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Center for Health Protection, Drinking Water Services

Kate Brown, Governor

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March 3, 2023

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

Reference: Application, FFY-2022 Oregon's Drinking Water State Revolving Fund (FON: EPA-CEP-01) – BIL General Supplemental

Dear Ms. Bennett:

Please find in the Grants.gov application package the Oregon Health Authority's (OHA) complete Drinking Water State Revolving Fund – BIL General Supplemental capitalization grant application and Intended Use Plan (IUP) for FFY-2022 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 package.

If you have any questions or comments, please contact Adam DeSemples, Program Coordinator, at 503-956-8287 or via e-mail at adam.desemples@oha.oregon.gov.

Sincerely,

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Enclosures: Application, FFY-2022 Drinking Water State Revolving Fund (FON: EPA-CEP-01)

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State of Oregon

Drinking Water State Revolving Fund (DWSRF)

Bipartisan Infrastructure Law
(BIL) – General Supplemental
Program

Intended Use Plan 2022 - *FINAL*

March 2023

Oregon Health Authority
Public Health Division
Center for Health Protection
Drinking Water Services
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2022 Drinking Water State Revolving Fund – BIL General Supplemental Program
Capitalization Grant Application and Intended Use Plan
State of Oregon

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A. REQUIRED DOCUMENTS

- AG Certification
- 2022 BIL General Supplemental - "[Combined" Infrastructure Project Priority List \(PPL\)](#) (*web access only*)
- SRF LOI Rating Guidance
- FFATA Set-Aside reporting spreadsheet

B. SUPPORTING DOCUMENTS

- SDWRLF Financing Details – BIL General Supplemental (2022)
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- Project Selection Methodology – BIL Gen Supp (2022)
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- Administrative Expense
- Small System Technical Assistance
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- Intended Use Plan (IUP) Public Notice Letter
- PPL Semi-Annual 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
• IUP	-	INTENDED USE PLAN
• LOI	-	LETTER OF INTEREST
• MCL	-	MAXIMUM CONTAMINANT LEVEL
• MHI	-	MEDIUM 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 2022 DWSRF – BIL General Supplemental, Intended Use Plan

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.

As a 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.

❖ **Awarded DWSRF Capitalization Grants Cover:**

1. **Safe Drinking Water Revolving Loan Fund (SDWRLF):** Assists eligible public water systems achieve, maintain, or regain compliance and protect public health by funding drinking water infrastructure or resiliency improvement projects such as treatment, distribution, storage, or a new source. Oregon’s DWSRF capitalizes the SDWRLF (i.e., 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.
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. See Section IV below or **Appendix D** for more details about these four Set-Aside activities.

Summary

The State of Oregon, Drinking Water Services (DWS) is an Oregon Health Authority (OHA) program located within the Center for Health Protection (CHP). On September 21, 2022, OHA was awarded its 2022 traditional “Base” DWSRF capitalization grant in the amount of \$9,220,000. These funds are targeted for use for State Fiscal Years 2023 through 2024 (July 1, 2022 – June 30, 2024). These efforts will be in coordination with our partners at Business Oregon by continuing to offer low interest loans 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.

In addition to discussing important program details and priorities for Oregon’s “Base” DWSRF program, this IUP will focus on the new [Bipartisan Infrastructure Law \(BIL\)](#) grant through the new [Infrastructure Investment and Jobs Act \(H.R. 3684\)](#) (i.e., BIL, Drinking Water Sec. 50101-50115).

OHA and its state agency partners (i.e., Business Oregon and DEQ) are pursuing the entire FFY2022 BIL General Supplemental allotment of \$23,673,000 to further expand its funding efforts as described above. Efforts to apply for BIL grants related to Emerging Contaminants (EC) and Lead Service Line Replacements (LSLR) will be explained in future updates to our IUP.

This IUP and its appendices, including its Project Priority List (PPL), incorporates BIL General Supplemental grant funding details and federal mandates as part of Oregon's DWSRF program by expanding more funding options to eligible drinking water systems throughout the State.

These annual BIL grant funding appropriations to Oregon's DWSRF program will run from FFY2022-2026. For more BIL details, see Section III in this IUP or visit [Oregon.gov/bil](https://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.

I. Need for the Program

The need for this program continues to be clear in Oregon. A nationwide Drinking Water Infrastructure Needs Survey, sponsored by the EPA with assistance from OHA and its water suppliers, was completed back in 2015. Previous results conducted from the 2011 Needs Survey awarded OHA with 1.42 percent of the total EPA DWSRF appropriation. The 2015 Needs Survey results awarded OHA with a 1.32 percent of the appropriation. The 2020-22 Needs Survey results will supersede the 2015 outcomes once it has been finalized and results are announced by EPA in 2023.

The 2015 surveyed results indicated that Oregon's drinking water infrastructure needs are more than \$6.25 billion over the next twenty years. Majority (i.e., \$3.74 billion) needed for transmission and distribution infrastructure improvements and nearly half (i.e., \$3.03 billion) of the need is for medium-sized water systems serving between 3,301 and 100,000 people according to the survey.

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 2022, cumulative federal grants (including ARRA) for the DWSRF program to states total approximately \$24.4 billion. Oregon's total federal grant allocations received through FFY2022 (including ARRA) is over \$342 million.

To augment the federal grants awarded, states are required to provide matching funds equal to 20 percent of the federal grant award. However, the once long-standing one-to-one State Program Management (SPM) Set-Aside match requirement for the DWSRF program was also recently removed by the 2016 WIIN Act revisions, Section 2103 SDWA Section 1452(g)(2). See Section VI for more State Match details.

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. EPA uses the ETT/ERP approach to ensure that no community or non-profit non-community systems 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.

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>.

Finally, discussions about utilizing the Water Infrastructure Improvements for the Nation Act (WIIN) (Section 2104) funding program to continue targeting Oregon PNC systems are ongoing.

II. Elements of Oregon’s 2022 BIL General Supplemental Allotment

The 2022 program consists of the following elements summarized below:
(For more details, visit the Grant Allotment Use Summary sheet in the **Appendix B** portion of the IUP)

	EPA Site Project Code	Federal Funds	Percent of Allotment	10% State Match Funds*
Project Loans for Water Systems	DA	\$ 18,885,320	79.78%	\$ 2,367,300
Set-Aside Activities:				
1.) Administrative Expense	DD	\$ 946,920	4.00%	\$ -
2.) Small System Tech. Assist.	DE	\$ 473,460	2.00%	\$ -
3.) State Program Management	DF	\$ 2,367,300	10.00%	\$ -
4.) Local Assist. & Other St. Pro.				
<i>LA - Implementation of Protection</i>	DGD	\$ -	0.00%	\$ -
<i>LA - Capacity Development</i>	DGC	\$ 1,000,000	4.22%	\$ -
<i>LA - Drinking Water Source Protection</i>	DGB	\$ -	0.00%	\$ -
Total		\$ 23,673,000	100.00%	\$ 2,367,300

* Oregon’s State Match funds are drawn before federal funds. 10% for 2022 and 2023 and then increases to 20% for 2024 through 2026 to meet BIL General Supplemental fund match requirements.

The figures for 2022 above demonstrate a Cash Draw Rule (per 40 CFR part 35.3560) or proportionality ratio of new funds (minus Set-Asides) equaling, 88.86 percent federal funds and 11.14 percent State Match funds. These federal regulations require that cash disbursed to borrowers be drawn proportionately from the awarded federal grant funds and the State’s matching contributions. Oregon always meets this requirement by expending its required State Match funds prior to the newly awarded federal grant funds. However, when Oregon’s “Base” DWSRF deviates from its target percentages, it is likely due to its authorization to extract reserved (i.e., banked) Set-Aside funds, which reduce the available allotment for projects. With 2022 being the first year of BIL General Supplemental funding, Oregon does not have reserved Set-Aside funds to draw from. More information about the use of reserved Set-Aside funds will be explained in Section IV.

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 compliment 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 operation, 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 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.

Additionally, this grant year, OHA will continue to impose its cost allocation plan. The cost allocation factor 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 remains at 18.06 percent and is expected to be applied to \$3,510,236 of Set-Asides, resulting in a cost of approximately \$579,879. OHA continues to undergo an in-depth cost rate review for future state fiscal years as explained in our recent cost allocation letter dated, June 30, 2021. Cost allocation acts like indirect costs, as allowed under OMB 2 Code of Federal Regulations (CFR) Part 225 (formerly OMB Circular A-87).

III. What is the Bipartisan Infrastructure Law (BIL)?

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. BIL 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 the next five federal fiscal years (2022 – 2026). States have until the end of the second federal fiscal year after appropriations announced to apply. For example, the 2022 BIL grant appropriations were announced in the spring of 2022, but States have until September 30th, 2023 to apply.

BIL funding will be available to communities through the state’s existing Drinking Water State Revolving Fund (DWSRF), implemented jointly by Business Oregon and OHA Drinking Water Services. BIL authorizes increases to Oregon’s existing “Base” [DWSRF](#) program and includes appropriations that supplement DWSRF funding for infrastructure improvements, funding for identifying and replacing lead service lines and gooseneck connectors, and funding to address emerging contaminants (e.g., PFAS or other unregulated contaminants).

A key priority of BIL 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. Oregon DWSRF’s affordability criteria define Disadvantaged Community as “a public water system with a service area that has a Medium Household Income (MHI) less than the state MHI.”

Upon release of the new Drinking Water Needs Survey (DWNS) results (which is expected in 2023), State allotments will be updated to reflect current needs. Currently, Oregon receives 1.32 percent (per 2015 DWNS results) of the national allotment. See charts below for current and anticipated appropriations and subsidy totals.

Oregon BIL Appropriations (2022 - 2026)			
Year	General Supplemental	Lead Service Line Replacement	Emerging Contaminants
2022	\$ 23,673,000	\$ 37,300,000	\$ 9,940,000
2023	\$ 27,345,669	\$ 37,300,000	\$ 9,940,000
2024	\$ 29,841,800	\$ 37,300,000	\$ 9,940,000
2025	\$ 32,325,512	\$ 37,300,000	\$ 9,940,000
2026	\$ 32,325,512	\$ 37,300,000	\$ 9,940,000
Total	\$ 145,511,493	\$ 186,500,000	\$ 49,700,000

Oregon BIL Subsidy Requirements (2022)			
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

BIL funding requirements state that additional subsidy is to be targeted to disadvantaged communities – determined by State definitions and affordability criteria. For both BIL General Supplemental and Lead Service Line Replacement funding, 49 percent of the annual appropriation must be provided in the form of subsidy only to disadvantaged communities that have submitted a Letter of Interest (LOI) for consideration. BIL 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.

It is anticipated that Oregon’s DWSRF program will evolve over the life of BIL funding to accommodate current and future needs and to better meet federal requirements, program goals, and the needs of Oregonians and their communities as the BIL funding has intended.

❖ **The 3 BIL Funding Opportunities for DWSRF Programs:**

1. **General Supplemental:** BIL 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. To meet federal requirements, particular focus and subsidy is targeted to disadvantaged communities in the form of forgivable loan.

Additionally, to meet BIL requirements and enhance transparency, Oregon's DWSRF PPL was revised by adding more information about potential funding, how much subsidy may be available, which systems were identified as disadvantaged communities, and additional footnotes and details to further explain how each project ranked among their peers. Oregon's DWSRF LOI Rating Guidance is attached in **Appendix A**. This document outlines the specific rating criteria used to place projects on the PPL.

Currently, Oregon DWSRF's intentions is to apply for the entire 2022 BIL General Supplemental allotment of \$23,673,000. Approximately 80 percent (i.e., \$18.88 million) of the allotment is devoted to the Loan Fund for infrastructure improvements. Additionally, required state match will be allocated for infrastructure projects. The remaining amount will be devoted to program Set-Asides. This IUP and its supporting documents (e.g., PPL, financing details) clearly demonstrates Oregon's robust drinking water infrastructure need and further explains how the funds are intended to be used.

For 2022 BIL General Supplemental funding, Oregon has identified four water systems that it intends to award BIL funding to. Specific details on how the four projects were selected for 2022 BIL General Supplemental consideration, can be found in **Appendix B** or the PPL footnotes. All other projects on the PPL are being considered for "Base" DWSRF funding.

These are the four water systems and their projects that are selected for this funding:

- **City of Pendleton (SD-22-356)**

Issue: The city has aging infrastructure. About 1/3 of the city's water mains will turn over 100 years old in the 2020s.

Project: Complete airport booster pump station upgrade and add new supply well #11 as described in SD-2021-318. Other booster pump station construction/improvements, water main/transmission line replacements and extensions, update water system master plan, replace membranes at treatment plant that are near the end of their useful life, increase river intake pump station capacity from 10 MGD to 15 MGD, and other miscellaneous upgrades as described in the 2015 water system master plan.

Other attributes that lead to their selection for this BIL funding include:

- Rating: 83 (Ranked 2nd on Health/Compliance PPL) – 40 points under Health Risk, 30 for Compliance, and 13 for Affordability
- Water system demonstrated a willingness to proceed in the funding process with Business Oregon and a willingness to take on a loan
- Was determined to be a disadvantaged community based on a service area with an MHI less than the state MHI

- **City of Umatilla (SD-22-355)**

Issue: The City of Umatilla has submitted an infrastructure funding request to be able to provide water services to ~47 connections in the urban growth boundary. One of the systems (Power City) has had increased distribution failures resulting in water and pressure loss. Recently, Power City was on a boil notice due to low water pressure (04/21-12/21). The City of Umatilla provided several water truck shipments to Power City during this time. Oregon Water Resource Department (OWRD) did an on-site visit and ran a camera, flow meter and e-tool down the well. The well was determined to be out of compliance with current well construction rules. OWRD's assessment of the current water supply from Power City's well was the available water at the current well depth was being depleted and could not keep up with demand. This leaves the system with 2 choices, drill a deep basalt well or tie into another water source. In 2012, HBH Engineering did an on-site visit to Power City for circuit rider assistance. Connecting to Umatilla was discussed but the system's cost to pay to connect was cost prohibitive. Power City does not have a master plan or water loss study, however, there are documented engineering reports on the status of the deterioration of the water system's infrastructure.

Project: The City of Umatilla has submitted a request to provide infrastructure services to 2 systems within their urban growth boundary. The systems are Power City Water Co-op (00375) and possibly some or all of Sand Bur Water Association (05842). The project includes adding water main lines and replacement of service lines.

- Rating: 61 (Ranked 4th on Health/Compliance PPL) – 15 points under Health Risk, 10 for Compliance, 20 for Consolidation, 15 for Affordability, and 1 for Water System Size
- Water system demonstrated a willingness to proceed in the funding process with Business Oregon and a willingness to take on a loan
- Was determined to be a disadvantaged community based on a service area with an MHI less than the state MHI

- **City of Falls City (SD-22-358)**

Issue: The City of Falls City serving about 1,000 customers in Polk County, has several water system problems they would like to address. The distribution system has a large portion of original AC pipe installed around 1915. Portions of downtown area experience pressures outside of recommended ranges and frequent main breaks occur due to higher pressures in these old pipes. The existing source water intakes are of significant concern due to weather-related damage to these facilities and their remote locations. The reservoir at the water treatment plant has suffered minor tank structural damage due to its age. Customer service meters have not been replaced in more than 20 years, which is longer than their recommended life spans.

Project: Several sections of water main piping will be replaced to relieve pressure differences in areas of the water distribution system. The existing

intake will be replaced with a fish friendly intake with fine screens, and a well with surface water intrusion drilled diagonally into the creek bank. These upgrades will retain the existing gravity system to the treatment plant and allow better diversion to the plant that is susceptible to damage from weather events. Reservoir will receive needed structural maintenance, and service meters will be replaced throughout the city to better account for water use.

- Rating: 53 (Ranked 6th on Health/Compliance PPL) – 15 points under Health Risk, 10 for Compliance, 25 for Affordability, and 3 for Water System Size
- Water system demonstrated a willingness to proceed in the funding process with Business Oregon and a willingness to take on a loan
- Was determined to be a disadvantaged community based on a service area with an MHI less than the state MHI

- **Lincoln County Water PUD (SD-22-344)**

Issue: The Water System has identified ongoing issues with aging infrastructure including AC pipes that have become old, brittle which may lead to leakage and introduce contamination in the distribution. The existing 200,000 concrete storage tank has also reached an end to its life. It is vulnerable to seismic events, does not support fire flows at the end of the north end of the district and the southern portion of the City of Waldport.

Project: Several high priority projects have been identified which include replacement of several old 4-inch AC pipelines in the distribution with 12-inch pipe, replacing pressure reducing valves and adding new fire hydrants. Construction of a 500,000 new storage tank to replace the old one which is vulnerable to seismic events. Construction would include site preparation, new foundation, piping improvements to increase water pressure for the North end of the district and aid in the improvement of Waldport’s industrial district.

- Rating: 26 (Ranked 13th on Health/Compliance PPL) – 15 points under Health Risk, 8 for Affordability, and 3 for Water System Size
- Water system demonstrated a willingness to proceed in the funding process with Business Oregon and a willingness to take on a loan
- Was determined to be a disadvantaged community based on a service area with an MHI less than the state MHI

For specific details about what these four projects may receive in BIL General Supplemental funding, visit the PPL on OHA’s [Project Priority Lists and Public Notices](#) webpage.

2. **Emerging Contaminants (EC):** BIL Emerging Contaminant funding targets projects or activities that otherwise would be eligible under the “Base” DWSRF funding program. According to the EPA, ECs are a chemical or material (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.

To be eligible for BIL Emerging Contaminant funding, the primary purpose must be to address and/or mitigate people's exposure to EC in drinking water with priorities on perfluoroalkyl and polyfluoroalkyl substances (PFAS).

According to [EPA's BIL Implementation Memo](#), projects that address and/or mitigate EC that are listed on any of EPA's [Contaminant Candidate Lists \(CCL1 - CCL5\)](#) are recognized as eligible.

Projects (e.g., treatment) funded through the Loan Fund or activities (e.g., technical assistance) 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 our EPA Region 10 partners to ensure we are meeting all federal requirements for BIL-EC funding.

Of the BIL funding opportunities, EC is the most flexible with 100 percent of the funds to be awarded as forgivable loans (by law) and no State Match requirement. Twenty-five percent of EC funding must go to disadvantaged communities.

Currently, Oregon's plans are to apply for the entire 2022 BIL-EC allotment of \$9,940,000 but have yet to determine an actual budget and whether Set-Asides will be requested. Oregon intends to apply for its 2022 BIL-EC funding in the spring of 2023.

Additional BIL-EC program status includes:

- Workgroup formed with staff from both OHA and Business Oregon.
- Draft process proposal and next steps have been developed.
- Oregon BIL-EC project priorities have been established – (1) PFAS, (2) Manganese, and (3) Cyanotoxins.

Of those project priorities, Oregon has 14 water systems it intends to target for 2022 BIL-EC funding. Eight (8) of those 14 systems would be focused around PFAS, while the other six (6) would be focused on Manganese. Cyanotoxins will be a focus of future annual BIL-EC funding opportunities. Each of these 14 water systems have data results that are high and/or elevated, which causes concern for their communities and their water supplies.

- 3. Lead Service Line Replacement (LSLR):** BIL 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 BIL Implementation Memo](#), to be eligible for BIL LSLR 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 our EPA Region 10 partners to ensure we are meeting all federal requirements for BIL-LSLR funding.

Currently, Oregon is in the process of determining whether to apply for any of the 2022 BIL-LSLR allotment of \$37,300,000. 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 in older homes. Oregon’s current efforts are related to increasing technical assistance for contractors to assist small public water systems with their required inventories to meet the 2024 deadline. More details will be provided in the 2023 IUP later this year.

IV. 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 allotment for Set-Aside activities. Set-Aside activities are available to administer the Loan Fund 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 2022 DWSRF – BIL General Supplemental 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. Because Oregon does not have any reserved Set-Asides under the new 2022 BIL General Supplemental funding, OHA will not be accessing any. Set-Aside activities needed for SFY2023-2024 include:

- Administrative Expense (4.0%)
- Technical Assistance (2.0%)
 - Circuit Rider Assistance
 - Small Water System Operator Training Course
- State Program Management (10.0%)
 - State & County Program Support
- Local Assistance and Other State Programs (4.22%)

- Implementation of Source Water Protection Program (0.0%)
- Water System Capacity Development Program (4.22%)
- 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 application. All the activities described are continuation activities from the previous grant years and may include additional updates for that Set-Aside.

- 1. Administrative Expense:** OHA will use 3.00 FTE staff to prepare the annual EPA capitalization grant application, the IUP, the Project Priority List (PPL), assess environmental reviews and capacity of each loan recipient, along with conducting financial monitoring and control. Under its partnership contract, Business Oregon will utilize 4.80 FTE necessary to administer loans to water systems from the PPL. Therefore, a total of 7.80 FTE will be used to administer the overall DWSRF program.

The 2016 WIIN Act provisions provide states three allocation options for this Set-Aside. The Act’s options include:

Equal to the sum of any state fees collected and the greatest of \$400,000; 1/5 of one percent of the current fund value; and an amount equal to 4 percent of all grants awarded to the fund under this section for the fiscal year.

This year, OHA will plan to utilize the 4 percent option, totaling \$946,920. For more Set-Aside information, please reference the **Appendix D** section of the IUP.

- 2. Small Systems Technical Assistance:** OHA continues providing technical assistance and related services to small water systems serving 10,000 or fewer people by contracting for these services. A total of 0.45 FTE will be associated to these Set-Aside activities.

A maximum of 2 percent of the annual grant allotment of \$23,673,000 is allowed for this activity. This year, OHA is requesting 2 percent of the allotment, or \$473,460. Unlike Oregon’s 2022 “Base” DWSRF, OHA will not request a portion of historically unused (i.e., reserved) Technical Assistance Set-Aside authority. For more Set-Aside information, please reference 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 9.80 FTE to conduct direct services and to manage contracts.

Typically, a maximum of 10 percent of the annual allotment is allowed for this Set-Aside. For 2022, OHA is requesting 10 percent of the allotment, or \$2,367,300. Oregon does not intend to utilize a portion of its historically unused (i.e., reserved) SPM Set-Aside authority. For more Set-Aside information, please reference the **Appendix D** section of the IUP.

4. Local Assistance & Other State Programs:

- **Implementation of Protection:** OHA continues to assist water systems to protect their respective sources of drinking water. OHA will continue this work without allocating any FTE with the reduced 2022 grant allocation (see below). Additionally, through contracting with the DEQ and others for technical services to place source water assessment information on the GIS, and to provide training and technical support.

A maximum of 15 percent for all three local assistance activities combined of the \$23,673,000 allotment is allowed for this Set-Aside. This grant phase, OHA only plans to use 4.22 percent of its allowance, or \$1,000,000. Additionally, OHA does not intend to allocate any of its 2022 BIL General Supplemental Set-Aside funds for the Implementation of Protection activity in an effort to reduce its outstanding unliquidated obligations (ULO) balance. Future allocations are expected, however. For more Set-Aside information, please reference the **Appendix D** section of the IUP.

- **Capacity Development Program:** OHA works with water systems that have had histories of non-compliance to ensure that they have the technical, managerial, and financial capacities needed to return to compliance status using the strategy developed by OHA and approved by EPA. This work will be carried out by 5.25 FTE and will use \$1,000,000 or 4.22 percent of the grant this year. For more Set-Aside information, please reference the **Appendix D** section of the IUP.
- **Drinking Water Source Protection Fund/Grants (DWSP):** This Set-Aside activity assists water systems by protecting their source(s) of drinking water by typically providing an aggregate up to a total of \$200,000 in various loans/grants to undertake source water protection activities. There is no FTE assigned to this activity since it will be part of the Local Assistance Implementation of Protection Set-Aside FTE. Similarly, to the Implementation of Protection activity for 2022, OHA does not intend to allocate any funds due to its existing ULO balance. Future allocations are expected and will continue reimbursing the “SWP Repayment Fund” account for recently funded source protection project activities and to cover numerous emerging DWSP needs. 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.

V. Current & Future Years of the Program

This year's program represents a continuation of significant initiatives begun in 1997 by OHA, including its partner agencies (e.g., Business Oregon), stakeholder organizations, and service providers as well as public water systems. New initiatives, strategic proposals, and process improvements are continually being introduced between partnering agencies so our goals and federal crosscutter requirements (e.g., Davis Bacon, Build America, Buy America Act (BABA), American Iron & Steel (AIS), Federal Funding Accountability & Transparency Act (FFATA), etc....) continue to be met.

❖ Short-Term Goals

- Operate and manage a DWSRF program in Oregon for eligible community and non-profit non-community water systems to construct needed improvements and meet security needs.
- Provide loan assistance to projects that will address the greatest public health need while accounting for project affordability, especially to help small systems and those serving disadvantaged communities.
- 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

- Administer the DWSRF program in Oregon in a way that protects its revolving nature in perpetuity.
- 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.
- Develop and implement equivalency into Oregon's DWSRF program so that water system projects that are selected to comply with some federal crosscutters and federal requirements is minimized to only those projects equivalent to the annual federal award amount.

❖ **Loan Principal Forgiveness**

A forgivable loan award, also known as principal forgiveness, are loan awards that are forgiven if a project is completed consistent with contract terms. A forgivable loan is like a grant with conditions. EPA characterizes forgivable loan awards as “subsidy” and limits the amount that can be awarded each year. Forgivable loan awards are subject to annual availability based on federal subsidy limitations identified in annual program capitalization grants to the State. Business Oregon is responsible for ensuring the subsidy requirements of each DWSRF capitalization grant is met.

Forgivable loan awards are available for all SDWRLF funded projects. Increased amounts may be provided to eligible water systems to assist with water rate affordability, health/compliance projects, and water system consolidation. There are forgivable loan awards available to all projects to hire professionals for labor standards compliance and to assist with meeting federal requirements. These special forgivable loan allocations are captured in the SDWRLF funding contract as special budget line items. Projects for disadvantaged communities with high water rates are eligible for increased forgivable loan awards.

The “Safe Drinking Water Revolving Loan Fund - Financing Details 2022” within the **Appendix B** section, depicts this tailored and targeted approach in the use of the Oregon DWSRF comprehensive Loan Principal Forgiveness program; coupled with its flexible interest rates and loan repayment terms. Business Oregon closely monitors available subsidy and loan principal forgiveness awards and can make necessary adjustments to the annual financing details document or establishes annual award limits when needed to ensure the awarding of loan principal forgiveness results in adherence to EPA subsidy requirements. Additionally, Business Oregon manages principal forgiveness awards to disadvantaged communities to meet EPA requirements.

Additional Loan Principal Forgiveness incentive details can be found within the **Appendix B** section of the IUP.

❖ **Full-Service Line Replacement Opportunity**

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 for complete service line replacements, regardless of pipe material or ownership of the property where the service line is located. Funding assistance can be used for service line replacement from the public water main to the point it connects with premise plumbing.

More details about the new BIL – Lead Service Line Replacement funding opportunity can be referenced in Section III of this IUP or by visiting, Oregon.gov/bil.

❖ **Green Project Reserve (GPR)**

While Oregon continues to encourage systems to incorporate “green” components into their projects, Oregon does not provide any additional subsidy incentives under the GPR. State DWSRF programs have the flexibility to incentivize GPR.

❖ **Sustainable Infrastructure Planning Projects (SIPP)**

The [Sustainable Infrastructure Planning Projects](#) program objectives are to assist communities with 100 percent DWSRF forgivable loan financing for water system planning and related activities that promote sustainable water infrastructure. Priority continues to be given to those systems that serve fewer than 300 service connections and/or are considered disadvantaged communities.

SIPP funded projects are encouraged to use the results from their planning studies to apply for infrastructure funding to help address aging infrastructure and compliance issues to further protect public health. Many SIPP projects have returned to Oregon’s DWSRF program to fund their infrastructure projects, but they are not required to.

Funded under a separate allotment of the SIPP program, eligible water systems now have access to SIPP funding to meet the new Seismic Risk Assessment and Mitigation Plan requirements ([OAR 333-061-0060\(5\)\(a\)\(J\)](#)) for Master Plans for those systems that serve 300 to 3,300 connections. This Master Plan requirement became effective in January 2018, but funding launched at the beginning of SFY2019.

Since the launch of SIPP in 2015, it has become clear that communities with a plan have better infrastructure outcomes than without.

Visit website for more information.

❖ **Letter of Interest (LOI) Process**

OHA and Business Oregon have had a long-standing practice of utilizing a Letter of Interest (LOI) 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. For more information about project eligibilities, reference the [DWSRF webpage](#). The LOI form is found on Business Oregon’s [SDWRLF webpage](#). LOIs are accepted year-round and are reviewed, rated, and ranked semiannually (3/15 and 9/15 of each year).

The [Drinking Water Source Protection \(DWSP\)](#) grant program LOI is available separately in a fillable pdf format. Eligible DWSP project activities include: Implementation, enhanced delineation and assessments, planning, and security. For more details, visit the web link to learn more about this program and what it can offer eligible water systems with their efforts to protect their drinking water sources.

❖ **Federal Funding Accountability and Transparency Act (FFATA)**

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 some Federal Crosscutting Authorities and Federal requirements to all awarded projects, or only the projects and Set-Asides equal to (equivalent to) the annual federal award amount (i.e., 100% of the award and FFATA identified projects). During SFY2023, Oregon’s DWSRF program will begin applying Federal Crosscutting Authorities to the FFATA identified projects equivalent to the annual federal award amount. However, because it has not fully implemented equivalency into its program, EPA is allowing Oregon time to transition in to using this practice. This means most of the Federal Crosscutters and Federal requirements will continue to apply to all projects. By beginning to use the equivalency option in Oregon’s DWSRF program, projects that exceed the amount of the annual federal funding award amount will benefit by not having to comply with all Federal requirements, which includes the new Build America, Buy America Act (BABA).

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

Oregon's SDWRLF - BIL General Supplemental 2022 IUP
Targeted FFATA Project List (including Set-Asides)

Applicant	Applicant Number	Score	Amount
City of Pendleton	SD-22-356	83	\$ 6,901,320
City of Umatilla	SD-22-355	61	\$ 6,000,000
Lincoln County Water PUD	SD-22-344	26	\$ 5,984,000
Set-Asides**	n/a	n/a	\$ 4,787,680
FFATA Reportable Total:			\$ 23,673,000

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

*The City of Falls City (not on this list) is targeted for the state matching fund requirement amount (10%) of the 2022 BIL Gen Supp allotment. For the purposes of the Build America, Buy America (BABA) requirements, City of Falls City is considered a non-equivalency project, therefore, not included as a targeted FFATA project.

❖ **Davis Bacon (DB) Wage Rate Compliance, American Iron & Steel Requirements, and the Build America, Buy America Act (BABA)**

Loan recipients will be made aware of all federal programmatic requirements. Financing contract language and contract clauses provided to funding recipients will reflect those requirements. The funding recipient (water system) is responsible for ensuring applicable clauses are included in contracts between the water system and contractors with different language (applicable clauses) depending on whether the contract is for professional services (e.g., engineering) or construction activities.

Davis Bacon (DB) 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 DB contract clauses are inserted into all relevant contracts. Recipients of DWSRF funds are briefed on their responsibility to ensure that all relevant DB 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 DB regulations. Recipients of DWSRF funds are encouraged to contract with individuals or organizations that have demonstrated expertise in the administration of DB rules and regulations. Principal Forgiveness is available to eligible recipients who choose to hire such expertise.

American Iron and Steel (AIS) Provisions require DWSRF assistance recipients to use iron and steel products that are produced in the United States. Language regarding the requirement will be included with all DWSRF contracts to assistance recipients. Monitoring of compliance requirements will occur at appropriate intervals to ensure that any issues are addressed with immediacy.

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. Business Oregon seeks to apply BABA only to equivalency projects. Business Oregon will seek to formally adopt equivalency in the coming years in close coordination with EPA and OHA. The concept of “equivalency” entails applying federal requirements such as BABA to only a subset of DWSRF loans that total an amount equal to the portion of the State’s capitalization grant that is targeted to infrastructure projects. Each project targeted to BIL funding will be assessed regarding whether project design planning was initiated prior to May 14, 2022, resulting in eligibility for a BABA Adjustment Period Waiver. If a project is eligible for a BABA Adjustment Period Waiver, Business Oregon will gather supporting documentation and track subject projects.

❖ **Emergency Funding**

Emergency DWSRF funding is available for those infrastructure projects that fit specific criteria (i.e., 5 rating characteristics) that warrant these funds. Specific details about the requirements systems and their projects must meet to qualify for emergency funding are detailed in the latest version of the Program Guidelines and Handbook (see below) or in the latest LOI Rating Guidance – see **Appendix A** for more details.

❖ **Program Guidelines & Applicant’s Handbook**

The [Drinking Water Handbook](#) (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 about the Handbook, visit the link above.

❖ **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.

VI. Sources & Uses / State Match

According to SDWA Section 1452(f)(3)(A), EPA policy memos SRF 99-05 and SRF 99-09, and DWSRF regulations at 40 CFR 35.3550(I), States need to expend all DWSRF funds (i.e., state and federal) in an efficient and as timely as realistically possible to remain compliant with these requirements.

Oregon’s DWSRF 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.

See the table and summaries below for SFY2022 and 2023 details.

SOURCES & USES TABLE

SFY 2022:	Beginning Cash Balance (Includes All SRF Sources)	148,773,622	148.77
	Current Revenues & Expenditures:		
	SRF Fund Loan Repayments	10,607,600	10.61
	SRF Fund Interest Earnings on Invested Funds	2,434,759	2.43
	Revolving Fund Disbursements	(8,536,095)	(8.54)
	State Match Disbursements	(2,895,904)	(2.90)
	Federal Disbursements	(9,674,479)	(9.67)
	Net Cash Revenue / (Expenditures)	(8,064,119)	(8.06)
	Ending State Match Balance	-	-
	Ending Undrawn Federal Funds (All Years)	-	-
	Total Cash Available (As of IUP)	140,709,503	140.71
	Commitments:		
	Executed Contracts	(83,783,524)	(83.78)
	Pending Contract Execution	(28,106,519)	(28.11)
	Intakes & Department Applications	(18,067,415)	(18.07)
	Total Commitments (As of IUP)	(129,957,458)	(129.96)
	Project Priority List (Not Listed Above)	(333,832,511)	(333.83)
	Ending SRF Fund Availability (As of IUP)	(323,080,466)	(323.08)
	Ending Balance Summary:		
	Ending Cash Balance	140,709,503	140.71
	SRF Funds Available	(323,080,466)	(323.08)
SFY 2023:	Beginning Cash Balance (Includes All SRF Sources)	140,709,503	140.71
	Projected Revenues:		
	Loan Capitalization (State Match & Federal)	12,615,726	12.62
	Interest Earnings on Invested Funds (thru 6/30/23)	2,239,978	2.24
	Scheduled Loan Repayments (thru 6/30/23)	14,345,487	14.35
	Estimated Repayments from Projects Soon to be Completed (thru 6/30/23)	1,246,851	1.25
	Total Future Recapitalization & Revenues	30,448,042	30.45
	Projected Expenses:		
	Projected Disbursements (Committed Projects)	(29,324,233)	(29.32)
	Projected Disbursements (Pending List)	(7,026,630)	(7.03)
	Projected Disbursements (Intakes & Applications)	(5,420,225)	(5.42)
	Total Project Expenses	(41,771,088)	(41.77)
	Net Increase / (Decrease) in Cash	(11,323,045)	(11.32)
	Ending Balance Summary:		
	Estimated Ending Cash Balance	129,386,458	129.39
	Remaining Commitments From Prior Years	(422,018,881)	(422.02)
	Estimated LOI's & Ready to Proceed Projects	(191,120,000)	(191.12)
	Estimated Ending SRF Fund Availability	<u>(483,752,423)</u>	<u>(483.75)</u>

❖ SFY2022

For SFY2022, current revenue and expenditures shows that disbursements occurred \$8.06 million more than repayments, interest earnings, capitalization grant, and State Match. Additionally, all DWSRF grant funds (previous through current years) and State Match have been fully expended. This results in total cash revolving fund availability of \$140.71 million to meet the funding needs captured in the program's committed funds and pipeline.

Currently, there are projects under contract with undisturbed funds totaling \$83.78 million. Projects totaling \$28.11 million are pending contract execution (i.e., awaiting signature). Projects totaling \$18.07 million have been formally invited to apply for funding, are in the process of completing application materials, or are currently being underwritten by Business Oregon.

Potential viable projects on the PPL totaling \$333.83 million have submitted an LOI requesting funding. As projects are deemed ready-to-proceed, they may be formally invited to apply for funding. Business Oregon carefully monitors the cash availability balance to ensure projects that address health and compliance objectives are prioritized and adequate funding exists to meet the existing funding obligations (i.e., projects under contract).

Ending DWSRF fund availability (cash balance minus total commitments) is negative \$323.08 million. Adequate funding does not exist to meet all funding requests. Business Oregon addresses this lack of availability by working with communities to assess readiness-to-proceed, prioritizing projects that address health and compliance objectives, encouraging the phasing of large projects, and providing access to alternative State funding opportunities to finance drinking water infrastructure.

❖ SFY2023

For SFY2023, \$30.45 million of revenue is anticipated from federal capitalization, required State Match, interest earnings on funds, interest and principal repayments, and repayments from projects soon to be completed (entering repayment phase). Prior year's project commitments that have executed contracts, were pending contract execution, or within the intakes and Business Oregon applications, are expected to have disbursements in the amount of \$41.77 million. The net of revenues and expenses is expected to reduce the cash balance by \$11.32 million, leaving the ending cash balance of the DWSRF at \$129.39 million.

Estimated future LOIs and viable projects are estimated to total \$191.12 million. This estimate is based in part on LOIs totaling \$141.12 million that were submitted by the most recent 3/15/22 deadline. Those LOIs have already been rated and ranked by OHA for eligibility and have passed the 10-day mandated public comment period. LOIs are now accepted semi-annually (3/15 and 9/15) and receipt of LOIs totaling an additional \$50 million are estimated for the remainder of SFY-2023. The presence of federal stimulus dollars (e.g., BIL, ARPA and congressional earmarks) is driving higher than normal interest in the program due to the new BIL General Supplemental (stimulus) funds and because of

the stated DWSRF eligibility parallel and the stated earmark preference for projects on the DWSRF Intended Use Plan. Estimated DWSRF fund availability at the end of SFY2023 is expected to be negative \$483.75 million.

As the table and summaries above illustrates, Oregon’s current and projected uses (demand) far outweighs our sources (supply).

See **Appendix C** for complete table details.

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.”

The long-term financial viability of the Loan Fund depends on maximizing return to the Loan Fund without decreasing demand for the funds or increasing risk to Fund principal. Lending to eligible disadvantaged communities is balanced with loans funding other eligible projects to maximize the Loan Fund and still assist financially distressed communities that need system improvements.

The interest rate for the Loan Fund base program will be set at a rate of 80% of the previous quarterly municipal Bond Buyer 20 index.

❖ **State Matching Funds**

Oregon’s State Matching fund contributions are managed by Business Oregon. To meet the 2022 BIL General Supplemental funding provisions and in accordance with Section 1452(e) of SDWA, State DWSRF programs must deposit State funds into its Loan Fund in an amount equal to at least 10 percent of the total amount of the federal grant the State is applying for – for both 2022 and 2023 cycles. For 2024 through 2026 BIL General Supplemental funding opportunities, the State Match requirement increases to 20 percent. The BIL funding opportunities for Emerging Contaminants and Lead Service Line Replacements do not have State Match or cost share requirements.

Oregon meets this federal provision by transferring State funds through Business Oregon’s Special Public Works Fund (via Lottery) into the DWSRF Loan Fund account that Business Oregon manages for drinking water projects. For 2022 BIL General Supplemental, 10 percent equates to \$2,367,300. And as noted above, to meet the federal proportionality requirements, Oregon always draws State funds for projects before federally awarded funds.

VII. Disadvantaged Community Program

Awards and subsidy provided to disadvantaged communities are tracked by Business Oregon. For the DWSRF, EPA tasks each state with establishing a definition of “disadvantaged community.” Disadvantaged community, under the SDWA section 1452(d), means the service area of a public water system that meets affordability criteria. For Oregon’s DWSRF the following criteria are used to determine disadvantaged community status:

- **Median Household Income (MHI) below the state average:** A disadvantaged community is a public water system that has a service area with a MHI below the state average.
- As part of the LOI rating and ranking process, OHA assessed the MHI of each water system to determine “disadvantaged” status under the DWSRF program. MHI is determined using the most recent American Community Survey (ACS) 5-year estimates available. Disadvantaged community status may result in the potential for an increased forgivable loan award.

Loans to Disadvantaged Communities are assessed an interest rate on a sliding scale between the interest rate for a standard loan (i.e., 80% of municipal Bond Buyer 20 index) and one percent. The loan amortization period is up to 30 years, but not to exceed the useful life of the infrastructure investment.

For the 2022 BIL General Supplemental funding, each disadvantaged community targeted for funding may receive approximately 54.5 percent of award amount in principle forgiveness.

For base DWSRF program, see the current Financing Details in **Appendix B** of the IUP or at Business Oregon’s [SDWRLF and SIPP website](#) (see bottom of Additional Resources).

Visit OHA’s [Project Ranking and Disadvantaged Status webpage](#) for more details and updates.

VIII. Asset Management

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 (reference Section IV above), which includes creation of Asset Management Plans as one of the eligible funding activities.

IX. 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.

X. Drinking Water State Revolving Fund Projects

A. Project Identification Process

Before projects are placed on the Project Priority List (PPL), eligible water systems (i.e., community water systems and non-profit non-community water systems) must first submit an LOI. The LOI form is a document that provides information about the water system, its water quality problem, its finances, its readiness-to-proceed, and its project solution and estimated cost. This is adequate information to rate (i.e., score) and rank each project to create the PPL, as required by the amended 1996 SDWA. Oregon’s primary funding focus is on projects that address drinking water public health risks and compliance issues while assisting systems most in need on a per household basis using state affordability criteria.

Current infrastructure project rating criteria includes:

- Risks to Human Health & Health Protection.
- Compliance with Safe Drinking Water Act.
- Consolidation of Two or More Systems.
- Water System Size.
- Community Affordability.
- *Disadvantaged Community status is also identified. See LOI Rating Guidance in Appendix A for more details.*

A total of thirty-nine new eligible projects successfully submitted an LOI for 2022 DWSRF funding consideration. Thirty of the thirty-nine (i.e., 77%) serve less than 10,000 people. All together, these thirty-nine new projects are asking for nearly \$311 million and have been reviewed, rated, and ranked by OHA-DWS Technical Staff and the EPA and placed on the most current combined PPL.

For Oregon’s 2022 BIL General Supplemental and as illustrated in Section III of this IUP, OHA and Business Oregon have identified four water systems that have been targeted to receive these new BIL funds. All other projects on the PPL will be considered for “Base” DWSRF, 2023 BIL General Supplemental funds, and/or future BIL funding. Visit the Project Selection Methodology in **Appendix B** or the footnotes on the PPL for more details.

The [combined infrastructure PPL](#) is updated semi-annually and allows Oregon to better manage the Loan Fund and assures ready-to-proceed projects continue through financing and project implementation quickly. For more information on the PPL and to see its current version, reference **Appendix A** of the IUP or visit OHA’s [DWSRF PPL and Public Notices](#) webpage.

Most water systems not in full compliance with the Safe Drinking Water Act have some form of administrative enforcement order from OHA that defines the problem(s) to be resolved and includes a compliance schedule. If a water system has an enforcement order, then the proposed project must be able to return the water system to a full compliance status. DWSRF and BIL General Supplemental funds can be used to assist systems in reaching their compliance issues provided that the system has the technical and managerial capacity required to operate the system being funded.

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

EPAs 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, and SIPP program rating criteria are robust and meet this requirement. More information related to OHA’s rating form and detailed criteria is available in **Appendix A**.

Due to increased demand on the DWSRF funds, water systems are contacted in the order they have been ranked on the PPL to prioritize projects that have scored the highest in addressing health risks and compliance issues. 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, ability to take on debt, 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. Unfunded Projects may remain on the PPL for up to two years from the approval of the IUP of the awarded federal grant their projects were targeted for. Additional by-pass information can be provided on request.

Finally, to comply with provisions of the amended 1996 SDWA, Oregon will assure at least 15% of the Loan Fund will be used to assist small water supplies, those that serve 10,000 or fewer people. If it is not at the 15% mark, then “only” these small systems will be considered until this federal requirement is met. Historically, Oregon has been in compliance with this requirement.

XI. Public Reviews & Comments

❖ Process

The public has been invited to review and comment on Oregon’s proposed SFY2022 IUP of the DWSRF – BIL General Supplemental grant application. If comments are received and it is determined that our IUP must be amended, we will notify the EPA Region 10 office immediately.

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 our semi-annual 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>
- Orange postcard mailings have been replaced with [OHA's GovDelivery](#) 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 Notice materials can be found in **Appendix E** of the IUP.

◆ End of Summary

APPENDIX A: Required Documents

- Attorney General Certification
- 2022 BIL General Supplemental "[Combined](#)" Infrastructure Project [Priority List \(PPL\)](#) – (*web access only*)
- SRF LOI Rating Guidance
- FFATA Set-Aside reporting spreadsheet



DEPARTMENT OF JUSTICE

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

July 20, 2022

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 20th day of July, 2022.

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

LOI Rating Guidance

Drinking Water State Revolving Fund

Background:

Before an eligible project can be placed on the Drinking Water State Revolving Fund (DWSRF) Project Priority List (PPL), the Applicant (i.e., eligible public water system) must fill out and submit their project details in a [Letter of Interest \(LOI\)](#). Oregon Health Authority-Drinking Water Services (OHA) will use this guidance document to review each eligible LOI for placement on the PPL. Following the 10-day mandated public notice period, OHA partners, Business Oregon, will utilize the PPL to invite listed eligible public water systems to apply for funding.

At this time Infrastructure Project and SIPP LOIs are processed and added to the PPL on a Semi-Annual Basis (LOI deadlines: March 15 and September 15).

This LOI Rating Form and Guidance for the DWSRF program is in conformance to federal regulations as outlined in EPA's [40 Code of Federal Register \(CFR\) §35.3555 - Intended Use Plan](#).

Additional program information can be found in the [Program Guidelines and Handbook](#).

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Section 1: Funding Program Descriptions

1) Water System Infrastructure Projects:

Eligible infrastructure projects are included in the following two (2) categories:

- a) **Health/Compliance/Consolidation:** This includes water system infrastructure projects that resolve current Health and/or Compliance issues, or address Technical, Managerial, or Financial problems through consolidation. Projects that qualify in this category receive priority funding and greater financial incentives. These projects are rated and ranked on the PPL based on the following five (5) rating criteria:

1. Risks to Human Health & Health Protection.
2. Compliance with Safe Drinking Water Act.
3. Consolidation of Two or More Systems.
4. Water System Size
5. Community Affordability

Disadvantaged Community Status is also identified.

- b) **General Infrastructure and Resiliency Projects:** This includes water system infrastructure projects that are non-health/compliance/consolidation based. These projects are rated and ranked on the PPL based on Community Affordability and Water System Size. Disadvantaged Status is also identified.

The following non-health-based projects are considered eligible under this category:

- New, repair or replacement of water sources, treatment, finished water reservoirs, pumping, and transmission/distribution mains - including associated appurtenances, land/easement acquisitions, and control buildings.
- Aquifer, Storage & Recovery projects.
- Instrumentation, telemetry, water meter, Automated Meter Reading/Automated Metering Infrastructure, backflow device and pressure reducing valve projects.
- Safety, Seismic and Security improvements.
- Projects which increase redundancy and reliability of critical assets.

Eligible projects are rated and ranked using the Infrastructure Project Rating Form and Project Rating Summary contained in Attachment 1.

Ineligible Water System Infrastructure Projects: The following projects are considered ineligible per 40 Federal Register Part 35.3520 (e&f):

- Projects needed primarily for fire protection.
- Projects needed primarily to serve future population growth. Projects must be sized only to accommodate a reasonable amount of population growth expected to occur over the useful life of the facility.

If a project consists solely of one of the above activities, the project is not rated, but rather is marked as an ineligible project on the Infrastructure Project Rating Summary contained in Attachment 1. If the ineligible activity is only a portion of the project, the eligible portion of the project is still rated, with the ineligible activity identified as not fundable in the Project Rating Summary.

Purchasing Water Rights - Class Deviation from 40 CFR §35.3520(e)(2) (EPA-HQ memo 11/26/19): Removes the prohibition of DWSRF funds for purchasing water rights. Language from memo states:

For the purposes of this class deviation, the purchase of ‘water rights’ is defined as the monetary value of the right to use water from a given source (e.g., a river, lake, aquifer) for the purposes of drinking water supply for an existing population.

Projects covered by this class deviation may be standalone assistance agreements (i.e., the assistance agreement is solely for water rights) or may be part of a larger public health project.

The principal purpose of this class deviation for water rights is to provide a safe drinking water supply and improve public health protection for drinking water systems’ existing populations. Moreover, the class deviation request is not designed to support population growth and thus is consistent with the Safe Drinking Water Act (SDWA).

A DWSRF project must meet the criteria below to be covered under this class deviation:

- *The project directly addresses a compelling, imminent public health threat;*
- *The project is a cost-effective alternative;*
- *DWSRF funding is a significant factor to ensure that the project will proceed;*
- *The financial terms of the DWSRF assistance agreement are equal to or less than the “design life” of the project (e.g., a 15-year loan for 15-year water rights purchase);*
- *The main project purpose cannot be to prepare for future growth.*

Rehabilitation of Dams and Reservoirs – Class Deviation from 40 CFR §35.3520(e)(1) and (3) (EPA-HQ memo 7/14/21): Removes the prohibition of DWSRF funds for rehabilitation of dams and reservoirs:

The principal purpose of this class exemption for the rehabilitation of dams and reservoirs is to provide a safe drinking water supply and improve public health protection for drinking water systems’ existing populations. To be consistent with the Safe Drinking Water Act (SDWA), this class exception does not support population growth.

For this class exception, the dam or reservoir’s primary purpose must be for drinking water supply and must be owned by the public water system. Some examples of dam/reservoir rehabilitation projects could include, but is not limited to, spillway reconstruction or repair, dam resurfacing or repair, repair or replacement of drainage systems, and sedimentation dredging.

A DWSRF project must meet the criteria below to be covered under this class deviation:

- *All the criteria outlined in the project-specific deviation request SOP will still apply.*
 - ✓ *The project directly addresses a compelling, imminent public health threat;*
 - ✓ *The project is a cost-effective alternative;*
 - ✓ *DWSRF funding is a significant factor to ensure that the project will proceed;*
 - ✓ *The financial terms of the DWSRF assistance agreement are equal to or less than the “design life” of the project.*
- *The primary purpose of the dam and reservoir must be for drinking water supply.*
 - ✓ *The resource can be used for recreation, but that may not be the primary benefit.*
- *If the dam is also used for power generation, this deviation would not include any rehabilitation and equipment affiliated with this purpose, unless the power generated is solely used to provide power to the public water system.*
- *The dam and reservoir are 100% owned by the public water system receiving the loan.*
- *The main project purpose cannot be to prepare for future growth.*

2) **Sustainable Infrastructure Planning Projects (SIPP):**

Projects include water system planning activities that promote sustainable water infrastructure. Projects receive 100% forgivable loan funding up to \$20,000 per project. Priority is given to systems that serve < 300 connections.

Applicants can apply for one of the following eligible planning projects:

1. **Feasibility Studies** - Studies to evaluate infrastructure project feasibility. Studies may also include the evaluation of resiliency measures and continuity of operations, including identification of needed infrastructure improvements.
2. **Asset Management Plan** - Plan for managing water system infrastructure assets.
3. **System Partnership Studies** - Studies to evaluate potential for system consolidation/regionalization.
4. **Water Rate Analysis** - Analysis of water system rate charges, structure, and adequacy.
5. **Leak Detection Studies** - Studies to detect water system leakage and identify possible solutions.
6. **Security Risk and Vulnerability Studies** - Studies or assessments to evaluate infrastructure and information security, including cybersecurity. Studies must assess risk and potential impacts and include identification of needed security improvements. Studies may also include identification of critical information technology assets, process controls, communications and personnel, and the development of security procedures and protocols.
7. **Water System Master Plan for systems with < 300 connections** – Long-range plan to evaluate the needs of the water system and make recommendations for future improvements.

These projects are rated and ranked on the PPL based on the following five (5) rating criteria:

1. System Size
2. Capital Improvement History*
3. Infrastructure Project Potential
4. Readiness to Proceed
5. Priority Deliverable

*In assigning points under the *Capital Improvement History* rating criteria, “significant capital improvement project” includes new water source, treatment plant and storage projects that require plan review; and distribution system improvement projects impacting a significant portion (>20%) of the distribution system.

Eligible planning projects are rated and ranked using the SIPP Rating Summary contained in Attachment 2.

Ineligible Sustainable Infrastructure Planning Projects: Activities related to construction and/or engineering/design and activities related to ineligible project types listed in the Water System Infrastructure Projects section above. If the project includes an ineligible activity, the activity is identified as not fundable in the SIPP Rating Summary.

3) **Seismic Risk Assessment and Mitigation Plans:**

Applicants can submit an application for creation of a Seismic Risk Assessment and Mitigation Plan required by OHA as part of a full master plan submittal. Seismic requirements are outlined in [OAR 333-061-0060\(5\)\(a\)\(J\)](#).

This program is funded under a separate allotment of the Sustainable Infrastructure Planning Projects program. Projects receive 100% forgivable loan funding up to \$20,000. Eligibility is limited to systems that serve 300 to 3,300 connections.

Projects are ranked on the SIPP Project Priority List based on submittal date of a completed application. *No rating and ranking of projects by OHA staff are required.* Business Oregon will inform OHA when eligible Seismic projects have been submitted.

To be eligible for funding, the project proposal must meet each of the following criteria:

1. The water system must serve 300 to 3,300 connections.
2. The water system must be subject to the Seismic Risk Assessment and Mitigation Plan requirements for master plans under OAR 333-061-0060(5)(a)(J). This includes water systems fully or partially located in areas identified as VII to X, inclusive, for moderate to very heavy damage potential using the [Map](#) of Earthquake and Tsunami Damage Potential for a Simulated Magnitude 9 Cascadia Earthquake, Open File Report 0-13-06, Plate 7 published by the State of Oregon, Department of Geology and Mineral Industries (DOGAMI).
3. The seismic risk assessment must identify critical water facilities capable of supplying key community needs, including fire suppression, health and emergency response and community drinking water supply points.
4. The seismic risk assessment must identify and evaluate the likelihood and consequences of seismic failures for each critical water facility.
5. The mitigation plan must encompass up to a 50-year planning horizon and include recommendations to minimize water loss from each critical facility, capital improvements or recommendations for further study or analysis.

Ineligible Activities: Activities related to construction and/or engineering/design and activities related to ineligible project types listed in the Water System Infrastructure Projects section above.

4) **Emergency Projects:**

An emergency is an event resulting from natural disaster, extreme weather, and related causes that represents a threat to public health. A project may be funded under the designation “Emergency Project” if it meets each of the characteristics listed below. Projects designated as an Emergency Project will be given Disadvantaged Community status and will be eligible for additional principal forgiveness.

The Emergency Project must meet each of the following five (5) characteristics:

1. Represents a threat to public health.
2. Entails an immediate lack of available potable drinking water (either quantity or quality) at a community drinking water system over an extended period of time. If the lack of drinking water is imminent, but the system is currently supplying water, the water system must provide documentation such as the issuance of mandatory water conservation measures to water system customers.
3. Situation has arisen from a reasonably unexpected and unpreventable occurrence of disaster or catastrophe such as wildfires, droughts, earthquakes, tsunamis, and floods. A situation arising from negligence such as preventable mechanical failure will not qualify.

4. Situation resulted in an emergency designation by the state, county, or local authorities or a Governor’s Declaration of an Emergency that occurred within 1 year before a Safe Drinking Water Revolving Loan Fund Letter of Interest is submitted. The 1-year timeframe is intended to address the response difficulties water systems face during initial disaster recovery and can be extended by OHA to accommodate coordination with other necessary permitting or funding agencies.
5. Project includes assessment, design, and/or construction activities that will return the water system operations and production capacity within the shortest possible recovery timeframe.

Eligible emergency projects are rated and ranked using the Emergency Project Rating Summary contained in Attachment 3.

Section 2: Rating, Ranking and the Project Priority List

- A. “Rater’s” Responsibility:** Before an eligible project can be placed on the Project Priority List (PPL), the project is rated using set criteria based on project details submitted in a Letter of Interest (LOI).

Once an LOI has officially been submitted and reviewed for eligibility, the DWSRF Program Coordinator distributes the LOI and rating materials to the Regional Tech Staff “Rater” who then reviews the project to determine an appropriate rating score. The Rater then completes all required rating materials (as outlined in the Attachments to this document) and forwards those materials to the Program Coordinator. All rating materials are maintained by the Program Coordinator.

The Program Coordinator forwards the completed ratings for all projects received in the rating period to Tech Staff for group consideration and comment. Tech Staff have the opportunity to collaborate in person (or by video call) to make final rating decisions for projects.

During the group rating meeting, the Rater describes the project and explains their rating, including pointing out ineligible activities if applicable. If there are no comments or if comments are addressed, the rating of that project is considered “final” and officially placed on the PPL. The Program Coordinator notifies Business Oregon of any ineligible activities found.

- B. Project Priority List:** For each capitalization grant year, OHA creates a Project Priority List which lists system projects in a rated and ranked order. The following process is used:

1. Once all project ratings are approved by Tech Staff, the projects are placed on the PPL. The newly rated projects are combined with existing eligible projects and placed in ranked order according to total score.
2. The Program Coordinator forwards the updated PPL to EPA Region 10 for their eligibility review and approval. Once approval has been given, the projects are incorporated into the semi-annual public notice process. These additional steps are mandatory due to the nature of having an “Open” LOI process that can be funded with State and Federal funds year-round.
3. Subject to the amount of funding available, those water systems ready-to-proceed on the PPL are invited to submit a final application to Business Oregon. This process is specifically for the use of the federally appropriated DWSRF funds only. State repayment and interest earned funds can be used to fund projects at any time throughout the year.
4. A project’s relative ranking and fundability may be in jeopardy if the water system has not submitted a final application to Business Oregon before the end of the two-year approval date of the Intended Use Plan (dates shown at the top of the *Combined* PPL). OHA informs Business Oregon prior to the expiration of each Intended Use Plan so projects have one last opportunity to proceed in the funding process.

5. Projects are removed from the PPL once they are either funded or once the Intended Use Plan’s two-year timeframe has expired. In this case, the water system may submit a new LOI for the project. Depending on new information or other factors, the project may be rated differently than before.

C. Combined Project Priority List: Starting in April 2013, OHA began accepting LOI’s anytime throughout the year for infrastructure related projects. The PPL is officially updated on a semi-annual basis (after the public notice period ends) and the most recent updated *Combined PPL* is submitted with the Intended Use Plan as part of each annual DWSRF grant application.

Instead of utilizing two PPLs (*Comprehensive* and *Fundable*), both serving different purposes, EPA Region 10 approved OHA’s request to reduce the mandated two PPLs down to one *Combined Project Priority List*. This *Combined PPL* serves the same purpose that the 2 separate PPLs served previously.

OHA believes the *Combined PPL* meets the project listing requirements as outlined in Section 3.1.4 of [EPA’s DWSRF Program Operations Manual](#) and is allowable per 40 CFR §35.3555(c).

D. By-passing: If non-funded projects are removed from the PPL, after accounting for the difference between actual award amounts and requested amounts, a lower ranked water system may be invited to submit a final application for funds with Business Oregon through the by-pass process.

Water system projects may be removed from the PPL for the following reasons:

1. Funding has been received from another source, rendering a DWSRF award redundant.
2. Water system or project is determined to be no longer eligible for funding.
3. A water system lacks enough capacity and is judged not to be able to achieve enough capacity within a two-year period and the funding wouldn’t help the system achieve capacity.
4. A project cannot proceed within the two-year period due to other environmental issues.

E. Public Notice Policy

DWSRF Public Notice Policy <i>(revised 09-15-21)</i>	
Project Type:	Days Published*
Infrastructure (non-emergency loans)	10
Infrastructure (Emergency loans)	N/A**
DWSP (non-emergency grants and/or loans)	10
DWSP (Emergency grants only)	N/A**
DWSP (Emergency grants with loans)	grant: N/A** & loan: 10
SIPP (non-emergency forgivable loans)	10
SSEA (non-emergency forgivable loans)	10
Environmental Justice (non-emergency forgivable loans)	10
* Days published is a requirement that must occur prior to the project moving forward in the funding process	
** Emergency projects <u>do not</u> require a public notice for comments	

- F. Sustainable Infrastructure Planning Projects (SIPP): Processing & Funding Timeline:** OHA rates and ranks SIPP projects in conjunction with our infrastructure project rating. At this time SIPP LOIs are processed and added to the PPL on a Semi-Annual Basis (LOI deadlines: March 15 and September 15).
- G. Emergencies:** An emergency infrastructure project may be submitted for funding at any time during the year. If a final application for such a project is approved, it will be funded ahead of other funding applications.

For Drinking Water Source Protection (DWSP) emergency projects, please visit the General Information link located at the bottom of the [DWSP webpage](#).

H. Removal from Project Priority List:

1. Business Oregon and OHA may remove a project from the PPL for the reasons indicated in Section D above, or if the following occurs:
 - (a.) SRF project funding has been committed, or
 - (b.) Business Oregon and OHA determine that the project scope, cost, schedule or other commitments have substantially changed, or
 - (c.) The two-year period from the IUP approval date for that LOI grant year has expired and the applicant has not moved the project forward to either one or more of the following phases:
 - The loan preparation phase; or
 - The applicant water system has not substantially completed final design; or
 - The applicant water system has not moved the project to the initial stages of construction; or
 - The applicant water system has not provided a written request to remain on the PPL due to unforeseen circumstances such as significant financial or operational changes. Such written request must be submitted to Business Oregon within 60 calendar days prior to the expiration date; or
 - Funding has been received from another source, rendering an DWSRF award redundant; or
 - The applicant water system requests removal from the listing.
2. Before a project is removed from the PPL, based on an informed determination of project eligibility, two-year readiness, substantial change or comparable matter, written notice may be given to the applicant for the project. The applicant will then have 30 days after provision of the notice to demonstrate the system/project's respective eligibility, feasibility, capacity, ability to precede, conformance with proposed project, *etc.*, to the satisfaction of Business Oregon and OHA.
3. Business Oregon and OHA will assist the applicant water system in its efforts to be ready for funding in the next fiscal year, as practicable.

Attachment 1

INFRASTRUCTURE PROJECT RATING SUMMARY

Drinking Water State Revolving Fund

APPLICANT:

PWSID#:

COUNTY:

LOI#: SD- -

PROJECT TITLE:

Letter of Interest (LOI) Evaluation Criteria

ELIGIBLE PUBLIC WATER SYSTEMS

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

ELIGIBLE ACTIVITIES – (see LOI for specifics)

- Planning & Engineering Source Construction (wells, well head pumps & intakes)
- Watershed Improvements Treatment Storage / Reservoir / ASR
- Transmission / Distribution Pump Stations Land or Easement Acquisition
- Restructuring / Consolidation Water Rights Rehabilitation of Dams & Reservoirs
- Other:

***Water Rights and Rehab of Dams & Reservoirs is only eligible via class deviations*

INELIGIBLE ACTIVITIES

- Primarily for Fire Protection Primarily for growth Other:

Is this a Health/Compliance/Consolidation project? Yes No

Determined by the DWSRF Program Coordinator:

Does the water system qualify for Disadvantaged Community Status? Yes No

Exclusions? Is the System Suspended/Debarred? – See SAM.gov using Login.gov Yes No

Rating Point Summary		
Entered on Project Priority List		
		Points Possible
		Actual Points
1	Risks to Human Health & Health Protection	40
2	Compliance with Safe Drinking Water Act	30
3	Consolidation of Two or More Systems	20
4	Water System Size	5
5	Community Affordability	25
TOTAL		120

RATED BY:

DATE:

Part 1 of 2.

Part 2 of 2 - INFRASTRUCTURE PROJECT RATING

PROJECT SUMMARY

To be presented at rating meeting. Also used as the project description on the PPL.

1. **Problem:** *What are the issues?*
2. **Project:** *What is the project?*
3. **Rating Description:**
 - **Risk to Human Health** – *Points assigned and reason.*
 - **Compliance with SDWA** – *Points assigned and reason.*
 - **Consolidation** – *Points assigned and reason.*
4. **Any Additional Information from LOI Rating Form that is Pertinent to the Applicant's Rating?**
5. **Any Ineligible Activities Identified?**

PROJECT RATING

Rating points are assigned to each eligible project LOI based on the five (5) rating criteria listed below. Disadvantaged Community Status is also identified.

1. **Risks to Human Health & Health Protection:** Points are assigned to projects that propose to eliminate risks to human health from contaminants in drinking water.

Make one assignment of points for the “Risks to Human Health” category per project, selecting the highest that’s applicable. Maximum 40 points.

(40 pts)

- (a.) **Acute risks:** *E. coli*, or Nitrate/Nitrite contamination above the Maximum Contaminant Level (MCL) or confirmed source contamination, inadequate treatment technique or facilities which result in Surface Water Treatment Rule violations, cyanotoxins above Oregon’s Health Advisory Level (HAL), or the presence of pathogenic organisms at levels that presents a significant risk of waterborne disease.

(30 pts)

- (b.) **Chronic risks:** lead, inorganic, synthetic or volatile organic chemical contamination including disinfection by-products, or radionuclides above the MCL, Action Level (AL), or HAL.

- (c.) **Risk levels less than those considered to be Acute or Chronic risks:**

(20 pts)

1. Chemicals or radionuclide that exceeds 50 percent of the MCL, AL, or HAL multiple investigations due to persistent total coliform, or inadequate filtration such that effluent turbidity spikes (less than MCL) occur.

(15 pts)

2. Groundwater contamination at or above the MCL that is within 1,000 feet up-gradient from a PWS well or spring or is within the two-year time of travel to a PWS well or spring or is within 2,500 feet up-gradient from a PWS surface water intake.

(15 pts)

3. Priority significant deficiencies or those that are a risk to human health (identified by DWS or partner staff and documented in writing) and will be resolved by the project.

(15 pts) (5 pts)

4. Distribution or storage conditions which may result in drinking water contamination violations, such as an inability to maintain a minimum pressure of 20 psi (pounds per square inch) at all service connections at all times (OAR 333-061-0025(7)), or leaking pipe due to age or having out-lived its useful life. (15 points – *if technical documentation such as: Water Loss Study or detailed in a Master Plan*) (5 points – *if anecdotal information is provided*)

(10 pts)

5. Emergency related risks caused by a natural disaster which could lead to contamination or damage to the water system. (10 points – *only if known or documented*) (e.g., *earthquake resilience would not receive points here, but is eligible for funding as a General Infrastructure and Resiliency project*)

(5 pts)

6. Prevention of future or potential microbial issues or installation of other chemical treatments that are beneficial to public health (e.g., residual maintenance, fluoridation, or harmful algal blooms).

(5 pts)

7. Security related issues that create a potential health risk as described in a vulnerability assessment.

(0 pts)

8. This project does not propose to reduce risks to human health from contaminants in drinking water.

2. **Compliance with Safe Drinking Water Act:** Points are assigned to projects that achieves, maintains or improves a water systems ability to comply with federal and state drinking water regulations.

Make one assignment of points for the “Compliance with SDWA” category per project, selecting the highest that’s applicable. Maximum 30 points.

(30 pts)

- (a.) System is not in compliance with existing health-based Oregon Administrative Rules (OARs) and project will return the system to compliance (e.g., MCL or treatment technique violations).

(20 pts)

- (b.) Project will allow system to comply with a future deadline in a drinking water law or Oregon Administrative Rule (OAR) (e.g., meeting a revised MCL or a new treatment requirement by a specific deadline).

(10 pts)

- (c.) Project will address existing and documented water quality or distribution pressure issue(s) that would likely lead to non-compliance (e.g., nitrate or finished water turbidity close to MCL, < 20 psi).

(0 pts)

- (d.) System has no state or federal compliance issues.

3. **Consolidation of Two or More Systems:** Points are assigned for any project that includes consolidation of separate existing water systems.

Per 40 Federal Register Part 35.3520(b)(2)(v), an eligible project can be those needing to consolidate where a supply has become contaminated or a system is unable to maintain compliance for technical, managerial, or financial reasons. Consolidation (or partnership) of ownership and/or management is defined as: *Changes in ownership and/or management functions of two or more systems intended to address technical, managerial, or financial capacity.*

Make one assignment of points for the “Consolidation (or partnership)” category per project, selecting the

highest that's applicable. Maximum 20 points.

(20 pts)

- (a.) A consolidation (or partnership) involving a physical connection of two or more systems where a single system remains.

(10 pts)

- (b.) New consolidation (or partnership) of ownership and/or management involving the purchase of water from another system that meets drinking water standards and requirements.

(5 pts)

- (c.) New consolidation (or partnership) of ownership and/or management with no physical connection of two or more systems.

(0 pts)

- (d.) N/A (e.g., purchasing intertie connection only with no consolidation of ownership and/or management and does not address drinking water standards and requirements).

4. **Water System Size**: Points are assigned based on population.

Make one assignment of points for the "Water System Size" category per project. Maximum 5 points.

- (a.) (5 pts) Water systems serving <500 people
(b.) (3 pts) Water systems serving 500 to 3,300 people
(c.) (1 pt) Water systems serving 3,301 to 9,999 people

5. **Community Affordability**: To increase equitable access to funding, points are assigned based on the following socioeconomic factors.

This section rated by the DWSRF Program Coordinator. Maximum total combined 25 points.

(a.) Community MHI is less than the current State MHI (as determined by the most recent data release of the American Community Survey in effect when projects are rated for consideration).

- (15 pts) <60% of State MHI
 (10 pts) 60-69% of State MHI
 (5 pts) 70-79% of State MHI
 (3 pts) 80-99% of State MHI

(b.) (5 pts) Community's poverty rate is greater than the State poverty rate.

(c.) (5 pts) Community's unemployment rate is greater than the State unemployment rate.

6. **Disadvantaged Community Status**: The Disadvantaged Community status of the service area of the public water system is identified and considered for additional subsidy if the project is funded.

This section is not part of the project scoring system and is determined by the DWSRF Program Coordinator.

- Not a Disadvantaged Community. Service area MHI is \geq to State MHI
 Disadvantaged Community. Service area MHI is < State MHI; and, as applicable,
 Severely Disadvantaged Community. Total score from Section 5 above is 15 points or more.

Attachment 2

SUSTAINABLE INFRASTRUCTURE PLANNING PROJECTS RATING SUMMARY

Drinking Water State Revolving Fund

APPLICANT:

PWSID#:

COUNTY:

LOI #: SD- -

PROJECT TITLE:

Letter of Interest (LOI) Evaluation Criteria

ELIGIBLE PUBLIC WATER SYSTEMS

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

ELIGIBLE ACTIVITIES – (see LOI for specifics)

- Feasibility Studies Asset Management Plan System Partnership Studies
- Water Rate Analysis Leak Detection Studies Security Risk & Vulnerability
- Water Master Plan (< 300 connections only)

INELIGIBLE ACTIVITIES

- Construction. If so, describe:
- Engineering or Design. If so, describe:
- Other (e.g. plan primarily relates to fire protection or growth) If so, describe:

Determined by the DWSRF Program Coordinator:

Does the water system qualify for Disadvantaged Community Status? Yes No

Exclusions? Is the System Suspended/Debarred? – See [SAM.gov using Login.gov](http://SAM.gov) Yes No

Evaluation Criteria:

Criteria	Value	Score	Description
System Size	30		30 points will be given to systems with < 300 connections.
Capital Improvement History <i>(see LOI – Section VII Project Deliverables, “B” on page 9)</i>	20		For systems that have not done any significant capital improvement projects in: 20 years or more = 10 Points 40 years or more = 20 Points
Infrastructure Project Potential <i>(see LOI – Section VII “C” on page 9)</i>	20		To receive points there must be a reasonable expectation that the activities funded will result in a future infrastructure project.
Readiness to Proceed <i>(Business OR. to rate)</i>	20		To receive points the project activities must be ready to begin within 90 days of funding award notification.
Priority Deliverable	10		Feasibility studies, asset management plans, and system partnership studies will be given 10 points.
Total	100		

RATED BY:

DATE:

Attachment 3
EMERGENCY PROJECT RATING SUMMARY
Drinking Water State Revolving Fund

APPLICANT:

PWSID#:

COUNTY:

LOI#: SD- -

PROJECT TITLE:

Letter of Interest (LOI) Evaluation Criteria

ELIGIBLE PUBLIC WATER SYSTEMS

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

ELIGIBLE ACTIVITIES – (see LOI for specifics)

- Planning & Engineering Source Construction (wells, well head pumps & intakes)
 Watershed Improvements Treatment Storage / Reservoir / ASR
 Transmission / Distribution Pump Stations Land or Easement Acquisition
 Restructuring / Consolidation Water Rights Rehabilitation of Dams & Reservoirs
 Other:

***Water Rights and Rehab of Dams & Reservoirs is only eligible via class deviations*

INELIGIBLE ACTIVITIES

- Primarily for Fire Protection Primarily for growth Other:

Determined by the DWSRF Program Coordinator:

Does the water system qualify for Disadvantaged Community Status? Yes No

Exclusions? Is the System Suspended/Debarred? – See SAM.gov using Login.gov Yes No

Yes No **Does the proposed project qualify by having all of the following characteristics:**

- Represents a threat to public health.
- Entails an immediate lack of available potable drinking water (either quantity or quality) at a community drinking water system over an extended period of time. If the lack of drinking water is imminent, but the system is currently supplying water, the water system must provide documentation such as the issuance of mandatory water conservation measures to water system customers.
- Situation has arisen from a reasonably unexpected and unpreventable occurrence of disaster or catastrophe such as wildfires, droughts, earthquakes, tsunamis, and floods. A situation arising from negligence such as preventable mechanical failure will not qualify.
- Situation resulted in an emergency designation by the state, county, or local authorities or a Governor's Declaration of an Emergency that occurred within 1 year before a Safe Drinking Water Revolving Loan Fund Letter of Interest is submitted. The 1-year timeframe is intended to address the response difficulties water systems face during initial disaster recovery and can be extended by OHA to accommodate coordination with other necessary permitting or funding agencies.
- Project includes assessment, design, and/or construction activities that will return the water system operations and production capacity within the shortest possible recovery timeframe.

RATED BY:

DATE:

SFY-2023 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* 7 of 26 contracts (Annual)	Clackamas	169503	\$ 56,752	Yes	
	Deschutes	169509	\$ 35,257	Yes	
	Jackson	169514	\$ 40,555	Yes	
	Josephine	169516	\$ 33,418	Yes	
	Lane	169519	\$ 50,879	Yes	
	Linn	169521	\$ 36,952	Yes	
	Marion	169523	\$ 43,786	Yes	
Dept. of Agriculture		169551	\$ 25,657	No	Federal entities are N/A
OAWU (\$5,965/class)		158366	\$ 596,500	No	Vendor Contracts are N/A
Needs Survey (HBH)		162617-1	\$ 233,558	No	Vendor Contracts are N/A
DWSP (Grants)	<i>Business Oregon to Manage (grants ≥\$25,000)</i>			Yes	
Only County Set-Aside FFATA TOTALS:			\$ 297,599		

PHD-PE50 Disclaimer:

All FSRS reported *Set-Aside* contracts shown above are to be associated to CFDA: 66.468 and FAIN: 98009021 & 98009022.

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, remains at \$25,000).

APPENDIX B: Supporting Documents

- SDWRLF Financing Details – BIL General Supplemental (2022)
- Grant Allotment Use Summary – BIL General Supplemental (2022)
- Project Selection Methodology – BIL General Supplemental (2022)
- Cost Allocation & Other Payroll Expense Letters (3)



Safe Drinking Water Revolving Loan Fund Financing Details 2022

I. Purpose and Background

The purpose of this document is to provide information on Safe Drinking Water Revolving Loan Fund (SDWRLF) financing terms and policies.

The SDWRLF is a federal funding program through the Environmental Protection Agency (EPA) that provides below market interest rates and forgivable loan awards for drinking water infrastructure projects. The SDWRLF is administered by Business Oregon's Infrastructure Finance Authority (IFA). Oregon Health Authority (OHA) has a role of prioritizing project proposals for funding. The SDWRLF is the loan fund of Oregon's Drinking Water State Revolving Fund (DWSRF). OHA applies annually to EPA for DWSRF capitalization grants.

[Please refer to the SDWRLF Handbook for more program details.](#)

NOTE: These financing details apply to the base SDWRLF program and not the Bipartisan Infrastructure Law funding for which financing details will differ.

II. Loan Limits and Project Prioritization

To access SDWRLF funding water systems must first submit a Letter of Interest (LOI). After each LOI review deadline, LOIs are rated and ranked by OHA. All eligible projects that are rated and ranked by OHA are combined to form the Project Priority List (PPL). Those infrastructure projects that address a risk to human health and ensure compliance with the Safe Drinking Water Act receive the highest rating and are placed on the "Health/Compliance/Consolidation Projects" PPL. Lower priority, eligible projects are not rated or ranked and are placed on the "General Infrastructure & Resiliency Projects" PPL.

The PPL is used by Business Oregon to prioritize the invitation of funding applications for those water systems ready to proceed. The projects ranked highest on the PPL receive funding priority with consideration given to readiness to proceed. Business Oregon may limit funding of projects on the "General Infrastructure & Resiliency Projects" PPL or otherwise limit the amount of funding offered. When program funds are sufficient, all eligible projects on OHA's PPL may proceed in the funding process regardless of rating or ranking.

While there is no statutory maximum limit on the size of a funding award, the priority of the SDWRLF is to fund human health and compliance related drinking water infrastructure needs across the state. Based on fund availability and program demand, Business Oregon may offer a lower amount of assistance than requested. In those cases when a lower funding award is offered, Business Oregon staff may facilitate exploration of other state and federal funding opportunities. For more information contact a Business Oregon Regional Development Officer (RDO).

Awards of \$3 million and above are subject to review by the [IFA Board](#). Awards of \$6 million and above must be approved by the Oregon Health Authority's [Drinking Water Advisory Committee](#) (DWAC).

III. Disadvantaged Communities

Business Oregon must track and report to EPA any subsidy (forgivable loan) provided to disadvantaged communities. For the DWSRF, EPA tasks each state with establishing a definition of "disadvantaged community." Disadvantaged community under the [SDWA](#) section 1452(d) means the service area of a public water system that meets affordability criteria. The following are criteria used to determine disadvantaged community status:

- a. **MHI Below the state average:** A disadvantaged community is a public water system that has a service area with a Median Household Income (MHI) below the state average.
- b. **Consolidation or Elimination of Non-Viable Public Water Systems:** Within the context of this activity, a disadvantaged community is defined as a community served by a public water system that lacks capacity as defined by the SDWA, Sections 1420 and 1452 (a)(3). Principal forgiveness loans and reduced interest/expanded term loans will be made to the most appropriate public water system having capacity that is willing to take over a failing disadvantaged community water system.
- c. **Emergency Projects:** Projects that are determined to be emergencies by OHA may be given disadvantaged community status, provided the project meets certain characteristics as described in the SDWRLF Handbook.

If a community is determined to be disadvantaged, additional forgivable loan and reduced interest rate may be available pending assessment of water rates through the rate impact review process.

IV. Rate Impact Review

Business Oregon targets forgivable loan and reduced interest rate to those communities least able to afford the improvements. Business Oregon calculates the user rate impact of the project by multiplying the water system's service area MHI by 1.25% and dividing by 12 (months). This "**threshold rate**" is compared to the monthly residential water charge per equivalent dwelling unit (EDU) during a Business Oregon financial review. The MHI is based on the 5-Year American Community Survey (ACS) figure for the city or other more appropriate census statistical unit (e.g., census tract and/or block group) that is representative of the water system's users. To ensure consistency, Business Oregon uses an EDU or a standard unit of water demand equal to one single family residence which consumes 7,500 gallons of water per month to determine whether water rates are high and exceed what is considered affordable.

V. Interest Rates

A below market interest rate ranging from eighty percent (80%) of the Business Oregon direct rate to 1% is offered depending on community MHI and monthly user rates. Disadvantaged communities that are determined through rate impact review to be faced with rates in exceedance of the threshold rate receive a 1% interest rate. Loan interest rate is set when a complete funding application is received by Business Oregon.

VI. Loan Term Length

A loan term length of up to 30 years may be awarded but shall not exceed the expected useful life of the improvements funded in the project. The term of a loan for a planning or design-only project shall not exceed ten years. Loan repayment must begin within one year of project completion.

VII. Loan Fee

A 1.5% origination fee is included as a part of the loan principal for borrowers determined to be non-disadvantaged communities. The loan fee moneys are used for Business Oregon administrative expenses.

The loan fee is financed as part of the funding award and the transfer of fee monies occurs during the first disbursement of project funds. To make the loan fee neutral to borrowers, the loan interest rate is reduced to offset the impact of the fee over the loan term length. The fee is non-refundable even if not all project funds are utilized.

VIII. Forgivable Loan Overview

A forgivable loan award, also known as principal forgiveness, are loan awards that are forgiven if a project is completed consistent with contract terms. A forgivable loan is like a grant with conditions. EPA characterizes forgivable loan awards as “subsidy” and limits the amount that can be awarded each year. Forgivable loan awards are subject to annual availability based on federal subsidy limitations identified in annual program capitalization grants to the State.

Forgivable loan awards are available for all SDWRLF funded projects. Increased amounts may be provided to eligible water systems to assist with water rate affordability, health/compliance projects, and water system consolidation. There are forgivable loan awards available to all projects to hire professionals for labor standards compliance and to assist with meeting federal requirements. These special forgivable loan allocations are captured in the SDWRLF funding contract as special budget line items. Projects for disadvantaged communities with high water rates are eligible for increased forgivable loan awards. The standard approach by which forgivable loans are awarded to projects is outlined in the various forgivable loan categories.

IX. Forgivable Loan Categories

Forgivable loan may be capped at either a maximum dollar amount or maximum percentage of the project’s total cost, whichever is lower. The forgivable loan categories and amounts are subject to change based on annual availability and federal subsidy limitations. Not considering the special subsidized budget line items, the maximum amount of forgivable loan per funding award is \$500,000 for those water systems with an MHI of 81-99% of the statewide average, and \$650,000 for those water systems with an MHI of 80% or less of the statewide average. The Affordability Assistance forgivable loan category is dependent on Business Oregon rate impact review findings.

Forgivable Loan Category	Max \$ Per Project	Max % of Total Project Cost
All Projects Serving a Population of less than 10,000	\$100,000	10%
Health/Compliance Projects	\$150,000	25%

Affordability Assistance (81-99% of statewide average MHI)	\$500,000	50%
Affordability Assistance (80% or less of statewide average MHI)	\$650,000	50%
<u>Special Subsidized Budget Line Items</u>		
Labor Standards Compliance Assistance	\$15,000*	
Federal Requirements Assistance	\$15,000*	
*These budget line items are subtracted from total project cost for the purposes of forgivable loan category calculations.		

X. Forgivable Loan Category Detail

All Projects Serving a Population of Under 10,000: May be awarded forgivable loan of up to 10% of the total award, not to exceed \$100,000.

Health and Compliance Projects: Any project placed on OHA’s Health/Compliance/Consolidation project priority list may be awarded forgivable loan of up to 25% of the total award, not to exceed \$150,000.

Affordability Assistance: Affordability assistance forgivable loan is available to disadvantaged communities that are faced with high water rates as determined by Business Oregon rate impact review. Applying Affordability Assistance shall not result in water rates lower than the threshold rate calculated during the Business Oregon rate impact review process. Water systems with a service area MHI between 81-99% of statewide average MHI are eligible for a forgivable loan award of up to \$500,000 or 50% of project cost (whichever is less). Water systems with a service area MHI of 80% or less of statewide average MHI are eligible for a forgivable loan award of up to \$650,000 or 50% of project cost (whichever is less).

Special Subsidized Budget Line Items: Labor Standards Compliance and Federal Requirements Assistance special budget line items help SDWRLF recipients adhere to funding requirements. Professionals hired for this role act as a liaison between the funding recipient and the Business Oregon Regional Project Manager. Generally, a contractor other than the engineer of record is hired for this role. More detail about what is allowed under these forgivable loan budget line items is as follows:

- a. **Labor Standards Compliance:** The Davis-Bacon Act, as amended, and its related acts, refer to the requirement to pay the prevailing wage rate for work on projects that receive federal funding. Eligible costs associated with adhering to Davis-Bacon Labor Standards Compliance for construction projects may be awarded forgivable loan for up to 100% of actual costs, not to exceed \$15,000.
- b. **Federal Requirements Assistance:** Eligible costs for administration of applicable federal provisions may be awarded principal forgiveness for up to 100% of actual costs, not to exceed \$15,000. Activities eligible for this budget line items are as follows:
 - American Iron and Steel tracking and compliance.
 - Build America-Buy America tracking and compliance.

- Procurement and contracting.
- Compliance with EPA's Disadvantaged Business Enterprise Program including documenting the required Six Good Faith Efforts.
- Other costs associated with federal requirement compliance as approved by Business Oregon.

XI. Amendments to Increase Award

In the case of a request to increase funding award for an existing project through a contract amendment, the following policies exist:

- a. **Fund Availability.** An amendment for increased award will only be provided if there are adequate SDWRLF funds to accommodate the request and if the borrower is able to meet financial criteria upon agency review. In the case of inadequate SDWRLF funds to accommodate the request Business Oregon staff may facilitate exploration of other state and federal funding opportunities to address the unmet funding need.
- b. **Interest Rate.** The interest rate for the increased funding amount shall be the same rate applied to the original loan award.
- c. **Forgivable Loan.** Additional forgivable loan may be considered for an amendment to increase award. The forgivable loan caps and categories in place at the time of amendment will be used to determine additional forgivable loan award and the forgivable loan award may not exceed 50% of increased award amount.
- d. **Loan Fee.** For those projects subject to the loan fee an increased award amount will also increase the loan fee budget line item.
- e. **IFA Board and DWAC:** Depending on the amount of additional funds requested, approval by the IFA Board and/or the Drinking Water Advisory Committee may be required prior to increased funding award.

XII. Policies Regarding Deviation from Standard Subsidy Approach

Forgivable loan awards typically conform to the categories described in this document. Deviations (increases or reductions) to the forgivable loan categories may be made based on the following factors and in consultation with OHA:

- i. Restructuring, consolidation, or regionalization potential
- ii. Community affordability
- iii. Public health risk
- iv. Projects that address a Governor declared emergency
- v. Projects that are identified as an environmental justice project, emergency project, or otherwise characterized on OHA's Project Priority List as an urgent priority.
- vi. Water system purchases (purchase price may not be subsidized)
- vii. Business Oregon may limit the amount of forgivable loan a single entity may receive through multiple SDWRLF funding awards. Unless otherwise allowed by Business Oregon, an entity may not be awarded a subsequent forgivable loan award until two years has elapsed from date of SDWRLF contract execution.

- This policy does not preclude an entity from receiving a SDWRLF loan or impact subsidized interest rate.
- Amendments to existing awards (XI, c) are not subject to this policy.
- Exception may be made based on factors including i.- v. of this section or based on Business Oregon need to remain in compliance with EPA requirements for awarding subsidy.
- This policy does not apply to technical assistance forgivable loan awarded through the Sustainable Infrastructure Planning Projects program funded through SDWRLF.

**The 2022 State of Oregon's (BIL General Supplemental) DWSRF Program
EPA Grant Allotment Use Summary**

GRANT APPLICATION TOTALS			
(1.) FFY-2022 appropriation (\$23,673,000); (2.) State Match total (\$2,367,300)			
Combined total (\$26,040,300)			
Program use of Grant Funding	Federal Funds	Percent of Grant*	State Match Funds (total must equal 10% appropriation)
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*** • <u>Sustainable Infrastructure Planning Program (SIPP)</u> • <u>Small System Equipment Assistance (SSEA)</u> (temporarily postponed) • "Principle Forgiveness" (additional subsidy) projects requires: \$11,599,770 (49%) of FFY2022 allotment to be used for disadvantaged communities only. 	\$18,885,320	79.78%	\$2,367,300
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	\$946,920	4.00%	\$0
2 - Small System Technical Assistance (CR) (up to 2%) (AC:0251) EPA Site Project Code: DE	\$473,460	2.00%	\$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	\$2,367,300	10.00%	\$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 2022 (DEQ, Tech Asst, GIS, Training & Support) (AC:0252) • EPA Site Project Code: DGC WATER SYSTEM CAPACITY DEVELOP = \$1,000,000 (4.22%) (Technical, Managerial, Financial skill building assistance to Water System Operators) (AC:0255) • EPA Site Project Code: DGB DRINKING WATER SOURCE PROTECTION = Zero (\$0) allocated (0%) for 2022 (Loans & grants for Source Protection Projects paid out of the DWSP Fund) (AC:0256) 	\$1,000,000	4.22%	\$0
TOTAL USE OF GRANT FUNDS	\$23,673,000	100.00%	\$2,367,300

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 (2021 Total Net Position = \$312,116,326), 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 2022 BIL Supplemental grant request.**

Project Selection Methodology – Bipartisan Infrastructure Law (BIL) General Supplemental – 2022

Projects intended for 2022 BIL General Supplemental funding represent a subset of communities on Oregon Health Authority's (OHA) existing Drinking Water Revolving Loan Fund (DWSRF) Project Priority List (PPL) that both demonstrated a readiness to proceed and were determined to be disadvantaged due to the community having a water system service area with a median household income (MHI) below the state MHI.

When engaging with communities, Business Oregon started with the highest PPL rated and ranked projects for disadvantaged communities that had not already moved forward with the base DWSRF program and/or state financing programs. A new requirement, Build America-Buy America (BABA), potential BABA waivers, and associated increased cost was discussed with each prospective funding applicant. Related to readiness to proceed, the willingness to take on, and ability to repay a loan was discussed. OHA identified the amount of subsidy available to 2022 BIL General Supplemental projects as well as the amount of set-aside funding that will be retained by OHA per standard procedure. An equal percentage of project cost is targeted in the form of subsidy for each BIL General Supplemental project.

The interest rate for each project will be determined when a completed funding application is submitted. Current (10/29/22) interest rates range from 1%-2.83% based on community user (water) rates. Business Oregon calculates the user rate impact of the project by multiplying the water system's service area MHI by 1.25% and dividing by 12 (months). This "threshold rate" is compared to the monthly residential water charge per equivalent dwelling unit (EDU) during a Business Oregon financial review. Disadvantaged communities that are determined through financial review to be faced with rates in exceedance of the threshold rate receive a 1% interest rate. A 30-year loan term length is offered to each project assuming the useful life of the improvements funded in the project is at least 30 years.



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

Kate Brown, Governor

Oregon
Health
Authority

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

Date: June 30, 2022

To: All Oregon Public Health Division Grantors

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, 2022 through June 30, 2023, the assumed rate of indirect cost allocation for Public Health programs is 18.06% 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



August 10, 2022

To: Any Concerned Parties

RE: Updated Oregon Health Authority Other Payroll Expenses 2021-23 Estimate

The current estimated Other Payroll Expense (OPE) rate for the 2021-23 biennium (from July 1, 2021 through June 30, 2023) for the Oregon Health Authority (OHA), Public Health Division (PHD) is 52.45%. 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 total budgeted salaries and OPE and actual average OPE costs for all positions within PHD.

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): 17.13% of salary
- PERS Pension Bonds (POB): 5.60% of salary
- Social Security and Medicare: 7.65% of salary

Fixed OPE Costs:

- Employee Relations Board (ERB): \$2.40 per month
- Worker's Compensation: \$1.91 per month
- Flex Benefits (Health Insurance): \$1,593 per month

Sincerely,

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



June 15, 2021

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 September 30, 2020, and subsequently revised electronically on February 2, 2021. This Plan, which was submitted in accordance with 45 CFR 95, Subpart E, is effective July 1, 2020.

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: 2021.06.17 06:30:24 -05'00'

Arif Karim, Director
Cost Allocation Services

cc: Terrence Perry, CDC
Elizabeth Naftchi, HRSA

Todd McMillion, CMS
Jack Goldberg, SAMHSA

Francisco Lebron, FNS

APPENDIX C: Timely & Expeditious Use of Funds

- Sources & Uses Table

SOURCES & USES TABLE

SFY 2022:	Beginning Cash Balance (Includes All SRF Sources)	148,773,622	148.77
	Current Revenues & Expenditures:		
	SRF Fund Loan Repayments	10,607,600	10.61
	SRF Fund Interest Earnings on Invested Funds	2,434,759	2.43
	Revolving Fund Disbursements	(8,536,095)	(8.54)
	State Match Disbursements	(2,895,904)	(2.90)
	Federal Disbursements	(9,674,479)	(9.67)
	Net Cash Revenue / (Expenditures)	(8,064,119)	(8.06)
	Ending State Match Balance	-	-
	Ending Undrawn Federal Funds (All Years)	-	-
	Total Cash Available (As of IUP)	140,709,503	140.71
	Commitments:		
	Executed Contracts	(83,783,524)	(83.78)
	Pending Contract Execution	(28,106,519)	(28.11)
	Intakes & Department Applications	(18,067,415)	(18.07)
	Total Commitments (As of IUP)	(129,957,458)	(129.96)
	Project Priority List (Not Listed Above)	(333,832,511)	(333.83)
	Ending SRF Fund Availability (As of IUP)	(323,080,466)	(323.08)
	Ending Balance Summary:		
	Ending Cash Balance	140,709,503	140.71
	SRF Funds Available	(323,080,466)	(323.08)
SFY 2023:	Beginning Cash Balance (Includes All SRF Sources)	140,709,503	140.71
	Projected Revenues:		
	Loan Capitalization (State Match & Federal)	12,615,726	12.62
	Interest Earnings on Invested Funds (thru 6/30/23)	2,239,978	2.24
	Scheduled Loan Repayments (thru 6/30/23)	14,345,487	14.35
	Estimated Repayments from Projects Soon to be Completed (thru 6/30/23)	1,246,851	1.25
	Total Future Recapitalization & Revenues	30,448,042	30.45
	Projected Expenses:		
	Projected Disbursements (Committed Projects)	(29,324,233)	(29.32)
	Projected Disbursements (Pending List)	(7,026,630)	(7.03)
	Projected Disbursements (Intakes & Applications)	(5,420,225)	(5.42)
	Total Project Expenses	(41,771,088)	(41.77)
	Net Increase / (Decrease) in Cash	(11,323,045)	(11.32)
	Ending Balance Summary:		
	Estimated Ending Cash Balance	129,386,458	129.39
	Remaining Commitments From Prior Years	(422,018,881)	(422.02)
	Estimated LOI's & Ready to Proceed Projects	(191,120,000)	(191.12)
	Estimated Ending SRF Fund Availability	(483,752,423)	(483.75)

Executed Contracts

Client	Short Description	Lenders Loan #	Remaining to Draw
Angler's Cove Shady Cove	Emergency Backup Generator	R21007	45,090.00
Christmas Valley Domestic	Water System Improvements	S22008	1,660,761.00
City of Adair Village	Adair Village Hospital Hill Waterline Replacement	S22007	655,690.00
City of Amity	Salt Creek Bridge Water Transmission Main	S20014	1,093,801.00
City of Ashland	New 2.5 MG Water Treatment Plant	S16021	12,262,274.00
City of Banks	Banks Water Supply Development - Phase 1	S20011	6,231.00
City of Banks	Capital Improvement Project	S18006	411,332.00
City of Beaverton	Aquifer Storage and Recovery (ASR) Well No. 5	S15006	748,021.00
City of Brookings	Water System Upgrades	S22005	4,077,519.00
City of Cannon Beach	Water Meter Replacements	S20003	327,272.00
City of Cannon Beach	Backbone Resiliency Project Phase 1	S22002	586,000.00
City of Chiloquin	Water System Design / Construction	S17021	2,088,700.00
City of Coburg	Water System Improvements	S19007	4,498,230.00
City of Columbia City	Reservoir and Distribution Line Improvements	S17032	45,500.00
City of Detroit	Distribution System Replacement	S18013	211,864.00
City of Gold Beach	Gold Beach Raw Water Treatment Plant Improvements	S20001	2,244,736.00
City of Haines	Water System Distribution Improvements	S21018	1,214,000.00
City of Hines	Water System Improvements	S18014	797,351.00
City of Jefferson	Water Treatment Plant	S18001	1,042,917.00
City of La Pine	Water System Improvements	S17027	2,000,000.00
City of Mill City	Replacement of Waterlines and Meters	S21004	1,917,596.00
City of Mitchell	Water System Preliminary Engineering Report	S20013	20,000.00
City of North Plains	Reservoir & Pump Station Improvements	S19005	1,030,506.00
City of Oakland	Seismic Risk Assessment and Mitigation Plan	S21003	11,000.00
City of Oakridge	Well No. 2 Improvements	S22006	260,000.00
City of Pendleton	Water System Improvements - Final Design & Constr	S17018	4,000,000.00
City of Pendleton	Water System Improvements - Final Design & Constr	S17018	8,428,970.00
City of Rogue River	Water Infrastructure Projects	S21014	3,634,209.00
City of Rufus	Well Feasibility Study	S21016	20,000.00
City of Sodaville	Well #6 and 75,000 Gallon Reservoir	S18003	567,000.00
City of Sutherlin	Nonpareil Water Treatment Plant Improvements	S19026	2,946,655.00
City of The Dalles	Dog River Pipeline Replacement Project	S21013	4,030,000.00
City of Turner	Seismic Risk Assessment and Mitigation Plan	S19012	1,462.00
City of Union	Water Rate Study	S20015	4,644.00
City of Unity	Water System Study 2019	S19021	20,000.00
City of Warrenton	NW Warrenton Dr Transmission Main Replacement	S17012	1,645,000.00
Crescent Water Supply and	Seismic Risk Assessment & Mitigation Plan	R22002	20,000.00
Crescent Water Supply and	Water Master Plan and Drill a New Well	R22003	793,954.00
Crystal Springs Water Dis	Parkdale Water Company Acquisition Feasibility Stud	S20020	20,000.00
Crystal Springs Water Dis	Odell Water Consolidation	S19003	661,825.74
Crystal Springs Water Dis	South Reservoir	S19002	824,846.00
Crystal Springs Water Dis	Mid-Valley Reservoir	S17013	1,266,151.00
East Yamhill Rural Water	Master Plan/Asset Mngmt Plan /Leak Detection Study	R17010	20,000.00
Falcon Cove Beach Water D	Water Production Capacity Increase	S20010	88,825.00
Falcon Heights Water & Se	Water System Preliminary Engineering Report	R21001	20,000.00
Johnson Creek Water Servi	Water System Improvements	S22003	4,225,178.00
Kozy Acres Water Supply C	Replace Failing Water Storage Tank	R19008	55,636.00
Laidlaw Water District	New Reservoir/Meter Upgrade/Treatment	S19011	124,063.00
Lakewood Homeowners Inc.	Distribution System Replacement Feasibility Study	R22008	20,000.00
Long Prairie Water Distri	Water System Master Plan	S21001	20,000.00
Luckiamute Domestic Water	Well Number 5 and Transmission Line	R18002	4,210,000.00
Lusted Water District	Distribution System Improvements	S18019	3,068,366.00
Manzanita Hills Homeowner	Manzanita Hills HOA Arsenic Treatment	R21003	113,738.00
Minikahda Water District	MWD Distribution System Replacement Project	R20004	191,360.00
Mount Angel Abbey and Sem	Long Range Water System Master Plan	R20009	20,000.00
Neahkahnie Water District	G.I.S. Development	S20002	20,000.00
Nesika Beach-Ophir Water	Seismic Risk Assessment and Mitigation Plan	S20016	8,030.00
Panther Creek Water Distr	Seismic Risk Assessment and Mitigation Plan	S22013	15,150.00
Pine Grove Water District	New Storage Tank	S21002	360,000.00
Pleasant Valley Water Com	Water System Master Plan	R21004	20,000.00
Rainbow Rock Service Asso	Feasibility Study	R22005	12,531.00
Round Lake Mobile Home Pa	Feasibility Study	R21011	20,000.00
Row River Valley Water Di	Leak Detection DS	S19027	17,191.00
Seal Rock Water District	Water Intake, Treatment and Transmission	S18011	58,393.00
Skyline View District Imp	Skyline VDIC Water Master Plan	R21002	6,250.00
Tooley Water District	Nitrate Levels Resolution Feasibility Study	S21015	20,000.00
Trollers Cove Water Assoc	Trollers Cove Ground Water Source Protection	R21005	178,809.00
Whaleshead RV Park & Reso	Water System Rehabilitation Feasibility Study	R21006	4,597.00
Whispering Pines Mobile H	Connection to Charlotte Ann Water District	R22004	158,399.00
Winston-Dillard Water Dis	New Raw Water Intake	S21005	2,545,900.00
Youngs River Lewis & Clar	Seismic Risk Assessment and Mitigation Plan	S21009	20,000.00
			\$83,783,523.74

Pending Contracts

Project #	Client	Short Description	Approved Amount
8904	Burlington Water District	Riverview Water Main Upgrade and Construction	314,650.00
18714	City of Joseph	Distribution System Improvements 2022	3,055,895.00
20812	City of Monroe	Monroe Water Treatment DBP Remediation	20,000.00
23017	City of Rainier	Water Master Plan Update	20,000.00
23835	City of Salem	Sleepy Hollow Water System Integration	1,132,810.00
44306	Heceta Water People's Uti	Water System Improvements	6,770,089.00
89301	Midland Water Association	Feasibility Study	20,000.00
91815	City of Detroit	Water System Wildfire Rebuild	200,000.00
100006	City of Beaverton	North Transmission Intertie	10,000,000.00
156304	City of Cannon Beach	Backbone Resiliency Project Phase 2	3,215,000.00
472105	City of Donald	New Well	2,055,375.00
523601	Welches Water Company	Water Storage System	105,050.00
627805	Glide Water Association	Water Treatment Capacity Upgrades	743,650.00
660903	Clarks Branch Water Assoc	Water Storage Tank Enlargement Redundancy Pr	454,000.00
			\$28,106,519.00

Intakes & Applications

Deal #	Client Name	Short Description	Finance Amount
13537	South Hills Water System	Water System Update	220,000.00
13937	Aldridge Ditch Company	Pump Station Replacement	55,000.00
14359	Umpqua Ranch Cooperative	Water System Rehabilitation Projects	960,000.00
14366	Corbett Water District	Seismic Assessment and Mitigation Plan	20,000.00
14369	Pleasant Valley Water Company	Regional Water Supply Planning Study	20,000.00
14374	Otter Rock Water District	Full Scope - Otter Rock Water District	3,500,000.00
14380	Ochoco West Water and Sanitary Authority	Ochoco West Filtration System	295,000.00
14397	CHR District Improvement Company	Bridge Replacement Project	95,096.00
14413	Corbett Water District	Water Master Plan	20,000.00
14469	Youngs River Lewis & Clark Water District	Water system improvements	708,500.00
14503	Beaver Water District	Water System Improvements Design & Construction	2,967,300.00
14536	City of Jacksonville	Water Infrastructure Projects	1,590,927.00
14550	City of Willamina	Water Tank Relocation	5,055,592.00
14664	Sunset Hills Domestic Water Association	Well Additions and Supporting Infrastructure	20,000.00
14667	Wickiup Water District	Wickiup Water Source Study	20,000.00
14713	Burlington Water District	BWD Service Meter Replacement Project	80,000.00
14714	City of Fairview	Fairview Water Utility Well #10	2,300,000.00
14724	Deer Creek Estates	Water Rate Study	20,000.00
14731	Tierra Del Mar Water Company	Tierra Del Mar Water Co Water System Improvements	20,000.00
14735	City of Stayton	Utility Rate Study	20,000.00
14736	Bay Hills Water Association	Earthen Dam Feasibility Study	20,000.00
14737	Sleepy Hollow Mobile & RV LLC	Sleepy Hollow RV & Mobile Home Park Feasibility St	20,000.00
14738	City of Gaston	Seismic Resiliency Plan & Leak Detection Study	20,000.00
14740	Crystal Springs Water District	Water Master Plan 2022	20,000.00
			\$18,067,415.00

Projects on the PPL that are viable for funding through the 2022 Cap Grant

LOI #	Water System Name	Project Short Description	LOI Funding Request	Notes
SD-21-356	City of Pendleton	Water System Projects - Ongoing Improvements	\$23,000,000.00	
SD-22-355	City of Umatilla	Power city connection	\$4,652,226.00	
SD-22-338	City of Grants Pass Sportsmans Park Water Association	Water Treatment Plant Replacement	\$76,000,000.00	
SD-21-325	Association	SPWA Arsenic Water Treatment Project	\$24,365.00	
SD-21-331	City of Hillsboro	Upper System Pipeline Replacement	\$47,584,000.00	
SD-22-358	City of Falls City	Water System Improvements	\$1,563,798.00	
SD-22-344	Lincoln County Water PUD	AC Piping Replacement	\$7,123,000.00	
SD-22-364	City of Gaston	Trails End Pump Station Improvement	\$730,000.00	
SD-20-322	Christmas Valley Domestic	Distribution System Replacement	\$2,985,000.00	
SD-22-346	City of Paisley Sunset Hills Domestic Water Association	Water System Improvements	\$3,319,262.00	
SD-22-335	Association	Well Additions and Supporting Infrastructure	\$574,269.00	
SD-22-350	Scravel Hill Water Coop	AC Piping Replacement	\$1,917,000.00	
SD-21-318	City of Pendleton	Water System Projects - Ongoing Improvements	\$23,000,000.00	
SD-22-349	Zigzag Water Coop	Tank replacement/generator purchase	\$400,000.00	
SD-22-353	City of Hubbard	Water System Improvements	\$1,737,500.00	
SD-22-345	City of Powers	SCADA replacement	\$194,991.00	
SD-19-262	Tierra Del Mar Water Company	Wooden Watertank Replacement	\$276,000.00	
SD-22-347	Klamath Falls Water Dept	Center North and South Reservoir project	\$6,000,000.00	
SD-22-361	City of Astoria	Meter Installation	\$1,902,384.00	
SD-22-352	City of Independence	New well, pumphouse, and reservoir	\$3,100,000.00	
SD-22-351	City of Corvallis	Resiliency Improvements	\$10,000,000.00	
SD-22-354	City of Cannon Beach	Backbone Resiliency Project - Phase 3	\$12,100,000.00	
SD-19-254	City of Cannon Beach (Version 2)	Backbone Resiliency Project	\$13,947,763.00	
SD-22-359	City of Dallas	New Reservoir	\$4,425,450.00	
SD-21-329	City of Nehalem	Anderson Creek Raw Water Transmission Main	\$430,000.00	
SD-22-357	City of Estacada	New Reservoir	\$2,015,000.00	
SD-22-360	City of Carlton	Distribution System Improvements	\$991,000.00	
SD-22-362	Boring Water District #24	Reservoir Construction	\$1,750,000.00	
SD-22-341	City of Hillsboro	Willamette Water Supply System	\$50,000,000.00	
SD-21-328	Tualatin Valley Water District	Willamette water Supply System WTP - Ozone and Ultraviolet Treatment	\$31,857,503.00	
SD-22-363	Arch Cape Water District	Meter Replacement	\$152,000.00	
SD-22-348	Eastmont Water Company	Seismic Planning	\$80,000.00	
TOTAL			\$333,832,511.00	

APPENDIX D: Set-Aside Work Plans – BIL General Supplemental

- Administrative Expense
- Small System Technical Assistance
- State Program Management
- Local Assistance & Other State Programs:
 - i. Capacity Development

**2022 Work Plan – DWSRF (BIL General Supplemental)
Oregon Health Authority, Public Health Division
Administrative Expense – Loan Fund & Set-Aside**

General

This is a continuation effort to administer and operate the Loan Fund and Set-Asides, which is carried out jointly under the new Inter-Agency Agreement (IAA) between the Oregon Health Authority (OHA) and Business Oregon.

BIL General Supplemental funding increases Oregon’s “Base” DWSRF program’s project funding capabilities and its ability to administer its Set-Asides more effectively to further support drinking water systems statewide.

Funding

Funding for this Set-Aside is **\$946,920** or 4% of EPA’s FFY-2022 BIL General Supplemental allotment to Oregon of **\$23,673,000**. This funding level supports 7.80 FTE between OHA (3.00) and Business Oregon (4.80).

These Set-Aside funds will be targeted for use during SFY-2023-24 (i.e., July 1 – June 30).

Goals and Objectives

The goal is to provide the administrative framework necessary for eligible public water suppliers to access loan funds for planning, engineering design, and construction projects needed to meet current or future drinking water quality standards and to further public health provisions of the amended 1996 Safe Drinking Water Act. Specific objectives include, but are not limited to:

- < Apply for and administer the annual capitalization grant from US-EPA
- < Manage infrastructure and planning project reviews, ratings, and rankings quarterly
- < Process loan applications and execute loan agreements
- < Monitor progress of planning, design, and construction projects
- < Manage contracts for assistance to water suppliers
- < Process project payments
- < Receive and process loan repayments
- < Report on program progress and results
- < Assess and implement new priorities and changes to the program to better serve Oregonians
- < Coordinate with Business Oregon Regional Staff in conducting timely capacity assessments and environmental reviews
- < Coordinate Drinking Water Source Protection (DWSP) grant processing
- < Manage Set-Aside funds and programs

Implementation Responsibility

OHA is the lead agency, responsible for the annual EPA capitalization grant application process,

the rating and ranking of eligible drinking water projects, establishing program priorities, managing service contracts for assistance to water suppliers, and oversight of the Loan Fund operation and results. Business Oregon operates and administers the Loan Fund project financing for the individual water system projects.

Evaluation of Results

The primary results of work under the Administrative Expense Set-Aside are the financing and completion of drinking water system projects. The number of projects initiated, in progress, and completed will be reported annually along with an overall evaluation. Additional Administrative Expense Set-Aside efforts will continue to be used for the overall oversight of the program and to administer and manage the annual grant application processes.

**2022 Work Plan – DWSRF (BIL General Supplemental)
Oregon Health Authority, Public Health Division
Small Water System Technical Assistance**

General

This is continuation of effort.

Through Oregon's Drinking Water State Revolving Fund (DWSRF), contracts have been established with drinking water Circuit Riders to provide short-term (typically 10 hours or less) on-site technical and engineering assistance for community water systems serving populations under 10,000, as well as nonprofit transient and non-transient water systems. For these systems, services are free.

Beginning with the 2022-2027 Circuit Rider contract, Oregon will also utilize state general funds to provide technical assistance to water systems that are not eligible for traditional circuit rider assistance, excepting only federally owned water systems. As above, these services are intended to provide short term technical and engineering assistance (typically 10 hours or less) and are provided free of charge.

Program activities include:

On-Site Technical Assistance – The contractor receives requests for assistance directly from the water system, or requests initiated from state and county staff. Contractors perform quick response, one-on-one technical assistance that aids in solving short-term operational problems, assists with compliance-related issues, and provides technical, managerial, and planning information to system operators and administrators. Services are generally restricted to 10 hours or less per system without prior approval from OHA management.

SRF Program Assistance – The contractor also provides assistance to systems seeking SRF financing needing a pre-engineering design report to initiate the loan process or just to get help 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. A part of this determination is Crypto sampling. Similarly, 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.

NEW - Project Management - Contractor shall assist water systems identified by OHA by providing project management duties for approved service actions. This service shall consist of, but is 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.

NEW – Asset Management - Contractor shall provide 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 - Oregon also provides training and assistance to small water systems in their efforts to comply with small water system operator certification requirements. Oregon contracts with an outside training provider to provide monthly training classes for small water systems. 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.

Funding

The funding from the Technical Assistance set-aside is **\$473,460** or **2%** of EPA's FFY-2022 BIL General Supplemental allotment to Oregon of **\$23,673,000**. Funding will support Oregon's circuit rider program and 0.45 FTE.

These set-aside funds will be targeted for use during SFY-2023-24 (i.e., July 1 – June 30).

Implementation Schedule

Circuit rider services are delivered statewide on as needed basis. Small water system training classes are delivered 20 times per year at numerous locations throughout the state.

Implementation Responsibility

Service contracts are offered through an open competitive Request for Proposal (RFP). A Department (OHA) committee selects the most qualified contractor candidates, and they will enter into a standard contract generally for a period of two years, but which can be extended or amended up to a maximum of five years with the agreement of all parties. The Department will provide contract oversight and assure contracts are current and meet state contract requirements.

Evaluation of Results

The Department evaluates contractors periodically by reviewing contact reports of technical assistance provided, and satisfaction surveys of the water systems receiving technical assistance and training. Long-term evaluation is based on compliance status trends (such as the Oregon Benchmarks) of the water systems being served.

For more circuit rider information, visit

<http://public.health.oregon.gov/HealthyEnvironments/DrinkingWater/Operations/Pages/circuitrid>

[er.aspx](#)

For more information about our small water system training program, visit

<http://public.health.oregon.gov/HealthyEnvironments/DrinkingWater/OperatorCertification/SmallWaterSystems/Pages/schedule.aspx>

**2022 Work Plan – DWSRF (BIL General Supplemental)
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 and USEPA annually negotiate the PWSS.

Funding

The funding from the State Program Management (SPM) set-aside is **\$2,367,300** or **10%** of EPA's FFY-2022 allotment to Oregon of **\$23,673,000**.

Additionally, the one-to-one overmatch requirement was removed as set forth by the December 2016 Water Infrastructure Improvements for the Nation (WIIN) Act, Subtitle A, §2103 SDWA §1452 (g)(2).

These funds will support 9.80 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-2023-24 (i.e., July 1 – June 30).

Implementation Responsibility

The Oregon Health Authority provides the leadership for the Oregon Drinking Water Services. The Oregon 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. The Oregon Health Authority displays these measures on-line. The Oregon Health Authority conducts formal audits of contracts every three years.

2022 Work Plan – DWSRF (BIL General Supplemental)
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.

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, financial planning, and water system survey deficiencies. 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 initiated the contract with a third party, certified education facility, to create 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 and managerial 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

The Water System Capacity Program is a continuation effort. This year's funding for the Capacity Program is **\$1,000,000** which is **4.22%** of EPA's FFY-2022 allotment to Oregon of **\$23,673,000**. This funding level supports 5.25 FTE in the DWS of the Oregon Health Authority, contracts, and related operating costs.

These set-aside funds will be targeted for use during SFY-2023-24 (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: Public Notices

- Intended Use Plan (IUP) Public Notice Letter
- PPL Semi-Annual Public Notice Letter



PUBLIC HEALTH DIVISION
Center for Health Protection, Drinking Water Services

Tina Kotek, Governor

Oregon
Health
Authority

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

March 10, 2023

Legal Notice

Legal notice of public review and comment period concerning the proposed 2022 Intended Use Plan (IUP) attached below for Oregon's new Bipartisan Infrastructure Law (BIL) General Supplemental program. The BIL General Supplemental increases funding to Oregon's existing Drinking Water State Revolving Fund (DWSRF) program.

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 low-interest loan assistance 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 2022.

The public comment period for the IUP will be from Wednesday, March 15 through Friday, April 14, 2023. If you would like to make a comment, please email your comments to DWS.SRF@odhsoha.oregon.gov by no later than 5pm on Friday, April 14th to be considered. If you have questions, you may also email or call me at (503) 956-8287.

Thank you!

Adam DeSemple

PROGRAM COORDINATOR, DWSRF/BIL
Oregon Health Authority
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<http://healthoregon.org/dwp>

December 30, 2022

Legal Notice

Legal notice of public review and comment period concerning proposed changes to the combined Project Priority List (PPL) for Oregon's Drinking Water State Revolving Fund (DWSRF) for the end of the first quarter of state fiscal year 2023. This updated 2022 PPL now includes eligible drinking water infrastructure projects that will be considered for both "base" DWSRF and new [Bipartisan Infrastructure Law \(BIL\)](#) General Supplemental funding. Projects intended for 2022 BIL General Supplemental funding are highlighted in yellow (see the notes section at the bottom of PPL for Project Selection Methodology). All others will be considered for "base" DWSRF funding. Visit the BIL webpage for more details about this new opportunity.

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 a 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 for strict compliance, health risk, consolidation, and affordability criteria to determine ranking and placement on the PPL. Before projects can be funded, we are obligated to provide the public the opportunity to review and comment on proposed changes to the PPL.

The public review and comment period for proposed changes to the PPL will be from Monday, January 9 through Wednesday, January 18, 2023. If you would like to make a comment, please email me your comments by no later than 5pm on Wednesday, January 18th to be considered. If you have questions, you may also email or call me at (503) 956-8287.

Thank you.

Adam DeSemple

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

APPENDIX F: Agreements

- 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** 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.
- 2.3** The Oregon Health Authority, Public Health Division, Drinking Water Services program (“OHA”) has the statutory responsibility for administration and enforcement of federal and state drinking water standards and rules in Oregon. The OHA establishes public health priorities for public water systems and provides technical assistance and outreach utilizing fund set-asides.
- 2.4** 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, and loan principal and interest repayments.
- 2.5** 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, 2021** and shall terminate on **June 30, 2023**, unless terminated earlier in accordance with Section 7.

Safe Drinking Water Program in Oregon

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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@dhsoha.state.or.us

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@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 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, 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 the biennium.

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 capitalization grant. The match is required to be made on or before the time that EPA funds are drawn.

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.

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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 each annual federal capitalization grant for:

- 5.4.1 Administrative expenses – not to exceed 4 percent of the cumulative allotment. IFA will bill OHA 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 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.

Safe Drinking Water Program in Oregon

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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. Fee revenue may be used for:

- 5.9.1** Innovation in the areas of online application, project management, contracting, project inventorying, and fund management tools.
- 5.9.2** To enhance program resiliency through the development of a fee account balance to support continued operations if faced with USEPA funding reduction or elimination.
- 5.9.3** To offset any increased IFA personnel costs on the annual administrative expenses set-aside moneys including but not limited to the hiring of a temporary employee, limited duration employee, or contractors.

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 loan recipients for infrastructure 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 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.

5.13 Financial Review

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

5.14 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.

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5.15 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.

5.16 Environmental Review Requirements

OHA will maintain Oregon Administrative Rules and 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.

5.17 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.

5.18 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.

5.19 Equipment and Real Property Management

Equipment: Title to equipment acquired by a subrecipient with federal awards vests with the subrecipient. Equipment means tangible nonexpendable property, including exempt property, charged directly to the award having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A State shall use, manage and dispose of equipment acquired under a federal grant in accordance with state laws and procedures. Subrecipients shall use state laws and procedures for equipment acquired under a subagreement from the State

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.

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- 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

Safe Drinking Water Program in Oregon

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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.

SECTION 6: COMPENSATION AND PAYMENT TERMS

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 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 5.9 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 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.

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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.

Safe Drinking Water Program in Oregon

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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 electronic Oregon Procurement Information Network (ORPIN), 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.

Safe Drinking Water Program in Oregon

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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.

Safe Drinking Water Program in Oregon

Agreement #169043

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: Chris Cummings Digitally signed by Chris Cummings
Date: 2021.06.14 23:55:59 -07'00' _____ Date _____

Chris Cummings _____ Assistant Director _____
Printed Name Title

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

By: Andre Ourso _____ 06/30/2021 _____
Date

Andre Ourso _____ Administrator _____
Printed Name 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, 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, 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, 2021** and shall terminate on **June 30, 2023**, unless terminated earlier in accordance with Section 7.

SECTION 4: AUTHORIZED REPRESENTATIVES

4.1 OHA's AUTHORIZED REPRESENTATIVE IS:

Dave Emme
800 NE Oregon Street, Suite 611
Portland, OR 97232-2162
Office: (971) 673-0405
Fax: (971) 673-0694
Email: david.h.emme@state.or.us

4.2 DEQ's AUTHORIZED REPRESENTATIVE IS:

Julie Harvey
700 NE Multnomah Street, Suite 600
Portland, OR 97232
Office: (503) 229-5664
Fax: (503) 229-6037
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

OHA has been granted primacy by Environmental Protection Agency (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, per the Federal fiscal calendar, 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 fiscal year (July 1 through June 30).
- c. Serve as the lead agency in coordinating and submitting the data for the annual (typically but not always in September covering the period from July 1 to June 30) 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, as needed, 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.

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- 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

DEQ has delegated statutory responsibilities to implement the Clean Water Act and is the designated lead agency for wellhead protection in Oregon. Therefore, DEQ will:

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 work plan.
- b. Provide monthly invoices that include a report on the status of tasks included in the work plan 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 (typically but not always in September covering the period from July 1 to June 30) 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

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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.

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- 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 Federal, state and local agencies.
- 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., Oregon Department of Agriculture, Oregon Department of Forestry, Oregon Water Resources Department, Oregon Department of Fish and Wildlife, Department Land Conservation and Development, National Resource Conservation Service (NRCS), US Forest Service, and US Bureau Land Management).
- 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.

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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 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 **\$1,723,833.00**. 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 Dave Emme, 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.
- 7.2 A Party may terminate this Agreement upon 30 days written notice to the other Party.
- 7.3 A Party may terminate this Agreement 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:
- a. 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;
 - b. 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;
 - c. 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 course 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 electronic Oregon Procurement Information Network (ORPIN), 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 Oregon Department of Environmental Quality:

Leah Feldon
Leah Feldon (Jul 13, 2021 14:09 PDT)

Leah Feldon, Deputy Director

07/13/2021

Date

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



David Emme, Manager
Drinking Water Services

7/21/2021

Date

APPROVED
By Andre Ourso at 4:14 pm, Jul 20, 2021

André Ourso, Administrator
Center for Health Protection

7/20/2021

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