SAFE DRINKING WATER IN OREGON:

Program Guidelines and Applicant's Handbook for the Federally Funded

Safe Drinking Water Revolving Loan Fund

Partners in Bringing Safe Drinking Water to Oregonians

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Revision History

Key additions or changes from the prior version are summarized below. This list is not exhaustive.

Prior Version: January 2026

Relevant Section	Description of Changes
Throughout	Update language from Letter of Interest (LOI) to pre-application in advance of the February 2027 submission deadline
Section 2	Renamed from Financing Details to Financing Terms and updated URL linking to updated Financing Terms document
Section 2.3 Underwriting Standards	Added Section 2.3 describing Business Oregon's policy for underwriting standards for financial documents (including audits) to be submitted with applications
Throughout, especially Appendices E & F	Removal of information pertaining to Bipartisan Infrastructure Law (BIL) Lead Service Line Replacement Funding due to lack of known lead service lines in Oregon and no eligible projects for this funding

Acronyms

ACS	American Community Survey
AIS	American Iron and Steel
BABA	Build America, Buy America
BIL	Bipartisan Infrastructure Law
BIL-EC	Bipartisan Infrastructure Law – Emerging Contaminants
BIL-GS	Bipartisan Infrastructure Law – General Supplemental
BIL-LSLR	Bipartisan Infrastructure Law – Lead Service Line Replacement
BOLI	Bureau of Labor and Industries
CFR	Code of Federal Regulations
DAC	Disadvantaged Community
DBE	Disadvantaged Business Enterprise
DBRA	Davis-Bacon and Related Acts
DEQ	Oregon Department of Environmental Quality
DOGAMI	Department of Geology and Mineral Industries
DOJ	Department of Justice
DOL	Department of Labor
DWSPF	Drinking Water Source Protection Fund
DWSRF	Drinking Water State Revolving Fund
EC	Emerging Contaminants
EC-SDC	Emerging Contaminants – Small or Disadvantaged Communities
EID	Environmental Information Document
EPA	U.S. Environmental Protection Agency
GAAP	Generally Accepted Accounting Principles
GIS	Geographic Information System
IFA	Infrastructure Finance Authority
IIJA	Infrastructure Investment and Jobs Act
LOI	Letter of Interest
MBDA	Minority Business Development Agency
MHI	Median Household Income
MIAO	Made in America Office

OAR	Oregon Administrative Rule
OHA	Oregon Health Authority
OMB	Office of Management and Budget
ORS	Oregon Revised Statute
PCS	Potential Contaminant Source
PET	Project Elements Table
PPL	Project Priority List
PWS	Public Water System
RDO	Regional Development Officer
RPM	Regional Project Manager
SAA	Single Audit Act
SAM	System for Award Management
SBA	Small Business Administration
SDWA	Safe Drinking Water Act
SDWRLF	Safe Drinking Water Revolving Loan Fund
SERP	State Environmental Review Process
SIPP	Sustainable Infrastructure Planning Project
SSEA	Small System Equipment Assistance
TA	Technical Assistance
UEI	Unique Entity ID
USC	Unites States Code
WD	Wage Determination
WIFIA	Water Infrastructure Finance and Innovation Act

Section One—SDWRLF Program Basics

1.1 Purpose of this Document

The Safe Drinking Water Revolving Loan Fund (SDWRLF) program is a federal-state partnership to help ensure safe drinking water by providing financial support to eligible water systems in Oregon. The SDWRLF is funded by the U.S. Environmental Protection Agency (EPA) through the Drinking Water State Revolving Fund (DWSRF) which was established through the 1996 Amendments to the Safe Drinking Water Act (SDWA). The purpose of this document is to provide information on program characteristics, describe the application process, and outline project requirements and project management for successful applicants.

Oregon's SDWRLF program receives annual DWSRF capitalization grants from the EPA. Funding through the SDWRLF program is awarded to eligible water systems through various specific sub-programs that are managed under the umbrella of the SDWRLF. The capitalization grant allows for a portion of the funding to be "set-aside" by the state to be used for various purposes, including program administration, technical assistance and capacity development, and source water protection programs.

In 2021, the passage of the Infrastructure Investment and Jobs Act (IIJA), otherwise known as the Bipartisan Infrastructure Law (BIL), created new programs and funding streams available for a limited time that will be managed under the existing SDWRLF (see Figure 1). This handbook is generally focused on the existing SDWRLF "base" program, which is the annually capitalized infrastructure funding program. The base program is supplemented with increased funding by the BIL-General Supplemental (GS) allotment. Other targeted Emerging Contaminants (EC) funding programs have many similarities to the base and BIL-GS programs, with additional specific eligibility and implementation requirements (see Appendix E for more information regarding the EC funding programs).

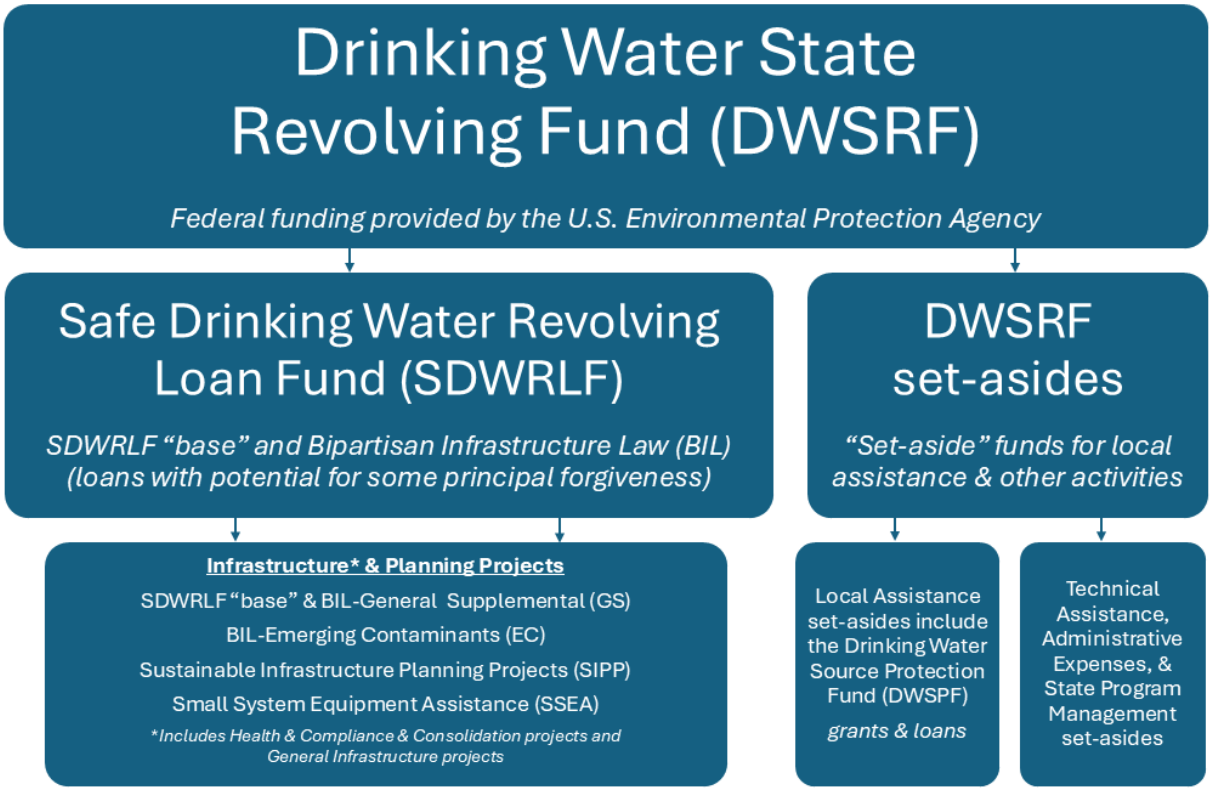

Figure 1: *Summary of Oregon's SDWRLF programs including Bipartisan Infrastructure Law (BIL) funding.*

1.2 Contact Information

For more information or for assistance with the application process, contact a Business Oregon Regional Development Officer (RDO). Additional program information including information about how to submit a pre-application can be found on the funding program web page.

1.3 Program Background

The SDWRLF program is jointly implemented by the Oregon Health Authority (OHA) Drinking Water Services and Business Oregon. The agencies work together to obtain funding from the federal government, approve eligible projects, administer the revolving loans, and undertake related activities. Oregon Revised Statute (ORS) 285A.213 authorizes Business Oregon's administration of the fund, which is further described in Oregon Administrative Rule (OAR) Chapter 123, Division 049.

The SDWRLF is primarily a loan program funded through a mix of federal capitalization grants, repayment dollars from loans, state matching funds, and interest. With its revolving loan structure, repayment of principal and interest are made available for future projects, amplifying the impact of the funding, and allowing the SWDRLF to invest in more water systems across the state. To maximize benefits of the funding, the EPA capitalization grants require the timely use of funds. Given this requirement and intent for maximizing benefit to Oregonians, Business Oregon works to move from application to contract in an efficient manner and to ensure that once contracted, projects are ready to proceed. This Handbook is intended to assist applicants and recipients in successfully navigating the SDWRLF process.

1.4 Eligible Applicants

Public or privately-owned community water systems are eligible to apply for funding. Additionally, non-community water systems that serve at least 25 people regularly are eligible if the system is recognized under Oregon law as owned and operated by a nonprofit corporation.

A public water system (PWS) is an entity that provides water for human consumption through pipes or other constructed conveyances. A community water system is a public water system that has 15 or more service connections used by year-round residents, or that regularly serves 25 or more year-round residents. The term "community" refers to the number and permanency of connections and users. All Oregon public water systems can be found in the Drinking Water Data Online database.

Non-municipal applicants must be an entity that is validly organized and existing under state laws and the entity must maintain an active registration with the Oregon Secretary of State throughout the duration of the contract.

Applicants that are not eligible for funding include federally owned water systems, for-profit non-community water systems, and systems that lack the technical, financial, or managerial capacity to ensure compliance, financial health, and loan repayment (see Section 3.10).

1.5 Disadvantaged Community

Under some programs, eligibility for principal forgiveness and amount will be determined by whether the water system meets the state's definition for disadvantaged community (DAC). Section 1452(d)(3) of the SDWA states that the term "disadvantaged community" means the service area of a public water system that meets the affordability criteria established by the state.

Oregon's current affordability criteria, updated in 2025, defines a disadvantaged community as:

- A public water system (PWS) with a service area that has a Median Household Income (MHI) less than the state MHI.
- Or, if a PWS has an MHI equal to or greater than 100% of the state MHI but less than 120% of the state MHI, then the system must meet two (2) of four (4) criteria:

    - Greater than the state poverty rate,
    - Greater than the state unemployment rate,
    - Greater than the state housing cost burdened rate,
    - Greater than the state rate of people with less than a high school education.

OHA assesses MHI and other criteria used in the DAC definition using the most recent American Community Survey (ACS) five-year data available from the U.S Census Bureau. OHA utilizes ACS data for the administrative boundary (census "place" data) or other more appropriate census statistical unit (e.g. census block group(s)) that are representative of the water system's geography.

In some cases, a water system may conclude that the ACS data is not reflective of its service area or demographics. The water system may wish to pursue a household income survey to determine the MHI specifically for their service area. While a household income survey may provide more accurate income data, it can require substantial time, cost, and effort to complete. Income surveys must be conducted by a qualified third party, and all associated costs are the responsibility of the water system, as these costs are not eligible for reimbursement under the program.

Water systems interested in pursuing a household income survey are highly encouraged to discuss this option with their Regional Development Officer (RDO) or Regional Project Manager (RPM) to ensure the resulting study will meet the program's requirements. The RDO or RPM can provide a copy of the current Household Income Survey Guidance document for more information. If the water system decides to proceed with the income survey, the RDO or RPM will provide a "Notification of Intent to Conduct Income Survey" form to formally initiate the process.

1.6 Eligible Projects

The three main types of drinking water infrastructure projects that may be funded are:

- Planning and Preliminary Engineering
- Design and Specifications
- Construction Improvements

Projects containing more than one of the above project types can be combined in a single application. For more information about eligible/ineligible project types and activities see Appendix A of this handbook.

1.7 Technical Assistance/Circuit Rider

The process of developing, funding, and administering an SDWRLF project can be complex, especially for smaller systems with limited capacity. There are a variety of technical assistance providers and resources that may be available to assist water systems. Business Oregon Regional Development Officers can often help connect systems to the appropriate resource. For a list of technical assistance providers and a summary of their services, please see Appendix G.

To address small community needs for technical assistance, OHA provides up to ten hours of Circuit Rider services, at no cost to the water system. The Circuit Riders are licensed engineers who can assess the needs of a water system and identify and assist with potential solutions. This service is available for water systems that serve a population of less than 10,000, as funds allow. For more information on Circuit Riders visit the Circuit Rider Program web page.

1.8 Drinking Water Source Protection Fund

The Drinking Water Source Protection Fund (DWSPF) provides financial assistance in the form of grants or loans to drinking water systems to help implement strategies designed to minimize the risk that contaminants might enter the drinking water supply. For more information on the DWSPF, including how to apply, visit OHA's Drinking Water Source Water Protection Projects web page and see Appendix C of this handbook.

1.9 Sustainable Infrastructure Planning Projects

The Sustainable Infrastructure Planning Projects (SIPP) program provides 100% forgivable loans for eligible planning projects. For more information on SIPP, including how to apply and funding limits, visit the SIPP web page and see Appendix D of this handbook.

1.10 Small System Equipment Assistance

The Small System Equipment Assistance (SSEA) program supports small scale addition or replacement of equipment and instrumentation for small water systems (less than 300 connections). SSEA is 100% forgivable loan funding up to a maximum of $20,000. For more information on SSEA, including eligible activities and costs, ineligible activities, Cost Documentation Guidance, how to apply, and other program requirements, please visit the SSEA web page on OHA's website.

1.11 SDWRLF Infrastructure Project Process Flow

For a visual representation of key milestones in the application and award management processes for infrastructure projects, see Appendix H of this handbook.

Section Two—Financing Terms

2.1 Financing Terms Overview

The SDWRLF provides below market interest rates on loan financing and forgivable loan awards. Financial offerings vary based on various factors, including:

- Disadvantaged Community status of the water system, as determined by OHA.

- Current water rates, and how water rates would be impacted when the project is complete.
- Source of the funding for the project (e.g. SDWRLF "base" versus BIL funding) due to subsidy requirements.

For more information about current financing terms of SDWRLF, see Business Oregon's most recent SDWRLF Financing Terms Document. The document provides details on various aspects of the program, including but not limited to the following:

- Loan Limits and Project Prioritization
- Rate Impact Review Process
- Interest Rates
- Loan Term Length
- Loan Fee
- Forgivable Loan Amounts

Federal appropriations and capitalization grant amounts from EPA change year to year. Business Oregon will update the Financing Terms based on projected available funding and current subsidy (forgivable loan) limits set by the EPA. Applicants can reach out to their RDO to learn more.

2.2 Security Pledges

Business Oregon requires security pledges for all approved loan financing. The form and amount of security is consistent with the nature of the project and the creditworthiness of the water system. Subordination of the SDWRLF loan to other system liabilities is considered on a case-by-case basis. Loan repayment may include pledges of utility revenues or other revenue funds. A water system debt coverage ratio of 1.20 is required and must be maintained through the life of the loan. Additional security pledges such as debt service reserves, real or personal property, personal guaranties, or other collateral also are considered. A municipal borrower must pledge its full faith and credit, unless by law, they cannot.

2.3 Underwriting Standards

Business Oregon has an underwriting policy for evaluating loan applications from public and private entities and their compliance with annual financial reporting (public) or minimum financial reporting standards (private). The policy has two separate underwriting standards:

- **Public entities** must comply with Oregon Secretary of State Annual Comprehensive Financial Report (ACFR) requirements, which may include an audit, agreed-upon procedures (AUP) report with financial statements, report in lieu of audit, or a summary of revenues and expenditures, depending on the entity's annual spending. Public entities with outstanding municipal bonds must also post any required financial disclosures on the Electronic Municipal Market Access (EMMA) website by a specific date.

- **Private entities** that are not subject to ACFR filing requirements must provide financial statements compliant with generally accepting accounting principles (GAAP).

2.3.1. Public Entity Requirements

Public applicants are expected to submit the following materials with their full application:

- Three consecutive years of the most recent finalized ACFRs.
- New public entities operating for fewer than three fiscal years:
    - submit all available ACFRs;
    - conditions are evaluated individually.

If the applicant is missing the current year ACFR:

Underwriting may proceed, and funding for planning, design, and other pre-construction activities may be provided; however, construction funds cannot be disbursed until the most recent ACFR is submitted and an updated financial review is completed. If the updated review identifies material financial changes, the loan may require reapproval. At Business Oregon's discretion, applicants may be required to provide a written explanation for the delay, an estimated completion date, and documentation demonstrating that an extension request was submitted to the Oregon Secretary of State.

If the applicant is missing the previous two years of ACFR filings:

If the previous two years of ACFR filings are missing, Business Oregon may proceed with underwriting; however, the loan contract will not be executed until the oldest outstanding ACFR has been filed. The length of time a contract may be held before being rescinded will be determined at Business Oregon's discretion. Once the ACFR is received, an updated financial review and approval are required, and previously approved projects may be subject to additional IFA Board review.

At Business Oregon's discretion, applicants may also be required to provide a written explanation confirming the audits are in progress, the name of the auditor, the estimated completion date, and documentation demonstrating that an extension request has been submitted to the Oregon Secretary of State.

If the applicant has three or more missing ACFRs:

Applicants with three or more consecutive years of missing ACFR filings are ineligible for underwriting. The application will be considered incomplete, and written explanations or other documentation will not override this determination.

2.3.2. Private Entity Requirements

Privately owned applicants are expected to submit with their full application:

- Three consecutive years of the most recent GAAP-compliant financial statements.
- New private entities operating for fewer than three fiscal years:
    - submit all available statements
    - provide current year-to-date financials
    - may proceed through underwriting with additional conditions, including borrower certifications, CPA review, enhanced monitoring, or additional collateral depending on risk.
- Required financial statements may include but are not limited to:
    - Balance Sheet
    - Income Statement (Profit and Loss)
    - Cash Flow Statement (if available)
    - Related Accounting Statements, Tax Filings, etc.

If the applicant is missing the current-year statement:
If the most recent financial statement is missing, Business Oregon may proceed with underwriting provided the applicant submits a draft GAAP-compliant financial statement, a written explanation for the delay, and an estimated completion date. However, the contract will not be executed until the final financial statement is received, approvals may lapse after six months if the required documentation is not provided, and an updated financial review and approval will be required upon receipt of the finalized statement.

If the applicant is missing two or more years:
Unlike public entities, private applicants become ineligible after two consecutive missing financial statements. Applications are not underwritten and shall be considered incomplete.

2.4 Loan Amortization and Repayment

Repayment terms are determined when the award is made and are detailed in the financing contract. Loan payments are typically not required during construction but accrue interest on actual funds disbursed. All accrued interest is due prior to or with the first principal and interest payment. Repayment must begin within one year of project completion.

Loans typically have a level annual payment due each December 1st for principal and interest. Loans may be awarded with other repayment frequencies (i.e., quarterly, monthly, semi-annually) at the sole discretion of Business Oregon. Loan forgiveness is determined after the recipient has been confirmed to have met all contractual obligations for the project and has submitted a request for final disbursement to Business Oregon.

2.5 Final Loan Payment and Lien Release

Once a final loan payment has been processed, any real or personal property liens securing the loan may be released. Any cost associated with releasing such liens is the responsibility of the water system.

Section Three—Application Process & Project Readiness

Overview of Application Process

Section 3 describes how drinking water projects enter the SDWRLF program. The first step is submitting a pre-application (formerly referred to as Letter of Interest (LOI)). Pre-applications are prioritized for funding and then move to application and award. Figure 2 provides a high-level overview of the steps to expect for a water system interested in applying for funding:

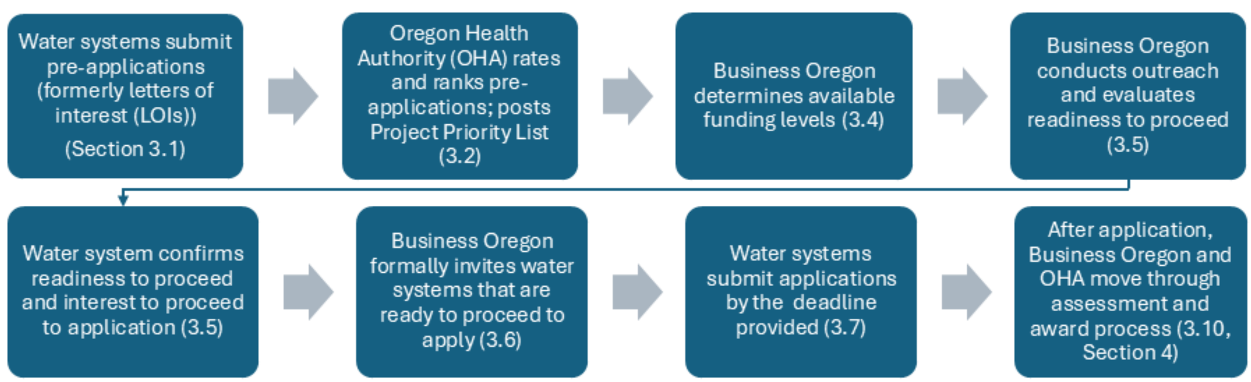

Figure 2: *General outline of the SDWRLF application process. Each step notes the handbook section number for more information.*

3.1 Pre-application

All water systems interested in applying for funding must first submit a pre-application (formerly referred to as a Letter of Interest, or LOI). A pre-application should be submitted when a project concept is well-developed, and the water system can reasonably expect to move forward once funds are awarded. It is *highly* recommended that prospective applicants consult with a Business Oregon RDO prior to submitting a pre-application. Pre-applications are accepted at any time, but the review deadline occurs annually on February 15. The pre-application form is available as a fillable pdf from the Safe Drinking Water Revolving Loan Fund web page. Additional information about pre-applications and how to submit is also available on the website or through contacting an RDO.

Pre-application submissions may request financing of up to $10,000,000 maximum from the SDWRLF program (including contingency). Pre-applications for projects that cost more than $10 million to implement will be accepted; funding necessary to complete the project beyond the $10 million must come from other sources. While not required at the time of pre-application submission, any other funds needed to complete the project must have a binding commitment before a financing contract can be executed.

Submission of a pre-application does not guarantee funding but is the first step in the application process. Depending on funding availability, Business Oregon may offer partial funding for a project or discuss project phasing to accommodate available funding.

3.2 OHA Rating and Ranking/Project Priority List

After the review deadline, pre-applications are reviewed for eligibility, rated, and ranked by OHA. Rating points are assigned to each pre-application based on whether the proposed project addresses risks to human health, ensures compliance, promotes consolidation of two or more water systems, the water system size, and economic indicators of the community (median household income and rates of poverty, unemployment, housing cost burdened, and educational attainment of less than a high school diploma or equivalent). Those projects that address a risk to human health and ensure compliance with the Safe Drinking Water Act receive the highest rating scores.

Newly submitted pre-applications are ranked along with previously submitted pre-applications based on the outcome of the rating score. Once rating and ranking of pre-applications is complete, the projects are placed on the Project Priority List (PPL) and posted on OHA's website for a 10-day public comment period. OHA will notify water systems that submitted pre-applications at the most recent submission deadline of the public comment period. After the comment period closes and the PPL is final, Business Oregon emails water systems a letter notifying them of their rating score and ranking on the PPL and providing a summary of what to expect in the coming months.

All eligible projects submitted under the program are included on the updated Project Priority Lists.

Each sub-program under the SDWRLF has its own PPL (e.g. SIPP, SSEA, BIL-EC, etc.), found on OHA's website. These PPLs are used by Business Oregon to invite project applications based on ranking order and the funding available.

The "base" SDWRLF infrastructure PPL is divided into two separate lists: Health and Compliance or Consolidation projects (H/C/C) for pre-applications that received points for addressing applicable criteria, and General Infrastructure projects for all other projects. In instances of limited funding available in the program, projects on the H/C/C list will receive first invitation for funding.

Projects on the PPL that do not move forward within two years are removed from the list. Water systems can resubmit their project if they wish. The projects ranked highest on the PPL receive funding priority with consideration given to readiness to proceed.

3.3 Expedited Placement on the Project Priority List

The EPA allows states to expedite the application process for projects which require immediate attention to protect public health. Projects placed on an expedited section of the PPL do not require ranking using the state's priority system or need to go through a public review process prior to receiving assistance.

Appropriate project types identified by EPA mainly relate to addressing a lack of potable drinking water (due to either quantity or quality) for an extended period. Under this process, if a project meets specific criteria and would serve to restore the availability of potable drinking water, the OHA-Drinking Water Services Administrator may approve the project to be placed on a PPL for expedited projects. This means a water system can submit a pre-application for expedited review prior to the upcoming annual review date and be placed on a list on an expedited section of the PPL. Expedited projects still need to meet all program eligibility requirements, complete the required capacity assessment and environmental review, and comply with all relevant state and federal requirements. Loan funding and potential subsidy offerings will be based on available funds. A water system that has an urgent public health need to address a lack of drinking water availability should contact their RDO to discuss if they qualify for placement on the expedited projects PPL and discuss other funding options that may be able to respond more quickly to the urgent need.

3.4 Funding Availability

Following the annual pre-application review date and the publication of the updated PPL, Business Oregon will evaluate funding availability, typically in the spring of each year. Depending on availability, Business Oregon will reach out to water systems in order of their ranking on OHA's PPL for discussion of their needs and interest moving forward. The amount of available funds will vary by year and be sourced from anticipated federal grant awards from the EPA, repayments from issued loans, and interest earnings on the account.

While there is no statutory maximum limit on the size of a funding award, the priority of the SDWRLF is to fund public health and compliance related drinking water infrastructure needs across the state. Water systems may request up to $10,000,000 maximum on a pre-application (see Section 3.1). Based on fund availability and program demand, Business Oregon may offer a lower amount of assistance than requested on the pre-application or discuss funding a phase of the project, such as design, or a portion of the construction proposed. In those cases when a lower funding award is offered, Business Oregon staff may help facilitate exploration of other state and federal funding opportunities. As Business Oregon engages with water systems on the PPL, information about potential loan terms and incentives will be provided, including interest rates and the potential amount of forgivable loan, if any.

Awards over $3 million, or awards that include forgivable loan over $750,000, are subject to review and approval by Business Oregon's Infrastructure Finance Authority (IFA) Board. Another funding consideration discussed at this time will be whether the project is considered an "equivalency" project or "non-equivalency" project. Equivalency projects will have to meet additional federal requirements, such as the Build America, Buy America (BABA) Act and Single Audit Act. For more on equivalency, see Section 7.

3.5 Water System Readiness to Proceed

In addition to the assessment of available funding and determination of equivalency projects, prior to an invitation to apply, Business Oregon will also work with the water systems to assess their readiness to proceed with the project.

Readiness to proceed is based on a variety of factors, including but not limited to the water system's:

- ability and willingness to take on the debt identified with the financing offered from the program,
- assessment of user rates and willingness to raise rates as needed,
- adequacy of project cost estimates (e.g. are they current and do they include federal requirements),
- project timelines and alignment with funding availability and timing,
- need for other funding to fill budget gaps and timelines for other funding sources,
- status of recent annual financial reporting (e.g. audits) or availability of financial statements (for private systems) for the underwriting process (see Section 2.3)
- ability to provide feasibility documentation (see Section 3.9).

Prior to inviting the water system to apply, Business Oregon will discuss these readiness-to-proceed factors, supply potential loan terms and incentives, and clarify deadlines for the application process. Following discussion of the project funding details, Business Oregon will request confirmation that the water system is ready to proceed. A deadline for providing this confirmation will be communicated to the water system. If this deadline is missed, if the water system is unable to confirm they are ready to proceed, or if the water system requests to be passed on the list, the system will be removed from consideration for the current funding cycle and Business Oregon will contact the next ranked system on the PPL. For more information about bypassing, see Section 3.11.

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

Open communication between Business Oregon and the water system will facilitate a smooth application process. An important step during this stage is to ensure that the water system's decision-making body is informed of the project status and ready to act in a timely manner. Another important component to prepare for the underwriting process is to ensure financial documents are in order and up to date, especially for those systems required to complete annual financial reporting with the Secretary of State. These steps will help the water system meet time-sensitive requests by Business Oregon and financial pro forma submission deadlines to move from application to contract as quickly as possible. See Section 2.3 for underwriting standards.

3.6 Invitation to Apply

After the water system confirms it is ready to move forward in the process and Business Oregon determines program funds are available to meet the funding request, an invitation to apply is sent to the prospective applicant. The invitation is sent by email and includes a description of next steps and an application submission deadline. The application form and, if the project includes construction, a project elements table (PET) form are attached to the email correspondence. The PET form provides current information on project activities and is needed for OHA to determine the environmental review required for the project (see Section 6.4). The PET form is also utilized by OHA staff during the capacity assessment process (see Section 3.10) as it provides a summary of funded activities.

Business Oregon will notify projects when they are invited to apply if their project is identified as an equivalency project. This information will help the applicant prepare to meet requirements and adjust their budget and timeline as needed.

Water systems that do not submit a completed application by the deadline provided will be bypassed for funding consideration during the current calendar year. For more information about bypassing, see Section 3.11.

3.7 Application Materials

Business Oregon will provide the application form, project elements table (PET) form if applicable, and a list of attachments with the invitation to apply. The loan application will request information including but not limited to: detailed project scope, project workplan, updated budget and identification of additional sources of funding anticipated to be included (whether local funds or co-funding from other programs), and schedule of pro forma (information on repayment sources such as the system's revenue and expenditures).

Applicants will be required to submit with the application the following attachments:

- project map or site plan

- a recent engineer's cost estimate
- project feasibility documentation (see Section 3.9)
- land use compatibility documentation
- current project budget (or an updated budget based on compliance with federal/equivalency requirements)
- most recent 3-year audited reports or financial statements (see Section 2.3)
- current rate schedule for water
- most recently adopted rate resolution

Additional documents may be requested as applicable to be submitted to Business Oregon, based on system establishment or project scenario. For example: letters of funding commitment if the applicant is including co-funding from other funding providers, details on pre-award expenses if included for reimbursement (see Section 3.8), operating agreements or intergovernmental agreements, or private ownership verification, etc.

For projects that include construction, a project elements table (PET) form is provided with the application. The PET form will request information on project elements to be funded with the SDWRLF program, associated construction activities, and existing land use at the project site. The completed PET form and project site map are required to be submitted to OHA to request a capacity assessment (see Section 3.10) and obtain information on environmental review implications based on current land use at the project site. Applicants are encouraged to return the PET form and project site map as soon as possible so that OHA can complete the capacity assessment, which can take two months or more to complete, depending on the project. The process is required to be completed prior to Business Oregon issuing a contract. The completed PET form and project site map may be submitted prior to submitting a completed application if needed.

All sections identified as required must be completed on the application prior to submission. As noted above, an application submission deadline will be provided in the email from Business Oregon which invites the water system to apply and includes the application forms. Incomplete sections on the application may risk the application being denied for approval, or sent back to the applicant for re-submission with a deadline.

The application will not be accepted unless it is signed by an individual with proper signature authority, certifying that the information provided is valid and accurate. An individual with proper signature authority is typically the highest elected official, Board Chair or President, or system owner. For cities, the highest elected official is the Mayor. For special districts or non-profits with a governing board, this is the Board Chair or President. Typically, staff, the water system manager or operator, or an entity's registered agent (unless they are also the Board Chair or President) are not authorized to sign without additional documentation. If the application is signed by someone other than the highest elected official, formal documentation must be included with the application that verifies the individual's authority to sign the application, such as a charter, resolution, ordinance, or governing body meeting minutes.

3.8 Pre-Award Costs

Generally, most project costs incurred before receiving an official funding award by Business Oregon are not eligible for reimbursement. However, Business Oregon has the authority to reimburse certain pre-award expenses. Pre-award expenses require prior approval and have specific limitations. Under the SDWRLF, eligible pre-award expenses are limited to reimbursement of preliminary expenditures only, such as architectural, engineering, surveying, and other similar costs incurred prior to construction. Pre-award costs related to construction are not eligible for reimbursement.

Pre-award costs (incurred or to be incurred) must be identified in the funding application and will require sufficient documentation to determine that the expenditures meet any applicable program requirements.

Projects funded through the SIPP, SSEA, and DWSPF programs are not eligible for reimbursement of pre-award expenses.

To request reimbursement for pre-award costs, the water system must discuss the expenses with the [Regional Project Manager (RPM)] to ensure eligibility. Pre-award expenses must be submitted and documented in the same manner as all other project expenses.

To be eligible, pre-award expenses must:

- Be necessary to enable the applicant to complete the project,
- Not exceed 20% of the total funding award, and
- Have been paid within the 12 months prior to the award date.

A water system should carefully consider the risk of incurring project costs prior to award. If the contract is not executed for any reason, Business Oregon cannot reimburse pre-award expenses.

3.9 Demonstration of Project Feasibility

To be eligible to receive funding for final design and construction, a water system must demonstrate in its application that the proposed project is feasible. Feasibility of the proposed project can be demonstrated by providing a completed feasibility study or preliminary engineering report that is stamped and signed by the engineer responsible for the work and licensed in the State of Oregon, or in an up-to-date water master plan and accompanying documentation. Feasibility documentation must include the following elements:

- Analysis of project feasibility (e.g. engineering, regulatory, legal, etc.)
- Analysis of project alternatives and the recommended option

- Estimate of up-to-date project costs including materials, labor, contingency budget, and other expenses
- Design and/or construction timeline
- Operational feasibility analysis including identification of costs for operation, maintenance and long-term replacement of the water system

Business Oregon reserves the right to request additional information needed to demonstrate feasibility prior to advancing the funding application for further processing. Documentation that does not conform to the above criteria may be accepted on a case-by-case basis as determined by Business Oregon. The SIPP funding program detailed in Appendix D may be available to assist with small forgivable loan awards to fund a project to complete a feasibility study or water master plan.

3.10 Capacity Assessment

On projects that include construction, the capacity assessment is a required review of the managerial, technical, and financial capacity of the prospective applicant (water system). The capacity assessment is intended to ensure that the water system can adequately operate and maintain infrastructure improvements funded through the SDWRLF program and can maintain compliance with the Safe Drinking Water Act. Project funding is not offered if a water system lacks adequate technical, managerial, or financial capacity, unless the system agrees to undertake feasible and appropriate operational changes or restructuring to ensure adequate capacity.

The capacity assessment must be completed prior to the awarding of funds. For project schedule purposes, a capacity assessment can take up to two months to complete but could take longer depending on complexity and water system responsiveness. A system that has received a completed, approved capacity assessment within the previous 5 years may not need to perform another, only as approved by OHA.

When an invited applicant completes and submits the provided PET form, Business Oregon will work with OHA to initiate the managerial and technical portions of the capacity assessment. OHA will contact the water system to begin the process, collect and review information (detailed in the following sections), and ask additional questions as needed. Once all required information is gathered, OHA completes an assessment report, identifies any needed loan contract conditions, and forwards the report to the water system and Business Oregon. Loan contract conditions, if identified by OHA, will be included in the project scope. Loan conditions must be completed prior to project closeout unless identified as required prior to a specific project milestone such as before construction initiation.

3.10.1 Managerial Capacity Review

The Managerial Capacity Review is conducted by OHA during the capacity assessment. The review analyzes the institutional and administrative ability of the water system. Managerial Capacity Review includes evaluation of the following elements: operator certification; organizational structure and communication; water system policies and programs; and public communication.

3.10.2 Technical Capacity Review

The Technical Capacity Review is conducted by OHA during the capacity assessment. The review analyzes the physical and operational ability of the water system including assessing and verifying the adequacy of source water and physical infrastructure as well as the technical knowledge and ability of system personnel to properly operate and maintain the system. Technical Capacity Review includes evaluation of the following elements: water source construction and protection; water source capacity; water treatment facility construction and performance standards; distribution system construction, capacity, and leakage; engineering plans and infrastructure planning; water quality and monitoring compliance; and physical security.

3.10.3 Financial Capacity Review

The Financial Capacity Review is conducted by Business Oregon during the underwriting analysis of a project application. The review analyzes the ability of a water system to acquire and manage sufficient financial resources by generating sufficient revenue, maintaining credit worthiness, and managing system funds through budgeting, accounting, and other methods of fiscal control. Financial Capacity Review includes evaluation of the following elements: appropriate budgeting; accounting and financial reporting; a capital asset-financing plan; financial health ratios and ratings; adequate rates; charges and revenues to cover debt and all other expenses; and appropriate valuation of rate base (for privately owned systems).

Business Oregon's Public Finance Officers (PFO) will request financial information from the water system during this process. For municipal water systems (e.g. cities, special districts), it is important to be as current as possible with annual financial reporting completed and filed with the Secretary of State Audits Division. Systems that are behind on their annual financial report filings may not be eligible for award under the program. For private systems not subject to the Oregon Secretary of State filing requirements, PFOs will require at least three consecutive years of financial statements, prepared in accordance with generally accepted accounting principles (GAAP). PFOs will review completed financial documents, the water system's rate schedule, budgets, and other financial documents to complete the assessment and underwriting process.

3.11 Bypass

Efficient implementation of the SDWRLF program is essential to ensure its success and the fulfillment of its intended purpose to support needed drinking water infrastructure improvements state-wide. Business Oregon Regional Development Officers and Regional Project Managers will work directly with communities through project development, pre-application submission, application, contracting, and implementation. Business Oregon's goal is to ensure water systems' projects are supported and successfully implemented. It is additionally important that the program's limited funds are tied to projects that are ready to proceed and move through application, contracting, and implementation in an effective and efficient manner.

Business Oregon will invite water systems to move forward with funding based on pre-application rank order of the PPL and may bypass a water system to invite the next ranked system for various reasons. Potential reasons that a water system may be bypassed include:

- The water system chooses to withdraw their pre-application or requests to be bypassed.
- OHA or Business Oregon may determine the water system does not have the technical, managerial, or financial capacity for the project or loan.
- The water system has not sufficiently documented project feasibility.
- The water system may miss a deadline during a step in the application process or fail to provide a complete application with required documentation.

In situations where the water system is struggling with technical, managerial, or financial capacity, or with securing appropriate feasibility documentation, other resources may be available. In addition to assistance from Business Oregon regional staff, other technical assistance resources may be available for water systems with capacity challenges. Business Oregon offers planning funds to support development of feasibility documentation. Water systems are encouraged to talk to their RDO about these options.

Once a project is ranked and added to the PPL, it can remain on the PPL for up to two years. If a project is bypassed during that time, it may be considered in the next annual review of projects based on available funding until it is removed from the PPL. It is important to note that a project's ranking may change each year as new pre-applications are submitted and OHA rates and ranks the new projects and incorporates them into the PPL.

Section Four—Award and Contracting

Once all materials are submitted and accepted by the application deadline provided, and the applicant has successfully been approved through the applicable capacity assessment, Business Oregon will work with the water system through the award and contracting processes.

4.1 Unique Entity Identification (UEI) Number

All SDWRLF recipients must have obtained a federal Unique Entity ID (UEI) number from the System for Award Management (SAM.gov). SAM.gov is an official website where an entity can register to do business with the U.S. government and receive federal funding. Entities can obtain the UEI number for free at SAM.gov*.

The UEI number replaced the previous identifier, the DUNS number, as of April 4, 2022. The UEI is a unique number assigned to all entities (public and private companies, individuals, institutions, or organizations) through SAM.gov. Once obtained, the UEI does not expire.

A UEI number may be obtained even if full registration on SAM.gov is not completed. Applicants are only required to have a UEI number to be awarded funds and are not required to have an active SAM.gov registration.

If a water system does not yet have a UEI number, Business Oregon encourages all applicants to begin working on obtaining a UEI number from SAM.gov as soon as discussions of formally applying begin in order to avoid delays in funding awards, contract execution, and fund disbursement. It is recommended that the email address used to acquire the UEI number with SAM.gov is an email address associated with the entity in the event the water system needs to access SAM.gov again in the future.

**Please be advised that some third-party websites may offer to handle SAM.gov processes for a fee or third-party entities may reach out directly to the water systems by phone or email offering assistance (or raising concerns about SAM.gov registration and renewal). Unless a water system chooses to use a third-party provider at its own cost, obtaining a UEI number or registering on SAM.gov is always free.*

4.2 Oregon Secretary of State Registration

All applicants must also have an active registration with the Oregon Secretary of State. Eligible applicants will either be registered as a "Local Government Municipality" or a business (e.g. privately owned or non-profit water system). Water systems can register on the Secretary of State's Register a Local Government Municipality site and non-municipal entities can register and complete the annual renewal on the Register a Business website. Registration and renewal fees are the responsibility of the water system.

4.3 Award Process

Following the approval of the submitted application and confirmed receipt of all necessary documentation, assessments, and registrations as detailed above, Business Oregon will move forward in the funding award process prior to contracting. The RPM, with assistance from the Public Finance Officer, will draft a staff recommendation document which includes project scope, financial, and contracting details for an internal review process.

Business Oregon's management will review and approve the project for award or request additional details to be worked through if there are concerns regarding the financing of the project.

The amount of the total financing award and the level of principal forgiveness will determine if there are any additional approval steps needed in Business Oregon's funding award process.

Awards over $3 million or awards that include more than $750,000 in principal forgiveness must be reviewed and approved by the Infrastructure Finance Authority (IFA) Board. The IFA Board typically meets every other month. The timing of approval will depend on the meeting schedule and the ability of staff to prepare the required documentation. The applicant's representatives will be invited to participate in presenting the project details to the IFA Board; the RPM is prepared to facilitate assistance with the presentation of the details to support the water system.

Once the appropriate approval process is completed, Business Oregon will email the water system an award letter summarizing the details of the award and date of award. At this stage, the legal obligations for funding and for reimbursement of project expenses are still subject to execution of the contract. After award, Business Oregon will proceed to contracting with the water system.

4.4 Financing Contract

The funding award, including Business Oregon's ability to disburse funds, is contingent on certain items, including a fully executed financing contract signed by the water system's highest elected official or duly authorized signatory. An unsigned copy of the financing contract will be emailed to the water system's identified contact for review and signature. The contract must be signed by the water system's highest elected official or duly authorized signer. Unless otherwise authorized by Business Oregon, the water system must return the signed financing contract to Business Oregon by the deadline provided. If the water system does not return the executed contract by the deadline provided, the award is subject to be withdrawn by Business Oregon's discretion.

Along with the unsigned contract, Business Oregon will also send other forms for the water system to complete. These forms confirm where Business Oregon will deposit reimbursement funds and the water system's authorized signers for requesting reimbursement. Business Oregon will also request the water system's federal tax ID number.

Letter(s) of financial commitment that were not already received during the application process will also be required at this time. Other funds that will be needed to complete the project must be available or the water system must have a binding commitment for such funds at the time the contract is executed. If a portion of the other funds needed to complete the project is committed but not yet available at the time an award is made or the contract executed, Business Oregon cannot disburse funds for construction activities until the water system demonstrates that the project is fully funded, and all funding is available.

Business Oregon requires water systems that receive an SDWRLF award to pass a borrowing resolution that includes a certification the borrower has met all charter and governing law requirements for providing public notice. A water system can help avoid delays in the contracting process by preparing for any necessary public comment notices and passage of this resolution at the appropriate time.

4.5 Disbursement Schedule

Funding recipients are required to submit an estimated disbursement schedule that identifies the anticipated number, submission dates, and amounts of disbursements, as well as a brief narrative of the work to be completed with each disbursement. Business Oregon provides the recipient with a blank disbursement schedule form to be filled out as soon as possible after contract execution and prior to the first request for disbursement. Projects below a certain award amount will not be required to provide a disbursement schedule, see the financing contract for details. A disbursement schedule is not required for Sustainable Infrastructure Planning Projects (SIPP) or Small System Equipment Assistance (SSEA) awards.

4.6 Expenditure of Funds

Once under contract, funds may be drawn down as needed on an expense reimbursement or costs-incurred basis for eligible project costs. To expedite disbursement of funds, direct deposit may be made by completing and submitting a Direct Deposit Authorization Form directly to the Department of Administrative Services, per the instructions on the form.

The water system may request funds either to directly pay for incurred costs (i.e., payment goes to water system to directly pay the contractor) or to reimburse the water system for costs paid with its own funds. The time between the water system requesting funds from Business Oregon and paying costs incurred must be as brief as is administratively feasible. The RPM provides a recipient with the form needed to request funds and is available to assist with any questions.

Section Five—Funded Project Management

For funded projects, a Business Oregon RPM is available to answer any questions, help ensure adherence to state and federal requirements, and assist funding recipients from application through project completion and closeout.

As noted in Section 4.3, the recipient water system will receive an email with an award letter summarizing the details of the award and date of award. Business Oregon will then work to provide a contract for review and move to contract execution. Business Oregon cannot disburse funds without an executed contract. While the recipient can begin to incur costs from the award date, it is important to note there is some risk because no funding can be disbursed until the contract is executed. The contract also provides details on requirements with which the recipient must comply. While Business Oregon works to move through this process efficiently, there is always some lag time between award date and contract execution.

5.1 Procurement of Goods

The contract will detail requirements related to procurement of goods and services.

All projects will have to comply with either American Iron and Steel (AIS) (Section 6.9) requirements or Build America, Buy America (BABA) (Section 7.3), for domestic preference of certain goods. Equivalency projects must comply with BABA requirements which meet and exceed AIS requirements. Projects will need to consider AIS or BABA requirements for procurement of certain types of products and plan ahead to allow sufficient time for procurement of eligible materials, or if needed, complete a waiver process.

5.2 Procurement of Services

All projects will also need to meet state and federal requirements regarding procurement of services (e.g. contractors) and wage and labor laws.

Prior to procuring services, funding recipients are required to submit copies of all solicitations to the RPM at least 10 days before soliciting services or advertising for bids. The RPM reviews the solicitation to ensure necessary contract clauses are included. RPMs must also review contracts and contract amendments or change orders prior to being signed to ensure necessary clauses are included. These requirements are in place regardless of procurement method (e.g. direct (small), intermediate, competitive bid, etc.).

Federal regulations require water systems that receive SDWRLF funds to follow state laws for procurement and contracting further described in Section 6.8 and Appendix B. The water system's governing body is responsible for ensuring local procurement practices meet governing law. Business Oregon may provide consultation and non-legal advice regarding procurement and contracting.

- All construction contracts financed with awards from the SDWRLF are subject to State of Oregon Prevailing Wage Rates and federal Davis Bacon wage rates (see Appendix B)
- The water system and any sub-recipients of SDWRLF funds must submit a Certification Regarding Lobbying that no federal funds will be paid for lobbying activities and must include language regarding lobbying in all bid award documents. If funds other than federal funds are used for lobbying activities, such activity must be disclosed using EPA Form SF-LLL Disclosure of Lobbying Activities. If needed, copies of necessary forms will be provided to a funding recipient.

- For projects identified as equivalency projects (see Section 7), the public water system receiving an SDWRLF award and the water system's prime contractor must take steps (Six Good Faith Efforts) to solicit and contract with Disadvantaged Business Enterprises (DBE). It is the responsibility of the water system to ensure that files and records are maintained to document the steps taken. The RPM provides guidance on how to comply with this requirement which is further described in Appendix B.

A special line item is included in the application and contract budget for Labor Standards Compliance. This special budget line is included for a recipient to allocate funding specifically towards hiring third-party assistance to adhere with managing Davis Bacon and Related Acts (DBRA). Third-party professionals are hired for this role and may 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. Costs associated with third-party monitoring of DBRA compliance for construction projects are eligible under the program; $15,000 is the maximum amount in SDWRLF funds that Business Oregon will reimburse for DBRA monitoring costs.

In-house water system personnel costs are not eligible to be reimbursed under the SDWRLF program.

5.3 Pre-Construction Conference

For construction projects, the RPM must be given a minimum of 10-day notice to schedule a pre-construction conference. The agenda for this conference includes a review of the project schedule and budget, process for requesting reimbursement, and review of requisite forms (including requirements for prevailing wage, AIS, BABA (if applicable), and DBE (if applicable)). The pre-construction conference also includes confirmation that the required pre-construction activities including environmental review (Section 6.4) and OHA plan review (Section 6.5) are completed and the project is ready to move forward.

Business Oregon will also provide funding recipients with a sign that must be displayed at the construction site. Attendees of a pre-construction conference usually include: a water system representative, system operator, project engineer, contract administrator, project manager, and payroll clerks of all contractors and sub-contractors (including lower-tier subcontractors).

5.4 Monitoring

Business Oregon Regional Project Managers monitor each funded project to ensure the project is implemented in accordance with contractual and legal requirements and SDWRLF program objectives. Monitoring activities may include frequent telephone, email, and written communications; scheduled project site visits; request for project photos; interviews with the water system staff and the project team; and review of project files (e.g., certified payroll records, land acquisition notices, certification letters for AIS or BABA compliance, invoice/receipt records, etc.). In addition to regular communication between the recipient and RPM, the RPM will conduct at least one “desk-top” monitoring or a combination of one “desk-top” and site-visit monitoring that includes reviewing a checklist of project activities with those who have a significant role in project implementation and oversight. “Desk-top” monitoring involves a meeting (typically online) and on-site or site-visit monitoring will involve a visit to the project site. Business Oregon reports any findings or concerns along with necessary corrective actions that must be undertaken, if any. Business Oregon provides monitoring results in a letter notice to the water system. If corrective actions are necessary to address monitoring findings or concerns, the water system has 30 days from the date of monitoring letter notice to implement the necessary corrective action and avoid sanctions or further actions by Business Oregon. The Business Oregon RPM schedules any necessary subsequent meetings with the water system and project team members to ensure all project monitoring activities are complete.

5.5 Contract Amendments

Throughout project implementation, changes may arise that necessitate execution of a contract amendment. Modifications to award amounts, budget categories, loan terms, contract end date (time extensions), or project scope are examples of changes that would require an amendment. The RPM should be contacted as early as possible if a funding recipient wishes to request a contract amendment. The recipient should work closely with the RPM to request an amendment and through the amendment review and approval process. Contract amendment requests are considered by Business Oregon on a case-by-case basis. Depending on the type of amendment, additional environmental review by OHA (or other permits) may be required.

5.6 Project Completion and Closeout

Project completion typically includes notices of substantial completion; placement of improvements into service; issuance of final engineering or planning reports including as-builts and new or updated operations and maintenance manuals related to the project; final inspection; and request for final disbursement of loan funds. Final disbursement of loan funds cannot be made until any applicable capacity assessment loan conditions have been addressed. After final disbursement of funds has been made by Business Oregon, Business Oregon formally finalizes the closeout process with a Contract Closeout Form and provides a Final Closeout Letter to the water system documenting that contract requirements have been satisfied and, if applicable, the forgivable loan amount has been forgiven. After project closeout, the loan will then transition to the repayment phase (see Section 2.4).

Section Six—Funded Project Requirements

6.1 Introduction

Recipients receiving SDWRLF funds must adhere to applicable state and federal requirements. While Business Oregon and OHA staff make every effort to assist the water system in navigating the application and project implementation process, it is ultimately the water system's responsibility to be aware of and comply with all local, state, and federal requirements and contract conditions associated with a project and its associated funding.

In cases where a project is co-funded using other local, state, or federal funds, *the project in its entirety* must adhere to all funded project requirements. For example, if the water system is using its own funds to purchase iron and steel products as part of a funded project, those iron and steel products must still comply with American Iron and Steel requirements (AIS, see Section 6.9) because the project in its entirety must comply.

As mentioned in Section 3.4, Business Oregon is designating some projects as "equivalency" and the others as "non-equivalency" (see Section 7 for more on equivalency). State requirements and many federal requirements apply to all projects regardless of equivalency / non-equivalency designation. Key requirements that apply to all projects are described below with resources provided as links and with additional information in the Appendices. Other federal requirements apply only to equivalency projects. Key equivalency requirements are described in Section 7. A full list is provided in Appendix F.

Business Oregon may waive non-federal, non-statutory requirements of the SDWRLF program, if it is demonstrated that such a waiver would serve to further the goals and objectives of the SDWRLF program and state economic and community development policies.

6.2 Financing Contract and Contract Clauses

As described in Section 4.4, the water system will sign a financing contract with Business Oregon for the project funding. The contract will include relevant requirements for the water system to comply with during project implementation, including requirements if the project is an equivalency project.

Business Oregon also provides recipients with contract clause language that they will need to include in their contracts with contractors. Many of these clauses flow down to subcontractors. Business Oregon will provide the clauses as needed based on equivalency and non-equivalency projects. During project implementation, Business Oregon RPMs will review solicitations for services prior to release and contracts prior to signing to ensure documents contain the required clauses for the project.

6.3 Records Retention

Books, documents, papers, and other records related to the project must be maintained by the water system and made available for review and audit by the state, EPA, and other federal agencies upon request or as required by the financing contract. The water system must maintain records sufficient to deliver reporting that may be required in conjunction with the project including procurement of services, reimbursement requests, and financial reporting. The water system must also keep records sufficiently organized and available for project monitoring and compliance checks by Business Oregon during the project.

The contract with Business Oregon will specify the length of time that records related to the project must be retained. For example, the contract may detail a retention period as, "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."

6.4 Environmental Review Process

Prior to any construction work, an environmental review must be completed in accordance with the state environmental review process (SERP) and in compliance with state and federal environmental laws. States are required to review projects to ensure potential environmental impacts have been identified, and if needed, mitigation measures are put into place. Compliance with the Environmental Review Process is overseen by OHA and approval of completion must occur prior to start of construction. The Environmental Review Process Handbook is the reference manual of policies and procedures for completion of the Environmental Review Process. The handbook is given to the water system when an OHA technical staff person conducts a capacity assessment (Section 3.10).

It is the water system's responsibility (and/or their project engineer's) to review the handbook, perform the environmental review for their project, and submit the required documentation for OHA review and approval. Before the environmental review process can be closed, a public notice must be issued. A dated copy of the notice as it appears in the newspaper or official affidavit of publication must be submitted for verification.

As indicated in the handbook, if the project is eligible for a categorical exclusion in accordance with OAR 333-061-0063, the water system (or their project engineer) may formally request to be excluded from further environmental review. Requirements for requesting a categorical exclusion are described in the Environmental Review Process Handbook linked above.

Note that if the project involves construction of a new water source (e.g. new water well) or construction of improvements in areas where current facilities are not located (i.e. on existing facility sites, right-of-way, or easement), the water system may be required to hire a consultant to prepare an Environmental Information Document (EID). EID requirements are described in the Environmental Review Process Handbook linked above. The preparation of an EID document may impact project cost or timing which should be planned for in advance and may be financed as part of the SDWRLF funding award.

If an Environmental Review for the proposed project has already been conducted by another government agency, OHA-Drinking Water Services may, in its discretion, accept those findings. Refer to the Environmental Review Process Handbook linked above for more information.

6.5 OHA Plan Review

Funding recipients must adhere to any OHA plan review requirements mandated by OAR 333-061-0060 before construction begins. New water systems, major additions, or modification of existing drinking water systems require approval as determined by OHA Drinking Water Services. Before any construction begins, the water system must submit to Business Oregon either copies of Oregon Health Authority (OHA) approval for all final project designs, plans, and specifications, or written confirmation from OHA that plan review approval is not required. For more information about OHA's requirements and fees, see the OHA Plan Review web page.

6.6 Generally Accepted Accounting Principles and Oregon Municipal Budget Law

All water systems must follow GAAP appropriate for the type of entity (e.g. non-profit, municipal, etc.).

Funds disbursed to municipalities are subject to the requirements of the Oregon Local Budget Law. For more information, see the Oregon Department of Revenue's Local Budget Law website. In the Resources section of the website, The Local Budgeting Manual and the supplemental document, Local Budgeting in Oregon, are available. Accordingly, the water system must budget and account for funds through a financial management system. Financial management systems must conform to "generally accepted accounting principles" for state and municipal corporations established by the Governmental Accounting Standards Board.

6.7 Water Service to Unincorporated Lands

Unless the project is inside an urban growth boundary or an "unincorporated community" boundary, no SDWRLF award is allowed if extension of the water system or the establishment of a new system would allow for higher density of residential zoning or development than what is otherwise allowable or authorized without such drinking water service, consistent with OAR 660-011-0065. Department of Land Conservation and Development can provide further information on this rule and other relevant aspects of Statewide Planning Goal #11.

6.8 Federal and State Procurement and Labor Requirements

Funding recipients must adhere to all federal and state requirements related to procurement standards, labor standards, and prevailing wage rates. While some of the requirements are summarized below, funding recipients are required to adhere to all the procurement and labor requirements described in greater detail in Appendix B.

State Procurement Regulations

All recipients regardless of entity type must adhere to state procurement regulations found in the Oregon Public Contracting Code, ORS chapters 279A, 279B, and 279C. Business Oregon RPMs will require procurement documentation prior to disbursements.

State and Federal Labor Standards

Recipients are required to adhere to state labor standards and wage rates as required in ORS chapter 279C, and federal wage provisions in accordance with the federal Davis-Bacon and Related Acts. Davis-Bacon requires contractors and subcontractors on projects receiving SDWRLF funding to pay all laborers and mechanics the higher of the state's prevailing wage rate or the federal Davis-Bacon wage rate.

Water systems receiving SDWRLF funding are considered EPA subrecipients for the purposes of complying with Davis-Bacon and Related Acts (DBRA). Requirements for water systems are provided on the EPA's DBRA Requirements website. Contract provisions that must be included in all contracts and subcontracts to which Davis Bacon applies and additional clauses for contracts and subcontracts over $100,000 are on the EPA's contract provisions for DBRA website and will be included in contract clauses provided by the Business Oregon RPM.

Please see the Department of Labor's Davis-Bacon and Related Acts website for general guidance on how to determine applicable rates for workers on an SDWRLF project.

In limited instances where a wage determination of basic hourly wage rates and fringe benefit rates for each classification of laborers and mechanics ("labor classification") in a predetermined geographic area for a particular type of construction is needed, the recipient shall work directly with their RPM to submit a wage conformance request through Business Oregon to the Wage and Hour Division of the U.S. Department of Labor.

The Business Oregon RPM will review documentation related to DBRA requirements (for example reviewing certified payroll reports) as part of approving disbursement requests and conducting project monitoring.

6.9 American Iron and Steel (AIS)

The American Iron and Steel (AIS) provision requires all SDWRLF recipients to use iron and steel products that are produced in the United States. This requirement applies to projects for the construction, alteration, maintenance, or repair of a public water system.

The primary considerations for determining if a product needs to comply with AIS are:

1) Is the product a listed product?
2) Is the product primarily iron or steel?
3) Is the product permanently incorporated into the project?

If the answers to those 3 questions are yes, the product is an AIS product under the requirement and must be produced in the United States or otherwise be covered by a waiver.

The EPA has developed a series of "listed products" that are subject to AIS. These listed products include a wide range of products from manhole covers to precast concrete and valves to municipal castings such as meter boxes.

The Business Oregon RPM will provide an overview of AIS and resources to assist with compliance after contract execution. The EPA's AIS website also provides resources and training materials. On the website, the 2020 to 2021 training presentations provide accessible summaries of many aspects of AIS. The "AIS Construction Materials" webinar presentation from April 2021 is available as pdf document. Slide 7 provides a list of "listed products", which includes certain construction materials. Slides 8 through 15 provide examples of construction materials covered by AIS.

To comply, water systems must include language in construction contracts pertaining to this requirement and require clauses in subcontracts. It is the SDWRLF recipient's responsibility to anticipate iron and steel products needed in the project and communicate AIS requirements and expectations early on with engineers, contractors, and/or suppliers. In addition, certification letters from iron and steel product manufacturers certifying compliance with the requirement must be collected, submitted to the RPM, maintained by the recipient, and made available for review. Only a manufacturer can certify compliance with AIS, however suppliers may be able to provide the manufacturer's certification letter with the product. Contractors sourcing materials must also secure appropriate certification letters for the recipient, but it is the recipient's responsibility to collect and maintain the documentation in an organized manner.

The certification letters must contain five specific elements to be compliant and be signed by a representative of the manufacturer. Per the EPA, the key elements of a compliant certification letter are:

- *What is the product?* The letter should list the specific product(s) delivered to the project site. The letter must indicate the products were delivered (not just ordered).
- *Where was it made?* The letter should include the location(s) (city and state) of the foundry/mill/factory where the product was manufactured.
- *To whom was it delivered?* The letter should include the name of the project and/or jurisdiction where the product was delivered.

- *Signature of the company representative.* The letter should be signed by a representative of the manufacturer. A sales representative or QC engineer is acceptable.
- *Reference AIS requirements.* Specifically reference compliance with the AIS requirement, especially if referring to other domestic preference laws.

If a water system is struggling to find AIS-compliant materials, they can request EPA's assistance with market research by emailing SRF_AIS@epa.gov (SRF underscore AIS @ epa.gov). If a water system is struggling to find AIS-compliant products, it is recommended to request EPA assistance for market research as soon as possible. In the event a project-specific waiver will be needed (see below), EPA market research is a required step in that process, so initiating research early and in advance of a waiver request may help save time in the waiver process.

If a project is subject to the Build America, Buy America Act (BABA, see Section 7.3), EPA considers projects that are compliant with BABA to be compliant with AIS. If the project is not subject to BABA, it is still subject to AIS.

<u>Waivers</u>

The national AIS *De Minimis* Waiver for Incidental Products allows a small percentage of <u>incidental</u> products (non-integral products such as nuts, bolts, fasteners, screws, etc.) of unknown or non-domestic origin to be used in a project. These products must be documented in a *de minimis* tracking system. These products may not exceed 5% of the total material cost with a 1% maximum of total material cost for any single item (both criteria must be met). The RPM describes how to comply with the AIS requirement during the pre-construction conference (Section 5.3) and provides examples of the required certification letter and *de minimis* tracking and documentation.

If a project is subject to BABA, note that the EPA's BABA *De Minimis* Waiver is different than the AIS *De Minimis* Waiver for Incidental Products. A recipient that must comply with BABA and utilizes the BABA *De Minimis* Waiver will be considered compliant with AIS. See Section 7.3.3.

If a water system has made a good faith effort and the water system is still unable to source AIS-compliant products, there is a process in place to request a project/product specific-waiver from the EPA under one or more of three criteria.

1) *Availability* – If iron and steel products are not produced in the U.S. in sufficient and reasonably available quantities of a satisfactory quantity. This is the most common basis for a waiver. The EPA considers "not produced in sufficient and reasonably available quantities" to mean the quantity of iron and steel products is not available or will not be available at the time needed and place needed, and in the proper form or specification as specified in the project plans and design.
2) *Public Interest* – Applying AIS requirements would be inconsistent with the public interest. This is very rare and must meet a very high standard.

3) *Cost* – Inclusion of iron and steel products produced in the U.S. would increase the overall project cost by more than 25%. This is extremely rare; with one cost waiver approved to date by the EPA.

The recipient must work with the Business Oregon RPM to assist with this process and submit the request to the EPA. All waiver requests will only be considered after thorough market research and documentation that one or more of the criteria above are being met. Project/product-specific waivers apply to the individual project for which it was requested, meaning that even if one water system received a waiver for a product that is not available, another system will have to request a waiver for their specific project, if needed. The AIS waiver request and review process typically takes up to two months but can take longer to obtain EPA approval.

6.10 Crosscutting Federal Authorities

There are many federal laws, executive orders and government policies that apply to projects receiving SDWRLF funds. These "crosscutting federal authorities" include environmental laws, as well as social and economic policies. A list of cross-cutting authorities and federal requirements for non-equivalency and equivalency SDWRLF projects is in Appendix F. Please note that this list is current as of the publication date of this handbook and federal requirements can change. See the [EPA's Drinking Water SRF website] for additional information.

Section Seven—Equivalency Project Requirements

This section describes equivalency in more detail. Projects designated as equivalency projects will have additional federal requirements applied to their project. A few key requirements are covered here in detail. For the full list, see Appendix F.

7.1 Equivalency

The funding available for projects under the umbrella of the SDWRLF program is comprised of federal capitalization grants from the EPA, state matching funds provided by Oregon, repayment dollars from current and maturing loans, and interest earnings on the account. The EPA allows for states to consider only a subset of those funds going out to recipient water systems – the amount equal to the federal capitalization grant funding from EPA – as federal dollars. Business Oregon must select a subset of projects that are funded by these federal grant dollars. These projects must also comply with certain additional federal requirements such as the Build America, Buy America (BABA) Act, EPA's Disadvantaged Business Enterprise (DBE) Program, and Single Audit Act and are called "**equivalency projects**." The concept and practice of equivalency is not common in federal programs and may be unfamiliar to recipients and other funders.

All other projects funded with the state match, repayment dollars, and interest are considered "non-equivalency" projects. Non-equivalency projects must still comply with all state and local requirements and many federal requirements but will not have to meet certain federal requirements such as BABA. Appendix F summarizes the federal requirements that apply only to equivalency projects and those that apply to all projects.

7.2 Determination Considerations for Equivalency Projects

Business Oregon is required to select systems funded with the federal dollars and recognizes that equivalency projects may incur additional costs and administrative burdens. Examples of factors Business Oregon may consider while determining which projects are equivalency and which are non-equivalency are:

- Projects that must meet the additional federal requirements due to the nature of the project activities and/or the inclusion of other sources of federal funding.
    - For example, a project that is co-funded through one or more other federal programs such as EPA's Water Infrastructure Finance and Innovation Act (WIFIA) program or the U.S. Department of Agriculture Rural Development Water and Waste Disposal funding is likely already subject to the equivalency requirements.
- The technical, managerial, and financial capacity of the water system to manage the additional requirements.
    - Higher capacity communities may be more equipped to manage an equivalency project than smaller, lower-capacity water systems.
- The overall project budget.
    - Projects with larger budgets need to have federal dollars included as a source of funding to meet the large request.
    - Business Oregon may try to target the federal funding to a few large projects to meet the equivalency amount, limiting the number of systems per year that must comply.

As described in Section 3.4, Business Oregon will communicate with water systems early in the process if they are an equivalency project. After the pre-application submission and annual review date, Business Oregon will assess funding availability, water system readiness to proceed, and equivalency projects. When water systems are invited to submit full applications, they will be notified if they are an equivalency project so they can plan accordingly as they develop their application.

7.3 Build America, Buy America Act

The Build America, Buy America (BABA) Act was enacted as part of the Infrastructure Investment and Jobs Act (also known as the Bipartisan Infrastructure Law or BIL) on November 15, 2021. It expanded upon existing America Iron and Steel (AIS) requirements and established a domestic content procurement preference for all federal financial assistance that is obligated for infrastructure projects after May 14, 2022.

BABA applies to materials from three categories – iron and steel, manufactured products, and construction materials. If the project is subject to BABA, then the law requires that all iron, steel, manufactured products, and construction materials that are permanently incorporated into an infrastructure project must be produced in the United States. Equivalency projects under the SDWRLF are subject to BABA unless covered by a waiver.

Projects that meet BABA requirements are considered to be compliant with AIS. Projects that are covered by a BABA waiver will still need to comply with AIS.

The EPA maintains a BABA-focused website with resources and information about waivers.

This section summarizes current requirements, procedures, and waiver options. Key overarching documents related to implementation of BABA with EPA-funded projects are:

- Code of Federal Regulations (CFR) Title 2 Part 184. As required by BABA, the new part 184 of 2 CFR provides guidance to federal agencies about how to apply the domestic content procurement preference to federal awards for infrastructure projects and provides definitions for key terms related to BABA.
- Office of Management and Budget (OMB) Final Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure (M-24-02, October 25, 2023). This memo is guidance provided to federal agencies and their directors and rescinds and replaces the previous M-22-11 interim guidance issued by OMB (April 18, 2022).
- EPA's Office of Water Implementation Procedures (November 2022). The website provides the EPA procedures memo, supplemental questions & answers, and other informational support documents including webinar presentation slides.

It is up to each federal agency to manage their own funding guidance, waivers, and compliance monitoring related to BABA. This means that some details may vary among federal funding programs based on which agency administers that program (e.g. U.S. Environmental Protection Agency (EPA) versus U.S. Department of Agriculture). The information included in this handbook is focused on funding administered by the EPA. It is important to note that information included in this document may or may not apply to other federal funding programs administered by other agencies. A project co-funded with more than one source of federal funding will need to coordinate BABA compliance among the federal agencies involved as waivers and other requirements may vary or need approval from all agencies.

7.3.1 BABA Requirements

BABA applies to projects that meet all three of the following criteria. The project:

- Has an SDWRLF award date on or after May 14, 2022.

- Is an SDWRLF-identified equivalency project (see Section 7.1). Recipients will be notified as early in the process as possible if they are identified as an equivalency project and subject to BABA, Single Audit Act, and other equivalency requirements.
- Is **not** covered by a waiver (see Sections 7.3.3 and 7.3.4).

The Buy America preference required under BABA applies to three separate product categories: (i) iron or steel products; (ii) manufactured products; and (iii) construction materials and requires that "all of the iron, steel, manufactured products, and construction materials incorporated into the project are produced in the United States." 2 CFR 184.3 provides additional details on the definition of key terms such as "construction materials," "manufactured products," "produced in the United States," etc.

Projects that meet Build America, Buy America (BABA) requirements are considered compliant with American Iron & Steel (AIS). Projects that are covered by a BABA waiver will still need to comply with AIS.

Selected construction materials are specifically excepted by BABA and therefore do not need to meet the Buy America preference. The excepted materials include cement and cementitious materials; aggregates such as stone, sand, or gravel (including asphalt paving); or aggregate binding agents or additives. Note that combinations of these materials may be considered a manufactured product.

According to the M-24-02 memo (October 2023) from OMB:

- A Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding brought to the construction site and removed at or before the completion of the infrastructure project.
- The Buy America preference does not apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.
- A Buy America preference does not apply to non-infrastructure components or expenditures under an infrastructure project receiving a federal award.
- A Buy America preference applies to an entire infrastructure project, even if it is funded by both federal and non-federal funds under one or more awards.

Funding recipients are responsible for complying with BABA and for working with their suppliers and contractors to comply and secure appropriate documentation of compliance. A water system receiving an SDWRLF award must include these requirements in their contracts and ensure that contractors and subcontractors procure compliant materials for SDWRLF-funded projects. The BABA contract requirements are required to "flow down" to all subcontractors.

As described in Section 5.2, bid documents are required to be reviewed by Business Oregon RPMs prior to solicitation and this step can help ensure compliance with BABA and other requirements. These requirements will be included in the contract with Business Oregon and contract clauses will be provided after contract execution. Water systems should work with the RPM to address any questions.

7.3.2 BABA Compliance & Documentation

Water systems are required to collect and maintain compliance documentation which will primarily consist of BABA-compliant certification letters. Only a manufacturer can certify compliance, however suppliers may be able to provide the manufacturer's certification letter with the product. Contractors (and subcontractors) sourcing materials must also secure appropriate certification letters for the recipient, but it is the recipient's responsibility to collect and maintain the documentation in an organized manner. Recipients should plan ahead as BABA compliance will generate a significant number of certification letters to manage. During the pre-construction conference, the RPM will provide recipients guidance on elements required in documentation materials.

The EPA has provided templates of certification letters for each product category. See the EPA's BABA Resources website and scroll down to the "Resources for Manufacturers" section. BABA-compliant certification letters are very similar to AIS-compliant certification letters (see Section 6.9) with one exception. In addition to the five required elements in the letter, the letter should also state which of the three product categories (iron and steel, manufactured product, or construction material) the product falls in when describing how it complies with the domestic preference requirement; see the EPA template letters for more details. For items in the manufactured products category, the EPA strongly recommends the manufacturer specifically certifies in the letter that their product meets the "component cost test", which is the established test for manufactured products to be BABA compliant. For products in the construction materials category, Table 1 describes the different construction materials and the processes that need to occur in the U.S. to be considered compliant. The EPA recommends the certification letter names the category and specific material and certifies these processes and the manufacturer should certify in the letter that the product meets the requirements for that specific product (see the templates on the EPA's website provided above).

***Table 1**: List of Construction Materials and Manufacturing Processes for BABA Compliance*

Construction Material	"Produced in the U.S." means all manufacturing processes occurred in the U.S.
Non-ferrous materials	From initial smelting or melting through final shaping, coating, and assembly
Plastic and polymer-based products	From initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form

Glass	From initial batching and melting of raw materials through annealing, cooling, and cutting
Fiber optic cable	From the initial ribboning (if applicable), through buffering, fiber standing and jacketing, occurred in the United State
Optical fiber	From the initial preform fabrication stage through the completion of the draw
Lumber	From initial debarking through treatment and planning
Drywall	From initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels
Engineered wood	From the initial combination of constituent materials until the wood product is in its final form

Business Oregon will require review of compliance documentation as part of disbursement approval and project monitoring.

The RPM will provide an example in the pre-construction packet. If a water system or contractor is unable to secure a BABA-compliant certification letter, please talk to the Business Oregon RPM for assistance and to discuss options for alternative compliance documentation.

In addition to compliance documentation, water systems or their representatives should also conduct a visual inspection of the product when it arrives at the project site, especially for iron and steel products which are often stamped with the country of origin. (Note: A country-of-origin stamp alone is not sufficient verification of compliance with BABA and water systems should not rely on it to ensure compliance.) Each product should be inspected to verify it matches the product identified in the certification letter.

Steps for water systems and their engineers and contractors to consider for ensuring BABA compliance include:

- Identify a BABA point person who is responsible for ensuring compliance throughout the project.
- Ensure BABA contract clauses are included in all contracts and subcontracts.
- Develop a list of all products for the project that will need to comply with BABA. This list will facilitate tracking when compliant products have been identified, procured, and certification letters received.
- Track and document products purchased under the BABA *de minimis* waiver.
- Procure BABA compliant products for the 3 product categories. This includes *all* products procured for the project - by the water system, contractors, and subcontractors.
    - If compliant products cannot be found, request free assistance with product research from the EPA by emailing BABA-OW@epa.gov. When emailing a

    - request for product research, include specifications of the product(s) and timeline (when the product(s) will be needed).
    - If further assistance is needed, contact the Business Oregon RPM.
- Secure and maintain all product certification letters for products subject to BABA.
    - When receiving products, ensure a manufacturer certification letter is received with every product. Track against the product list.
    - Ensure the product received at the project site matches the product listed in the letter.
    - Ensure the certification letter includes the necessary information.
    - Perform a visual inspection of the product and check for country-of-origin stamps if present (especially for iron and steel products). Country-of-origin stamps do not fulfill certification requirements but can indicate a non-compliant product in some cases.
- Retain records per the record retention requirement in the funding contract.

Water systems may struggle to find BABA-compliant iron and steel, manufactured products, or construction materials that meet technical specifications, are available in sufficient quantity, or available in a reasonable amount of time for their project timeline. In these cases, the water system can contact the EPA to request market research (email BABA-OW@epa.gov). If a compliant product cannot be identified, water systems can contact their RPM for information about pursuing a product-specific waiver request. If a water system is struggling to find BABA-compliant products, it is recommended to request EPA assistance for market research as soon as possible. In the event a project-specific waiver will be needed (see Section 7.3.4), EPA market research is a required step in that process, so initiating research early and in advance of a waiver request may help save time in the waiver process.

A funding recipient must demonstrate a good-faith effort to design the project (where applicable), solicit bids for construction, and procure with American-made iron and steel, manufactured goods, and construction materials. It is recommended for equivalency projects to prepare early and factor in BABA compliance into the budget and timeline of the project.

If the project is subject to a BABA waiver, documentation of waiver eligibility will be required (see below for more information on waivers).

7.3.3 BABA General Applicability Waivers

EPA is maintaining a list of approved BABA waivers on its website. According to BABA requirements, the waivers are generally intended to be time-limited, so it is important to check current waivers to ensure they have not expired or been amended or rescinded.

As of the current version of this handbook, the below General Applicability Waivers have been approved by EPA nationwide and are potentially available for any project. Recipients of equivalency projects should first review the general applicability waivers list for assessing applicability to their project. In the following section, the process for a project-specific waiver that must be approved by EPA is described, if necessary.

Small Project General Applicability Waiver

On September 26, 2022, EPA issued a public interest general applicability waiver for small projects. This general applicability waiver applies to projects whose SDWRLF funding award is less than $250,000.

This waiver applies if both of the following criteria are met: a) The total SDWRLF contract is less than $250,000; **and** b) the contract amount is expected remain less than $250,000 for the life of the contract (e.g. the recipient will not request an amendment to increase the SDWRLF funding). If both standards are met, then requirements of BABA are waived.

BABA applies to federal funding assistance programs and if the project is co-funded with another federal funding source, that other funding may require BABA compliance for the project (even if the SDWRLF federal award is below $250,000). If BABA compliance is required, it applies to the cost of the whole project, including co-funding.

Projects must still comply with AIS requirements if BABA has been waived.

De Minimis General Applicability Waiver

The EPA's BABA *De Minimis* General Applicability Waiver was approved on October 21, 2022. The waiver states that: "Products that qualify for a *de minimis* waiver cumulatively may comprise no more than a total of five percent of the total project cost." In other words, the waiver allows for a small number of products of unknown or non-domestic origin to be used in a project that is subject to BABA. These products on a project's *de minimis* list are limited to 5% of the total project cost. This waiver does not waive a water system's responsibility from complying with BABA for the whole project but allows a small portion of project costs to be spent on products of unknown or non-domestic origin.

The recipient is responsible for tracking the products and their cost on a *de minimis* product list. In the pre-construction conference, Business Oregon will provide an example of a tracking sheet a recipient could use to track their *de minimis* product list during the pre-construction conference to assist with maintaining the necessary tracking documentation under this waiver. EPA does not require a specific format, and the recipient may track using their own tools, but BABA requires the recipient to complete and retain this documentation. Business Oregon may review the *de minimis* tracking as part of project monitoring. It is recommended to identify a method early for tracking BABA *de minimis* and to maintain documentation in a central location and organized manner.

Compliance with the BABA *De Minimis* Waiver is considered compliant with AIS. However, a project cannot utilize both the BABA and AIS *De Minimis* Waivers. If the project is subject to BABA, the recipient can utilize the BABA *De Minimis* Waiver only. If the project is not subject to BABA (for example the project is a non-equivalency project or fits under the small projects general applicability waiver), then the project must still comply with AIS and can utilize the AIS *De Minimis* Incidental Products Waiver, which has different limits from the BABA waiver limits (see Section 6.9).

As noted in Section 7.1, each federal agency is administering their own waivers, including BABA *de minimis* waivers. A co-funded project will need to determine which agency's *de minimis* waiver applies, typically the agency with the largest portion of the funding. Some of the other agencies' *de minimis* waivers are more restrictive than the EPA's.

Public Interest Waiver for Projects that Initiated Design Planning Prior to May 14, 2022 *(original and amended)*

The EPA approved a public interest waiver for projects that initiated design planning prior to BABA becoming effective and released a subsequent amended waiver. This "Adjustment Period" waiver waives BABA requirements for eligible projects that initiated project design planning prior to May 14, 2022, the effective date of BABA.

Eligibility under either the original Design Planning waiver ("original waiver", dated September 2, 2022) or the amended Design Planning waiver ("amended waiver", dated November 13, 2023) is dependent on a few factors including:

- Ability of the water system to demonstrate that design planning was initiated prior to May 14, 2022. See below for acceptable documentation.
- Which federal fiscal year (or years) of EPA funding is allocated to the project. The water system should check with their RPM for this information.
- Award date of the water system's SDWRLF project funding from Business Oregon.

For the purposes of the Design Planning Waiver, EPA describes "initiated project design planning" as documentable efforts made by the recipient to evaluate and identify both technologically and financially viable options for capital improvement projects. These efforts typically start with prepared technical documents describing professional engineering designs.

To qualify under the waiver, recipients must provide evidence of meeting any one of the following conditions prior to May 14, 2022:

- Submitted preliminary engineering report, or equivalent (to the state or to the recipient).
- Issued a Request for Proposal or execution of a contract for design or engineering services (regardless of funding source).
- Execution of a funding agreement or contract (e.g. with Business Oregon) – that includes design.
- For a project designed by the recipient, documentation of design initiation (such as completed preliminary engineering report).
- Solicitation of construction contract bids.

- Submitted plans and specifications (do not need to be complete) to a state and/or federal funding authority.
- Public referendum or public meeting held regarding proposed project.
- Evidence of new bonds passed, or other new funding backing secured for project.

If the water system does not have documentation showing that any of the above conditions were met prior to May 14, 2022, but the project is significantly far enough along in the planning process that complying with BABA would be a detriment to the project proceeding, the project may still qualify for the waiver. In this case, the water system must work with Business Oregon to request the opinion of the EPA to qualify for the waiver. Water systems will need to work with their RPM in this situation.

Projects eligible for a waiver are still subject to AIS requirements.

7.3.4 Project Specific Waivers

The EPA may also waive BABA requirements on a project-by-project basis under one of three waiver types:

- Applying the domestic content procurement preference would be inconsistent with the public interest (a "public interest waiver");
- Types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality (a "nonavailability waiver"); or
- Inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent (an "unreasonable cost waiver").

Business Oregon would work with the water system to review and convey the request to EPA. It is the recipient's responsibility to request a waiver of BABA requirements. The EPA has developed an Information Checklist for Project-Specific BABA Waiver Requests to assist water systems in preparing to request a project-specific waiver. The checklist does not need to be submitted with the request; it is intended to be a resource that outlines what information needs to be included with the request. Contact a Business Oregon RPM for assistance. Once the water system has prepared the request, Business Oregon will review it and submit it to the EPA.

Water systems should be aware that the process to request a waiver and receive approval can take a significant amount of time and will require sufficient documentation and justification to receive EPA approval. The request must be approved by EPA in consultation with the Made in America Office (MIAO) and is required to be posted for public comment during the process.

If the project is co-funded by different programs or federal agencies, Business Oregon staff will work with the water system and agencies to determine who is the "cognizant" agency – the agency that is providing the greatest amount of federal funds for the project – and work to coordinate the waiver request among the various federal programs and agencies accordingly.

7.3.5 Project Amendments and No Retroactive Waivers

If a water system seeks to amend a project scope (changes in project activities) and/or seeks an amendment for additional funding, these changes could impact a project's eligibility under a waiver. The potential changes should be considered carefully with a Business Oregon RPM regarding implications for BABA requirements and waiver eligibility.
It is also important to note that waivers cannot apply to expenditures incurred for items subject to a Buy America preference before the effective date of the waiver. No retroactive waivers will be issued. In other words, a waiver must be in effect *before* spending federal funds on items subject to BABA requirements to be eligible for reimbursement for the items.

7.4 EPA's Disadvantaged Business Enterprises Program

When procuring construction, equipment, services, and supplies, any public water system receiving an equivalency SDWRLF award, as well as the prime contractor must take steps ("Six Good Faith Efforts"), to solicit and contract with Disadvantaged Business Enterprises (DBE). Also, it is the responsibility of the water system to ensure that files and records are maintained to document the steps taken. See Appendix B and EPA's Frequently Asked Questions for DBE website for additional information. The DBE program is covered in 40 CFR Part 33.

7.5 Single Audit Act (SAA)

Single Audits are required from all recipients whose expenditures of federal money within their fiscal year meet or exceed a certain threshold. This is known as the "Single Audit" under the "OMB Uniform Guidance." (2 CFR Part 200). On October 1, 2024, the Single Audit threshold was updated from $750,000 to $1,000,000. The current threshold can be found in 2 CFR 200.501. Audit Requirements and information on Single Audit Act (SAA) requirements can be found in 2 CFR Part 200, Subpart F. For purposes of the SAA requirements, loan recipients and grantees are considered non-federal entities, meaning water systems identified as equivalency projects and receiving loans through the SDWRLF are non-federal entities subject to SAA requirements.

The OMB A-133 Compliance Supplement is a tool for auditors that identifies existing important compliance requirements that the Federal Government expects to be considered as part of a Single Audit. A funding recipient is advised to carefully review the funding contract to ensure an awareness of contract conditions related to Federal Audit Requirements.

Under the Single Audit Act (SAA), a funding recipient is required to:

- Maintain an accounting system and identify all expenditures of federal financial assistance agreements and grants per fiscal year.
- Assess if it has met or exceeded the SAA threshold in expenditures of federal financial assistance (from all combined sources) in each fiscal year.

For the purposes of the SDWRLF, the water system makes an expenditure when it expends funds (incurs an expense) for the project. For example, an expenditure occurs at the time the water system pays an invoice to a contractor.

If the Single Audit Act threshold is met or exceeded, the water system is required to:

- Notify Business Oregon that an SAA audit is required.
- Conduct an SAA audit meeting federal requirements.
- Submit the SAA audit to the Federal Audit Clearinghouse within 30 calendar days after receipt of the auditor's report(s) or nine months from the end of audit period (the fiscal year), whichever is earlier.
- Notify Business Oregon that the audit was submitted to the Federal Audit Clearinghouse and provide a copy of the audit to Business Oregon within 30 calendar days of completion.
- Initiate any corrective actions identified in audit report(s) with findings and recommendations that impact the SDWRLF contract.
- Notify Business Oregon when the relevant corrective actions are complete.

Business Oregon's responsibilities are to:

- Include requirements in the contract for the water system to comply with the Single Audit Act.
- Identify in the water system's contract the amount of federal financial assistance provided.
- Review, approve, and monitor actions that the water system takes under a corrective action plan in response to audit findings and recommendations as they relate to SDWRLF contracts.

Annually, the state will notify the recipients who are subject to the Single Audit Act requirements (equivalency projects) of the amount of federal funding disbursed. If the water system has more than one contract, this amount should reflect all federal funding disbursed for the year.

For recipients that must conduct a Single Audit, the Assistance Listing Number (ALN) for SDWRLF is 66.468 - Capitalization Grants for Drinking Water State Revolving Funds (previously referred to as the Catalog of Federal Domestic Assistance (CFDA) number).

7.6 Suspension and Debarment

Federal suspension and debarment regulations prohibit a company or individual who is suspended, debarred, or otherwise excluded from participating in federal assistance programs. This means that the SDWRLF program cannot contract with or provide assistance to any entity that is suspended and debarred. During the pre-application rating process, OHA checks the SAM.gov Exclusions website and verifies that water systems are not suspended or debarred.

Water system funding recipients must verify that their contractors (engineer, prime contractor, or any other contractors) are not suspended or debarred before executing contracts. In addition, the water system must require that all contractors in turn verify that any subcontractor is not suspended or debarred; a specific clause must be included in all project contracts requiring this clause "flow down" to all subcontractors.

Compliance is achieved by checking the SAM Exclusions list and by including a clause and/or condition in contracts and subcontracts requiring compliance with the suspension and debarment requirement. Business Oregon assists by providing clauses that must be included in contracts and by reviewing contracts between the water system and their contractor(s) before they are signed to ensure contracts include the required clauses.

The list of suspended, debarred, or otherwise excluded persons can be found on the System for Award Management (SAM) Exclusions website. The SAM Exclusions list is maintained by the U.S. General Services Administration and contains information about persons and businesses who are suspended, debarred, or otherwise ineligible for federal contracts and certain types of federal assistance. For more information on how to search the exclusions list, the Federal Service Desk (FSD), has instructions and FAQs in the FSD online knowledge base.

Office of Management and Budget's (OMB) federal regulations for suspension and debarment are found in 2 CFR part 180 and EPA's supplemental regulations are at 2 CFR part 1532.

7.7 Uniform Relocation Assistance and Real Property Acquisition Policies Act

The Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act) establishes a uniform policy for fair and equitable treatment of persons who are displaced from their homes, farms, or businesses to make way for federally assisted projects. The Uniform Act provides basic guidelines for negotiating the acquisition of real property by the federal government or projects receiving federal funds. The Uniform Act also requires agencies to reimburse individuals for actual and reasonable expenses incident to relocation, such as moving costs, direct loss of tangible personal property associated with moving or discontinuing a business, and expenses involved in searching for a replacement home or business.

It is important to note that for *all* projects funded through the SDWRLF program, under the Safe Drinking Water Act, any land acquired must be acquired from a willing seller (SDWA §1452(a)(2)). The term "willing seller" means that the property owner voluntarily agrees to the terms and conditions of the purchase without compulsion to sell. This means a water system cannot exercise eminent domain to acquire property for any project utilizing SDWRLF funding (including both equivalency and non-equivalency projects).

Equivalency projects must comply with the Uniform Act and its implementing regulations at 49 CFR 24.101 through 24.105 (see 49 CFR 24 Subpart B - *Real Property Acquisition*). Costs necessary to comply with the Uniform Act are eligible costs under the program. A key aspect of the law is to require the use of a professional appraisal to determine the fair market value as a basis for establishing the offer price. As part of any equivalency project that includes land or easement acquisition, the water system must submit a copy of the appraisal and the purchase agreement to Business Oregon. The SDWRLF program cannot pay more than the appraised value for the acquisition.

Under 49 CFR 24.102(c)(2), an appraisal is not required if:

- the owner is donating the property and releases the water system from its obligation to appraise the property, or
- the anticipated value of the proposed acquisition is estimated at $15,000 or less, based on a review of available data. Business Oregon will require documentation of the basis of the valuation when an appraisal is not required.

Another key aspect of the Uniform Act is a requirement that, as soon as feasible, the water system must notify the property owner in writing of the water system's interest in acquiring the property and the basic protections provided to the owner by the Uniform Act. Business Oregon will require a copy of the water system's notice to the property owner for the project's files. A link to an example notice is included below.

The following examples may be useful to water systems needing to acquire property and comply with the Uniform Act:

Example Notice to Owner—Property Acquisition with no Relocation

Example Agreement—Property or Easement Donation with no Relocation

Appendix A – Eligible/Ineligible Activities

I. Eligible Project Types

The SDWRLF may fund a wide range of planning, design, and construction projects. Infrastructure projects eligible for financing shall generally fall under the six broad categories listed below. The following list identifies these categories of projects and offers examples of projects that could be funded under each. This list is not intended to represent all types of projects.

- *Treatment*: Projects to install or upgrade facilities to improve drinking water quality to comply with SDWA regulations
- *Transmission and distribution*: Rehabilitation, replacement, or installation of pipes to improve water pressure to safe levels or to prevent contamination caused by leaky or broken pipes
- *Source*: Rehabilitation of wells or development of eligible sources to replace contaminated sources
- *Storage*: Installation or upgrade of finished water storage tanks to prevent microbiological contamination from entering the distribution system
- *Consolidation*: Interconnecting two or more water systems
- *Creation of new systems*: Creation of a new community water system to address existing public health problems caused by unsafe drinking water provided by individual wells or surface water sources or creation of a new regional community water system to eliminate individual systems with technical, managerial, and financial difficulties

Planning and Preliminary Engineering

SDWRLF funds may be used to pay for preliminary planning and for legal, fiscal, or engineering investigations to determine the feasibility of a drinking water project. SIPP program funding may provide a forgivable loan award for these planning activities as further described in Appendix D.

Examples of eligible planning and preliminary engineering project activities include:

- Water system master plans
- Feasibility studies
- Engineering studies
- Problem identification studies
- Preliminary engineering work
- Water treatment pilot studies or corrosion control studies
- Needed planning documentation in preparation of a construction project or an application to the SDWRLF program

The following elements may be included in the resulting report or planning document:

- Characterization of the area to be served by the eventual construction project/system improvements that are proposed and the need or problem to be resolved
- Description of existing water system facilities in the area to be served, including condition, adequacy, and suitability for continued use
- Analysis of options to correct the problem
- Description of most cost-effective and environmentally sound alternative
- Cost estimate for proposed system and discussion of financing options
- Current and proposed annual operating budget and rate structure adequate for operation, maintenance, and indebtedness of the proposed system and long-term capital replacement reserves
- Appropriate maps, drawings, and sketches
- Discussion of all anticipated construction difficulties
- Conclusions and recommendations

Final Design and Specifications

Final design and specifications can be combined with a construction project application or funding can be awarded separately. As described in Section 3.9, project feasibility must be demonstrated through appropriate documentation provided with the application.

Final design and specifications must provide the water system with all the elements necessary to proceed to a construction project, including:

- Project description, including an explanation about the rationale for the site and about the capacity of the proposed water system facility
- Pre-design reports
- Final engineering design and bid specifications
- Detailed cost estimates of everything necessary to complete project
- Identification of all permits and approvals necessary for the project with a schedule showing a realistic review and process for each
- Financial feasibility information, including information about the water system's financial situation
- Maps of the specific project location including, if applicable, tax lots or parcels served by the water system, source and service connections, water lines sizes, treatment facility, pump stations, etc.

- Environmental review of the proposed project conforming to State Environmental Review Process (SERP), other applicable federal authorities and EPA implementing regulations

Construction

Funds for construction may be used to pay for activities directly associated with the project such as:

- Construction of improvements
- Construction management
- Construction contingencies
- Appraisal and acquisition of real property, easements or rights of way
- Project audits, inspections, and regulatory compliance related to the construction project
- Installation of water metering equipment and systems
- Acquisition and installation of water treatment equipment
- Cost to purchase property currently being leased by the water system
- Compliance with federal and state prevailing wage laws (Appendix B)
- Bid process in conformance with Oregon public procurement laws (Appendix B)
- Compliance with federal crosscutters (Appendix F)

II. Eligible Project Activities

The following are additional examples of eligible project activities:

- Construction, reconstruction, or modification of any drinking water facility necessary for source of supply, filtration, treatment, storage, transmission, or metering
- The acquisition of real or personal property (from a willing seller) directly related to or necessary for the proposed project including land, rights-of-way, easements, or equipment
- Preliminary and final engineering, geotechnical surveying, legal review, and other support activities necessary for actually constructing and upgrading the water system
- Construction contingencies
- Costs necessary for environmental review services directly related to the impacts and implications of the project
- Costs associated with labor standards compliance and enforcement (third-party) (up to a maximum of $15,000 in SDWRLF funds)

- Costs associated with project management (third-party)
- Development and provision of technical documentation, operations manual, computer software and similar information resources, including but not limited to customary contingency/emergency plans that are necessary or prudent for soundly and safely running plant and equipment that comprises a funded project, and for helping preserve that investment
- For an approved planning and preliminary engineering award, costs associated with the preparation and submission of an application for the final design and/or construction phase
- Expenditures associated with "security measures" pertaining to the facilities or infrastructure of the public water system, including cybersecurity

III. Capacity Building for Future Population Growth

In order to be eligible, projects that include any capacity building for future population growth must satisfy all of the following stipulations:

- Expected population increases are based on current and reasonable projections accepted by local and state land use-planning authorities
- Expansion to satisfy future population is not the primary purpose for constructing the facilities, as contrasted with protecting public health
- Provision of public drinking water systems to an unincorporated area does not trigger greater residential zoning density

IV. Ineligible Project Types (Deviation Eligible)

The below project types are ineligible unless a deviation is granted by EPA. For more information about requesting a deviation contact an RDO (Regional Development Officer).

- Construction or rehabilitation of dams
- Reservoirs, except for finished water reservoirs and those reservoirs or impoundments that are part of the drinking water treatment process
- Purchase of water rights, including groundwater, except when the water rights are already owned by a system that is being acquired through consolidation
- Projects needed primarily for fire protection or suppression

V. Ineligible Project Types/Activities

In all cases the below project types and activities are ineligible.

- The project is needed mainly or intended primarily for supporting, supplying, or attracting future growth for the community (see Appendix A III above for eligibility criteria).

- The project is for a system subject to significant regulatory noncompliance, if the funding does not directly lead to compliance.
- Water system management reimbursement, including reimbursement for in-house staff salaries and wages.
- Purchase of bottled water or costs of hauled (trucked-in) water.
- Operations and maintenance costs of new or existing facilities.
- Ongoing activities including routine laboratory fees for compliance and monitoring; in-house staff administrative costs; incidental equipment (e.g., most motor vehicles); off-site property for purposes such as wetland mitigation; environmental assessments, such as source delineation or watershed analysis, unless directly undertaken as part of the required review of project impacts.

Appendix B – Procurement and Labor Requirements

Except where "equivalency only" is noted, requirements described in this appendix apply to all SDWRLF projects.

I. Federal and State Procurement Standards

Business Oregon requires all recipients to follow state procurement laws in ORS 279A, ORS 279B, and ORS 279C.

Under ORS 279A, ORS 279B, and ORS 279C, the Oregon Department of Justice (DOJ) has created model rules for procurements ("DOJ Model Rules").

- State law requires water system owners that are public bodies authorized by law to conduct procurements to follow the DOJ Model Rules, unless they have lawfully adopted their own rules pursuant to ORS 279A.065
- By contract, Business Oregon requires all privately owned water systems (for-profit or nonprofit) to substantially follow the DOJ Model Rules:
    - Public Procurements for Goods or Services OAR Chapter 137 Division 047
    - Consultant Selection: Architectural, Engineering and Land Surveying Services and Related Services Contracts OAR Chapter 137 Division 048
    - General Provisions Related to Public Contracts for Construction Services OAR Chapter 137 Division 049

Further information can be found in the *Attorney General's Model Public Contract Rules Manual*, available from the state of Oregon Department of Justice by completing this order form.

Business Oregon does not provide a water system receiving SDWRLF funds with legal advice regarding the application of these procurement laws and rules to specific factual situations, but can provide general explanations and further resources. Business Oregon may require water systems receiving SDWRLF funds to provide documentation of all procurement related actions, including, when necessary, an opinion of the water system's legal counsel regarding compliance with these procurement laws and rules.

Selected general procurement standards for all water systems receiving SDWRLF funds include:

- A code or standard of conduct that governs the performance of its officers, employees or agents engaged in the awarding of contracts using federal funds, particularly controlling conflicts of interest, both actual and perceived

- Procedures that ensure all procurement transactions are conducted in a manner to provide, to the maximum extent practical, open and free competition. Minimum procedural requirements, are as follows:
    - Follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items.
    - Solicitations shall be based upon a clear and accurate description of the technical requirements of the procured items.
    - Positive efforts shall be made to use women and minority owned businesses.
    - The type of procuring instrument (fixed price, cost reimbursement) is determined by the water system, but must be appropriate for the particular procurement and for promoting the best interest of the program involved.
- Contracts must be made only with contractors who possess the ability to perform successfully under the terms and conditions of the proposed procurement
- Some form of price or cost analysis should be performed in connection with every procurement action
- Procurement records and files for purchases shall include all the following:
    - Contractor selection or rejection.
    - The basis for the cost or price.
    - Justification for lack of competitive bids if offers are not obtained.
    - Efforts to use women and minority owned businesses.
- A system for contract administration to ensure contractor conformance with terms, conditions, and specifications of the contract

II. Disadvantaged Business Enterprises *(Equivalency only)*

For SDWRLF projects designated as an equivalency project, procurement by the water system and its prime contractor is subject to EPA's Disadvantaged Business Enterprises (DBE) Program. When a water system uses SDWRLF funds for project activities, the EPA places special emphasis on the utilization of Disadvantaged Business Enterprises (DBE), which includes not only minority- and women-owned businesses, but also any small business especially in rural or "labor surplus areas" or any other firm defined in 40 CFR §33.103. For more information on DBE, see EPA's FAQ site and EPA's Resources for Small Businesses webpage. In Oregon, these requirements are organized as follows:

Six Good Faith Efforts. A water system awarded SDWRLF funds and the prime contractor that performs work on the project must take steps (Six Good Faith Efforts) to solicit and to contract with Disadvantaged Business Enterprises. It is the responsibility of the water system to ensure that files and records are maintained to document the steps taken. The Six Good Faith Efforts that must be taken are as follows:

1. Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
2. Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
3. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Tribal, State, and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
4. Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
5. Use the services and assistance of the Small Business Administration (SBA) and the Minority Business Development Agency (MBDA) of the Department of Commerce.
6. If the prime contractor awards subcontracts, require the prime contractor to take the steps in items 1 through 5.

Reporting for Women & Minority-owned Businesses. With every Business Oregon Disbursement Request form, the water system must identify how much of those expenditures (even if none) were to women- or minority-owned businesses.

While only projects that are designated as equivalency projects are contractually required to follow these Six Good Faith Efforts, all water systems are encouraged to include these practices in their procurement efforts and utilize the DBE resources available.

III. Federal and State Prevailing Wages

Construction projects assisted in whole or in part by the SDWRLF program must be carried out in compliance with the federal Davis-Bacon and Related Acts (Davis-Bacon or DBRA), which applies regardless of the water system ownership. In addition, Oregon Bureau of Labor and Industries (BOLI) prevailing wage requirements apply to public entities for projects over $50,000 and private entities for projects that utilize more than $750,000 of public funds. In cases where both Davis-Bacon and BOLI prevailing wage rates apply, the highest wage rate must be used. These requirements apply regardless of the water system ownership. They also apply to all contracts and sub-contracts under the project, regardless of the source of funds for each specific contract.

All construction workers must be paid for the type of work being performed at least as much as the higher of the wage rates shown in the Oregon Prevailing Wage "Prevailing Wage Rate for Public Works Contracts in Oregon" or the applicable federal Davis-Bacon Wage Determination (WD).

General requirements for the water system or their representative include:

- Designate an individual who is responsible for compliance
- State in the solicitation that prevailing wage rates are applicable, and include the applicable wage determination for the area where construction is to occur
- Verify eligibility of the general contractor before awarding the construction contract
- Ensure that the required labor standards provisions and applicable prevailing wage rates are included in all construction contracts
- Inform, advise, and support contractor compliance
- Monitor for violations
- Investigate probable violations and complaints of underpayment
- Require weekly certified payroll reports to be submitted by contractors and review them for compliance
- Work to resolve cases of non-compliance, including immediate reports of violations of the prevailing wage requirements

Failure to comply with prevailing wage requirements may result in loss of federal and state funds.

The prime construction contractor (also referred to as the general or principal contractor) is liable for wages paid and all other labor standards provisions applicable to the project for their own employees and those of all subcontractors and any lower-tier subcontractors. Because of the contractual relationship between general contractors and the subcontractors, communication with any subcontractor should generally be facilitated in writing through the general contractor.

Some additional sources of information regarding the requirements and complying with the Federal Davis-Bacon and related acts are:

- General Davis-Bacon Act requirements and applicability and Frequently Asked Questions (FAQs).
- EPA's website for Davis-Bacon and Related Acts. In the context of this website, water systems that received SDWRLF funding are "subrecipients".
- Department of Labor's Prevailing Wage Resource Book (see Davis Bacon and Related Acts (DBRA) section
- Wage determinations

- Selecting the appropriate construction type (see Davis-Bacon Wage Determination Conformance Request Guide for types of construction)
- Review of certified payrolls—See example
- Resources for compliance and contact information can be found on the Department of Labor's website
- The Department of Labor finalized the Davis-Bacon and Related Acts regulations in 2023. Information about these updates are provided on their website.

Information about Oregon's prevailing wage rate requirements is included in the BOLI Prevailing Wage Rate Law Handbook and Prevailing Wage Rates for Public Works Contracts in Oregon, along with other BOLI publications.

Water systems, or their representatives, may develop their own filing systems for documentation evidencing that all actions required for labor standards administration and enforcement were taken. In addition, many of the documents listed below will be required to be submitted to Business Oregon RPM for the project file. The recommended minimum content for files includes:

- Documentation of contractor selection process
- Documentation of outreach to women- and minority-owned businesses, if applicable
- Applicable wage determination, including effective modifications and additions
- Verification of contractor/subcontractors' Oregon Construction Contractors Board registration
- Verification of contractor eligibility (is not on the federal "excluded parties" list of suspended and debarred contractors)
- Responsible Bidder Determination Form
- Evidence of $30,000 public works bond
- Pre-construction conference documentation, including signed minutes
- Contractor/Subcontractor Agreement and Fringe Benefit Summary Form for each prime contractor and every subcontractor
- Notice of construction contract award and start of construction
- Employee authorizations for voluntary deductions, if applicable
- Weekly Certified Payroll Report forms and signed Statements of Compliance
- Evidence that payrolls were checked against applicable wage rates
- Documentation of registered apprentices or trainees and proper ratio to journeyman
- Record of employee interviews

- Record of contacts with contractor regarding labor standard matters
- Evidence of restitution/resolution of discrepancies, if any

IV. Compliance with Federal and State Overtime Laws

The federal Contract Work Hours and Safety Standards Act requires that persons performing the work of laborers or mechanics under contracts that exceed $100,000 must be paid no less than one and one-half times the basic rate of pay for weeks in which they work more than 40 hours. The federal Fair Labor Standards Act requires weekly overtime pay for contracts under the $100,000 threshold.

State of Oregon law for overtime pay for public works projects is not the same as federal law. The state's statutes (ORS 279C.520, 279C.540, and 279C.800 et seq.) do not exempt federally funded projects from the state overtime law. State overtime law for public works projects requires payment of overtime to workers that are employed in excess of 8 hours per day, unless there is a prior working agreement allowing four 10-hour days per work week, or 10 hours per day or 40 hours in any one work week. See BOLI's prevailing wage website for more information.

V. Copeland "Anti-Kickback" Act

For all contracts and sub-grants in excess of $2,000 for construction or repair, the Copeland "Anti-Kickback" Act provides that each contractor is prohibited from inducing, by any means, any person to give up any part of the compensation to which they are entitled. The water system receiving SDWRLF funds must report all suspected or reported violations.

VI. Federal statutes relating to nondiscrimination

These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of sex; (b) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 795), which prohibits discrimination on the basis of handicaps; (c) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (d) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (e) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (f) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records.

ORS 279C.500 et seq. include other labor standards applicable to construction contracts.

Appendix C – Drinking Water Source Protection Fund

I. Program Overview

The Drinking Water Source Protection Fund (DWSPF) is designed for the protection of drinking water sources. This funding source allows grant awards up to $70,000 per eligible water system. The program also provides low-interest loans up to $100,000 per project.

In 2024, the program added grants for land acquisition (conservation) planning through Bipartisan Infrastructure Law (BIL) funding. These grants are specifically for planning for land acquisition for conservation purposes – meaning the preservation of land to protect, restore, or enhance sources of drinking water serving eligible public water systems. Eligible conservation planning projects can include any studies or activities that involve or are related to assessing legal and/or financial feasibility of purchasing land or conservation easements within an identified drinking water source area.

In 2026, the program launched a pilot grant program of up to $175,000 for Regional Source Water Collaborative projects. Designed to support projects that reduce risks and foster coordination among public water systems using groundwater and surface water sources, each grant must dedicate funds to activities within source areas serving smaller water systems (serving fewer than 3,300) that are located inside a larger water system's (or collaborative's) drinking water source area(s).

For details on grant and loan offerings, see the Application Guide available on OHA's website. Note that this document is updated annually.

II. Eligible Applicants

Publicly and privately-owned community water systems and nonprofit non-community water systems are eligible to apply for DWSPF funding, including purchasing water systems that want to conduct projects within the drinking water source area of their wholesale supplier. Water systems must have a drinking water source area approved by the Oregon Department of Environmental Quality (DEQ) or OHA to be eligible. Approved drinking water source areas can be found in a water system's Source Water Assessment or on the Oregon Drinking Water Protection Program Interactive Mapper linked from the DEQ's Mapping and GIS Data website. For more information about Source Water Assessments, visit DEQ's Assessment and Water Quality Monitoring website.

To be eligible to apply for DWSPF funding, purchasing water systems must have their Wholesale water system actively involved in the project and include a letter of support from the Wholesale water system with the submitted application. In addition, the Wholesale water supplier would not be eligible to apply for a separate project in the same funding year that its purchasing water system submitted an application.

The program may restrict eligibility for water systems with multiple open projects or that recently received grant awards. For more information about applicant eligibility, visit the

DWSPF web page and see the Drinking Water Source Protection Fund Application Guide document under the Application Guidance section.

III. Eligible Activities

Eligible activities include those that lead to risk reduction within the delineated source water area or would contribute to a reduction in contaminant concentration within the drinking water source. Projects can take either a local or regional approach. Local projects are defined as activities that concentrate on a public water system's source area(s). Regional projects are defined as activities that involve multiple communities and/or water systems attempting to address a common source water issue or group of issues.

The categories for eligible projects for the DWSPF include the following: enhanced delineation; enhanced assessment; source protection planning; implementation; and security. For more information about specific eligible and ineligible activities visit the DWSPF web page and refer to the Application Guide. Pre-award costs are not eligible for reimbursement. When considering an eligible project, water systems are encouraged to review their Source Water Assessment for high- and moderate-risk potential contaminant sources (PCSs) and focus on those PCSs of greatest concern within the drinking water source area. PCSs can also be identified on the Interactive Map Viewer mentioned above.

Acquisition of land or conservation easement must be from a willing seller. Funding for acquisitions (fee title or conservation easements) can only be in the form of a loan. Land acquisition (conservation) planning grants can support outreach, planning, and due diligence tasks that may lead to acquisition, but not actual acquisition costs.

Ineligible costs include in-house personnel and administrative (indirect) expenses of the DWSPF recipient.

IV. Application Process

To be considered for DWSPF funding, water systems must submit a completed Application specific to source protection. For information on how to apply visit the DWSPF web page.

V. Funded Project Management

Generally, the Business Oregon funded project procedures identified in this handbook apply to DWSPF grant and loan awards. A funding recipient is advised to carefully review the funding contract to ensure there are no requirements in addition to those identified in this handbook.

Funded projects must be completed within two years from when the funding contract is executed. Time extensions up to one year may be requested and approved by Business Oregon and OHA on a case-by-case basis. Recipients should contact their RPM with the request and rationale to facilitate the request to OHA.

VI. Funded Project Requirements

The funds used to support the DWSPF program are from "set-asides" from the Drinking Water State Revolving Fund (DWSRF) grants from the EPA that capitalize the SDWRLF program (see Figure 1 in Section 1). The set-aside source of funds and the nature of the source water protection activities of the program have implications for funded project requirements. Awarding the funds as grants, rather than loans and principal forgiveness, also affects federal requirements attached to the awards.

The set-aside funds that support DWSPF awards are considered federal dollars and have most of the program and federal crosscutter requirements associated with them that an equivalency project would have (see Section 7 for more on equivalency and Table 4 in Appendix F). The majority of the funded project requirements identified in this handbook apply to DWSPF grant and loan awards. However, due to the set-aside source of funds and nature of the projects, American Iron and Steel (AIS) (Section 6.9) and Davis Bacon (Appendix B) do not apply to DWSPF projects. Please note that although Davis Bacon wage rates are not applicable, DWSPF projects must adhere to any applicable Oregon BOLI wage requirements. A funding recipient is advised to carefully review the funding contract to ensure an awareness of applicable requirements. For more information about DWSPF funded project requirements contact a Business Oregon Representative.

Because of the grant and loan limits for DWSPF, these agreements will fall under the Small Projects waiver for BABA (see Section 7.3.3). However, if the recipient has other federal funding sources for their DWSPF project, those other funding sources may require BABA compliance, which would affect the whole project. The EPA will periodically review the Small Projects waiver and may amend or rescind the waiver at a future date.

Projects that involve on-the-ground activities or any kind of ground disturbance will have to complete the state environmental review process (Section 6.4) prior to initiating any work. These projects will also have to demonstrate compliance with local comprehensive plans and local land use regulations. Planning projects or projects that otherwise do not involve any ground disturbance will not need to complete these steps.

For grants funded through DWSPF, additional regulations apply that are specific to federal grant funding (not loans). DWSPF grants are subject to OMB's Uniform Grant Guidance 2 CFR Part 200 Subpart D - Procurement Standards (2 CFR 200.317 through 2 CFR 200.327) and 2 CFR Part 200 Subpart D - Subrecipient Monitoring and Management (2 CFR 200.331 through 2 CFR 200.333). Relevant conditions will be included in the grant contract with Business Oregon.

Note: The DWSPF recipient is responsible for ensuring compliance with all relevant funded project requirements including procurement and labor requirements described in Appendix B. The recipient may not delegate this responsibility to a third party.

Appendix D – Sustainable Infrastructure Planning Projects

I. Program Overview

Sustainable Infrastructure Planning Projects (SIPP) provide an award of up to either $50,000 or $20,000 (depending on the project type) in forgivable loan for planning activities that promote sustainable water infrastructure.

II. Eligible Applicants

Eligible applicants are the same as the SDWRLF program as described in Section 1.4 of this handbook.

A water system may be awarded a SIPP once every three (3) years. Exceptions can be made if Seismic SIPP funding is needed as part of a full master planning effort in the same 3-year period. This exception may not result in two SIPP funding awards in a single year.

III. Eligible Activities

Minimum requirements apply to each project type. See the SIPP Overview Guidance for details.

- Water System Master Plans (up to $50,000; only for water systems with less than 300 connections) - comprehensively evaluates a water system's existing infrastructure, identifies deficiencies or needs under current or future demand, and provides recommendations for system improvements and/or changes in operations and maintenance requirements.
- Seismic Risk Assessment and Mitigation Plans (up to $50,000; only for systems with 300 to 3,300 connections) - funding for Seismic Risk Assessment and Mitigation Plans (SRAMP) required by OAR 333-061-0060 (5)(a)(J) for those water systems located in areas identified as VII to X in the DOGAMI Seismic Map. Project must result in creation of a Seismic Risk Assessment and Mitigation Plan required by OHA as part of a full master plan submittal.
- Feasibility Studies (up to $50,000) - studies to evaluate the feasibility of a drinking water infrastructure project. Studies may also include the evaluation of resiliency measures and continuity of operations, including identification of needed infrastructure improvements.
  Note: SIPP funded feasibility studies must include the elements identified in Section 3.9 (Demonstration of Project Feasibility) of this handbook.
- System Partnership Studies (up to $50,000) - Studies to evaluate the feasibility of system partnership such as consolidation, regionalization, system creation, or system expansion.

- Asset Management Plans (up to $20,000) - plans to provide utility managers and decision-makers with critical information on the status and maintenance of capital assets and timing of needed investments. Some key steps for asset management are making an inventory of critical assets, evaluating their condition and performance, and developing plans to maintain, repair, and replace assets and to fund these activities.
- Water Rate Studies (up to $20,000) – studies to evaluate water system rate charges, structure, and adequacy. Studies should determine the full cost of doing business by calculating current and future costs and expenses, evaluating current revenues, evaluating rate structure options, and designing an appropriate rate.
- Leak Detection Studies (up to $20,000) - studies to detect water system leakage and identify possible solutions.
- Security Risk, Vulnerability, and/or Resiliency Studies (up to $20,000) - studies or assessments to evaluate the security, vulnerability, and/or resiliency of infrastructure and information technology/cybersecurity.
- Community Engagement Plans for Water Projects (up to $20,000) - plans to meaningfully engage the community and provide suitable access to decision-making processes in planning for water projects.

Ineligible activities include:

- Activities that include ground disturbance, including construction activities and potholing.
- Engineering/design, including design plans and specifications.
- Activities related to ineligible project types listed under the infrastructure loan program.
- Software subscription costs.
- Cost incurred for in-house staff.

Pre-award costs are not eligible for reimbursement under this program.

IV. Application Process

An application form can be found on OHA's SIPP web page. Water systems must submit an application to SDWRLF@biz.oregon.gov. Eligible SIPP projects will be reviewed, rated (i.e., scored), and ranked by Oregon Health Authority and placed on the SIPP Project Priority List (PPL). OHA will post the updated PPL for a 10-day public notice period. Following the public comment period, Business Oregon will follow up with those systems selected for funding to complete the funding process.

A system may apply for funding to perform up to two project activities under one SIPP award. A system may only apply for a forgivable loan of up to $50,000 if the project includes one of the four project activities listed in the "Eligible for up to $50,000" column below. If the system is only going to complete project activities in the “Eligible for up to $20,000” column, the SIPP award may only be a maximum of $20,000.

Examples:

- *A system may apply for funding to perform a Water Master Plan for up to $50,000.*
- *A system may apply for funding to perform a Water Master Plan and a Leak Detection Study for up to $50,000.*
- *A system may apply for a Leak Detection Study and an Asset Management Plan for up to $20,000.*

Eligible for up to $50,000	**Eligible for up to $20,000**
Water System Master Plans	Asset Management Plans
Seismic Risk Assessment and Mitigation Plans	Water Rate Studies
Feasibility Studies	Leak Detection Studies
System Partnership Studies	Security Risk, Vulnerability, and/or Resiliency Studies
	Community Engagement Plans for Water Projects

V. Funded Project Management

Generally, the Business Oregon funded project procedures identified in Section Five of this handbook apply to SIPP awards. A funding recipient is advised to carefully review the funding contract to ensure there are no requirements in addition to those identified in this handbook.

VI. Funded Project Requirements

While the Business Oregon funded project requirements identified in Section Six of this handbook apply to SIPP, due to small project size, the applicability of requirements is limited. Additionally, SIPP projects will generally not be designated as equivalency projects and therefore not subject to the Disadvantaged Business Enterprises “Six Good Faith Efforts”. SIPP projects will also not be required to submit a Disbursement Schedule (Section 4.5). However, if the SIPP project is for the purpose of studying or planning a future construction project, recipients should consider incorporating compliance with federal crosscutters such as AIS or BABA in their planning, budget, and timelines of the resulting project. A funding recipient is advised to carefully review the funding contract to ensure an awareness of applicable requirements. For more information about SIPP funded project requirements contact a Regional Project Manager.

Appendix E — Emerging Contaminants Funding

As described in Section 1, the passage of the Bipartisan Infrastructure Law (BIL) in 2021 created new programs and funding streams on a time-limited basis. Some of the BIL funding is dedicated to specific drinking water infrastructure concerns of emerging contaminants (EC). The EC funding has many similarities to the SDWRLF base and BIL-General Supplemental (BIL-GS) programs which are the focus of this handbook, with additional specific eligibility and implementation requirements. This appendix is intended to provide information about EC funding without covering full program details. Please see the SDWRLF website and contact an RDO or RPM for more information.

Congress passed the EC funding with a focus on addressing perfluoroalkyl and polyfluoroalkyl substances (PFAS). The SDWRLF program will also fund projects intended to address manganese and cyanotoxins, with the priority focus on PFAS. See the Emerging Contaminants Project Eligibilities Handout online for more information.

To be eligible for this funding program, water systems must provide documentation to OHA confirming detection of the emerging contaminant identified in the application. For more information on emerging contaminants, including a list of accredited labs for PFAS analysis, visit OHA's Emerging Contaminants webpage.

For a project to be considered under the EC funding, the primary purpose of the project must be to address and/or mitigate people's exposure to EC in drinking water. Eligible project activities are those activities that are integral to addressing the EC.

For eligible public water systems with eligible projects, there are two EC-specific funding streams. BIL-EC funding is awarded as a loan with 100% principal forgiveness. BIL requires that at least 25% of the BIL-EC funding the state receives be awarded to disadvantaged communities or public water systems serving fewer than 25,000 people.

In addition to BIL-EC forgivable loan funding, grant funding may be awarded through the Emerging Contaminants in Small or Disadvantaged Communities Grant Program (EC-SDC). Water systems designated as disadvantaged communities (see Section 1.5) are eligible for EC-SDC funding for water infrastructure projects.

While funding is available, the application deadlines for EC funding are February 15th and August 15th each year. Check the SDWRLF website for the most current information regarding application submission deadlines and for most current application form to use.

Because the EC funding is 100% forgivable loan or grant, it is a one-step application process, rather than a pre-application followed by an invitation to apply. Applicants for EC funding will be directed to the appropriate funding source for their system and project (BIL-EC and/or EC-SDC).

Appendix F – List of Federal Requirements and Crosscutters and Summary of Program Requirements

For projects funded through the SDWRLF "base" and BIL-General Supplemental (BIL-GS) programs, all projects need to comply with certain program specific and crosscutter requirements. Some projects will be designated as "equivalency" projects – funded in an amount equivalent to the federal capitalization grants - these projects will have to comply with additional requirements. All projects funded with BIL-Emerging Contaminants funding will be considered equivalency projects. Table 2 summarizes these differences for federal requirements.

Table 2*: Summary of Federal Requirements for Non-equivalency and Equivalency Projects*

Safe Drinking Water Revolving Loan Fund

Program Requirements and Federal Crosscutters

These program requirements and federal crosscutters are required for EPA's Drinking Water State Revolving Funds awarded through the Safe Drinking Water Revolving Loan Fund (SDWRLF) due to specific requirements of the Safe Drinking Water Act (SDWA), program regulations, EPA policy, and/or federal crosscutters.^*

Program Requirements and Crosscutters	**"Non-Equivalency" Projects**	**"Equivalency" Projects** *Includes BIL-EC projects* *(See Table 4 for EC-SDC)*	**Additional References & Resource(s)**
Program Requirements			
American Iron and Steel, 33 U.S.C. 1388 and 42 U.S.C. 300j-12(a)(4) *Note: If complying with BABA, project is considered compliant with AIS*	X	X	EPA AIS Guidance and Q&A website
Davis-Bacon Wages, 33 U.S.C. 1382(b)(6) and 42 U.S.C. 300j-12(a)(5) *Note: If needed, Business Oregon RPM assists with submitting a wage conformance request to the U.S. Department of Labor.*	X	X	DOL Final Rule Updating DBRA website DBRA Requirements for EPA Subrecipients

Program Requirements and Crosscutters	"Non-Equivalency" Projects	"Equivalency" Projects	Additional References & Resource(s)
Environmental Review, (i.e., the State Environmental Review Process (SERP)) 40 CFR 35.3140; 40 CFR 35.3580 *Note: Depends on the project activities, if there is ground disturbance or construction included. Includes Environmental Crosscutters listed in Table 3 below.*	X	X	40 CFR 35.3140; 40 CFR 35.3580; Appendix A to Subpart L of Part 35, Title 40 Environmental Review Process Handbook
Generally Accepted Accounting Principles	X	X	40 CFR 35.3550(i)
Signage (for construction projects) *Note: Signs may be provided by Business Oregon*	X	X	
Single Audit, 2 CFR part 200, Subpart F		X	OMB Audit Compliance Supplement
Technical, Managerial, and Financial Capacity Demonstration, 42 U.S.C. 300j-12(a)(3)	X	X	EPA Capacity Development Program website; OHA Water System Capacity website
Federal Crosscutters			
Administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal contracts, grants, or loans, Executive Order No. 11738 (1973) -Section 306 of the Clean Air Act, 42 U.S.C. 7606 et seq. -Section 508 of the Clean Water Act, 33 U.S.C. 1368 et seq.		X	Cross-cutting Federal Authorities, EPA Handbook (October 2003)
Federal Funding Accountability and Transparency Act, Public Law 109-282		X	EPA FFATA website

Program Requirements and Crosscutters	"Non-Equivalency" Projects	"Equivalency" Projects	Additional References & Resource(s)
Buy America, Build America Act, Pub. L. 117-58, Sections 70901-70927		X	EPA BABA Website; Build America, Buy America Act Implementation Procedures for EPA Office of Water Federal Financial Assistance Programs; Supplemental BABA Questions and Answers
Civil Rights Laws - The Age Discrimination Act of 1975, 42 U.S.C. 6102 et seq. - Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 - Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq.	X	X	Cross-cutting Federal Authorities, EPA Handbook (October 2003)
Participation by Disadvantaged Business Enterprises in United States Environmental Protection Agency Programs, 40 CFR Part 33		X	EPA DBE Website; FAQs; Cross-cutting Federal Authorities, EPA Handbook (October 2003)
Prohibition on Certain Telecom and Video Surveillance Services/Equipment, 2 CFR 200.216		X	2 CFR 200.216
Suspension and Debarment, Executive Order 12549 (1986), 2 CFR Part 180, 2 CFR Part 1532		X	2 CFR Part 180; 2 CFR Part 1532
Uniform Relocation and Real Property Acquisition Policies Act, 42 U.S.C 4601 et seq., 40 CFR Part 4, 49 CFR Part 24		X	Cross-cutting Federal Authorities, EPA Handbook (October 2003)
Water Supply Cost Savings Self-Certification 42 USC 300j-3d(b)		X	EPA memo, June 2017 *(See pg. 6, WIIN §2108: Water Supply Cost Savings)*

** Note that state requirements apply to all projects. Note that the requirements of other funding sources for a project may trigger requirements for the whole project regardless of equivalency / non-equivalency status for the SDWRLF.*

^Note that his table does <u>not</u> reflect requirements for the Drinking Water Source Protection Fund grants or loans. See Table 4 below and Appendix C for more information.

***Table 3**: Detailed List of Environmental Crosscutters (included in the State Environmental Review Process (SERP)), identified above. For more information, see the Cross-cutting Federal Authorities, EPA Handbook (October 2003).*

	Crosscutter
Environmental Authorities	Archaeological and Historic Preservation Act, 16 U.S.C. 469 et seq.
	Clean Air Act Conformity, 42 U.S.C. 7401 et seq.
	Coastal Barriers Resources Act, 16 U.S.C. 3501 et seq.
	Coastal Zone Management Act, 16 U.S.C. 1451 et seq.
	Endangered Species Act, 16 U.S.C. 1531 et seq.
	Farmland Protection Policy Act, 7 U.S.C. 4201 et seq.
	Floodplain Management Executive Order No. 11988 (1977), as amended by Executive Order No. 12148 (1979)
	Magnuson-Stevens Fishery Conservation Management Act, 16 U.S.C. 1801 et seq.
	National Historic Preservation Act, 54 U.S.C. 300101 et seq.
	Sole Source Aquifer, Section 1424(e) of Safe Drinking Water Act, 42 U.S.C. 300h-3e
	Wetlands Protection - Executive Order No. 11990 (1997), as amended by Executive Order No. 12608 (1997)
	Wild and Scenic Rivers Act, 16 U.S.C. 1271 et seq.

Funded Project Requirement Comparisons by Program

While the primary focus of this handbook is the SDWRLF funding opportunity — namely projects funded by SDWRLF base and BIL-General Supplemental — other programs including DWSPF (Appendix C), SIPP (Appendix D), SSEA, and the Emerging Contaminants programs (Appendix E) are also federally funded programs that have many of the same project requirements. If not otherwise identified in Table 4 below, the funded project requirements identified, referenced, or linked in this handbook apply to all funding programs (SDWRLF (including the EC programs), DWSPF, SIPP, and SSEA). Recipients should always refer to their contract for details of requirements and work with their RPM for questions or assistance.

Table 4: Funded Project Requirements - Comparison by Program for Selected Requirements

Funded Project Requirements (Handbook Section # or Appendix)	SDWRLF *(Base & BIL-GS)^*	BIL-EC & EC-SDC	DWSPF	SIPP	SSEA
Environmental Review Process (6.4)	Yes *(if project includes ground disturbance)*	BIL-EC: Yes *(if project includes ground disturbance)* EC-SDC: No	Yes *(if project includes ground disturbance)*	No *Projects with ground disturbance are ineligible*	No *Only projects with installation at existing facilities on previously disturbed land are eligible, qualifying for Categorical Exclusion*
Disbursement Schedule (4.5)	Yes	Yes	Yes	No	No
State Procurement Standards (Appendix B)	Yes	Yes	Yes	Yes	Yes
Oregon Bureau of Labor and Industries (BOLI) Prevailing Wage Rates (Appendix B)	Depends*	Depends*	Depends*	No	Depends* *Likely will not apply due to limits on funding award and total cost of eligible projects*
Davis-Bacon Wage Rates (Appendix B)	Yes	BIL-EC: Yes EC-SDC: No	No	No	Yes
American Iron and Steel Requirement (6.9)	Yes *Projects that comply with BABA are AIS compliant*	BIL-EC: Yes *BIL-EC projects that comply with BABA are AIS compliant* EC-SDC: No	No	No	Yes
Build America, Buy America (7.3)	Equivalency only	Yes	Yes *Eligible for small projects waiver due to funding limits*	No	No
Disadvantaged Business Enterprises - Six Good Faith Efforts (Appendix B)	Equivalency only	Yes	Yes	No	No

Single Audit Act (7.5)	Equivalency only	Yes	Yes	No	No
Suspension and Debarment (7.6)	Equivalency only	Yes	Yes	No	No
Uniform Grant Guidance Subaward Procurement and Monitoring *(2 CFR 200.317 to 2 CFR 200.327; 2 CFR 200.331 to 2 CFR 200.333)*	No	BIL-EC: No EC-SDC: Yes	Yes *Grants only, not loans*	No	No
Uniform Relocation Assistance and Real Property Acquisition Policies Act (7.7)	Equivalency only	Yes	Yes *Only loans through the DWSPF can support acquisitions*	No *Acquisition is not an eligible expense*	No *Acquisition is not an eligible expense*

** Regardless of the funding program, the BOLI prevailing wage rate requirements apply to public entities for projects over $50,000 and private entities for projects that utilize more than $750,000 of public funds.*

^ See Table 2 for complete details comparing requirements for non-equivalency and equivalency projects under the SDWRLF base and BIL-GS programs.

Appendix G — Technical Assistance Resources

Technical assistance (TA) resources may be available to water systems at various stages of project development and implementation. TA providers offer a variety of services. Eligibility and availability may vary based on each TA provider's funding levels, priorities, and capacity. The TA resources identified below are subject to change. Water systems seeking technical assistance are encouraged to verify services offered and availability with the appropriate provider.

Circuit Rider (contracted through OHA)
To address small community needs for technical assistance, OHA provides up to ten hours of Circuit Rider services, at no cost to the water system. The Circuit Riders are licensed engineers who can assess the needs of a water system and identify and assist with potential solutions. This service is available for water systems that serve a population of less than 10,000, as funds allow. For more information, visit the Circuit Rider Program web page.

Moonshot Missions
Moonshot Missions is a 501(c)(3) nonprofit that provides TA to water and wastewater utilities of all sizes using expertise in utility operations, management, finance, and engineering. Moonshot Missions aims to assist systems determine priority projects and build utility capacity to implement technically and financially sound solutions. Services include asset inventory and management, capital improvement planning, rate studies, procurement, funding applications, consultant oversight, ordinance updates, regulatory compliance, standard operating procedure development, and operator training. To contact Moonshot Missions, email *info@moonshotmissions.org.*

Oregon Association of Water Utilities (OAWU)
OAWU is a nonprofit, independent association of water and wastewater utilities and is a state affiliate of the National Rural Water Association (NRWA). OAWU offers on-site assistance in many areas, including Safe Drinking Water Act and Clean Water Act regulations, water treatment technology, distribution system operation and maintenance, and wastewater treatment and collection. The association also provides assistance with management issues, such as rate structures and reviews, funding programs, budgeting and public relations. In addition, members receive the quarterly magazine H2Oregon, legislative updates, and discounts on training seminars and annual meeting registration. Learn more at OAWU's website.

Rural Community Assistance Corporation (RCAC)
RCAC is a 501(c)(3) nonprofit organization that operates in 13 western states and Pacific islands. RCAC supports rural and indigenous communities in building their technical, managerial, and financial capacities for their drinking water and wastewater systems

through technical assistance, training, financial resources, and advocacy. Visit RCAC's website to learn more.

U.S. Environmental Protection Agency (EPA) RealWaterTA

The EPA is currently offering technical assistance (TA) to eligible water systems through various RealWaterTA initiatives. Learn more about the many RealWaterTA initiatives and find a link to submit a request for assistance at the EPA Real Water Technical Assistance (RealWaterTA) website. Note that not all requests can be fulfilled, but some water systems may be able to access TA support to apply for and navigate complex federal funding programs.

Willamette Partnership

Willamette Partnership (WP) offers technical assistance to communities that need to fund or better understand solutions to their drinking water challenges. WP works closely with communities to consider their options and develop funding strategies and applications. When needed, WP also assists with RFPs, communications, and community engagement, and suggests regulatory changes when needed. They work in smaller, disadvantaged, or rural communities and with tribes free of charge, through an EPA-funded program. Technical assistance to larger, better resourced communities can be obtained through direct service contracts. Learn more about Willamette Partnership at its water infrastructure website.

Appendix H — Infrastructure Project Process Flow

The process flow shown below is intended to represent key milestones in the application and award management process for SDWRLF infrastructure projects. For more information about process flow for non-construction SDWRLF projects as well as DWSP (Appendix C) and SIPP (Appendix D) projects contact a Regional Development Officer.