses are inserted into all relevant contracts. Recipients of DWSRF funds are briefed on their responsibility to ensure that all relevant DBRA regulations are adhered to. In addition, Business Oregon Regional Project Managers will periodically monitor certified payroll documents and other necessary and

relevant documents for the adherence to DBRA regulations. Recipients of DWSRF funds are encouraged to contract with third party individuals or organizations that have demonstrated expertise in the administration of DBRA rules and regulations.

American Iron and Steel (AIS) Provisions require DWSRF assistance recipients to use iron and steel products that are produced in the United States. AIS compliance will be met as recipients adhere to procuring domestic goods under Build America Buy America (BABA), unless the community is awarded a BABA waiver. If BABA requirements are waived, AIS will still apply. Build America, Buy America (BABA) requires all iron, steel, manufactured products, and construction materials used in a project financed with federal assistance to be produced in the United States. Each recipient targeted to IIJA-EC funding will be informed of BABA requirements and waivers as applicable.

Construction projects under IIJA-EC will be provided language regarding the described requirements above and will be included with assistance agreements. Sample contract language will be provided to recipients to be included in the recipient's subsequent purchase agreements and/or contracts. Monitoring of compliance requirements will occur at appropriate intervals to ensure that any issues are addressed with immediacy. Funding is limited as it relates to the number of requests made by water systems, but access to additional IIJA-EC funding to adhere to AIS and BABA is available and communicated early on with applicants to be built into budgets to ensure a fully funded project.

VI. Infrastructure Investment and Jobs Act (IIJA)

A. Overview

On November 15, 2021, the [Infrastructure Investment and Jobs Act](#) (H.R. 3684) was signed into law. IIJA is a federally funded infrastructure package covering multiple critical infrastructure sectors throughout the U.S., including drinking water. The law provides the EPA with grant funds that can be appropriated to states for investments in drinking water infrastructure over five federal fiscal years (2022 – 2026). States have until the end of the second federal fiscal year after appropriations announced to apply and be awarded funding. For example, the 2022 IIJA grant appropriations were announced in the spring of 2022, but States had until September 30th, 2023, to be awarded.

IIJA funding for drinking water infrastructure will be available to communities through the state's existing DWSRF. IIJA authorizes increases to Oregon's existing Base [DWSRF](#) infrastructure funding program and includes special appropriations that supplement DWSRF funding for identifying and replacing lead service lines and gooseneck connectors, and funding to address emerging contaminants (e.g., PFAS or other unregulated contaminants).

B. Summary of Oregon's IIJA Appropriations (2022-2026)

With the recent release of the 2019-20 Drinking Water Infrastructure Needs Survey and Assessment (DWINSA) results, Oregon will receive 1.50 percent of the annual national allotment, starting with 2023. See charts below for current and anticipated appropriations and subsidy totals. The state was successfully able to obtain the full FY 2022 and FY 2023 allotments for the General Supplemental and Emerging Contaminants Funding. The state waived applying for the FY 2022 Lead Service Line Funding and applied for a partial award for FY 2023 due to a low demonstration of need for those funds.

Oregon's IIJA Appropriations (2022 - 2026)						
Fiscal Year	General Supplemental	Needs Survey Rate (%)	Lead Service Line Replacement	Needs Survey Rate (%)	Emerging Contaminants	Needs Survey Rate (%)
2022	\$ 23,673,000	1.32%	\$ 37,300,000	1.32%	\$ 9,940,000	1.32%
2023	\$ 31,672,000	1.50%	\$ 28,650,000	1.00%	\$ 11,493,000	1.50%
2024	\$ 34,575,000	1.50%	\$ 28,650,000	1.00%	\$ 11,493,000	1.50%
2025	\$ 34,575,000	1.50%	\$ 28,650,000	1.00%	\$ 11,493,000	1.50%
2026		1.50%	\$ 28,650,000	1.00%	\$ 11,493,000	1.50%
Total	\$ 159,070,000		\$ 151,900,000		\$ 55,912,000	

Oregon's IIJA Subsidy Requirements (2022 - 2026)				
Fiscal Year	General Supplemental (49% of Appropriation)	Lead Service Line Replacement (49% of Appropriation)	Emerging Contaminants (100% of Appropriation)	
2022	\$ 11,599,770	\$ 18,277,000	\$ 9,940,000	
2023	\$ 15,519,280	\$ 14,038,500	\$ 11,493,000	
2024	\$ 16,941,750	\$ 14,038,500	\$ 11,493,000	
2025	\$ 16,941,750	\$ 14,038,500	\$ 11,493,000	
2026		\$ 14,038,500	\$ 11,493,000	
Total	\$ 77,944,300	\$ 74,431,000	\$ 55,912,000	

C. Subsidy Requirements for IIJA

Eighty-seven percent (\$10,302,226) of the IIJA-EC allocation (\$11,493,000 plus

\$343,000 additional reallocated funds totaling \$11,836,000) is allotted to project loans. Per IIJA requirements, 100 percent of project loans are forgivable loans. These are loans that do not need to be re-paid upon successful project completion. The remaining 13% of the grant is used for Set-Aside activities.

A key priority of IIJA is to ensure that disadvantaged communities benefit equitably, therefore, federal funding requirements stipulate that a significant portion of funds be provided in the form of loan subsidy only to disadvantaged communities.

IIJA Emerging Contaminant funding must be provided as 100 percent subsidy and requires 25 percent of funding to be targeted to disadvantaged communities or eligible public water systems serving fewer than 25,000 people. Twenty (20) of the 30 eligible projects (67%) are for disadvantaged communities, and thus the state expects no issues with meeting the 25% minimum requirement.

Oregon's DWSRF program has consistently demonstrated compliance with these subsidy requirements for IIJA and currently has enough funding interest from disadvantaged communities in the funding to continue to meet these requirements for FY2024.

Please see section IV for more information on disadvantaged definitions.

D. The 3 IIJA Funding Opportunities for DWSRF Programs:

- 1. Emerging Contaminants (EC):** IIJA-Emerging Contaminants funding targets projects or activities that otherwise would be eligible under the "Base" DWSRF funding program and the primary purpose must be to address and/or mitigate people's exposure to ECs in drinking water with priorities on perfluoroalkyl and polyfluoroalkyl substances (PFAS).

According to the EPA, ECs are unregulated chemical or materials (e.g., pharmaceuticals, personal care products, or unregulated contaminants) that have the potential to threaten human health, wildlife, or the environment. EPA may regulate certain ECs in the future, as EPA has finalized a new regulatory standard for PFAS. According to [EPA's IIJA Implementation Memo](#), projects that address and/or mitigate ECs that are listed on any of EPA's [Contaminant Candidate Lists \(CCL1 - CCL5\)](#) are recognized as eligible.

As the primacy agency, OHA identifies water systems to be eligible for IIJA-Emerging Contaminants funding. In Oregon, the ECs listed on EPA's Contaminant Candidate Lists 1 through 5 most commonly found at the entry point where drinking water enters the water system's distribution from the source are PFAS and manganese. Since cyanotoxins are also not regulated at the federal level, and can pose a significant public health risk, systems with cyanotoxin detections at the intake or entry point are being targeted as well for funding.

- **For PFAS**, any system with a detection is included on the eligible list. This includes systems that sampled voluntarily and submitted data to OHA, systems

that sampled as part of the 2021 OHA PFAS study conducted with DEQ, and systems sampling under the fifth round of the Unregulated Contaminant Monitoring Rule (UCMR5).

- **For Manganese**, systems with manganese above the secondary maximum contaminant level (SMCL) are eligible.
- **For Cyanotoxins**, systems that ever had a detection of total microcystins or cylindrospermopsin at the intake or entry point are eligible.

OHA and Business Oregon intend to inform and work with EPA Region 10 to ensure the program is meeting all federal requirements for IJJA-Emerging Contaminants funding.

IJJA-Emerging Contaminants funding opportunities was opened to all eligible public water systems that meet the funding requirements and who submitted a current [EC application](#) with direct outreach performed by OHA DWS program staff to ensure that systems with confirmed ECs were contacted and made aware. In total, 59 water systems with known emerging contaminant detections (29 water systems with PFAS, 11 water systems with manganese, and 19 water systems with cyanotoxins) have been directly contacted regarding the IJJA-Emerging Contaminants funding opportunity and invited to apply.

Currently, Oregon's plans as described throughout this IUP are to apply for the entire FFY2024 IJJA-Emerging Contaminants allotment of \$11,836,000 (includes additional \$343,000 in reallocated funds) in early 2025. Visit **Appendix A** for project and funding details on the IJJA-Emerging Contaminants PPL.

2. **General Supplemental:** IJJA-General Supplemental funding represents a continuation of Oregon's "Base" DWSRF program – which provides low-interest loans to eligible public water systems for planning, design, and construction of infrastructure improvements per Section 1452 of SDWA. Additional forgivable loan is also made available to disadvantaged communities through the IJJA as mandated by federal requirements.

With Oregon's DWSRF program having recently been awarded its FFY2023 IJJA-General Supplemental allotment of \$31,672,000 in September 2024, its next IJJA-General Supplemental grant award for FFY2024 funding is not expected to be received until spring of 2025. Preparations for Oregon DWSRF's FFY2025 IJJA-General Supplemental grant application are projected to begin during the spring of 2025 as well.

For specific details about each of the projects that may receive IJJA-General Supplemental funding, download the PPL on OHA's [Project Priority Lists and Public Notices](#) webpage.

3. Lead Service Line Replacement (LSLR): IIJA-Lead Service Line Replacement funding also targets projects or activities that otherwise would be eligible under the “Base” DWSRF funding program.

According to [EPA's IIJA Implementation Memo](#), to be eligible for IIJA-Lead Service Line Replacement funding, the project or activity must be a LSLR or associated activity directly connected to the identification, planning, design, and replacement of lead service lines. Additionally, any identified LSLR project must also replace the entire lead service line and not just a portion – unless a portion has already been replaced.

Projects (e.g., lead or galvanized gooseneck removal) funded through the Loan Fund or activities (e.g., technical assistance for inventories) funded through the Set-Asides are best if reviewed and approved by EPA Region 10 prior to grant application submittal. OHA and Business Oregon intend to inform and work with EPA Region 10 to ensure the program is meeting all federal requirements for IIJA-Lead Service Line Replacement funding.

Oregon has had restrictions on use of lead in plumbing since 1985. Based on existing information, there are no known lead service lines under the jurisdiction of public water systems throughout Oregon. However, less is known about the private side of service lines – particularly for older homes that might not have had their service line replaced since the 1980’s.

No LOIs were received for FY2024 for Lead Service Line Replacement funding. Oregon submitted our declination letter to EPA on April 2nd, 2025. Other reasons why Oregon’s DWSRF has forgone the FFY2024 IIJA-LSLR funding is that to date the program has only received 5 LOIs (tied to FFY2023 partial grant award) in total and none of their inventories found eligible lead service lines and now may not take the funding that has been allocated to their proposed projects. Because of these outcomes, Oregon DWSRF’s current efforts continue to be related to increasing technical assistance for contractors to assist small public water systems with their required inventories that did not meet the October 16, 2024, deadline. More details will be provided if future IIJA-LSLR IUPs are developed.

As a continuation of [40 CFR Section 35.3520 \(b\)\(2\)\(ii\)](#) and further supported within EPA’s [DWSRF Eligibility Handbook](#), Table 3.2, Category: Transmission and Distribution, funding assistance is available in the Base DWSRF for complete service line replacements, regardless of pipe material or ownership of the property where the service line is located.

VII. The Set-Aside Activities:

A. Establishing Set-Aside Activities and Setting Funding Levels

The SDWA authorizes states to use a maximum of 31 percent of its annual grant allotments for Set-Aside activities. Set-Aside activities are utilized to administer the DWSRF program and to assist water systems in meeting the requirements of the SDWA.

Annually, OHA evaluates each of the four Set-Aside activities with a view toward protecting public health through prevention, while maximizing Loan Fund dollars for capital improvement projects and compliance purposes.

For Oregon’s 2024 DWSRF – IIJA-Emerging Contaminants funding, OHA decided on basic and mandated programs in each of the four Set-Aside activities, however, according to EPA 40 CFR part 35.3540(d), states are authorized to access reserved (unused) Set-Aside funds from previous grant phases. EPA Region 10 Staff has authorized Oregon to request more than the 31 percent Set-Aside maximum when necessary. OHA will not be accessing any reserved Set-Aside funds for the 2024 grant. OHA shall reserve the remaining 18% of the available set-aside funds, which will be obtained in future capitalization grants. Set-Aside activities needed for SFY2025-2026 include:

- Administrative Expense (0.0%)
- Technical Assistance (0.0%)
 - Circuit Rider Assistance
 - Small Water System Operator Training Course
- State Program Management (5.0%)
 - State & County Program Support
- Local Assistance and Other State Programs (Combined 8.0%)
 - Implementation of Source Water Protection Program (0.0%)
 - Water System Capacity Development Program (8.0%)
 - Drinking Water Source Protection Fund/Grants (0.0%)

B. Description of Oregon Health Authority’s Set-Aside Activities

Work plan summaries for each of the Set-Aside Activities are outlined here. Specific detailed work plans are included in **Appendix D** and submitted as part of the Capitalization Grant applications. All the activities described are continuation activities from the previous grant years and may include additional updates for that Set-Aside.

- 1. Administrative Expense:** As explained earlier in the IUP, FFY2024 IIJA-EC funding will not allocate funding for this Set-Aside. Instead, all administrative expense activities will be incorporated into the Local Assistance-Capacity Development Set-Aside program as authorized by EPA Region 10.

Administrative expense activities that will be covered by the Capacity Development Set-Aside program include the preparation of annual EPA capitalization grant applications, the IUP, the Project Priority List (PPL), assessing environmental reviews and capacity of each loan recipient, along with conducting financial monitoring and control.

For more Set-Aside information, please reference the Local Assistance-Capacity Development program in the **Appendix D** section of the IUP.

- 2. Small Systems Technical Assistance:** As explained earlier in the IUP, FFY2024 IJA-EC funding will not allocate funding for this Set-Aside. Instead, all small system technical assistance activities will be incorporated into the Local Assistance-Capacity Development Set-Aside program as authorized by EPA Region 10.

Small systems technical assistance activities that will be covered by the Capacity Development Set-Aside program includes technical assistance and related services to small water systems serving 10,000 or fewer people by contracting for these services. Types of assistance may include but are not limited to: (1) Provide cost estimates for conducting feasibility studies to address ECs. (2) Assist with filling out EC Funding applications.

For more Set-Aside information, please reference the Local Assistance-Capacity Development program in the **Appendix D** section of the IUP.

- 3. State Program Management (SPM) – State and County Program Support:** These funds will continue OHA and contractual support of County drinking water programs and of the Oregon Department of Agriculture to augment the Public Water System Supervision (Primacy) program. These activities include sanitary surveys, the investigation and resolution of significant non-compliance concerns and adjacent activity. OHA will use 2.86 FTE to conduct direct services and to manage contracts.

Typically, a maximum of 10 percent of the annual grant allotments is allowed for this Set-Aside. For 2024, OHA is requesting 5 percent of the allotment, totaling \$591,800. Because OHA is not allocating the full 10 percent authorized to this Set-Aside, OHA will be “banking” (reserving) the rights to the remaining 5 percent (\$591,800) for future use. Oregon does not intend to utilize a portion of its historically unused (i.e., reserved) SPM Set-Aside authority.

For more SPM Set-Aside information, please reference the **Appendix D** section of the IUP.

- 4. Local Assistance & Other State Programs:**

The Local Assistance will forgo allotments for the Implementation of Protection and Drinking Water Source Protection Set-Aside programs. However, for FFY2024 funding, Oregon DWSRF’s Local Assistance-Capacity Development Set-Aside program is being allocated 8 percent to support efforts to improve technical, managerial, and financial capacities of water systems as well as training for small water systems. Additionally, as noted above, program administrative and technical assistance (via Circuit Rider) costs will also be covered by this Set-Aside for IJA-EC related activities that directly benefit eligible water systems. Program and project administrative and operational activities are carried out jointly between OHA and

Business Oregon. OHA will use 2.15 FTE to conduct the activities as described above.

See below for more details about the Capacity Development program and/or visit the **Appendix D** section of the IUP.

- **Capacity Development Program:** OHA has developed a comprehensive Asset Management Implementation Plan as part of its overall Capacity Development Strategy. Plan elements include education, training and technical assistance to water systems in an effort to encourage incorporation of [Asset Management](#) into routine operational programs. Water systems are encouraged to review the educational materials and resources provided on OHA’s website under [Capacity Development](#) and take advantage of free trainings provided by partner organizations (e.g., RCAC, Environmental Finance Center, AWWA, etc.) which are listed on OHA’s training opportunities webpage. These materials offer important insights on best management practices, how to save money while being organized, and how to forecast for future infrastructure improvements. OHA’s Circuit Rider is also available to provide technical assistance in developing asset management plans. Activities encouraging asset management will be funded through the Local Assistance Set-Aside: Capacity Development Program.

In addition to the activities described above, water systems are also encouraged to apply for the SIPP program, which includes creation of Asset Management Plans as one of the eligible funding activities. A combined total of 2.15 FTE staff will be utilized to administer the DWSRF IIJA-EC program, provide technical assistance (via Circuit Rider), and to provide valuable capacity development strategies, tools, and training to those water systems who need it most. Under its partnership contract, Business Oregon will utilize 5.80 FTE necessary to administer loans to water systems from the PPL. A 37.57% indirect cost rate is added to FTE costs to cover Business Oregon’s administrative expenses.

For more Set-Aside information, please reference the **Appendix D** section of the IUP.

The level of Set-Aside funding on a year-to-year basis will continue in collaboration with partner agencies to assure that public water suppliers in Oregon are well trained and knowledgeable of the most current drinking water quality standards and techniques. Additionally, Set-Aside transfers to the Loan Fund will be performed on an as needed basis to further expedite federal funding timeline requirements.

VIII. Intended Fund Uses and Financial Summary

A. Timely and Expeditious Use of Funds

According to SDWA Section 1452(f)(3)(A), EPA policy memos SRF 99-05, and SRF 99-09, Maximizing Water Quality and Public Health Benefits by Ensuring Expeditious and

Timely Use of All State Revolving Fund Resources (January 31, 2024), and DWSRF regulations at 40 CFR 35.3550(I), the **timely and expeditious use of funding** refers to legal requirement within the program intended to ensure that the funds allocated to eligible projects are utilized efficiently and promptly to achieve the program's objectives.

The key aspects of timely and expeditious use of funding include:

Allocating and Disbursing Funds Promptly: States must prioritize projects and disburse the funds to eligible recipients without unnecessary delays to ensure that projects begin and are completed in a reasonable time frame.

Avoiding Fund Stagnation: Federal regulations require states to manage their revolving funds so that money continues to circulate in a way that supports future projects. Inaction or delays in utilizing these funds can limit the program's effectiveness. (Note that as IIJA-EC funds are awarded as 100 percent forgivable loan, these funds do not revolve.)

Obligation Deadlines: States have specific deadlines to obligate and spend federal funds. For example, states must generally obligate at least 120% of their annual grant amount within a year and start using the funds within a specified period. This means that states must have projects ready to go to ensure funds are committed to borrowers without delays.

As of the most recent Annual Program Evaluation of the state's DWSRF, EPA restated the statutory, regulatory, and policy requirement that States have one year from obtaining a capitalization grant award to commit funds into signed final assistance (i.e., loan) agreements. This applies to all funds in an SRF program, including federal capitalization grants, State match, repayments, and interest earnings.

B. Action Plan for the Timely and Expeditious Use of Funds

EPA Region 10 requested that the State provide a process for committing existing uncommitted funds and new funds received within one year of receipt in their next IUP. The following section details considerations and actions the State has been performing and/or intends to perform to ensure the efficient allocation, obligation, and use of IIJA-EC funds.

Emerging contaminants, such as PFAS, represent a unique and evolving challenge for water systems and regulatory bodies. Addressing these challenges requires flexibility and thoughtful resource allocation to maximize public health outcomes. The state is working to prioritize PFAS and support several water systems through the project development, design, and implementation phases. This approach may take more time to be fully realized and may require flexibility, but the state believes meets the goals of the IIJA-EC funding. As noted in EPA's 2022 IIJA Implementation memo, "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."

Oregon is currently finalizing its full obligation for the FY22 IJJA-EC Funding to communities. The state is preparing to begin the obligation of its FY23 IJJA-EC funds.

- A. Oregon is currently executing awards and contracts for 16 feasibility studies in communities with confirmed EC results to evaluate potential treatment pathways and develop projects scopes & cost estimates. These studies represent the first step in a necessary phased approach to project development, which includes planning, design, and construction.
- B. 14 of the 16 studies moving to award specifically address PFAS in communities with a prior sample showing the presence of PFAS-PFOA chemicals in their drinking water.
- C. 4 additional design/construction projects have allowed FY22 IJJA-EC funds to be also targeted to communities with a previously established engineering plan to secure EC treatment, 3 of which are manganese treatment projects.

There is a reasonable basis for expecting future demand for EC funding that also denotes a longer timeline for funding obligation:

- A. In Oregon, only 18% of water systems have been monitored for PFAS, with a detection rate of 15%. Extrapolating this suggests that approximately 147 systems statewide may ultimately detect PFAS.
- B. Demand for PFAS treatment funding is emerging but will grow as monitoring expands and feasibility studies are completed. The project timelines for completing the 16 studies show a reasonable 6-12 months for completion, once contracted.
- C. Early cost estimates indicate substantial funding needs for both small and large systems that must address PFAS, underscoring the importance of allowing adequate time to support all phases of project development.
 - a. For example, a recently completed feasibility study for a small community of 300 users and 110 connections shows the three following alternatives and their potential costs:
 - i. The potential of finding and drilling a new source well: \$2,758,000
 - ii. Regionalization: \$3,356,000
 - iii. IXR PFAS Treatment: \$2,698,000
- D. At these approximate costs per project, even for small water systems, given the scale of IJJA-EC funding (anticipated at \$11 million per grant, minus set-asides), the DWSRF program expects to easily target the funds to implementation projects once more information is available and water systems understand alternatives and costs.
- E. The state DWSRF is accepting additional applications for the program annually and expects the demand for funds to grow outside of the current tranche of projects and studies that are currently being performed.

The following additional rationale details the reasoning behind a thoughtful obligation process for the IJJA-EC funding:

- A. Unique Nature of IJJA-EC Funding
 - a. The T&E policy is built on the concept of revolving funds, wherein expeditious fund use benefits public health through reinvestment. However, the IJJA-EC funds must be disbursed as 100% principal forgiveness and do not revolve. Thus, accelerated disbursement does not amplify public health benefits as it would in a revolving fund context.

B. Challenges Inherent to Emerging Contaminants

- a. By definition, emerging contaminants require time for evolving research, technological advancements, and regulatory frameworks. For PFAS, this includes adapting to findings from feasibility studies, integrating innovative treatment technologies, and aligning projects with both state and federal regulatory timelines.
- b. Pushing to obligate and expend funds prematurely risks supporting projects that lack sufficient planning, undermining long-term public health outcomes.

C. Regulatory Misalignment

- a. The regulatory timeline for PFAS does not align with current funding deadlines. For example: BIL-EC funding is being allocated over a 5-year period (FY22 through FY26), yet the final PFAS National Primary Drinking Water Regulation was not finalized until April 10, 2024. As mentioned above, most water systems in Oregon subject to the new regulation have not yet monitored for PFAS, yet the program is approaching the mid-way point of the IIJA-EC funding allotments through BIL.
- b. Initial monitoring for PFAS under the new regulations is not required to be completed until April 26, 2027, yet states are expected to fund projects now. Most water systems in Oregon are not expected to begin PFAS monitoring until late summer of 2025.
- c. Addressing this gap requires time for systems to plan, complete feasibility studies and design appropriate treatment projects, ensuring funds are allocated effectively and implemented projects will successfully protect public health.

To better align with the intent of the IIJA-EC program and ensure the most significant public health benefit, the Oregon DWSRF program anticipated working closely with EPA and building the following expectations into the IIJA-EC grant application:

- **Extension of Obligation and Disbursement Timelines:** Allow at least two years for obligating funds and two additional years for disbursing funds, with flexibility for further extensions as needed.
- **Extended Project Periods:** Authorize 4- to 5-year project periods for all future IIJA-EC awards and consider extensions for existing awards to accommodate the time required for comprehensive planning, design, and construction.

C. Sources and Uses Table

Oregon's IIJA-EC Intended Use Plan's Sources and Uses table and summaries demonstrates transparency and compliance with these statutes, regulations, and policies as set forth by the requirements noted above. As the table and summaries below illustrates, Oregon's current and projected uses (demand) far outweighs funding sources (supply). See table and summaries below for SFY2024 and projected 2025 details.

Sources and Uses Table

Sources and Uses for DWSRF Project Funds	7/1/22 through 6/30/23	7/1/23 through 6/30/24	7/1/24 through 6/30/25 (Projected Numbers)
Beginning of the Year Balances			
Beginning Cash Balance (Base and all IJJA Sources)	\$140,709,503	\$115,677,106	\$117,756,402
Beginning Undrawn Federal Funds	\$0	\$26,198,622	\$30,639,848
Beginning State Match Balance	\$0	\$7,518	\$10,738
Subtotal Beginning Funds Available	\$140,709,503	\$141,883,246	\$148,406,988
Inflow of Cash			
Repayments from Active SRF Loans	\$8,747,744	\$8,482,673	\$9,031,968
Estimated Additional Repayments from New Loans	\$1,003,932	\$1,098,589	\$1,098,589
Interest Earnings on the Fund Balance	\$3,513,441	\$5,458,192	\$3,927,565
2022 Base Capitalization Grant	\$6,763,446		
2022 Base State Match	\$1,844,000		
2022 IJJA General Supplemental	\$18,885,320		
2022 IJJA GS State Match	\$2,367,300		
2022 IJJA Emerging Contaminants		\$8,844,200	
2023 Base Capitalization Grant		\$5,125,320	
2023 Base State Match		\$1,485,600	
2023 IJJA General Supplemental			\$26,588,080
2023 IJJA-GS State Match			\$3,167,200
2023 IJJA Emerging Contaminants		\$10,221,400	
2023 IJJA Lead Service Line			\$788,601
2024 Base Capitalization Grant			\$4,837,590
2024 Base State Match			\$1,402,200
2024 IJJA General Supplemental			\$27,314,250
2024 IJJA-GS State Match			\$6,915,000
2024 IJJA Emerging Contaminants			\$10,302,226
2024 IJJA Lead Service Line			TBD
Subtotal of all inflow into the program	\$43,125,183	\$40,715,974	\$95,373,268
Outflow of Cash			
Disbursements to Committed Projects	\$32,359,129	\$29,152,509	\$37,940,926
Active Contracts Remaining to Drawdown	\$83,783,524	\$89,461,791	\$104,387,149
Projected Obligations (Contract Pending)	\$43,750,422	\$40,077,764	\$25,221,501
Subtotal of all outflow for the program	\$159,893,075	\$158,692,064	\$167,549,576
Ending Cash Balance	\$23,941,611	\$23,907,157	\$76,230,681
Requested Funds on Project Priority Lists			
Base & IJJA-General Supplemental PPLs	\$574,387,523	\$633,926,167	\$633,926,167
IJJA Emerging Contaminants PPL	\$8,844,200	\$83,162,359	\$93,522,931
IJJA Lead Service Line Replacement PPL	N/A	\$788,601	\$788,601
Subtotal of funds requested under the DWSRF	\$583,231,723	\$717,877,127	\$728,237,699
Ending Cash Balance Accounting for Demand	-\$559,290,112	-\$693,969,970	-\$652,007,019

D. Sources & Uses Table Detailed FY2024:

Sources:

- **Loan Repayments:** For SFY2024, the program's loan repayments totaled \$8.4 million. These funds continue the program's revolving nature by being used to issue new contracts with water systems.
- **Projected Additional Repayments:** Anticipated additional contracts to close over the fiscal year, the projected repayment dollars in SFY2025 were \$9.0 million. This estimate can fluctuate as it may account for loans that will complete their repayment schedule and cease payments to the program, or repay early.

- **Federal Awards:** Oregon's DWSRF program is managing the temporary large influx of federal funding from the BIL through its existing program and has been continuously working to increase contracting capacity and outreach. The FFY23 IJA-GS grant was awarded by the EPA later than anticipated, during the SFY25 fiscal year. Additional IJA grants have been accounted for in the Sources table but could be awarded in the SFY26 timeframe. Thus, the program currently shows a large projected ending balance. In this Intended Use Plan, the program has detailed targets and a plan for outreach for projects in anticipation the influx of IJA and Base funding coming to the state. The program is oversubscribed with requests, with the base program Project Priority List exceeding \$600 million requested, and thus, should experience minor issues with identifying systems to obligate the funding.
- **State Match:** Business Oregon provides state matches through its state-lottery-funded Special Public Works Fund Program. For IJA-EC, the state is not required to provide a state match.
- **Interest Earnings:** The loan fund repayment account generates interest, which accounted for \$5,458,192 of the program's income. Interest funds are used to make additional project awards. The state anticipates that the interest rate on the account will be lower in SFY25 to meet adjustments made by the Federal Reserve.

Uses:

- **Set-aside Activities:** The program sets aside a maximum of 31% of grant awards for administrative expenses, technical assistance, local assistance, and more. Section VII explains more about the use of reserved Set-Aside funds, which are not detailed in the above uses table.
- **Actual Disbursements:** Total disbursements to complete active drinking water projects over the SFY24 were \$29.1 million. It is projected that disbursements will increase with the increased number of contracts in SFY25 and 26.
- **Contracted Projects:** At the start of the SFY25 active projects under contract totaling \$89.4 million could draw down their project funding. Planning project contracts under the DWSRF from contract execution to project completion are set at 24 months to draw down funds. Construction project contracts are set at 36 months to draw down funds unless granted an extension.
- **Commitments Not Yet Executed:** At the start of SFY25, projects totaling \$40 million were pending contract execution, but they are considered obligated within the program as the state anticipates those projects to move forward. A detailed list of executed contracts per SFY is available on Business Oregon's [SDWRLF webpage](#).

Conclusion:

The program will continue to strive for the timely and expeditious use of funding. The IJA-EC funding program is still in its infancy, and many systems identified as eligible for funding need additional time and support currently to get projects identified and contracts

executed. We expect the program to grow in funding needs, as identified projects are determined through studies funded with IIJA-EC.

Potential viable projects on the PPL exceeding \$93 million have submitted an application requesting funding. As projects are deemed ready-to-proceed, they will be formally invited to obtain an executed contract for funding. Business Oregon carefully monitors the IIJA-EC funding availability balance to ensure projects that address PFAS are prioritized, and adequate funding exists to meet the existing funding obligations.

E. See Appendix C for complete table details. State Matching Funds

Oregon's State Matching fund contributions are managed by Business Oregon. In accordance with [EPA's March 8, 2022 IIJA Implementation Memo](#), State Match is not required for any current or future IIJA-Emerging Contaminants funding.

F. Leveraging & The Oregon Bond Bank

Additionally, to the table and summaries above, Oregon has the option of packaging DWSRF projects with other state and federal infrastructure program funds, including bond funds from the Oregon Bond Bank if additional funds are needed to complete projects, saving scarce Loan Fund dollars for more projects.

The Oregon Bond Bank is a leveraging mechanism whereby the state sells revenue bonds and lends the proceeds to local governments for drinking water and other infrastructure projects. The state considers this a leveraging procedure, even though it does not fit EPA's definition of "leveraging."

G. Cost Allocation Plan

Additionally, this grant year, OHA will continue to impose its cost allocation plan. Cost allocation acts like indirect costs, as allowed under OMB 2 Code of Federal Regulations (CFR) Part 225 (formerly OMB Circular A-87). The cost allocation rate will affect some direct costs (e.g., Set-Aside activities), but not the Loan Fund, nor the DWSP loans or grants in the Local Assistance Set-Aside. Our current cost allocation rate is 16.96 percent and is expected to be applied to \$1,003,569 of Set-Asides, resulting in a cost of approximately \$170,205.

OHA continues to undergo an in-depth cost rate review for future state fiscal years as explained in the current cost allocation letter dated, August 18, 2023. Cost allocation acts like indirect costs, as allowed under OMB 2 Code of Federal Regulations (CFR) Part 225 (formerly OMB Circular A-87).

H. Fund Linkage between DWSRF and CWSRF

In accordance with 40 Code of Regulations (CFR) part 35.3530(3)(iii)(c), a State may transfer an amount equal to 33 percent of an awarded capitalization grant between SRF programs. To date, Oregon has not transferred funds between the Drinking Water and the Clean Water State Revolving Fund programs, nor does it plan to this grant cycle.

IX. Public Reviews & Comments

❖ Process

The public has been invited to review and comment on Oregon’s proposed FFY2024 IJJA-Emerging Contaminants IUP grant application.

Due to lengthy federal grant application processing, Oregon’s DWSRF Program implements its IUP public review and comment period simultaneously to its submission of its grant applications. If comments are received during the open 30-day mandated public review and comment period and the Program determines that this IUP must be amended, OHA will notify EPA Region 10 office immediately, amend this IUP, and resubmit it for EPA review. Additionally, the amended IUP will also be published again for transparency purposes so the public can view the updates made.

For specific details on IUP public notices for comments and Program responses provided, visit [OHA's IUP webpage](#).

According to the SDWA’s Federal Register Interim Final Rule, Section “O. Meaningful Public Review of the IUP (40 CFR 35.3555 (b)),”

- *“This interim final rule does not include specific requirements as to what constitutes “meaningful public review” of the IUP. Due to the variation among States, no single approach will work under all conditions.”*

EPA interprets the above language to provide States the ability to determine what is appropriate for meeting this requirement provided an effort is made to provide the public an opportunity to make comments. The result is a more rapid process that also reduces program costs.

Below is a list of resources OHA uses when posting notices for public comments related to our annual IUP and PPL. List includes:

- DWSRF (Base) webpage, <http://healthoregon.org/srf>. Reference Project Priority Lists and Public Notices webpage.
- BIL webpage, <http://oregon.gov/bil>
- DWS main website front page, <http://healthoregon.org/dwp>
- [OHA's GovDelivery / Listserv](#) email messaging system to public water systems and other interested parties throughout Oregon.
- Publication of “Pipeline” Newsletter includes permanent information about policy, <http://public.health.oregon.gov/HealthyEnvironments/DrinkingWater/Operations/Pages/pipeline.aspx>
- Correspondence with State, Federal, and private partnerships.
- Public comment responses to IUPs are available on [OHA's IUP webpage](#) following the mandated 30-day publication and DWSRF Program staff have time to review comments received and prepared public responses.

Public Notice materials can be found in **Appendix E** of the IUP.

◆ Intended Use Plan End

APPENDIX A: Required Documents

- Attorney General Certification
- 2022-23-24 IIJA-Emerging Contaminants PPL
- IIJA-Emerging Contaminants Rating Form & Guidance
- FFATA Set-Aside Reporting Spreadsheet



DEPARTMENT OF JUSTICE

Justice Building
1162 Court Street NE
Salem, Oregon 97301-4096
Telephone: (503) 378-6002

April 24, 2024

SENT VIA EMAIL: samina.t.panwhar@oha.oregon.gov

Samina Panwhar
Manager, OHA – Drinking Water Services
800 NE Oregon Street, Suite 640
Portland, OR 97232

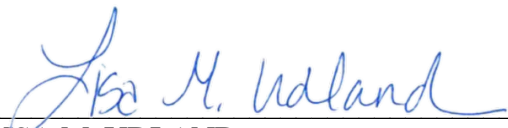
RE: Attorney General Certification for 2024 DWSRF Capitalization Grant Application
DOJ File No.: 443709-GH0203-23

Dear Ms. Panwhar:

I, Ellen F. Rosenblum, as the Attorney General for the State of Oregon, hereby certify that for the purposes of the state's application for capitalization grants for its Drinking Water State Revolving Fund (DWSRF) program:

1. The authority establishing the DWSRF program and the powers it confers are consistent with Oregon law.
2. The State of Oregon may legally bind itself to the terms of the capitalization grant agreement.
3. The DWSRF program will be administered by an instrumentality of the State of Oregon that is authorized to: enter into capitalization grant agreements with the United States Environmental Protection Agency; accept capitalization grant awards made under 42 USC § 300j-12(a)(1)(A); and otherwise manage the Fund in accordance with the requirements and the objectives of the Safe Drinking Water Act and applicable federal rules.

Dated this 24th day of April, 2024.



LISA M. UDLAND
Deputy Attorney General
On behalf of
ELLEN F. ROSENBLUM
Attorney General
Pursuant to ORS 180.130

2024	Bipartisan Infrastructure Law Emerging Contaminants (BIL-EC) <i>(100% principal forgiveness - 25% required for disadvantaged communities or water systems serving fewer than 25,000 people)</i> <i>(Zero match requirement)</i>								2022 BIL-EC Allotment = \$9,940,000 2023 - 2026 Anticipated BIL-EC Annual Allotments = \$11,493,000				
Combined Project Priority List (PPL) - 2022 - 2024	Emerging Contaminants in Small or Disadvantaged Communities Funding (EC-SDC) <i>(100% grant for disadvantaged communities)</i> <i>(Zero match requirement)</i>								2022 & 2023 EC-SDC Allotment = \$18,914,000 2024 - 2026 Anticipated EC-SDC Annual Allotments = \$9,505,000				
Please see footnotes below for important PPL and project information									2022 EC Available Amount for Projects = \$8,844,200 2023 EC Available Amount for Projects = \$10,288,400 2024 EC Available Amount for Projects = \$10,302,226				
Applicant	Application Number	County	System Population	Project Description (PD)**	Project Rating (max 90 points)	Amount Requested	EC Fundable Amount (100% subsidy)	ANTICIPATED Rates & Terms	Disadvantaged Community	EC Grant Award Targets	Quarter & SFY Added to PPL	Eligible for BIL-EC Funds	Eligible for EC-SDC Funds
Burns Water Department 4100153	SD-23-E32	Harney	2,835	PFAS Feasibility Study	88	\$128,000	\$128,000	See Below for Notes	YES	2023	1Q2024	x	x
Riverstone Mobile Home Park 4100240	SD-23-E20	Lane	168	PFAS Feasibility Study	85	\$19,908	\$19,908	See Below for Notes	YES	2023	1Q2024	x	x
Periwinkle MHP 4100029	SD-23-E01	Linn	55	PFAS Feasibility Study	80	\$75,000	\$75,000	See Below for Notes	YES	2022	3Q2023	x	x
Milton-Freewater, City of 4100522	SD-23-E26	Umatilla	7,145	PFAS Feasibility Study	76	\$125,000	\$125,000	See Below for Notes	YES	2023	1Q2024	x	x
Tivoli MHP 4101003	SD-23-E02	Lane	94	PFAS Feasibility Study	73	\$80,000	\$80,000	See Below for Notes	YES	2022	3Q2023	x	x
Garibaldi Water System 4100311	SD-23-E03	Tillamook	802	PFAS Feasibility Study	73	\$200,400	\$200,400	See Below for Notes	YES	2022	3Q2023	x	x
Whispering Pines Mobile Lodge 4100223	SD-23-E21	Linn	90	PFAS Feasibility Study	70	\$19,908	\$19,908	See Below for Notes	NO	2023	1Q2024	x	
Albany Trailer and RV Park 4100004	SD-23-E04	Linn	130	PFAS Feasibility Study	68	\$19,908	\$19,908	See Below for Notes	YES	2022	3Q2023	x	x
Marcola Water District 4100508	SD-23-E31	Lane	600	PFAS Feasibility Study	68	\$65,000	\$65,000	See Below for Notes	NO	2023	1Q2024	x	
Lakeside Mobile Home & RV Park 4100450	SD-23-E27	Klamath	110	PFAS Feasibility Study	65	\$19,908	\$19,908	See Below for Notes	NO	2023	1Q2024	x	
Deerhorn Community Wtr Assn 4100833	SD-24-E01	Lane	275	PFAS Feasibility Study	65	\$65,000	\$65,000	See Below for Notes	NO	2024	4Q2024	x	
Lakewood Utilities 4101097	SD-23-E05	Marion	289	PFAS Feasibility Study	65	\$19,908	\$19,908	See Below for Notes	NO	2022	3Q2023	x	
Milwaukie, City of 4100528	SD-24-E02	Clackamas	20,946	PFAS Feasibility Study	65	\$125,000	\$125,000	See Below for Notes	NO	2024	4Q2024	x	
Rainbow Water District 4100839	SD-23-E07	Lane	6,300	PFAS Feasibility & Pilot Studies	64	\$1,400,000	\$350,000	See Below for Notes	YES	2022	3Q2023	x	x
Dundee, City of 4100262	SD-23-E30	Yamhill	3,356	PFAS Feasibility Study & Future Construction TBD	61	\$695,000	\$695,000	See Below for Notes	NO	2023	1Q2024	x	
Springfield Utility Board 4100837	SD-23-E08	Lane	62,100	PFAS - GAC Filter for PFAS Remediation Final Design Project	60	\$27,884,578	\$3,100,000	See Below for Notes	YES	2022	3Q2023	x	x
Bend Water Department 4100100	SD-23-E28	Deschutes	77,704	PFAS Feasibility Study	60	\$100,000	\$100,000	See Below for Notes	NO	2023	1Q2024	x	
Independence Water System 4100399	SD-23-E23	Polk	10,300	PFAS Feasibility Study	48	\$179,100	\$179,100	See Below for Notes	YES	2023	1Q2024	x	x
Molalla, City of 4100534	SD-23-E24	Clackamas	10,298	PFAS Feasibility Study	40	\$19,908	\$19,908	See Below for Notes	NO	2023	1Q2024	x	
Sunset Water System Inc 4100069	SD-23-E09	Marion	140	Manganese Remediation Feasibility Study	30	\$61,250	\$61,250	See Below for Notes	YES	2022	3Q2023	x	x
Rockwood PUD 4100668	SD-23-E10	Multnomah	65,443	Manganese Treatment System	28	\$22,162,169	\$1,500,000	See Below for Notes	YES	2022	3Q2023	x	x
Gresham, City of 4100357	SD-23-E11	Multnomah	73,932	Manganese Treatment System	28	\$20,000,000	\$1,500,000	See Below for Notes	YES	2022	3Q2023	x	x
Junction City Water Utilities 4100418	SD-24-E03	Lane	6,011	Manganese Treatment System	24	\$9,799,439	\$9,799,439	See Below for Notes	YES	2024	4Q2024	x	x

Tri-City JW&SA 4100549	SD-23-E12	Douglas	3,500	Cyanotoxins - Develop Emergency Intertie w/ Riddle	21	\$50,000	\$50,000	See Below for Notes	YES	2022	3Q2023	x	x
Cottage Grove, City of 4100236	SD-23-E13	Lane	10,005	Cyanotoxins - Treatment Feasibility Study	20	\$125,000	\$125,000	See Below for Notes	YES	2022	3Q2023	x	x
Gates, City of 4100317	SD-23-E14	Marion	500	Cyanotoxins (TBD)	18		TBD	See Below for Notes	YES	2022	3Q2023	x	x
Josephine County Parks – Lake Selmac 1 4190186	SD-23-E15	Josephine	50	Cyanotoxins - Design Work for Replacing Existing Treatment Plant	15	\$20,000	\$20,000	See Below for Notes	YES	2022	3Q2023	x	x
Myrtle Creek, City of 4100550	SD-23-E29	Douglas	3,490	Cyanotoxins - Autobackwash Equipment at Intake	14	\$750,800	\$750,800	See Below for Notes	YES	2022	1Q2024	x	x
Ashland Water Department 4100047	SD-23-E22	Jackson	20,700	Cyanotoxins - Ozone Treatment	13	\$9,312,747	\$9,312,747	See Below for Notes	YES	2022	1Q2024	x	x
Jefferson, City of 4100408	SD-23-E19	Marion	3,348	Cyanotoxins - Develop Backup Source	11		TBD	See Below for Notes	NO	2022	3Q2023	x	
						\$93,522,931	\$28,526,184						
						Total EC Requested	Total EC Fundable Subsidy						

FOOTNOTES:

This PPL contains a list of public water systems Oregon Health Authority (OHA) has recommended for 2022, 2023 & 2024 Bipartisan Infrastructure Law Emerging Contaminants (BIL -EC) Funding & Emerging Contaminants in Small or Disadvantaged Communities Funding (EC-SDC). BIL-EC & EC-SDC funding targets projects or activities that otherwise would be eligible under the “Base” DWSRF funding program but the primary purpose must be to address and/or mitigate people’s exposure to Emerging Contaminants (EC) in drinking water with priorities on perfluoroalkyl and polyfluoroalkyl substances (PFAS).

The **BIL-EC** grant language requires states to award 100% of the grant minus set-asides taken as loans with 100% principal forgiveness, not to be repaid. BIL-EC grants contain the following provision: “Funds provided under this paragraph in this Act shall be to address emerging contaminants in drinking water with a focus on perfluoroalkyl and 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”.

The **EC-SDC** grant language requires states to provide 100% of the capitalization grant amount, minus administrative cost taken, as 100% grant funding. EC-SDC grants contain the following provisions: "Funds provided to States under this paragraph may be used for projects that address emerging contaminants supporting a community described in section 1459A, subsection (c)(2), of the Safe Drinking Water Act, notwithstanding the definition of underserved communities in section 1459A, subsection (a)(2), of the Safe Drinking Water Act".

Funding amounts detailed above are subject to change based on project identification, approved by OHA and EPA.

OHA Drinking Water Services (DWS) rated and ranked the systems on this PPL using a scoring system with rating criteria based on the unregulated contaminant present/concentration, water system size, and community affordability factors. PFAS is prioritized per EPA guidance with the highest amount of points assigned in the scoring, followed by an unregulated contaminant over a health advisory level or proposed MCL in finished water, an unregulated contaminant detection at or below a drinking water HAL (but above an SMCL, if applicable) in finished water, and other detections of unregulated contaminants including non-federally regulated contaminants in raw water.

A "Disadvantaged Community" under Oregon's Drinking Water State Revolving Fund (DWSRF) is a public water system that has a service area with a Median Household Income (MHI) below the state MHI. MHI is determined using the most recent American Community Survey (ACS) 5-year estimates available. Assessing community affordability and disadvantaged status is determined using Oregon's Safe Drinking Water Revolving Loan Fund (SDWRLF) Base program criteria. This serves two purposes 1) Prioritizes communities with socioeconomic factors affecting community affordability by ranking them higher on the PPL, and 2) Designates which PWS are considered disadvantaged to ensure meeting required target of 25% of BIL EC funding going to disadvantaged communities or PWSs serving less than 25,000 population, and to determine eligibility for EC-SDC grant funding.

The BIL-EC grant requires that no less than 25% of the funding be provided as forgivable loans only to disadvantaged communities or public water systems serving fewer than 25,000 people. Public water systems considered a Disadvantaged Community (DAC) under the state definition are eligible for EC -SDC grant funding for infrastructure planning, design and construction projects.

Business Oregon, following the priority ranking order on this list, will engage with systems on contracting and project administration to address the Emerging Contaminant(s) identified by OHA. All systems on this PPL are eligible to receive funding, within limitations based on funding availability. To meet federal grant award requirements, BIL-EC funds must be committed to projects by Oregon within one year of the state receiving the award. EC-SDC funds must be committed and expended in an expeditious and timely manner. A water system that is not ready to move forward will be invited to apply at a later date and the next ranked project will be contacted. Initial use of EC funding will primarily be to assist the systems with funding feasibility studies, if not already obtained, to plan and identify eligible projects to address their EC concerns.

Additional Funding Needs: If funding allows, projects that require additional funding beyond their BIL-EC or EC-SDC allocation may be considered for additional funding resources through Oregon's "Base" DWSRF, BIL-General Supplemental, or another Business Oregon funding program (if eligible).

Emerging Contaminants Funding Rating Form & Guidance Drinking Water State Revolving Fund

****For Program Use ONLY****

- 1) **Emerging Contaminants Funding:** For a water system 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 (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 eligible for funding, the water system will be scored on the following criteria (max 90 pts.):

- a. **Water System Size:** Priority will be given to systems serving < 500 people (5 pts), 500 to 3,300 people (3 pts), or 3,301 to 9,999 people (1 pts).
- b. **PFAS:** Priority will be given to water systems with PFAS detections (30 pts).
- c. **Unregulated Contaminant Detections:** priority will be given to water systems with an unregulated contaminant detection above a drinking water HAL or proposed MCL in finished water (30 pts), water systems with an unregulated contaminant detection at or below a drinking water HAL but above a Secondary Maximum Contaminant Level (SMCL), if applicable, in finished water (15 pts), or water systems with an unregulated contaminant detections including but not limited to detections in raw water or unqualified/unconfirmed sample results (5 pts). For purposes of this rating, "finished water" means representative of water people are drinking and "raw water" means non-potable water prior to treatment including watershed sample results. An example of unqualified/unconfirmed sample results may be J-flagged PFAS detections. *Note: 30 point criteria updated 3/21/23 to include "or proposed MCL".*
- d. **Community Affordability:** 25 points max. See base project rating criteria. ****GIS SPECIALIST****

Water systems eligible for emerging contaminants funding will be rated and ranked using the Emerging Contaminants Funding Rating Summary sheet included on the next page.

Ineligible Activities: If EPA has promulgated a National Primary Drinking Water Regulation (NPDWR) for a contaminant, then a project whose primary purpose is to address that contaminant is not eligible for funding under this appropriation, with the PFAS exception explained below. For example, a project for which the primary purpose is to address arsenic or nitrate in drinking water is not eligible because arsenic and nitrate are regulated under the NPDWRs.

EPA expects to establish a NPDWR for PFOA and PFOS. The Agency is also evaluating additional PFAS and groups of PFAS. Given stated Congressional intent of this appropriation, PFAS-focused projects will be eligible for funding under this appropriation regardless of whether EPA has established a NPDWR for that particular PFAS or group of PFAS.

Public water systems that cannot provide data indicating they have detected an emerging contaminant are not eligible for this funding at this time. EPA does allow funding for preventative projects so this may change in the future.

Drinking Water State Revolving Fund

EMERGING CONTAMINANTS FUNDING RATING SUMMARY

PWS NAME:

PWSID#:

COUNTY:

LOI #: SD- -

CONTAMINANT TO ADDRESS:

ELIGIBLE PUBLIC WATER SYSTEMS

- ☐ Community Water System – (Public or Private Ownership)
- ☐ Non-Profit Non-Community Water System – (Public or Private Ownership)
- ☐ INELIGIBLE

ELIGIBLE ACTIVITIES to address a detected emerging contaminant (informational only; not a complete list)

- Planning and/or design
- Construction of new treatment facility or upgrade to existing treatment facility
- Development of a new source (i.e., new/replacement well or intake)
- Consolidation with another water system that does not have emerging contaminants present or has removal capability
- 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

INELIGIBLE ACTIVITIES

- ☐ Project purpose is to address a regulated contaminant. If so, describe:
- ☐ Public water system has not detected an emerging contaminant. If so, describe:
- ☐ Other. Describe:

Exclusions? Is the System Suspended/Debarred? – See [SAM.gov using Login.gov](#) ☐ Yes ☐ No
(DWSRF Program Coordinator will sign-in and research for exclusions)

Evaluation Criteria:

Criteria	Max Pts.	Score	Description
Water System Size	5		<input type="checkbox"/> 5 points to systems serving < 500 people. <input type="checkbox"/> 3 points to systems serving 500 to 3,300 people. <input type="checkbox"/> 1 point to systems serving 3,301 to 9,999 people.
PFAS	30		30 points for water systems with PFAS detections.
Unregulated Contaminant Detections	30		<input type="checkbox"/> 30 points for an unregulated contaminant detection above a drinking water HAL or proposed MCL* in finished water. <input type="checkbox"/> 15 points for an unregulated contaminant detection at or below a drinking water HAL (but above an SMCL, if applicable) in finished water. <input type="checkbox"/> 5 points for other unregulated contaminant detections including but not limited to detections in raw water or unqualified/unconfirmed sample results.
Community Affordability	25		25 points max. See base project rating criteria (scored by GIS Specialist)
Total	90		

RATED BY:

DATE:

Short project summary is not required

SFY-2025 DWSRF FFATA Reportable *Set-Aside* Contracts ≥\$30,000 ONLY

Contracts		Contract # (if avail.)	Fiscal Yr. - not to exceed Contract Amount	FSRS Req?	Reason if not Req?
Circuit Rider (Civil West)		174190-1	\$ 975,000	No	Vendor Contracts are N/A
Counties* <i>7 of 26 contracts (Annual)</i>	Clackamas	TBD	\$ 60,416	Yes	
	Deschutes	TBD	\$ 36,693	Yes	
	Jackson	TBD	\$ 43,290	Yes	
	Josephine	TBD	\$ 33,038	Yes	
	Lane	TBD	\$ 51,410	Yes	
	Linn	TBD	\$ 37,636	Yes	
	Marion	TBD	\$ 44,710	Yes	
Dept. of Agriculture		181025	\$ 27,657	No	Federal entities are N/A
OAWU (\$5,965/class)		183302	\$ 660,000	No	Vendor Contracts are N/A
Needs Survey (HBH)		TBD	\$ 233,558	No	Vendor Contracts are N/A
DWSP (Grants)	<i>Business Oregon to Manage (grants ≥\$30,000)</i>			Yes	
Only County Set-Aside FFATA TOTALS:			\$ 307,193		

PHD-PE50 Disclaimer:

All FSRS reported *Set-Aside* contracts shown above are to be associated to CFDA: 66.468 and FAIN: FS-02J58701 ('23 Base) & 4D-02J27501 ('22 BIL-GS) .

FFATA reporting threshold from March 1, 2011 through September 30, 2015 was \$25,000. Since October 1, 2015, the threshold became \$30,000 (Per OMB Guidance issued on 08/27/10; Prime Grant Recipient FFATA reporting threshold, is at \$30,000).

APPENDIX B: Required Documents

- 2024 Grant Allotment Use Summary – IIJA-Emerging Contaminants
- Project Selection Methodology – IIJA-Emerging Contaminants (2024)
- Cost Allocation & Other Payroll Expense Letters (3)

**The 2024 State of Oregon's (BIL Emerging Contaminants) DWSRF Program
EPA Grant Allotment Use Summary**

GRANT APPLICATION TOTALS			
FFY-2024 appropriation (\$11,493,000) + FFY-2022 (\$21,000) + FFY-2023 (\$322,000) reallocated funds (EPA 12-20-24 memo)			
Combined Total = \$11,836,000			
Program use of Grant Funding	Federal Funds	Percent of Grant*	State Match Funds (Not applicable for BIL-EC Funding)
Project Loans for Water Systems: (AC:0254) EPA Site Project Code: DA CARVE-OUTS for: <ul style="list-style-type: none"> "Green Project Reserve" (GPR) projects ***No longer a mandatory requirement - Optional*** "Principle Forgiveness" (additional subsidy) projects requires: 100% of FFY2024 BIL-EC funding to be subsidized with 25% to disadvantaged communities or PWS serving less than 25,000 people. 	\$10,302,226	87.00%	\$0
Set-Aside Activities: (maximum = 31%) 1 - Administrative Exp. (Business OR. & OHA) (1/5% of 1% of fund value, 4%, or 400K - per WIIN) (up to 4%) (AC: 0250) EPA Site Project Code: DD	\$0	0.00%	\$0
2 - Small System Technical Assistance (CR) (up to 2%) (AC:0251) EPA Site Project Code: DE	\$0	0.00%	\$0
3 - State Program Management (County and DOA support for sanitary surveys, non-compliance resolution & other water system support activity) (up to 10%) (AC:0253) EPA Site Project Code: DF	\$591,800	5.00%	\$0
4 - Local Assistance & Other State Programs (up to 15%) EPA Site Project Code: DGD <ul style="list-style-type: none"> IMPLEMENTATION OF PROTECTION = Zero (\$0) allocated (0%) for 2024 (DEQ, Tech Asst, GIS, Training & Support) (AC:0252) EPA Site Project Code: DGC WATER SYSTEM CAPACITY DEVELOP = \$941,974 allocated (8%) for 2024 (Technical, Managerial, Financial skill building assistance to Water System Operators, Administrative & Tech Assistance) (AC:0255) EPA Site Project Code: DGB DRINKING WATER SOURCE PROTECTION = Zero (\$0) allocated (0%) for 2024 (Loans & grants for Source Protection Projects paid out of the DWSP Fund) (AC:0256) 	\$941,974	8.00%	\$0
TOTAL USE OF GRANT FUNDS	\$11,836,000	100.00%	\$0

Disclaimer ≥15% of the SDWRLF monies, "must" be awarded to Small Public Water Systems (10,000 or fewer people) each year.

If it's not at the 15% mark, then "only" these small systems will be considered until this federal requirement is met.

On December 2016, the Water Infrastructure Improvement for the Nation (WIIN) Act was developed and included key provisions.

One of these key provisions includes, Subtitle A (§2103) for "Safe Drinking Water" which states:

SDWA §1452(g)(2) Set-aside language is revised to remove the overmatch for the 10% set-aside and change the 4% administrative

set-aside to be "equal to the sum of any state fees collected and the greatest of \$400,000, 1/5% of the current fund value (2024 Total Net Position = \$351,125,968), and an amount equal to 4% of all grants awarded to the fund under this section for the fiscal year." These funds will also be subtracted from the Loan Fund to balance the increased Set-aside amount when applicable.

On October 2018, the America's Water Infrastructure Act (AWIA) provided provisions to the existing SDWA §2015 (c) for "Assistance for Disadvantaged Communities." The Section requires states to use at least 12% (from 6% to 12% per BIL Imp Memo), but no more than 35% of the capitalization grant amount for additional subsidy for state-defined Disadvantaged Communities.

Although authorized to request reserved set-asides under EPA's DWSRF Interim Final Rule, 40 CFR, Section 35.3540 (d), **Oregon will not be exercising this option with our 2024 BIL Emerging Contaminants grant request. Instead Oregon will be banking additional 5% (\$591,800) SPM authority, additional 4% (\$473,440) Administrative authority, additional 2% (\$236,720) Technical Assistance authority, and additional 7% (\$833,426) Local Assistance authority for future grant award set-aside uses.**

Subject:	BIL-Emerging Contaminant funding (BIL-EC) project list development and overall process	Orig Date:	4-2023
Unit + init:	PPC and TS	Revised date:	2-2024
Purpose & Scope: To document the method used to identify eligible water systems for BIL-Emerging Contaminant funding (BIL-EC), the process for rating & ranking those systems for the creation of a BIL-EC Project Priority List (PPL), and to determine the roles and responsibilities of Oregon Health Authority-Drinking Water Services (OHA-DWS) and Business Oregon (BizOR) in the process of funding BIL-EC projects.			

Procedure/Process:

1. OHA-DWS identifies public water systems (PWS) eligible for BIL-EC funding. In Oregon, the unregulated contaminants listed on the EPA's Contaminant Candidate Lists 1 through 5 most commonly found at the entry point are PFAS and Manganese. Since cyanotoxins are not regulated at the federal level and can pose a significant public health risk, PWSs with cyanotoxin detections are also eligible.
 - a. For PFAS, any PWS with a detection is eligible for funding. This includes systems that sample voluntarily and submit data to OHA-DWS, systems that sampled as part of the 2021 OHA PFAS sampling project conducted with DEQ, and systems sampling under UCMR5.
 - b. For manganese, systems with Mn above the SMCL are eligible.
 - c. For cyanotoxins, systems that have had a detection of total microcystins or cylindrospermopsin at the intake or entry point are eligible.
2. Once a PWS is identified with the criteria above, OHA-DWS sends email/letter to water systems targeted for EC funding directing them to fill out a Funding Interest Form (FIF) located on BizOR's webpage and submit to BizOR if interested. **FIFs must be submitted by March 15 each year.**

Note: It is expected most, or all projects will not yet have preliminary engineering or design work done. Feasibility study cost estimates must be provided with FIF submittal, obtained through either the water system's engineer or the OHA-DWS circuit rider.
3. OHA-DWS reviews the submitted projects for eligibility and rates and ranks the FIFs using a scoring system. Rating criteria is based on the contaminant present/concentration, system size, and community

affordability, not the project to address the emerging contaminant. However, any BIL-EC funded project must address the emerging contaminant. PFAS is prioritized per EPA guidance in the scoring. Priority is given to an unregulated contaminant detection over a health advisory level or proposed MCL in finished water, then an unregulated contaminant detection at or below a drinking water HAL (but above an SMCL, if applicable) in finished water, and lastly detections of other unregulated contaminants including but not limited to detections in raw water or unqualified/unconfirmed sample results.

PWS are also scored on community affordability, and disadvantaged status is determined using the same criteria as SDWRLF base program projects ranking. This serves two purposes 1) Prioritizes communities with socioeconomic factors affecting community affordability by ranking them higher on the BIL-EC PPL, and 2) Designates which PWS are considered disadvantaged to ensure meeting required target of 25% of BIL EC funding going to disadvantaged communities or PWSs serving less than 25,000 population. **Rating and ranking occurs by May 1 each year.**

4. **PPL is created by OHA-DWS by May 1 each year.** The BIL-EC PPL is provided to BizOR by OHA-DWS and posted for a 10-day public comment period.
5. OHA-DWS applies for funding using the BIL-EC PPL by **December 1 each year.**
 - a. Project title (example) is “XX system PFAS remediation – scope.”
 - b. If needed, OHA-DWS ranks the projects/systems.
 - c. OHA-DWS and BizOR identify potential funding awards.
6. IUP approved by EPA and funding received.
7. BizOR will start inviting application after the grant application is submitted to EPA. If a higher ranked system is no longer interested in BIL funding, the next system on the list will be contacted.
8. BizOR provides FIF to OHA-DWS if needed for review of project eligibility if alternatives to the FIF are proposed or if the PWS completes feasibility study or design and is ready to move to construction.
BizOR enters into contract with system (for feasibility design, or construction).
9. Funding is disbursed based on costs incurred.

10. When project details (elements) and associated costs are developed, associated documents will be forwarded to OHA-DWS and EPA for comment opportunity. Adequacy of project budget needed to proceed will be assessed.
 - a. If adequate budgeted funds remain to construct project, existing contract will be amended or new contract issued for construction work with existing BIL-EC funds.
 - b. If inadequate budgeted funds remain to construct, additional needed funds will be communicated to OHA-DWS for inclusion in future BIL-EC funding applications years.
11. Complete capacity assessment, SERP, Plans/Specs review, and OHA-DWS loan conditions as applicable (to occur prior to construction activities).
12. Project constructed; EC risk mitigated.
13. For projects that do not use all the funds, BizOR communicates with OHA-DWS so that funding can be reallocated (through EPA process) to a future or existing project.

(At end)

Version Log:

Version	Description / Updates	Author(s)	Date
0.1	Draft	KS/GB	4-2023
1.0	Final	GB	5-2023
2.0	Revisions summary: Revised language to make less-specific to the initial 2022 year of BIL-EC and more reflective of current activities and timelines.	GB	2-2024

References

Implementation History



OREGON STATE PUBLIC HEALTH DIVISION
Office of the State Public Health Director

Tina Kotek, Governor



800 NE Oregon Street, Suite 930
Portland, OR, 97232
Phone: 971-673-1229
Fax: 971-673-1299

Memorandum

To: All Oregon Public Health Division Grantors

From: Nadia Davidson, Director of Finance

Date: July 1, 2024

Subject: Oregon Public Health Division Indirect Cost Allocation Rate

The Oregon Health Authority, Public Health Division operates under a federally approved cost allocation plan in lieu of an indirect rate agreement for administrative overhead costs. This agency-level cost allocation plan is approved by the Department of Health and Human Services, Cost Allocation Services (DHHS-CAS).

For the period of July 1, 2024 through June 30, 2025, the assumed rate of indirect cost allocation for Public Health programs is 16.96% of direct personal services and services and supplies. This is the indirect percentage built into grant proposals for this period.

The Oregon Health Authority, Public Health Division is in the process of compiling a proposal to DHHS-CAS regarding a formal indirect cost rate agreement. If a rate is approved during the period, the indirect cost allocation percentage may change to reflect the new rate.

Very truly yours,

Nadia Davidson, MPH, MSF
Director of Finance
Oregon Health Authority, Public Health Division

July 19, 2023

To: Any Concerned Parties

RE: Updated Oregon Health Authority Other Payroll Expenses 2023-25 Estimate

The current estimated Other Payroll Expense (OPE) rate for the 2023-25 biennium (from July 1, 2023 through June 30, 2025) for the Oregon Health Authority (OHA), Public Health Division (PHD) is 54.70%. OPE factors are prescribed and updated periodically by Oregon's Department of Administrative Services and are costs in addition to salary for State of Oregon employees. The current estimated OPE rate is based on a combination of actual average salaries and OPE for all positions within PHD and known OPE changes occurring this biennium.

Actual OPE rates vary based upon the salary of the individual. Therefore, the rate is a blended estimate of actual OPE costs and the fixed rates (e.g., flex or health benefits) that do not change based upon the salary of the individual. Other costs like PERS benefits vary based upon salary. Below is the OPE detail.

Variable OPE Costs:

- | | |
|--|------------------|
| • Public Employees Retirement System (PERS): | 17.92% of salary |
| • PERS Pension Bonds (POB): | 6.70% of salary |
| • Social Security and Medicare: | 7.65% of salary |
| • Paid Family Medical Leave | 0.40% of salary |

Fixed OPE Costs:

- | | |
|-------------------------------------|-------------------|
| • Employee Relations Board (ERB): | \$2.19 per month |
| • Worker's Compensation: | \$1.91 per month |
| • Flex Benefits (Health Insurance): | \$1,650 per month |

Sincerely,



Nadia Davidson, MPH, MS
Director of Finance
OHA-Public Health Division



DEPARTMENT OF HEALTH & HUMAN SERVICES

Program Support Center
Financial Management Portfolio
Cost Allocation Services

90 7th Street, Suite 4-600
San Francisco, CA 94103-6705
PHONE: (415) 437-7820
EMAIL: CAS-SF@psc.hhs.gov

August 18, 2023

Shawn Jacobsen, Controller
DHS/OHA Shared Services
Office of Financial Services
500 Summer St. NE, E-31
Salem, OR 97301

Dear Ms. Jacobsen:

This letter provides approval of the Oregon Health Authority Cost Allocation Plan (Plan) which was submitted by letter dated January 11, 2022. This Plan, which was submitted in accordance with 45 CFR 95, Subpart E, is effective July 1, 2021.

Acceptance of the actual costs in accordance with the approved Plan is subject to the following conditions:

1. The information contained in the Plan and provided by the State in connection with our review of the Plan is complete and accurate in all material respects.
2. The actual costs claimed by the State are allowable under prevailing cost principles, program regulations and law.
3. The claims conform with the administrative and statutory limitations against which they are made.

This approval relates only to the methods of identifying and allocating costs to programs, and nothing contained herein should be construed as approving activities not otherwise authorized by approved program plans or Federal legislation and regulations.

Implementation of the approved cost allocation plan may subsequently be reviewed by authorized Federal staff. The disclosure of inequities during reviews may require changes to the Plan.

If you have any questions concerning the contents of this letter, please contact Karen Wong of my staff at 415-437-7835. Please submit your next proposed Plan amendment electronically via email to CAS-SF@psc.hhs.gov.

Sincerely,

Arif M. Karim -S

Digitally signed by Arif M. Karim -S
Date: 2023.08.21 17:36:13 -05'00'

Arif Karim, Director
Cost Allocation Services

cc: Terrence Perry, CDC
Elizabeth Naftchi, HRSA

Todd McMillion, CMS
Jack Goldberg, SAMHSA

Gary Tremblay, FNS

APPENDIX C Required Documents

- Sources & Uses Table

Sources and Uses Table

Sources and Uses for DWSRF Project Funds	7/1/22 through 6/30/23	7/1/23 through 6/30/24	7/1/24 through 6/30/25 (Projected Numbers)
Beginning of the Year Balances			
Beginning Cash Balance (Base and all BIL Sources)	\$140,709,503	\$115,677,106	\$117,756,402
Beginning Undrawn Federal Funds	\$0	\$26,198,622	\$30,639,848
Beginning State Match Balance	\$0	\$7,518	\$10,738
Subtotal Beginning Funds Available	\$140,709,503	\$141,883,246	\$148,406,988
Inflow of Cash			
Repayments from Active SRF Loans	\$8,747,744	\$8,482,673	\$9,031,968
Estimated Additional Repayments from New Loans	\$1,003,932	\$1,098,589	\$1,098,589
Interest Earnings on the Fund Balance	\$3,513,441	\$5,458,192	\$3,927,565
2022 Base Capitalization Grant	\$6,763,446		
2022 Base State Match	\$1,844,000		
2022 BIL General Supplemental	\$18,885,320		
2022 BIL GS State Match	\$2,367,300		
2022 BIL Emerging Contaminants		\$8,844,200	
2023 Base Capitalization Grant		\$5,125,320	
2023 Base State Match		\$1,485,600	
2023 BIL General Supplemental			\$26,588,080
2023 BIL-GS State Match			\$3,167,200
2023 BIL Emerging Contaminants		\$10,221,400	
2023 BIL Lead Service Line			\$788,601
2024 Base Capitalization Grant			\$4,837,590
2024 Base State Match			\$1,402,200
2024 BIL General Supplemental			\$27,314,250
2024 BIL-GS State Match			\$6,915,000
2024 BIL Emerging Contaminants			\$10,302,226
2024 BIL Lead Service Line			TBD
Subtotal of all inflow into the program	\$43,125,183	\$40,715,974	\$95,373,268
Outflow of Cash			
Disbursements to Committed Projects	\$32,359,129	\$29,152,509	\$37,940,926
Active Contracts Remaining to Drawdown	\$83,783,524	\$89,461,791	\$104,387,149
Projected Obligations (Contract Pending)	\$43,750,422	\$40,077,764	\$25,221,501
Subtotal of all outflow for the program	\$159,893,075	\$158,692,064	\$167,549,576
Ending Cash Balance	\$23,941,611	\$23,907,157	\$76,230,681
Requested Funds on Project Priority Lists			
Base & BIL-General Supplemental PPLs	\$574,387,523	\$633,926,167	\$633,926,167
BIL Emerging Contaminants PPL	\$8,844,200	\$83,162,359	\$93,522,931
BIL Lead Service Line Replacement PPL	N/A	\$788,601	\$788,601
Subtotal of funds requested under the DWSRF	\$583,231,723	\$717,877,127	\$728,237,699
Ending Cash Balance Accounting for Demand	-\$559,290,112	-\$693,969,970	-\$652,007,019

APPENDIX D Required Documents

- State Program Management
- Local Assistance & Other State Programs
 - i. Capacity Development

**2024 Work Plan – DWSRF (BIL Emerging Contaminants)
Oregon Health Authority, Public Health Division
State Program Management- State & Partner Support**

General

This is a continuation of effort.

Funds from this set-aside augment the Public Water Supply Supervision grant (PWSS). The PWSS grant work plan defines the roles, responsibilities, objectives, performance measures, annual work plan, and a compliance assurance agreement.

The Oregon Health Authority (OHA) and USEPA annually negotiate the PWSS.

Funding

The funding from the State Program Management (SPM) set-aside is **\$591,800** or **5%** of EPA’s FFY-2024 BIL Emerging Contaminants (EC) allotment to Oregon of **\$11,836,000** (*which includes additional \$343,000 reallocated funds from EPA*). Because OHA is not allocating the full 10% authorized to this set-aside, OHA will be “banking” (reserving) the rights to the remaining 5% (\$591,800) for future use.

These funds will support 2.86 FTE to support the PWSS program conducting sanitary surveys, responding to water quality alerts, follow-up on priority non-compliant water systems, administer contracts, and provide clerical support.

These set-aside funds will be targeted for use during SFY-2025-26 (i.e., July 1 – June 30).

Implementation Responsibility

OHA provides the leadership for the Oregon Drinking Water Services. OHA-Drinking Water Services provides core drinking water services as well as supports contractors on technical issues and provides training to assure that our contractors are properly trained and capable of providing the contracted services.

Core services and contracted work involves conducting sanitary surveys, investigations of water quality alerts, resolution of priority non-compliant water systems, and conducting needed follow-ups to these activities. Various other related tasks for small drinking water systems are also performed with contracted work.

Evaluation of Results

The overall effort is evaluated based on overall compliance figures (Oregon Annual Compliance Report, and Oregon Benchmarks) and the change in the number of water systems that are Priority Non-compliers. OHA-Drinking Water Services displays these measures on-line. OHA-Drinking Water Services conducts formal audits of contracts every three years.

2024 Work Plan – DWSRF (BIL-Emerging Contaminants)
Oregon Health Authority
Local Assistance – Water System Capacity Program

General

This is a continuation of an EPA-mandated activity.

The Oregon Capacity Development Strategy is designed to provide assistance to public water systems to improve technical, managerial, and financial capabilities and is implemented through four program elements: Capacity Assessment, Information Services, Training, and Outreach.

Administrative: For 2024 Bipartisan Infrastructure Law, Emerging Contaminants (BIL-EC) funding, Oregon’s DWSRF Program will be incorporating administrative activities into the Capacity Development Program, therefore, forgoing the use of the Administrative Expense set-aside. Administrative activities for 2024 BIL-EC will include operating the Loan Fund and effectively support drinking water systems statewide, through program management, project oversight and support, and coordination with internal cross-teams, external partners, and water systems.

Small System Technical Assistance: For 2024 Bipartisan Infrastructure Law, Emerging Contaminants (BIL-EC) funding, Oregon’s DWSRF Program will be incorporating technical assistance activities into the Capacity Development Program, therefore, forgoing the use of the Small Water System Technical Assistance set-aside. Technical assistance activities for 2024 BIL-EC funding will include:

- On-Site Technical Assistance
 - Rapid response on-site practical support for water systems in need of operational, compliance, managerial, and planning assistance to optimize activities
 - Services are generally restricted to 10 hours or less per system without prior approval from OHA management.
- SRF Program Assistance
 - Practical support for systems in need of a pre-engineering design report to initiate the loan process, or assistance completing the SRF loan application form itself.
- Crypto and MPA Sampling
 - EPA allows for the payment of the costs of LT2 monitoring for Crypto through the SDWRLF Set-Asides.
 - Surface water systems exceeding the E. coli triggers are referred to the Technical Assistance Circuit Rider for assistance in determining the Bin Class under LT2, which includes Crypto sampling.
 - Ground water systems identified as being at risk for GWUDI (Ground Water Under Direct Influence) are targeted for MPA sampling.
 - A referral to the circuit rider for assistance in determining GWUDI can be made by state staff, which entails sampling by the circuit rider for determination of GWUDI / non-GWUDI status.
- Project Management
 - Project management assistance including, but not limited to, an initial on-site evaluation and assessment of project scope and time requirements for the system, which will be presented to OHA in a written report.

- This review and report activity shall not exceed 10 hours without prior written approval. If the submitted proposal receives approval, the Contractor shall assume the role of project manager for the life of the approved service. OHA will authorize such service in 20-hour increments.
- Asset Management
 - On-site technical assistance to water systems evaluating or implementing an asset management strategy or program.
 - OHA will authorize such services in 15-hour increments.
- Small Water System Operator Training
 - Monthly training classes and assistance for small water systems to support their efforts to comply with small water system operator certification requirements, provided by an outside training provider.
 - This free class covers the basics of water system operation and maintenance, water testing and other regulations, waterborne disease, water treatment for small systems, and record keeping.
 - Small water system operators are required to attend one of these training classes (or an equivalent on-line version) every three years to maintain eligibility for DRC duties and responsibilities.

Capacity Assessment: Drinking Water Services (DWS) staff will work with water systems to identify deficiencies in technical, managerial, and financial capabilities using the capacity assessment tool in the following categories: New public water systems and Drinking Water State Revolving Loan Fund applicants.

New public water systems - Assessments will be conducted during the initial plan review and approval process of new public water systems. Areas of evaluation: plan review, construction, master plan/feasibility study, operator certification, managerial processes, ownership, water management and conservation, rate structure, and financial planning. Corrective action will be required for identified deficiencies.

Drinking Water State Revolving Fund applicants - All applicants will receive a full capacity assessment prior to release of any funds. DWS conducts a technical and managerial assessment, with the financial assessment conducted in partnership with Business Oregon. Identified deficiencies will be made a condition of the loan.

Information and Communication Services: DWS will issue a quarterly newsletter called The Pipeline which provides information regarding upcoming rules, deadlines, and operation/maintenance type issues. DWS will also utilize its website to provide water system-related information, including public access to the State Safe Drinking Water Information System (SDWIS) database. DWS will conduct special mailings including electronic mail delivery as needed to inform drinking water systems about emergencies, new rules, upcoming regulatory deadlines and upcoming monitoring requirements.

Training Program: Training opportunities are available on all levels for certified operators. DWS will continue its contract with a 3rd party training provider to provide a monthly basic training course for small water systems at no cost to the water system. DWS has contracted with a third party, certified education facility, and created an exam for the Small Water System Training Course. Training materials will continue to be identified, developed, and made

available as appropriate.

To help water systems maintain compliance with operator certification requirements, DWS staff will continue to work to increase water system capacity by providing a variety of services, including operator certification, support of professional growth through training development, and review and approval of Continuing Education Units (CEUs) for operators.

DWS will continue to support and update its Training Opportunities webpage, providing listings of free classes and webinars hosted by other training providers.

Capacity Development Outreach Program:

Technical Service Providers:

To further assist water systems with identified problems and to develop capacity, the Technical Assistance Set-Aside will continue to be used to contract with outside technical service providers. The contractors perform one-on-one technical, managerial, and financial capacity assistance in the field to individual water systems, providing quick response services.

Capacity Building by DWS Staff:

Integration of capacity building outreach into day-to-day drinking water program activities is key in successful resolution of identified capacity related deficiencies. Field staff will continue to conduct capacity assessments, will be familiar with available technical assistance resources, and will provide direct assistance to water systems. In addition to capacity assessments, capacity building will be incorporated into Oregon's sanitary survey activities, water treatment plant visits, water quality investigations and associated technical consultation and outreach. A wide variety of tools and resources will be used by staff to help systems address identified capacity deficiencies, including direct technical assistance in person or over the phone, providing handouts, factsheets and training guides, referral to resources on the DWS website, and referral for assistance to funding partners and outside technical assistance/training providers. Water systems identified as being in violation, or those with water quality test results indicating a potential public health concern, will be contacted directly by staff and technical assistance provided. Water systems needing help building capacity in emergency response will be provided resources and technical assistance to better prepare for continued operation.

Area Wide Optimization Program:

Oregon's Area Wide Optimization Program (AWOP) works toward increasing operator technical capacity at surface water plants, while also promoting managerial capacity. DWS staff will continue to work with EPA and other Region X states in this effort and will continue to participate in quarterly AWOP Planning Meetings. Current activities include: 1-day training classes for surface water plant operators (Surface Water Essentials; Conventional & Direct Filtration; and Slow Sand Filtration classes), implementation of Oregon's Comprehensive Performance Evaluation (CPE) process for identified system issues, and implementation of AWOP "strike team" tools to assist systems with immediate needs as they arise.

Source Water Assessment Program:

Funded under a separate set-aside of the DWSRF, source water protection efforts are focused on all Oregon water systems. DWS shares implementation responsibility with the Oregon Department of Environmental Quality. Since the majority of public water systems in Oregon

have now received a source water assessment; our emphasis focuses on providing technical assistance to community water systems that ultimately result in voluntary implementation of source water protection strategies in response to local source water characteristics and vulnerabilities.

Funding

Funding for this set-aside is **\$941,974** or **8.0%** of EPA’s FFY-2024 BIL Emerging Contaminants (EC) allotment to Oregon of **\$11,836,000** (*which includes additional \$343,000 reallocated funds from EPA*). Because OHA is not allocating the full 15% authorized to this set-aside, OHA will be “banking” (reserving) the rights to the remaining 7% (\$833,426) for future use.

This funding level supports 7.95 FTE between OHA (2.15) and Business Oregon (5.80) for staffing, BIL-EC program administration and implementation, technical assistance (via Circuit Rider), contracts, trainings, and other pertinent BIL-EC capacity building related costs.

These set-aside funds will be targeted for use during SFY-2025 and 2026 (i.e., July 1 – June 30).

Implementation Schedule

DWS is responsible for the development and implementation of the Water System Capacity Program, including AWOP and SWAP. Continuation of existing activities, as well as development and implementation of new and/or revised activities, will be completed as overall time, resources, and priorities allow.

Evaluation of Results

Successful capacity development efforts should result in improved water system capacity, allowing water systems to qualify for DWSRF financing, and improved water quality and operational compliance.

The overall effort is evaluated using results of capacity assessments reports, AWOP status component and performance information, and changes in the violation system score list. DWS will also evaluate through follow-up contacts, assessments, and comments from water system operators and managers.

APPENDIX E Required Documents

- Intended Use Plan Public Notice Letter
- Project Priority List Public Notice Letter

April 25, 2025

Public Review and Comment Period

Legal notice of public review and comment period concerning the proposed 2024 Intended Use Plan (IUP) attached below for Oregon's new Bipartisan Infrastructure Law (BIL) Emerging Contaminants program. The BIL Emerging Contaminants increases funding to Oregon's existing Drinking Water State Revolving Fund (DWSRF) program with priority funding going towards perfluoroalkyl and polyfluoroalkyl substances (PFAS), manganese, and cyanotoxin mitigation.

One of Oregon Health Authority (OHA) Drinking Water Services (DWS) responsibilities as a state agency managing the DWSRF program as set forth under Section 1452 (40 CFR 35.555 (b)) of the amended 1996 Safe Drinking Water Act (SDWA) is to provide the public the opportunity to comment on the proposed IUP as part of the grant application process to the U.S. Environmental Protection Agency (EPA). This IUP explains how OHA-DWS prioritizes funding to eligible community and non-profit non-community public water systems and the funding of Set-Aside activities. It also is a key aspect of how we will procure the funding resources that the EPA has appropriated Oregon during Federal fiscal year 2024.

The public comment period for the IUP will be from Monday, May 5 through Thursday, June 5, 2025. If you would like to make a comment, please email your comments to DWS.SRF@odhsoha.oregon.gov by no later than 5pm on Thursday, June 5th to be considered. If you have questions, you may also email or call me at (503) 730-7055.

Thank you.

Tabitha Donaghue

FEDERAL FUNDING COORDINATOR, DWSRF/BIL
Drinking Water Services
800 N.E. Oregon St., STE 640
Portland, OR. 97232-2162

tabitha.donaghue@oha.oregon.gov

<http://healthoregon.org/srf>

<http://Oregon.gov/bil>



800 NE Oregon Street, Suite #640
Portland, OR 97232-2162
(971) 673-0405
(971) 673-0694 - FAX
<http://healthoregon.org/dwp>

July 24, 2024

Legal Notice

Legal notice of public review and comment period concerning proposed changes to the Project Priority List (PPL) for Oregon's Drinking Water State Revolving Fund (DWSRF) for the end of the fourth quarter of state fiscal year 2024. This PPL exclusively includes eligible drinking water projects that will be considered for Oregon's 2024 [Bipartisan Infrastructure Law \(BIL\)](#) Emerging Contaminants (BIL-EC) funding. Currently, Oregon's priorities for BIL-EC funding focus on perfluoroalkyl and polyfluoroalkyl substances (PFAS), manganese, and cyanotoxins. Please reference footnotes on PPL for more information.

One of Oregon Health Authority (OHA) Drinking Water Services (DWS) responsibilities as a state agency managing the DWSRF/BIL program as set forth under Section 1452 (40 CFR 35.555 (b)) of the amended 1996 Safe Drinking Water Act (SDWA) is to provide the public the opportunity to comment on changes to the Intended Use Plan (IUP) as part of the grant application process to the U.S. Environmental Protection Agency (EPA). The PPL is important to how the DWSRF/BIL program implements the IUP. Projects have been rated (i.e., scored) by OHA staff to determine ranking and placement on the EC PPL. Before projects can be funded, we are obligated to provide the public the opportunity to review and comment on the proposed PPL.

The public review and comment period for the PPL will be from Monday, July 29 through Wednesday, August 7, 2024. If you would like to make a comment, please email your comments to DWS.SRF@odhsoha.oregon.gov by no later than 5pm on Wednesday, August 7th to be considered. If you have questions, you may also email or call me at (503) 956-8287.

Thank you.

Adam DeSempfle

PROGRAM COORDINATOR, DWSRF/BIL
Drinking Water Services
800 N.E. Oregon St., STE 640
Portland, OR. 97232-2162
adam.desempfle@oha.oregon.gov
<http://healthoregon.org/srf>
<http://Oregon.gov/bil>

APPENDIX F Required Documents

- Interagency Agreement (with Business Oregon)
- Interagency Agreement (with DEQ)
- Operating Agreement (with EPA)

INTERAGENCY AGREEMENT

This Agreement is between the **Oregon Health Authority** (“OHA”) and the **Oregon Infrastructure Finance Authority of the Oregon Business Development Department** (“IFA”), both individually without distinction as “Party” and collectively as the “Parties.”

SECTION 1: AUTHORITY

This Agreement is entered into pursuant to the authority granted by ORS 190.110 and 283.110, allowing state agencies to enter into agreements with other state agencies to cooperate in performing duties, exercising powers or administering policies or programs.

SECTION 2: PURPOSE

- 2.1 Congress enacted the Safe Drinking Water Act Amendments of 1996, Public Law 104-182 (“Act”) to include authorization for capitalization grants to states to implement a Drinking Water State Revolving Fund (DWSRF) program and required program activities, and the US Environmental Protection Agency (“USEPA”) adopted rules that define further the DWSRF program. The Act was amended in 2018 by the Water Infrastructure Investments for the Nation Act (WIIN Act), authorizing EPA to implement a grants program to support the needs of public water systems in underserved communities that are also considered small or disadvantaged communities. Congress appropriated funds to support the grants program in 2019.
- 2.2 On November 15, 2021, the Infrastructure Investment and Jobs Act (H.R. 3684), commonly referred to as the Bipartisan Infrastructure Law (BIL) was signed into law. The law provides the US Environmental Protection Agency (EPA) with grant funds that can be appropriated to states for investments in drinking water infrastructure over five years (2022 – 2026). BIL funding is provided to Oregon in three distinct annual allocations BIL General Supplemental (BIL-GS), BIL Emerging Contaminants (BIL-EC), and BIL Lead Service Line Replacement (BIL-LSL).
- 2.3 BIL also allocated additional funding to address emerging contaminants through EPA’s Emerging Contaminants in Small or Disadvantaged Communities (EC-SDC) Grant program.
- 2.4 The Oregon Legislature has periodically authorized the issuance of lottery supported infrastructure bonds sufficient to provide proceeds to the IFA for the matching funds required from Oregon to receive federal “capitalization grants” under the Act.
- 2.5 The Oregon Health Authority, Public Health Division, Drinking Water Services (“OHA”) has the statutory responsibility for administration and enforcement of federal and state drinking water standards and rules in Oregon. OHA establishes public health priorities for public water systems and provides technical assistance and outreach utilizing fund set-asides.
- 2.6 The Oregon Infrastructure Finance Authority (“IFA”) administers the Safe Drinking Water Revolving Loan Fund (the “Fund”)(ORS 285A.213), and administers financing programs which are available to assist Oregon communities with their drinking water infrastructure projects and drinking water source protection projects. The Fund is comprised of DWSRF capitalization grant funds, state matching funds, loan principal and interest repayments, and capitalization grants under the Bipartisan Infrastructure Law General Supplemental appropriations (2022-2026)

- 2.7 The purpose of this agreement is to ensure interagency coordination and effective implementation of the DWSRF program and the WIIN Act grants program.

SECTION 3: EFFECTIVE DATE AND DURATION

This Agreement shall begin on **July 1, 2023** and shall terminate on **June 30, 2025**, unless terminated earlier in accordance with Section 7.

SECTION 4: AUTHORIZED REPRESENTATIVES

4.1 OHA's AUTHORIZED REPRESENTATIVE IS:

Anthony J. Fields
800 NE Oregon Street, Suite 640
Portland, OR 97232-2162
Office: (971) 673-2269
Fax: (971) 673-0694
Email: anthony.j.fields@oha.oregon.gov

4.2 IFA's AUTHORIZED REPRESENTATIVE IS:

Jon Unger
775 Summer Street NE, Suite 200
Salem, OR 97301
Office: (503) 507-7107
Fax: (503) 581-5115
Email: jon.unger@biz.oregon.gov

- 4.3 A party may designate a new authorized representative by written notice to the other party.

SECTION 5: RESPONSIBILITIES OF EACH PARTY

The parties agree to continue their responsibilities to meet the requirements of the Act and program as follows:

5.1 Grant Application; Budgets

OHA and IFA will coordinate on preparation of the annual Intended Use Plan (IUP) as defined in the Act. OHA will obtain public comment and otherwise be responsible for the IUP.

OHA will coordinate with IFA on preparation of the DWSRF Capitalization Grant, BIL-GS, BIL-EC, BIL-LSL, and EC-SDC grants including the percent of federal allocation set-aside for administration and the allocation of the administrative set-aside between OHA and IFA. OHA will annually prepare the requests and apply for the federal grant.

OHA and IFA will consult when preparing their respective state annual and biennial budgets to implement the DWSRF program. This includes agreeing on the amount of total transfers between OHA and IFA for annual project and administrative costs.

OHA and IFA will coordinate at fiscal year-end closing concerning transfers.

5.2 State Matching Funds

Upon notification of each capitalization grant, the IFA will deposit state monies into the Fund equal to 20 percent of the DWSRF capitalization grant or the percentage otherwise required by EPA. The match is required to be made on or before the time that EPA funds are drawn. Deposit of matching funds for Bipartisan Infrastructure Law General Supplemental appropriations will be dependent on IFA fund availability and legislative action.

5.3 Payments for Awarded Projects

All EPA funds will be received by OHA. OHA will maintain separate and identifiable accounts for the portion of the capitalization grant to be used for base program requests, disbursement requests received by IFA and for all set-aside activities and will transfer funds to IFA as requests are approved.

When it receives a disbursement request from a loan recipient based on obligated or incurred costs for a “base program” project, IFA has primary responsibility for determining allocation between the Fund and federal reimbursement. IFA will forward all such requests for federal reimbursement, and all requests related to “set-aside” projects and activities, to OHA.

5.4 Set Asides

OHA is responsible for managing set-aside activities and expenses under DWSRF annual federal capitalization grants, BIL-GS grants, BIL-EC grants, and BIL-LSL grants for:

- 5.4.1** Administrative expenses – not to exceed 4 percent of the cumulative allotment. IFA will bill OHA no more frequently than monthly for IFA’s administrative expenses.
- 5.4.2** Technical Assistance to Small Systems – not to exceed 2 percent of the cumulative allotment.
- 5.4.3** State Program Management – not to exceed 10 percent of the cumulative allotment.
- 5.4.4** Local Assistance and Other State Programs – not to exceed 15 percent of the capitalization grant and no more than 10 percent is used on any one of the defined activities.

OHA will inform IFA of the available fund balances for the administrative expenses set-aside category on a quarterly basis.

5.5 Federal Eligibility Costs

OHA is responsible for determining the eligibility of all OHA and IFA administrative expenses. The State will follow the principles and standards of 2 C.F.R. Part 225 (formerly OMB Circular A-87) for determining costs for Federal awards.

5.6 Cash Management

OHA will process all requests for federal reimbursement through the Automated Clearing House (ACH) or the Automated Standard Application for Payments (ASAP) system.

5.7 Period of Availability of Federal Funds

OHA is responsible to follow all federal requirements related to timing of capitalization grant payments and state obligation of funds (E.g., Grant payments from a capitalization grant shall begin no earlier than the quarter in which the grant is awarded, and generally end no later than eight quarters after the grant is awarded).

The State must obligate funds for eligible projects within one year of accepting a payment. Funds are disbursed for set-aside activities in accordance with costs being incurred under approved workplans. Cumulative binding commitments must be made in an amount equal to the amount of each grant payment plus the required State match that is deposited into the DWSRF within one year after the receipt of each grant payment (a binding commitment is a legal obligation by the State to a local recipient that defines the terms for assistance under the DWSRF program).

5.8 Federal Reporting

OHA is responsible for preparing and submitting Federal Financial Report (FFR) SF-425 to report expenditures under federal awards, as well as, when applicable, cash status. OHA will also obtain and report necessary subaward information as required by the Federal Funding Accountability and Transparency Act.

OHA will complete reports regarding set-aside activities and expenses as required by USEPA, including but not limited to reporting in the State Revolving Fund (SRF) Drinking Water Data System.

IFA will complete reports regarding projects using the Fund as required by USEPA, including but not limited to reporting in the SRF Drinking Water Data System.

5.9 Program Income

IFA may charge a fee on loans to non-disadvantaged communities. Such fees may be collected in an IFA account outside the Fund and used to supplement IFA administrative expenses. IFA is responsible for coordinating with OHA for the purpose of USEPA reporting of fee account details. Use of fee revenue must comply with allowed uses as prescribed by EPA.

5.10 Solicitation of Letters of Interest

IFA, in conjunction with OHA, is responsible for establishing and maintaining a system to allow submission of LOIs by potential funding recipients for infrastructure and BIL-EC projects. IFA will ensure OHA access of all relevant information.

5.11 Rating and Ranking of Projects

OHA is responsible for determining project priority and rating criteria, reviewing “Letters of Interest” from water systems, and using those criteria, will assign points to water system projects and develop a project priority list.

5.12 Disadvantaged Community Determination

As rating and ranking is conducted, OHA is responsible for identifying whether a water system is classified as a “disadvantaged community” consistent with Section 1452(d)(2) of the Safe Drinking Water Act. Any proposed changes to the definition of “disadvantaged community” will be collaboratively developed by IFA and OHA and will be subject to a public comment process.

5.13 Managerial and Technical Capacity Review

OHA will assess the managerial and technical capacity of applicants to maintain compliance with the Act and forward the assessment results to the IFA.

5.14 Financial Review

IFA will assess the financial capacity of applicants to complete the project, operate and maintain the system, and repay a loan.

5.15 Water System Eligibility and Allowable Activities

OHA has initial, and primary overall responsibility for determining applicant and activity eligibility under the Act and applicable IFA and OHA Oregon Administrative Rules, including prohibitions on contracting with or making subawards to parties that are suspended or debarred or whose principals are suspended or debarred. IFA receives and is responsible for

reviewing loan and grant applications, which may contain more detailed information, and will remain in contact with system owners to monitor and assist with their projects. Once an application is received, IFA will implement the secondary responsibility to ensure all lower-tier activities and expenditures are eligible.

5.16 Technical Review Requirements

When required, OHA will provide technical review of engineering reports, master plans, and construction plans and specifications for projects funded by this program.

5.17 Environmental Review Requirements

OHA will maintain Oregon Administrative Rules, policies, and procedures, and be responsible for the review process of environmental impacts created by the construction of drinking water facilities funded wholly or in part by the DWSRF program, and all set-aside activities that impact the quality of human environment receiving assistance from the DWSRF program.

5.18 Communicating Federal Labor Standards Requirements to Loan Recipients

IFA will notify Recipients about the federal (and state) Labor Standards applicable to them and all contractors on their project, including prevailing wage (David-Bacon) requirements, through financing contract language, and through instructions and sample contract language and forms for use in construction contracts. IFA will forward Disadvantaged Business Enterprises activity reports to OHA, who will forward to the USEPA.

5.19 Federal Procurement Standards

As allowed by the Act, the State and subrecipients shall use state policies and procedures (that meet federal standards) for all procurements, whether with federal or state funds. IFA shall ensure that all contracts with subrecipients, and all contracts and subcontracts issued on behalf of subrecipients, specify relevant state procurement policies and procedures and include any clauses required by the Act and their implementing regulations and related executive orders.

5.20 Safe Drinking Water Revolving Loan Fund

The IFA will administer, manage, and operate the Fund. The IFA will ensure that the accounting, audit, and fiscal procedures for the Fund conform to applicable government standards, including those set forth in the capitalization grant award.

5.21 Project Financing and Project Administration

The IFA will administer the loan program for all projects funded through the Fund including, but not limited to, infrastructure projects and Sustainable Infrastructure Planning Projects. Duties and responsibilities include:

- 5.21.1** Develop and maintain, in consultation with OHA, administrative rules and state program guidelines for the Fund and program, including for source water protection projects and for other Fund assistance.
- 5.21.2** Receive electronic or hard copy letters of interest for funding assistance and ensure OHA has access for project evaluation.
- 5.21.3** Notify water systems of their LOI status on the ranked project priority list.
- 5.21.4** Determine the amount and type of financing to be awarded to applicants and verify that moneys in the Fund necessary to complete the project will be available.
- 5.21.5** Ensure that the State meets EPA grant requirements related to additional subsidy, as outlined in annual grant agreements.

- 5.21.6 Conduct a financial review of applicants for the following fiscal attributes; adequate water rate structure, billing procedure, or alternate financial plan, to assure that funds are collected and available to repay loans from the Fund. Require recipients to adequately plan for the anticipated operation, maintenance, and replacement costs of the water system.
- 5.21.7 Coordinate with other federal, state, or private financing assistance providers on projects with multiple financing partners.
- 5.21.8 Establish standards for disbursement of funds and closeout of projects including, but not limited to, monitoring of all projects, and final inspections of construction projects; and provide fiscal tracking and loan payment systems that comply with federal standards.
- 5.21.9 Enter into contracts with recipients for financing the projects.
- 5.21.10 Take steps to ensure that recipients implement “good faith efforts” in soliciting and procuring Disadvantaged Business Enterprises, as required by the USEPA. Report to OHA the level of activity by Minority-owned and Women-owned Business Enterprises for each Fund recipient.
- 5.21.11 Complete reports as required by the USEPA, including but not limited to reporting in the SRF Drinking Water Data System.

5.22 Other Joint Responsibilities

The IFA and OHA agree to work together and cooperate in efforts necessary for efficient and effective administration, management and operation of the program and Fund, including, but not limited to rule revisions, gathering and reporting of information and preparing quarterly activity updates and annual summary reports of accomplishments, annual USEPA meetings, staff training, public information and workshops, and other activities that are needed to carry out the program and comply with federal and state laws and regulations applicable to the program.

5.23 Claims

The parties understand that each is insured with respect to tort liability by the State of Oregon Insurance Fund, established by ORS Chapter 278, and is subject to the Oregon Tort Claims Act. The parties agree that any tort liability claim, suit or loss resulting from or arising out of the party’s activities may be allocated by the Risk Management Division of the Department of Administrative Services for purposes of their respective loss experience and subsequent allocation of self-insurance assessments under ORS 278.435. Each party agrees to notify the Risk Management Division and the other party in the event it receives notice or knowledge of any such claims.

5.24 Records Maintenance Access

Each party will maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles. In addition, each party will maintain other records pertinent to this Agreement to clearly document its performance. Each party acknowledges and agrees that the other party, and the federal government and their duly authorized representatives will have access to all such records and to perform examinations and audits and make excerpts and copies. Each party will retain and keep accessible all such records according to applicable state record retention schedules.

5.25 Drinking Water Source Protection Project Grants

IFA will develop and maintain, in consultation with OHA, administrative rules and state program guidelines for source water protection projects. OHA will consult with IFA during preparation of the annual DWSRF capitalization grant to determine an amount to allocate toward drinking water source protection grants. In addition, prior to soliciting applications for new grant projects, OHA will consult with IFA on the amount to allocate toward grant projects in a given annual solicitation cycle. OHA, working with DEQ Source Water Protection staff partners, will review and rank applications and recommend projects for funding. OHA will establish and maintain a system to allow submission of LOIs by potential funding recipients for drinking water source protection projects. IFA will develop funding agreements with project recipients and administer the agreements. OHA will monitor project progress and status and coordinate with IFA regarding the need for time extensions or termination of projects that fail to progress in a timely manner.

5.26 WIIN Act Small, Disadvantaged Communities Grants

OHA will coordinate with IFA on preparation of WIIN Act Small, Disadvantaged Communities grant applications. OHA will identify and prioritize prospective grant projects, submit grant applications to EPA and administer grant awards. IFA will assist in identifying sources of grant match, administer grant project contracts, and coordinate with OHA on federal reporting. Prior to communicating with eligible water systems and applying to EPA for funding, OHA and IFA will establish mutually agreed upon written policies and procedures.

SECTION 6: COMPENSATION AND PAYMENT TERMS

OHA shall reimburse IFA up to but not in excess of \$ **42,833,000.00** for all expenses reasonably and necessarily incurred in performing the services and delivering the goods required under this Agreement. Payment shall be made monthly for services provided and goods delivered to OHA's satisfaction during the prior month, after submission of a satisfactory invoice.

The annual DWSRF Capitalization Grant, CFDA Number: **66.468**, and the WIIN Act Small, Disadvantaged Community grant, CFDA Number: **66.442**, repayment funds, and DWSRF fees are the sources of revenue used to support activities described in this agreement. DWSRF Capitalization Grant, BIL-GS, BIL-EC, and BIL-LSL administrative set-asides will be used to fund IFA administrative costs. DWSRF loan fee revenue may also be used for EPA eligible administrative expenses incurred by the IFA as described in section 5.8 of this Agreement.

OHA and IFA will consult when preparing their respective annual and biennial budgets to implement this Agreement. **Budgets will remain within and depend upon the annual federal allotment of Oregon's DWSRF Capitalization Grant, BIL-GS Grant, BIL-EC Grant, BIL-LSL Grant and repayment funds, which will vary from year to year, and Congressional appropriations for WIIN Act Small, Disadvantaged grants.** The parties will coordinate on preparation of annual state budgets, potential revisions as necessary due to federal budget adjustments, Annual and Biennial Reports to EPA, and will assist each other in budget presentations and evaluations/audits as appropriate.

SECTION 7: TERMINATION

- 7.1 This Agreement may be terminated at any time by mutual written agreement of the Parties.
- 7.2 A Party may terminate this Agreement upon 180 days written notice to the other Party.
- 7.3 A Party may terminate this Agreement, in whole or in part, immediately upon written notice to the other Party, or at such later date as the terminating Party may specify in such notice, upon the occurrence of any of the following events:

- 7.3.1 A party fails to receive funding, appropriations, limitations, allotments, or other expenditure authority at levels sufficient in the terminating Party's reasonable administrative discretion, to perform its duties under this Agreement;
- 7.3.2 Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the terminating Party's performance under this Agreement is prohibited or the terminating Party is prohibited from paying for such performance from the planned funding source;
- 7.3.3 The other Party materially breaches a covenant, warranty or obligation under this Agreement, or fails to perform its duties within the time specified in this Agreement or any extension of that time, or so fails to pursue its duties as to endanger that Party's performance under this Agreement in accordance with its terms, and such breach or failure is not cured within 20 days after delivery of the terminating Party's notice to the other Party of such breach or failure, or within such longer period of cure as the terminating Party may specify in such notice.

SECTION 8: AMENDMENTS

The terms of this Agreement may not be waived, altered, modified, supplemented or otherwise amended, in any manner whatsoever, except by written mutual agreement of the Parties.

SECTION 9: NOTICE

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement shall be given in writing by email, personal delivery, facsimile, or mailing the same, postage prepaid, to a Party's Authorized Representative at the address, number or email address set forth in this Agreement, or to such other addresses or numbers as a Party may indicate pursuant to this Section 9.

SECTION 10: SURVIVAL

All rights and obligations shall cease upon termination of this Agreement, except for those rights and obligations that by their nature or express terms survive termination of this Agreement. Termination shall not prejudice any rights or obligations accrued to the Parties prior to termination.

SECTION 11: SEVERABILITY

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

SECTION 12: COUNTERPARTS

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed shall constitute an original.

SECTION 13: LIABILITY AND INSURANCE

- 13.1 The Parties understand that each is insured with respect to tort liability by the State of Oregon Insurance Fund, a statutory system of self-insurance established by ORS Chapter 278, and subject to the Oregon Tort Claims Act (ORS 30.260 to 30.300). Each Party agrees to accept that

coverage as adequate insurance of the other Party with respect to personal injury and property damage.

- 13.2** The Parties agree that any tort liability claim, suit, or loss resulting from or arising out of the Parties' performance of, or activities under, this Agreement shall be allocated, as between the Parties, in accordance with law by Risk Management of the Department of Administrative Services for purposes of the Parties' respective loss experiences and subsequent allocation of self-insurance assessments under ORS 278.435. Each Party to the Agreement agrees to notify Risk Management and the other Party in the event it receives notice or knowledge of any claims arising out of the Parties' performance of, or activities under, this Agreement.

SECTION 14: DAS REPORTING REQUIREMENT

The Parties agree that OHA shall be the Reporting Party for purposes of ORS 190.115, Summaries of Agreements of State Agencies. OHA shall submit a summary of this Agreement to the Oregon Department of Administrative Services through the state electronic procurement system OregonBuys, within the 30-day period immediately following the Effective Date of the Agreement.

SECTION 15: RECORDS

The Parties shall create and maintain records documenting their performance under this Agreement. The Oregon Secretary of State's Office, the federal government, the other Party, and their duly authorized representatives shall have access to the books, documents, papers, and records of a Party that are directly related to this Agreement for the purposes of making audit, examination, excerpts, and transcripts for a period of six years after termination of this Agreement.

SECTION 16: COMPLIANCE WITH LAW

In connection with their activities under this Agreement, the Parties shall comply with all applicable federal, state and local laws and regulations.

SECTION 17: NO THIRD PARTY BENEFICIARIES

OHA and DEQ are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

SECTION 18: FORCE MAJEURE

Neither Party is responsible for any failure to perform or any delay in performance of any obligation under this Agreement caused by fire, riot, acts of God, terrorism, war, or any other cause which is beyond that Party's reasonable control.

SECTION 19: MERGER, WAIVER and MODIFICATION

This Agreement and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given.

SECTION 20: SUBCONTRACTS AND ASSIGNMENT

- 20.1** Neither Party may enter into any subcontracts for the performance of any of its obligations under this Agreement, without the prior written consent of the other Party.
- 20.2** Neither Party may assign, delegate or transfer any of its rights or obligations under this Agreement, without the prior written consent of the other Party.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their duly authorized representatives as of the dates set forth below.

STATE OF OREGON acting by and through its Business Oregon/Infrastructure Finance Authority:

By: _____

Date

Chris Cummings
Printed Name

Deputy Director
Title

STATE OF OREGON acting by and through its Oregon Health Authority, Center for Health Protection:

By: 

Date

~~Andre Ourso MPH, JD~~
Printed Name

Administrator
Title

INTERAGENCY AGREEMENT

This Agreement is between the Oregon Health Authority (“OHA”) and the Oregon Department of Environmental Quality (“DEQ”), both individually without distinction as “Party” and collectively as the “Parties.”

Recitals

WHEREAS, Congress enacted the Safe Drinking Water Act Amendments of 1996, Public Law 104-182 (the “Act”), which included authorization for capitalization grants to States to implement a Drinking Water State Revolving Fund program and provision for States to set-aside up to 31% for specific program purposes.

WHEREAS, the Act allows Primacy States to set-aside up to 15% of their capitalization grant funds for the development and implementation of local drinking water protection initiatives and other State programs, including a Source Water Protection program.

WHEREAS, the American Water Infrastructure Act of 2018 Section 2013 requires community water systems serving populations greater than 3,300 to develop or update a Risk and Resilience Assessment and Emergency Response Plan (ERP). The ERP update must incorporate the findings of the Risk and Resilience Assessment. Information generated from a Risk and Resilience Assessments and related Emergency Response Plans can be used to update source water assessments and to inform selection and implementation of source water protection measures.

WHEREAS, in order to reduce the risks from regulated and unregulated contaminants, the Oregon Department of Environmental Quality (DEQ) has delegated authority to carry out existing Clean Water Act provisions in the drinking water source areas including a statutory duty to “protect, maintain and improve the quality of the waters of the state for public water supplies...” (ORS468B.015(2)).

WHEREAS, local communities need assistance developing strategies for drinking water protection and need assistance implementing these strategies.

WHEREAS, the Oregon Health Authority (OHA), as the State Primacy Agency, under the Act and DEQ wish to cooperate and coordinate activities to help communities protect drinking water source areas, improve resiliency and prepare for emergencies that may threaten drinking water or drinking water source areas.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties hereto agree as follows.

SECTION 1: AUTHORITY

This Agreement is entered into pursuant to the authority granted by ORS 190.110 and 283.110, allowing state agencies to enter into agreements with other state agencies to cooperate in performing duties, exercising powers or administering policies or programs.

SECTION 2: PURPOSE

- 2.1** To promote and support drinking water protection in Oregon by providing technical assistance to public water systems and communities in the state and sharing information about funding opportunities.
- 2.2** To assist public water systems and communities in building resiliency toward threats to drinking water sources from emerging contaminants, wildfires, and other natural disasters.
- 2.3** To coordinate and collaborate with other agencies and entities so that resources can be leveraged and managed to enhance drinking water protection.

SECTION 3: EFFECTIVE DATE AND DURATION

This Agreement shall begin on **July 1, 2023**, and shall terminate on **June 30, 2025**, unless terminated earlier in accordance with Section 7.

SECTION 4: AUTHORIZED REPRESENTATIVES

4.1 OHA's AUTHORIZED REPRESENTATIVE IS:

Anthony J. Fields
800 NE Oregon Street, Suite 640
Portland, OR 97232-2162
Office: (503) 752-8229
Email: Anthony.j.fields@oha.oregon.gov

4.2 DEQ's AUTHORIZED REPRESENTATIVE IS:

Julie Harvey
700 NE Multnomah Street, Suite 600
Portland, OR 97232
Office: (503) 229-5664
Email: julie.harvey@state.or.us

- 4.3** A party may designate a new authorized representative by written notice to the other party.

SECTION 5: RESPONSIBILITIES OF EACH PARTY

5.1 OHA RESPONSIBILITIES

The Oregon Health Authority (OHA) has been granted primacy by EPA under the Act and has sole responsibility for administration and enforcement of federal and state drinking water standards and rules in Oregon. Therefore, OHA will:

5.1.1 General Program Support

- a. Annually apply to EPA for and administer the Drinking Water State Revolving Loan Fund Capitalization Grant. Through interagency transfer payment, OHA will reimburse DEQ for costs associated with carrying out their responsibilities per this Agreement.
- b. Develop, in consultation with DEQ, an annual implementation work plan that establishes the priorities and specific tasks that OHA and DEQ staff intend to complete for the project year.
- c. Serve as the lead agency in coordinating and submitting the data for the annual and other progress reports to EPA on Source Water Protection goals/measures for implementation.
- d. Disseminate information to water systems regarding the Drinking Water State Revolving Loan Fund and other drinking water protection loan/grant funding and also score groundwater system applications.
- e. Coordinate and participate with DEQ in statewide training opportunities to promote drinking water source protection and resiliency planning. Develop education and outreach materials, fact sheets as needed. Periodically maintain and update the program webpage.

5.1.2 Technical Assistance to Public Water Systems

- a. Work directly with Community Public Water Systems to identify and encourage drinking water protection projects that will qualify as Substantial implementation.
- b. Conduct source water assessment related activities of delineation, inventory and susceptibility analysis for state-regulated schools.
- c. Conduct outreach regarding drinking water source protection, focusing on community water systems, and drawing the relation between drinking water protection, resiliency and public health.
- d. Work to develop drinking water protection and emergency preparedness strategies in regional settings, involving several public water systems in a single effort.
- e. Provide technical assistance to individual groundwater-based public water systems that are pursuing the development of drinking water protection plans or protection strategies.

5.1.3 Source Water Assessments

- a. Conduct drinking water source area delineations for groundwater-based public water systems that have been added or significantly modified using standard agency procedures.
- b. Coordinate Source Water Assessment updates with DEQ and other appropriate agencies.

5.1.4 Coordination with Partners

- a. Communicate key information from source water assessments and other watershed analysis to state, federal and local nonprofit partners to guide priority actions and advance protection.

5.2 DEQ RESPONSIBILITIES

Responsibilities of the Department of Environmental Quality (DEQ): DEQ has delegated statutory responsibilities to implement the Clean Water Act and is the designated lead agency for wellhead protection in Oregon. The DEQ will therefore:

5.2.1 General Program Support

- a. Provide data and input to OHA for submitting the Annual Capitalization Grant applications to EPA. Coordinate with OHA on any modifications needed to improve operations or staff positions to achieve the program objectives. Assist OHA in developing an annual implementation workplan.
- b. Provide monthly invoices that include a report on the status of tasks included in the workplan and summary of activities accomplished by DEQ staff funded to implement drinking water protection. The monthly list of tasks and status should be organized under these 5 categories: 1) General program support, 2) Source Water Assessments, 3) Technical assistance to Public Water Systems, 4) Resiliency Planning, Preparedness and Response, 5) Coordination with state and federal agencies.
- c. Assist OHA in developing the EPA annual report and submitting new data for the annual and other progress reports to EPA on Source Water Protection goals/measures for implementation.
- d. Coordinate and participate with OHA in statewide training opportunities to promote drinking water source protection. Develop education and outreach materials as needed. Maintain and update the program web page.
- e. Disseminate information to water systems regarding the Drinking Water State Revolving Grants and other drinking water protection funding, score surface water system applications in coordination with OHA.
- f. Leverage the Clean Water Act and other programs and authorities to protect water supplies. Coordinate and assist with implementation of the Clean Water Act tools and programs within the drinking water source areas.
- g. Update and maintain existing Geographic Information System (GIS) data for the assessment and drinking water protection activities.
- h. Make data layers available to state partners and distribute the statewide GIS coverage layer(s) that includes all delineated drinking water source areas, surface water sensitive areas, and identified potential contaminant sources. Distribute GIS data for intakes, wells and springs only in accordance with OHA's security policy.

5.2.2 Technical Assistance to Public Water Systems

- a. Work directly with Community Public Water Systems to identify and encourage drinking water protection projects that will qualify as Substantial implementation.
- b. Provide technical assistance to local partners (including watershed councils, Soil and Water Conservation Districts and land trusts) and individual surface water-based public water systems that are pursuing the development of drinking water protection strategies.
- c. Partner with communities and other watershed and ground water stakeholders to implement priority actions; provide technical assistance to communities who are implementing drinking water protection strategies. Develop regional partnerships where feasible.
- d. Conduct community outreach programs for drinking water protection; provide resources and assistance to local communities in efforts to foster citizen involvement in drinking water protection.

5.2.3 Source Water Assessments

- a. Conduct Source Water Assessment for surface water-based public water systems that have been added since June 1999 using updated procedures.
- b. Support OHA in finalizing updated groundwater source water assessments by preparing source area delineations using OHA methodology, generating summary tables of regulatory database results, and preparing maps to show land use and potential risks.

5.2.4 Resiliency Planning, Preparedness and Response

- a. Provide technical assistance when evaluating susceptibility to cyanotoxins and other toxics. Develop and coordinate with OHA on any new monitoring and prioritization.
- b. Provide technical assistance as needed to OHA on source water risk from emerging contaminants, including but not limited to PFAS contaminants.
- c. Coordinate and partner with OHA Emergency Preparedness and Planning program and communities to conduct local and state all-hazards planning. Assist and provide technical assistance to improving resiliency and ability to respond to emergencies and natural disasters that may impact watersheds supplying intakes.
- d. Communicate key information from source water assessments to stakeholders to guide priority actions and advance protection. Assist with integration of source water assessment and planning work with resiliency assessment and planning.
- e. Communicate data from water quality monitoring with public water system operators, community officials, other agencies.

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- f. Implement water quality monitoring plans, as needed and with OHA input, for high-risk source waters supplying both surface water and groundwater.
- g. Encourage consideration of source water protection needs into local land acquisition and management strategies; provide information to communities on opportunities for grants and funds for property acquisition or development of conservation easements within their source area.

5.2.5 Coordination with Partners

- a. Serve as the lead agency in coordinating drinking water source protection activities with other state and federal agencies in Oregon (e.g., ODA, ODF, WRD, ODFW, DLCD, NRCS, USFS, and BLM).
- b. Communicate key information from source water assessments, water quality monitoring and other watershed analysis to state and federal partners to guide priority actions and advance protection.
- c. Coordinate with the federal/state Drinking Water Providers Partnership to ensure grant projects are protective of state drinking water resources and raise awareness of State Revolving Grants.
- d. Assist NRCS with identifying Source Water Protection Readiness and Implementation Projects. Assist local partners as they prepare watershed assessments and outreach strategies to address agricultural-related impacts to source water quality under the NRCS SWP program.

5.3 JOINT RESPONSIBILITIES

OHA and DEQ agree to work together and cooperate in efforts as necessary for efficient and effective administration, management and operation of the Program, including, but not limited to:

- a. Joint review of relevant proposed rule revisions;
- b. Reporting of information and preparing quarterly activity updates and annual summary reports of accomplishments;
- c. Attendance and participation at annual EPA meetings, staff training, public information and workshops, and other activities that are needed to carry out the Program;
- d. Ensuring compliance with federal and state laws and regulations applicable to the Program, including but not limited to EPA programmatic and grant requirements; and
- e. Tracking and reporting program progress and performance measures that include evaluation of the specific reports/materials prepared for individual public water systems and actions taken as a result of the technical assistance provided by OHA and DEQ for drinking water protection and surveys of user satisfaction with services and products made available.

SECTION 6: COMPENSATION AND PAYMENT TERMS

The Act allows states to use up to ten percent of the annual Capitalization Grant allotment to delineate and assess source water protection areas and to assist communities to develop and implement local drinking water protection programs. These funds, from the Local Assistance and Other State

Drinking Water Protection Program

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DEQ # R013-23

Programs set aside, shall be allocated between the Parties of this Agreement to accomplish tasks listed in Agreement, Section 5. CFDA Number: **66.468**

The budget for the period of this Agreement is **\$1,932,171.00**. OHA will reimburse DEQ for actual costs of work authorized by this Agreement. Actual costs include but are not limited to salary, other payroll expenses, indirect cost, overhead and other related direct costs.

OHA will make payment within thirty (30) days of receipt of invoices from DEQ. Invoices will be sent to OHA Accounting Contact: Samina Panwhar, 800 NE Oregon, Suite 611, Portland, OR 97232.

OHA and DEQ will consult when preparing their respective annual and biennial budgets to implement this Agreement. Budgets to implement this Agreement will come from the Local Assistance and Other State Programs set aside of Oregon's Drinking Water State Revolving Fund Capitalization Grant, which will not exceed ten percent of the annual allotment. **Budgets will remain within and depend upon the annual federal allotment of Oregon's Drinking Water State Revolving Fund Capitalization Grant, which will vary from year to year.** The Parties will coordinate on preparation of annual state budgets, potential revisions as necessary due to federal budget adjustments, Annual and Biennial Reports to EPA, and will assist each other in budget presentations and evaluations/audits as appropriate.

SECTION 7: TERMINATION

- 7.1** This Agreement may be terminated at any time by mutual written agreement of the Parties.
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 - 7.3.1** The terminating party fails to receive funding, appropriations, limitations, allotments, or other expenditure authority at levels sufficient in the terminating Party's reasonable administrative discretion, to perform its duties under this Agreement;
 - 7.3.2** Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the terminating Party's performance under this Agreement is prohibited or the terminating Party is prohibited from paying for such performance from the planned funding source;
 - 7.3.3** The other Party materially breaches a covenant, warranty or obligation under this Agreement, or fails to perform its duties within the time specified in this Agreement or any extension of that time, or so fails to pursue its duties as to endanger that Party's performance under this Agreement in accordance with its terms, and such breach or failure is not cured within 20 days after delivery of the terminating Party's notice to the other Party of such breach or failure, or within such longer period of cure as the terminating Party may specify in such notice.

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Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement shall be given in writing by email, personal delivery, facsimile, or mailing the same, postage prepaid, to a Party's Authorized Representative at the address, number or email address set forth in this Agreement, or to such other addresses or numbers as a Party may indicate pursuant to this Section 9.

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- 13.2** The Parties agree that any tort liability claim, suit, or loss resulting from or arising out of the Parties' performance of, or activities under, this Agreement shall be allocated, as between the Parties, in accordance with law by Risk Management of the Department of Administrative Services for purposes of the Parties' respective loss experiences and subsequent allocation of self-insurance assessments under ORS 278.435. Each Party to the Agreement agrees to notify Risk Management and the other Party in the event it receives notice or knowledge of any claims arising out of the Parties' performance of, or activities under, this Agreement.

SECTION 14: DAS REPORTING REQUIREMENT

OHA shall be the Reporting Party for purposes of ORS 190.115, Summaries of Agreements of State Agencies. FIRST AGENCY shall submit a summary of this Agreement to the Oregon Department of Administrative Services through [OregonBuys](#) within the 30-day period immediately following the Effective Date of the Agreement.

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SECTION 16: COMPLIANCE WITH LAW

In connection with their activities under this Agreement, the Parties shall comply with all applicable federal, state and local laws and regulations.

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OHA and DEQ are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

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Neither Party is responsible for any failure to perform or any delay in performance of any obligation under this Agreement caused by fire, riot, acts of God, terrorism, war, or any other cause which is beyond that Party's reasonable control.

SECTION 19: MERGER, WAIVER and MODIFICATION

This Agreement and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given.

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- 20.1** Neither Party may enter into any subcontracts for the performance of any of its obligations under this Agreement, without the prior written consent of the other Party.
- 20.2** Neither Party may assign, delegate or transfer any of its rights or obligations under this Agreement, without the prior written consent of the other Party.

SECTION 21: ADDITIONAL PROVISIONS

RESERVED.

OHA #179426-0
DEQ # R013-23

IN WITNESS WHEREOF, the Parties have executed this Agreement by their duly authorized representatives as of the dates set forth below.

STATE OF OREGON acting by and through its Oregon Department of Environmental Quality:




Leah Feldon, Director

06/15/2023
Date

STATE OF OREGON acting by and through its Oregon Health Authority, Center for Health Protection:

Samina Panwhar, Manager
Drinking Water Services

Date



Andre Ourso, MPH, JD, Administrator
Center for Health Protection

6/21/2023
Date



OPERATING AGREEMENT: Drinking Water State Revolving Fund (DWSRF)

Implementation & Management of the Program



**Between the
Oregon Health Authority – Drinking Water Services
State of Oregon
And
U.S. Environmental Protection Agency**

OHA Agreement #167726

2021-2026

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	Attachment 3 State Environmental Review Process (SERP) – <i>available online or upon request</i>	
	Attachment 4 State Regulations – <i>available online or upon request</i>	

ACRONYMS

• ARRA	-	American Recovery and Reinvestment Act
• AWIA	-	America's Water Infrastructure Act
• CWSRF	-	Clean Water State Revolving Fund
• DEQ	-	Department of Environmental Quality
• DWS	-	Drinking Water Services
• DWSRF	-	Drinking Water State Revolving Fund
• EPA	-	Environmental Protection Agency
• EPA-ACH	-	Automated Clearinghouse
• ER	-	Environmental Review
• ERP	-	Enforcement Response Policy
• ETT	-	Enforcement Targeting Tool
• FFATA	-	Federal Funding Accountability and Transparency Act
• FFY	-	Federal Fiscal Year
• FSRS	-	FFATA Subaward Reporting System
• GAAP	-	Generally Accepted Accounting Principles
• GASB	-	Government Accounting Standards Board
• IAA	-	Inter Agency Agreement
• IFA	-	Infrastructure Finance Authority
• IUP	-	Intended Use Plan
• MOU	-	Memorandum of Understanding
• NIMS	-	National Information Management System
• OA	-	Operating Agreement
• OFS	-	Office of Financial Services
• OHA	-	Oregon Health Authority
• OIG	-	Office of Inspector General
• OBDD	-	Oregon Business Development Department
• ORS	-	Oregon Revised Statutes
• PBR	-	Public Benefits and Reporting
• PPL	-	Project Priority List
• RA	-	Regional Administration
• SDWA	-	Safe Drinking Water Act
• SDWRLF	-	Safe Drinking Water Revolving Loan Fund
• SERP	-	State Environmental Review Process
• SFY	-	State Fiscal Year
• SPM	-	State Program Management
• WIIN	-	Water Infrastructure Improvements for the Nation Act

I. INTRODUCTION

A. Background & Objective of the DWSRF

The Safe Drinking Water Act (SDWA) Amendments of 1996 (Public Law 104-182) has authorized the creation of a Drinking Water State Revolving Fund (DWSRF) program to assist eligible public water systems to finance the costs of infrastructure needed to achieve or to maintain compliance with SDWA requirements and to protect public health. Section 1452 has authorized the Administrator of the U.S. Environmental Protection Agency (EPA) to award capitalization grants to States, which in turn can provide low cost loans and other types of financial assistance to these systems.

The SDWA Amendments of 1996 also established a strong new emphasis on preventing contamination problems through source water protection and enhanced water systems management. Central to this emphasis is the development of State prevention programs, including source water protection, capacity development, and operator certification. States have the option to use a portion of their capitalization grants to fund these eligible activities as allowed in the federal statute. The success of these activities will act to safeguard the DWSRF funds that are provided to these eligible systems for improving compliance and public health issues.

It is the intent of the DWSRF program to help provide additional assurance that our Nation's drinking water remain safe and affordable, that drinking water systems which receive funding will be properly operated and maintained, and that effectively managed and permanent institutions will exist in each State to provide financial support for eligible public water systems and drinking water related needs for years to come. Congress has placed particular emphasis on assisting smaller drinking water systems, and those serving less affluent populations, by providing greater funding flexibility for these systems under the DWSRF to ensure that systems have adequate technical, managerial, and financial resources to maintain compliance and provide safe drinking water.

Under the SDWA, a State may administer its DWSRF in combination with other State loan funds, including the Clean Water State Revolving Fund (CWSRF). A State may also transfer up to one third of the amount of its DWSRF capitalization grant to its CWSRF or an equivalent amount from its CWSRF capitalization grant to its DWSRF.

These two provisions linking the DWSRF and the CWSRF signal Congressional intent to implement and manage both programs in a similar manner. EPA also intends to administer the two programs in a consistent manner, and to apply the principles developed for the existing CWSRF to the DWSRF program to the fullest extent possible.

Like the CWSRF, the DWSRF is fundamentally a State program. Each State will have considerable flexibility to determine the design of its program and to direct funding toward its most pressing compliance and public health protection needs. Historically, only minimal Federal requirements have been imposed. However, since the 2009 American Recovery and Reinvestment Act (ARRA), Federal requirements (e.g., America's Water Infrastructure Act (AWIA) and the Water Infrastructure Improvements for the Nation Act (WIIN)) have evolved which add additional procedures and oversight requirements at both the Federal and State levels.

The SDWA Amendments of 1996 authorized \$559 million for Federal Fiscal Year (FFY) 1994, and \$1 billion per FFY from 1995 through 2003 for such grants. Funds available to States from FFY1998 appropriations and beyond are to be allotted according to a formula that reflects the proportional share of each State's needs identified in the 1995 Needs Survey conducted pursuant to Section 1452(h). EPA will conduct a Needs Survey periodically (i.e., every 4 years). The minimum proportionate share by the formula is one percent of the funds available for allotment to the States. To date, Oregon's share has ranged anywhere from one percent (1%) to as much as 1.76% (i.e., 2002 – 2020 State allotments).

B. Purpose, Format & Structure of the Operating Agreement for Oregon

This amended DWSRF Operating Agreement (OA) continues the contractual relationship between EPA and the Oregon Health Authority (OHA) and this amended OA replaces and supersedes the prior Operating Agreement: Drinking Water State Revolving Fund between EPA and OHA.

The purpose of this amended OA is to redefine and further integrate rules, regulations, guidelines, policies, procedures, and activities to be followed by EPA and the State in administering the DWSRF prescribed by Section 1452 of the 1996 SDWA amendments that are not expected to change annually. In addition, the amended OA is to demonstrate the areas where updates have been made to either or both agencies and how if any of these updates will impact the DWSRF program.

In summary, this OA specifically lists the parties to the Agreement; outlines and defines the roles and responsibilities of all the parties involved; documents the necessary assurances; explains the financial administration framework; discusses reporting and review requirements of the DWSRF program; and explains how the program will be carried out.

This OA will continue from year to year and will be incorporated by reference into the annual DWSRF capitalization grant agreement. Information that changes from year to year shall be in Oregon's annual capitalization grant agreement and in the Intended Use Plan (IUP).

OHA agrees that any modifications to this agreement that may be required by EPA regulations, policies, or program guidance, will be made and implemented where applicable on such schedule as negotiated with EPA.

This amended OA addresses many of the State requirements for the capitalization grant agreement for the DWSRF program as outlined in the Table 1 of the “Final Guidelines for Implementation of the DWSRF Program (Fed Reg Vol. 63, No. 214).”

C. Timing & Application Review

Upon implementation of this OA, EPA agrees to review the capitalization grant application and take appropriate action within 60 days of receipt of a completed application (Application for Federal Assistance with supporting document and certifications and any modifications to the OA, the annual IUP, and proposed payment schedule) in the Regional Office. EPA shall either approve the application and award the capitalization grant or shall notify OHA in writing of issues requiring resolution. OHA and EPA agree to negotiate promptly, cooperatively, and in good faith to clarify or resolve questions which may arise during review of the application. OHA agrees to act upon the capitalization grant offer within 21 calendar days of approval.

II. IMPLEMENTATION

A. Parties to the Agreement

The parties to this OA are the U.S. EPA Region 10 and OHA. OHA as the primary enforcement agency for the SDWA is designated by the State of Oregon as the lead agency, which in addition to developing the Intended Use Plan (IUP), performing technical project reviews, and monitoring program results, is responsible for coordinating the total management of the DWSRF program and is the primary contact for the EPA on DWSRF issues. OHA, as the designated instrumentality of the State of Oregon, is empowered to enter into capitalization grant agreements with the Regional Administrator (RA), to accept capitalization grant awards, and to otherwise manage the fund in accordance with the requirements and objectives of the SDWA.

OHA had a Memorandum of Understanding (MOU) with Oregon Business Development Department (OBDD) to manage a separate DWSRF account to make loans and other forms of financial assistance to eligible public water systems. This separate account is the Safe Drinking Water Revolving Loan Fund (SDWRLF) which is capitalized through Oregon’s annual DWSRF capitalization grant awards. The SDWRLF includes Federal grants, State match, loan repayments, and interest earned funds. OBDD (also known as Infrastructure Finance Authority or IFA) acts as the financing project managers for the DWSRF program.

The MOU was replaced with an Inter-Agency Agreement (IAA) between OHA and OBDD (i.e., IFA) effective February 1, 2016.

B. Summary of State and EPA Roles and Responsibilities

1. The State of Oregon has enacted enabling DWSRF legislation. **Attachment #1 is a copy of that legislation.**
2. As the lead agency, OHA will maintain a competent organization and a staff skill mix to assure that projects meet acceptable technical, managerial and financial requirements as established or referenced in this OA, and that the DWSRF will be operated continuously and effectively. Staffing plans of all State agencies involved will be submitted as part of the annual capitalization grant application and/or referenced within the program's annual report.
3. Oregon has a State Environmental Review Process (SERP). OHA will apply the SERP described in Section 5.1 of Oregon's current Program Guidelines and Handbook for SDWRLF financing. The SERP handbook can be accessed on the DWS website at <http://public.health.oregon.gov/HealthyEnvironments/DrinkingWater/SRF/Documents/srphand.pdf>. Oregon will use its State Fiscal Year (SFY), July 1 through June 30 to manage the DWSRF activities.
4. EPA agrees to provide funding through the award of a capitalization grant to OHA, upon joint acceptance of this OA and approval of a completed application agreement in accordance with 40 CFR Part E, Section 1452, and as the Federal funds are available for this purpose.
5. EPA will provide Federal grant funds to the DWSRF in accordance with the jointly developed payment schedule as a condition of the capitalization grant.
6. EPA may provide technical assistance to OHA as needed and will be available to assist OHA in developing and conducting in-servicing training programs and will provide advice and consultation.
7. OHA, upon receiving its capitalization grant, agrees to manage the DWSRF program in accordance with this OA, the terms of the grant agreement, the SDWA as amended, 40 CFR Part E Section 1452, and applicable regulations.
8. EPA will allow OHA as much discretion and flexibility in implementing and managing a DWSRF program as is permissible under the SDWA, the regulations and EPA policy/guidance.
9. EPA will oversee the State's DWSRF program to assure compliance with the SDWA, regulations and EPA policy/guidance. Generally, specific projects for

which the State has provided financial assistance will not be reviewed, except during an annual review. If evidence of non-compliance with the applicable requirements exists, EPA may conduct specific project reviews.

If the annual review or audit reveals that the State has not complied with its capitalization grant agreement or other requirements under Section 1452, EPA will notify the State of such non-compliance and prescribe the necessary corrective action. Failure to satisfy the terms of the capitalization grant agreement, including unmet assurances or invalid certifications, is grounds for a finding of non-compliance.

C. State Assurances and Certifications

The State is responsible for providing assurances in the capitalization grant agreement on how it will comply with those assurances or elements of the DWSRF program, as well as other requirements for all DWSRF funding to comply with applicable Federal requirements. In some cases, the State must simply agree or provide certification in the grant application that it will comply with the specifications. In other cases, additional documentation on the procedures by which the State plans to ensure compliance with the specifications must be furnished. This OA documents the State's agreement to many of these requirements. The following addresses the way the State will meet many of these assurances and requirements:

1. State Instrumentality and Authority

The State of Oregon has established a DWSRF created by legislation enacted by the Oregon Legislature. A copy of Oregon's enabling legislation is included in this OA in Attachment #1. This legislation grants OBDD the authority to adopt procedures, rules, and regulations, and establishes that agency as the instrumentality of Oregon to manage and operate the SDWRLF (i.e., Loan Fund) account. The State Attorney General certifies legislation grants powers and authorities necessary to implement and administer the SDWRLF account consistent with the SDWA, as amended.

If more than one State Agency is involved in the DWSRF program, the State will describe the roles and responsibilities of each agency in the grant application. OHA will submit or provide access to a copy of the IAA that describe the roles and responsibilities between state agencies as part of its grant application. The State agrees that the agency that is awarded the capitalization grant must retain ultimate responsibility for properly executing the grant agreement under federal grant regulations (40 CFR 31.3).

2. Establishment of SDWRLF and Non-Project DWSRF Accounts

OHA certifies that the SDWRLF account is a separate account, dedicated solely to providing loans and other forms of assistance for the construction of Section 1452 public water supply systems.

OHA agrees to deposit the capitalization grant in the SDWRLF account except for those portions of the grant that OHA intends to use for non-project (e.g., Set-Asides) authorized under the SDWA (Section 1452 (a)(1)(B)). The State will maintain identifiable and separate accounts for the portions of the capitalization grant to be used for non-project activities. OHA will maintain any paperwork provided by EPA that documents any transfer of funds from the non-project account to the SDWRLF and include this information in its annual report.

3. Payment Schedule

OHA will include in its annual DWSRF grant application a proposed payment schedule.

OHA agrees to accept grant payments in accordance with the negotiated payment schedule.

4. State Matching Funds

Except for payments made from the Federal Fiscal Year (FFY) 1998 appropriations, OHA agrees that State monies in an amount equaling 20 percent of the amount of each grant awarded will be deposited in to Oregon's SDWRLF on or before the date on which the State receives each payment from the grant award or the State will utilize other measures for depositing the State match allowable under Section 1452 of the SDWA. Each annual DWSRF grant application will include details on the source of State matching funds.

State Program Management (SPM) Set-Aside (i.e., 1452(g)(2)) activities no longer require the dollar for dollar (i.e., 1:1 ratio) State match requirement according to the passing of the 2016 WIIN Act.

5. Entering into Binding Commitments with Assistance Recipients

OHA through its IAA with OBDD agrees to enter into binding commitments (financing contracts) with assistance recipients within one year of receiving a capitalization grant payment. Binding commitments (financing contracts) will be in place according to the time frames established by the OBDD and the assistance recipient(s).

6. Expeditious and Timely Expenditures

OHA through its IAA with OBDD agrees to expend all funds in an expeditious and timely manner.

7. Enforceable Requirements of the Act

OHA agrees that all funds available for loans in the SDWRLF account are a result of a capitalization grant (DWSRF grant funds, State match, repayments and interest earned) will be used for projects on the Project Priority List (PPL).

8. Applicable State Laws and Procedures

OHA agrees to commit or expend each quarterly grant payment in accordance with all applicable Federal and State laws, statutes, policies and procedures.

9. State Accounting and Auditing Procedures

OHA has established fiscal controls and accounting procedures sufficient to assure sound accounting procedures promulgated by the Government Accounting Standards Board (GASB). The State of Oregon agrees to follow current procedures in accordance with the general accepted government auditing standards issued by the Comptroller General of the United States.

10. SDWRLF Assistance Recipient Accounting and Audit Procedures

OHA agrees that it will require SDWRLF assistance recipients to maintain project accounts in accordance with “generally accepted government accounting principles.” This requirement has been implemented and will continue to be implemented through an existing condition in the financial assistance agreement.

OBDD continues to implement financial oversight of all funded projects. See their contract language excerpt below:

a) Financial Records

The Recipient shall keep accurate books and records for the revenues and funds that are the source of repayment of the Loan, separate and distinct from its other books and records, and maintain them according to generally accepted accounting principles established by the Government Accounting Standards Board in effect at the time. The Recipient shall have these records audited annually by an independent certified public accountant, which may be part of the annual audit of all records of Recipient.

b) Inspections; Information

The Recipient shall permit the OBDD and any party designated by OBDD, the Oregon Secretary of State's Office, the federal government and their duly authorized representatives: (i) to inspect, at any reasonable time, the property, if any, constituting the Project; and (ii) at any reasonable time, to inspect and make copies of any accounts, books and records, including, without limitation, its records regarding receipts, disbursements, contracts, investments and any other related matters, and financial statements or other documents related to its financial standing. The Recipient shall supply any related reports and information as OBDD may reasonably require. In addition, Recipient shall, upon request, provide OBDD with copies of loan documents or other financing documents and any official statements or other forms of offering prospectus relating to any other bonds, notes or other indebtedness of Recipient that are issued after the date of this Contract.

c) Records Maintenance

The Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Contract, the Project or the Financing Proceeds for a minimum of six years, or such longer period as may be required by other provisions of this Contract or applicable law, following the Project Closeout Deadline. If there are unresolved issues at the end of such period, Recipient shall retain the books, documents, papers and records until the issues are resolved.

11. Biennial Report and Annual Audit

OHA agrees to submit an Annual Report to the EPA on the use of funds and how the State has met the goals and objectives for the previous state fiscal year as identified in the IUP for the previous year. The scope of the report covers the SDWRLF and all other non-Fund activities undertaken by the State using funds in the DWSRF program. The contents of the report will conform to what is outlined in Section VI.A., of the "Final Guidelines for Implementation of the DWSRF Program (Fed Reg Vol. 63, No. 214)." The State of Oregon may have an independent audit by the State's Auditor (Secretary of State, Audits Division), of the program as part of the State's Statewide Single Audit (OMB A-133).

12. Environmental Review (ER)

OHA agrees that binding commitments on DWSRF projects will require that the recipient completes the necessary environmental review process and the review is approved by OHA.

OHA has an approved SERP for the DWSRF Program. The SERP documentation, in accordance with Section IV.B., of the “Final Guidelines for Implementation of the DWSRF Program (Fed Reg Vol. 63, No. 214),” is available upon request. The OHA is the State Agency primarily responsible for conducting the appropriate environmental reviews.

13. Intended Use Plan (IUP)

OHA agrees to prepare an annual IUP and to provide for public review and comment on the IUP. OHA agrees to include the annual IUP with the annual application for the DWSRF capitalization grant. This IUP shall include a list of projects proposed for assistance, long-term and short-term goals of the DWSRF program, information on DWSRF activities to be supported, criteria and methods for distributing DWSRF funds, and assurances and specific proposals. The State will provide the IUP and attach information in accordance with Section 1452 and in a format mutually agreeable to OHA and EPA’s Regional Administrator. OHA agrees to expend all DWSRF program funds in accordance with the IUP.

14. Repayment to the Fund

OHA agrees that all principal and interest payments on loans and returns on invested project SDWRLF funds will be credited directly to the SDWRLF account.

15. State Technical Capability

OHA agrees to provide documentation demonstrating that it has adequate personnel and resources to establish, operate and manage the DWSRF program as part of the annual capitalization grant application package.

16. Compliance with Applicable Federal Cross-Cutting Authorities

OHA agrees that as a condition of receiving project funds, recipients must comply with applicable federal cross-cutting authorities in existence at the time that a loan recipient receives a binding commitment from the SDWRLF. OHA agrees to inform EPA when consultation or coordination is necessary to resolve issues regarding compliance with those requirements.

The crosscutters will apply to an amount of funds equaling at least the amount of the Federal grant. OHA through its IAA with OBDD will determine which “equivalency” projects will be subject to federal crosscutters. OHA agrees that it will remain ultimately responsible for ensuring that assistance recipients comply with all applicable crosscutters. OHA acknowledges that applicable laws may change with time.

17. Procedures to Assure Borrowers have Dedicated Source of Repayment

Under the new IAA, OHA agrees to ensure that OBDD will make determinations whether an applicant has the ability to repay a loan according to its terms and conditions, prior to making that loan. OHA will also ensure that OBDD will develop criteria to evaluate an applicant's financial ability to repay the loan, in addition to being able to pay for operation and maintenance costs, and other necessary expenses.

18. Capacity Development Authority

OHA has legal authority to ensure that all new community water systems and new non-transient, non-community water systems commencing operation after October 1, 1999, demonstrate technical, managerial, and financial capacity in accordance with Section 1420 of the SDWA. EPA has the legal authority to withhold DWSRF funds under Section 1452 (a)(1)(G)(i) if the State has not established a Capacity Development Program.

19. Operator Certification

OHA administers an Operator Certification Program for operators of community water supply systems and non-transient, non-community water supply systems in accordance to Section 1419 of the SDWA. EPA has the legal authority to withhold DWSRF funds under Section 1452 (a)(1)(G)(ii) if the State does not have an Operator Certification Program in accordance with Section 1419.

20. Review of Technical, Financial, and Managerial Capacity of Assistance Recipients

OHA has implemented a method to review and evaluate the technical, financial, and managerial capacity of assistance recipients. OHA may revise this methodology from time to time as experience is gained.

In addition, on March 30, 2012, the States received a memorandum "Implementation of Capacity Development and DWSRF Programs to Reflect the New Enforcement Policy (ERP) and Enforcement Targeting Tool (ETT)" from the EPA with new mandated requirements to be implemented in to State's existing Capacity Development Programs. OHA has incorporated these requirements into its Capacity Development and DWSRF programs.

21. System to Minimize Risk of Waste, Fraud, Abuse and Corrective Action

OHA agrees to devise and institute measures which will alert its staff to project deficiencies as they emerge, and which will set forth state actions to correct such

deficiencies as quickly as possible so as to preclude the need for corrective action by the EPA. If the recipient of financial assistance from the State's SDWRLF funds exhibits evidence of waste, fraud or abuse, the State will impose sanctions on the recipient. Section VI.B.3 of the "Final Guidelines for Implementation of the DWSRF Program (Fed Reg Vol. 63, No. 214)" outlines procedures and potential actions to be taken by EPA and OHA in the event non-compliance is determined.

In addition, annually the EPA distributes "Final SRF Procedures" which outlines DWSRF Program requirements following the FFY appropriation announcements.

22. Development and Submittal of a Project Priority Ranking System

OHA and OBDD have a Project Priority Ranking System to determine the annual Project Priority List (PPL) required as part of the IUP, and after public review and comment, it will be submitted as part of the capitalization grant application. This system describes by-pass procedures which clearly identify the conditions that allow a project to be by-passed and the way OHA and OBDD will identify which projects by-passed will receive the funds.

D. Financial Administration of the Fund

1. Assistance Provided by the DWSRF and the SDWRLF Account

OHA certifies that only the types of assistance authorized under Section 1452 of the SDWA and the current "Program Guidelines and Handbook" will be awarded. The type of assistance for each DWSRF project shall be identified in the IUP and/or the Annual Report.

a) Direct Loans

OHA shall require loans for projects to be made only if all principal and interest payments on loans are credited directly to the SDWRLF. The annual repayment of principal and payment of interest will begin no later than one year after project completion. Most loans will fully amortize not later than 30 years after project completion. Each loan recipient will establish one or more dedicated source of revenue repayment for the loan. Where construction of a project will be phased or segmented, loan repayment requirements apply to the completion of individual phases or segments.

b) Refinancing

The SDWRLF may buy or refinance local debt obligations at or below market rates where the initial debt was incurred and construction initiated after July 1, 1993.

c) Guarantee or Purchase Insurance

The DWSRF may guarantee local debt obligations where such action would improve credit market access or reduce interest rates. The DWSRF may also purchase or provide bond insurance to guarantee debt service payment.

d) Guarantees DWSRF Debt Obligations

The DWSRF may be used as security or as a source of revenue for the payment of principal and interest on revenue or general obligation bonds issued by the State provided the net proceeds of the sale of such bonds are deposited in the DWSRF.

e) Earn Interest on Fund Accounts

The SDWRLF may earn interest on SDWRLF project accounts.

f) Administrative

OHA may use up to, but no more than four percent (4%), of the capitalization grant for costs of administering the DWSRF program. A separate account must be established for the use of the 4% Administrative Expense Set-Aside. Allowable administrative costs include: All costs incurred for management of the DWSRF program and for management of projects receiving financial assistance from the SDWRLF account. Reasonable costs unique to the DWSRF, such as costs of servicing loans and issuing debt, DWSRF program start-up costs, financial management, and legal consulting fees, and reimbursement costs for support services from other state agencies are also allowable. Expenses incurred issuing bonds guaranteed by the DWSRF, including costs of ensuring the issue, may be absorbed by the proceeds of the bonds and need not be charged against the 4% administrative costs ceiling. The net proceeds of those issued must be deposited in the SDWRLF.

g) Leveraging

The SDWRLF account may be used for leveraging. At such time as the leveraging of funds is determined to be appropriate, a proposed leveraging plan will be submitted to EPA for review and approval.

2. Process

a) Binding Commitments

OHA through its IAA with OBDD agrees to enter into binding agreements with assistance recipients under the DWSRF program. Binding commitments must be made in an amount equal to each quarterly grant payment and proportional state match, within one year after receipt of each grant payment. Projected schedules for commitment of SDWRLF funds to specific projects shall be provided in the annual IUP.

b) Payments

i. State Match

OHA agrees that state monies in an amount equal to at least twenty percent (20%) of each capitalization grant award will be deposited into the SDWRLF. The money may be made available from any or all of the following sources: State appropriations, state issued General Obligation bonds, revenues from state taxes or assessments and funds maintained in other state accounts. The source of the state match will be specified in the grant application and/or the Annual Report.

The 20% state match will be deposited in the SDWRLF account on or before the date such payments are provided under the Automated Clearinghouse (EPA-ACH) Payment System.

ii. EPA-ACH Payment System

OHA agrees to use the EPA-ACH Payment System and will follow EPA-ACH Payment System procedures indicated in the EPA-ACH Payment System Recipients' Manual, http://www.epa.gov/ocfo/finservices/recipient_manual.pdf.

EPA will authorize payments from ACH as provided for in the payment schedule as shown in the assistance agreement. Once a payment has been made by increasing the amount of funds available for cash draw in the ACH Payment System, EPA will not reduce that amount. OHA agrees to keep DWSRF cash draws separate from those of any other programs. OHA agrees to follow those EPA-ACH Payment System procedures specific to the DWSRF program listed in Exhibit J of the EPA-ACH Payment System Recipients' Manual.

iii. Payment Timing

The schedule of payments is based on the projected schedule for binding commitments included in the State's annual IUP and/or Annual Report.

iv. Separate Account

The SDWRLF Project Account is a separate account within the State's DWSRF program dedicated solely to providing loans to eligible public water systems.

c) Cash Draws

i. Rules of Cash Draw

Cash draws from the EPA-ACH Payment System are limited by the payment schedule shown in the assistance agreement and the rules of the cash draw. Money will be transferred to the DWSRF from the U.S. Department of Treasury in accordance with established EPA-ACH Payment System procedures. OHA agrees to make cash draws in accordance with the Payment Schedule as illustrated and submitted in its annual DWSRF grant application.

Loans

OHA may draw cash from the DWSRF-ACH when the SDWRLF receives a request from a loan recipient, based on incurred costs, including pre-construction and construction costs.

Refinancing and Purchase of Local Debt

For completed construction, cash draws will be made at a rate no greater than equal amounts over the maximum number of quarters that capitalization grant payments are made, and up to the portion of the DWSRF-ACH committed to the refinancing or purchase of the local debt. Cash draws for incurred building costs will generally be treated as refinanced costs. For projects or portions of projects that have not been constructed, cash may be drawn based on incurred construction costs according to the rule for loans.

For Bond Insurance

Cash draws will be made as premiums are due.

For Guarantees

In the event of an imminent default in debt service payments on a guaranteed or secured debt, OHA can draw cash immediately up to the total amount of the DWSRF-ACH that is dedicated to guarantee or security.

For Leveraging

If used, cash draws will be made in accordance with State leveraging plan submitted to the EPA for review and approval.

d) Disbursements

i. Process

OHA agrees to disburse funds from the DWSRF project account (i.e., SDWRLF) and Set-Aside accounts as costs are incurred.

ii. Construction Progress

OHA through its IAA with OBDD agrees to ensure that periodic inspections are conducted to review construction progress in order to coordinate outlay requests. Construction inspections and outlay procedures will be documented by the State.

e) Transfer of Funds to/from Clean Water SRF

A State may transfer up to a third of the amount of its DWSRF capitalization grant to its CWSRF or an equivalent amount from its CWSRF capitalization grant to its DWSRF (Title III, Section 302 of the SDWA Amendments of 1996). The State agrees to identify, document, and justify whatever transfers take place by submitting a plan for EPA review and approval.

E. Program Administration

1. Staffing and Management

OHA agrees to maintain the staff and other necessary resources to effectively administer the DWSRF program.

2. Accounting and Audit Procedures

OHA agrees to use an accounting system which meets applicable Federal regulations and policies regarding grants to States. The accounting system will

properly identify and relate State costs to the operation of the DWSRF program. To ensure that the accounting system properly reflects the full range of cost reporting needs of the program and provides for an audit trail with clearly definable bench marks, an auditor from EPA's Office of Inspector General (OIG), or a senior accountant from the financial management office of the Region may review and concur in the system's framework and operation.

OHA may have independent reviews of the DWSRF and the operation of the DWSRF. Such reviews will follow procedures in accordance with general accepted government auditing standards issued by the Comptroller of the United States. The engagement report will be submitted to the Regional Administrator, with a copy sent to EPA's OIG.

EPA agrees to notify OHA within 90 calendar days as to the technical adequacy of any audit report and its findings.

3. Fund Perpetuity

OHA agrees to consider the long-term health and viability of the fund when selecting its mix of project categories for SDWRLF funding. Each year, OHA and OBDD through the IAA will assess the financial health of the SDWRLF by examining fund balances, sources of funds, and repayment stream and revise procedures as necessary to promote fund perpetuity.

4. Fund Maintenance

OHA agrees to maintain the investment of cash in the same manner as it maintains other cash reserves.

F. Project Management and Review Procedures

Project management and DWSRF management regulations and procedures (including project review procedures) are to be followed by OHA in administering projects under the DWSRF program as set forth in Oregon's current "Program Guidelines and Handbook" and applicable administrative rules and statutes. OHA through its IAA with OBDD agree to review projects in accordance with those criteria and to document thoroughly the project file confirming that review.

G. Development of the Intended Use Plan (IUP)

Each year, an IUP will be developed and presented for public review and comment prior to submission to the EPA. To determine which projects should be funded, the most up-to-date PPL as developed under the established priority system will be reviewed.

Allocation of SDWRLF funds among these projects is a three-step process. The type of financial assistance needed for each community is determined, the source and limits of all that fiscal year's funds are identified, and the SDWRLF funds are allocated among the projects, consistent with the amount available and the financial assistance needed. Refer to the IUP for charts, figures, and any programmatic updates for the current year.

The required items of the IUP are described in detail in Section I.B., of the "Final Guidelines for Implementation of the DWSRF Program (Fed Reg Vol. 63, No. 214)." The IUP is the central component of the capitalization grant application (Section 1452 (b)), which describes how the State intends to use available funds for the year to meet the objectives of the 1996 SDWA amendments.

OHA will provide IUP information in a format and a manner that is consistent with the needs of the EPA Regional Office. OHA will prepare an IUP as long as the DWSRF program remains in operation, not just in those years in which the State submits an application for a Federal capitalization grant.

The IUP will include, but not be limited to the following:

1. List of projects, including description and size of community
2. Description of the criteria and method for the distribution funds
3. Description of financial status of the DWSRF
4. Description of the future years of the Program
5. Description of the amount transferred between the DWSRF and CWSRF
6. Description of the non-SDWRLF project activities, and percentage of funds that will be funded from the DWSRF capitalization grant, including DWSRF Set-Asides.
7. Description of how a State will define a "disadvantaged" system and the amount of SDWRLF funds that will be used for this type of loan assistance.
8. Documentation, certification and agreement to Assurances and proposals in the areas including, but not limited to: Environmental Review; Federal Crosscutters; Binding Commitments; and Timely expenditures.

As part of the IUP, OHA agrees to identify what portion of the capitalization grant will be used for Set-Aside activities. OHA agrees to establish separate Set-Aside

account(s) in order to accept these targeted funds. OHA also agrees to provide the same level of detail for projects funded through the Set-Aside accounts as is required for the SDWRLF itself.

III. REPORTING AND REVIEW

A. Biennial Report / Annual Report

OHA agrees to complete and submit an Annual Report to meet the Biennial/Annual reporting requirement (Section 1452 (g)(4)). The Report details information on how the State has met the goals and objectives of the previous state fiscal year as stated in the IUP and grant agreement. The contents and required elements of the Annual Report will conform in accordance with Section VI.A.1 of the “Final Guidelines for Implementation of the DWSRF Program (Fed Reg Vol. 63, No. 214).” The Annual Report is required for the life of the DWSRF program. Report submittal date will be included in the grant agreement. At a minimum, this report shall provide information as specified in the “EPA Federal Register’s Interim Final Rule (40 CFR Part 35).” It shall identify loan recipients, loan amounts, loan terms, project categories, progress of activities funded with Set-Aside dollars, and other details as negotiated between OHA, OBDD and EPA with emphasis on how it has met the goals set forth in the IUP and the financial health of the DWSRF program.

B. Annual Audit

The State of Oregon may conduct and submit an annual financial review in order to assure adequate financial management of the program in accordance with Section VI.A.2 of the “Final Guidelines for Implementation of the DWSRF Program (Fed Reg Vol. 63, No. 214).”

C. Annual Review

OHA and EPA will jointly plan the annual review process. An effective review requires the help and support of OBDD, DEQ, and the Office of Financial Services (OFS). However, EPA is responsible for determining whether federal requirements are adhered to and for assessing progress toward national goals and objectives. The Regional Administrator (RA) will complete the annual review according to the schedule established in the grant agreement.

In addition to the Annual Report, the IUP, and any financial reviews or audits, OHA agrees that other records the RA and EPA may reasonably require will be made available to use in conducting the annual review of the DWSRF program.

D. Sanctions and Compliance

1. Corrective Actions

If EPA determines that the State has not complied with the terms of the capitalization grant, this OA, or the IUP, the RA will notify OHA of the non-compliance and of the corrective action necessary. OHA will take corrective action or submit a plan to the EPA within 60 days that will lead to compliance.

If within 60 days of receipt of the non-compliance notice, OHA fails to take the necessary actions to obtain the results required by EPA, or provide an acceptable plan to achieve the results required, EPA may withhold future EPA-ACH System payments to the DWSRF until the State has taken acceptable actions. Once OHA has taken corrective action satisfactory to EPA, any withheld payments will be released and scheduled payments continued.

If OHA fails to take the necessary corrective action deemed adequate by EPA within twelve months of receipt of the original notice, any withheld payments shall be de-obligated and re-allotted to other States.

If EPA determines that capitalization grant funds were subject to waste, fraud or abuse, the capitalization grant may be recovered under procedures outlined in 40 CFR Part 31.

2. Disputes

The “disputes” provisions of 40 CFR Part 31, Subpart F shall be used for disputes involving EPA disapproval of an application or a capitalization grant, as well as disputes arising under a capitalization grant, including suspension or termination of assistance.

E. National Reporting Needs

Annually, OHA will provide the EPA with a specified set of project-level data in its PPL, IUP, Annual Report, and other information negotiated between the EPA and OHA.

F. Records and Data Management

1. Files

Under the IAA with OHA, OBDD will receive and review project documents from assistance applicants. These documents, together with OHA and OBDD review memos and the summary checklists, will be filed in official project files

maintained by OHA. OBDD will maintain the official financial review files and the project loan agreements. The project files shall be made available to the EPA for review based on reasonable notice by the EPA. It is expected that the files would be reviewed on a sample basis in conjunction with on-site visits scheduled as part of the Annual Review or otherwise to monitor OHA's management of the DWSRF funds.

2. Records Retention

OHA through its IAA with OBDD will retain project files in accordance with 40 CFR Part 31. The State will arrange for the storage of certain records for a period if the repayment period on any DWSRF assistance, and otherwise in accordance with State law. All records will be retained by the State for the period agreed upon for repayment, plus three (3) years following completion of repayment.

3. Access to Records

Access to all records in the possession of OHA will be in accordance with State laws governing access to information. Access to all records in the possession of the EPA will be in accordance with the U.S. Freedom of Information Act, P.L. 93-502.

Information related to the capitalization grant agreement and supporting documents located in the EPA Regional Office is available from EPA in accordance to the U.S. Freedom of Information Act.

4. National Information Management System (NIMS)

A National Information Management System (NIMS) was developed by EPA in conjunction with the States for compiling a comprehensive and consistent set of data quantifying DWSRF activities. OHA agrees to enter relevant DWSRF information into the system when required to or as needed.

EPA will have access to information in the system as needed but will not be able to modify State entered data. EPA will utilize this information to assess the Program on a national basis and to monitor OHA progress annually. The Regional Offices will use the information to assist in conducting annual reviews.

a) Public Benefits and Reporting (PBR)

EPA has developed the Public Benefits and Reporting (PBR) tool for project tracking. OHA agrees to enter relevant DWSRF information in to the PBR system, including adding new projects in the month following execution of an assistance agreement.

b) Federal Funding Accountability and Transparency Act (FFATA)

OHA also agrees to enter relevant Federal Funding Accountability and Transparency Act (FFATA) information into the FFATA Subaward Reporting System (FSRS) as required.

IV. REVISING THE OPERATING AGREEMENT (OA)

A. Amendments

This OA may be amended at any time by mutual agreement between the authorized signatories in writing. Revisions will be particularly considered following reviews of the Annual Report and/or Audit.

B. Designated Officials

All revisions regarding modifications to any attachment or procedures shall be through the designated officials indicated below.

Items significantly altering the OA and which effect program changes, may be implemented through the agreement of the designated officials named here or their successors:

1. For OHA: Andre Ourso, JD
Administrator, Center for Health Protection
Oregon Health Authority
2. For EPA: Chris Hladick
Administrator, Region 10
U.S. Environmental Protection Agency

Items not altering the OA, but involve changing implementation or review procedures, may be implemented through the agreement of the designated officials named here or their successors:

1. For OHA: André Ourso, JD, MPH
Administrator, Center for Health Protection
OREGON HEALTH AUTHORITY
2. For EPA: Karen Burgess, PE
Chief, Groundwater & Drinking Water Sections
Region 10
U.S. Environmental Protection Agency

V. EXECUTION

A. Authority

The authority for this OA is found in the Oregon Revised Statutes (ORS) Chapter 448.

40 CFR Part E is the federal regulatory authority for the DWSRF program. Should any conflicts result between the federal regulations and the OA, the federal regulations will take precedence.

B. Effective Date and Signatures

This OA will be effective commencing on _____.
Date

Administrator, Region 10
U.S. Environmental Protection Agency

Administrator
Oregon Health Authority

Oregon Department of Justice
Approved via email by:
Erin Williams, AAG DATE